

109th Congress }  
1st Session }

JOINT COMMITTEE PRINT

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# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2004

VOLUME I

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS  
U.S. SENATE

AND THE

COMMITTEE ON INTERNATIONAL  
RELATIONS

U.S. HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE  
FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED



SEPTEMBER 2005

Printed for the use of the Committees on Foreign Relations of the U.S.  
Senate and International Relations of the U.S. House of Representatives  
respectively



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PRACTICES FOR 2004—VOLUME I**



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WASHINGTON : 2005

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## FOREWORD

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The country reports on human rights practices contained herein were prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended. They also fulfill the legislative requirements of section 505(c) of the Trade Act of 1974, as amended.

The reports cover the human rights practices of all nations that are members of the United Nations and a few that are not. They are printed to assist Members of Congress in the consideration of legislation, particularly foreign assistance legislation.

RICHARD G. LUGAR,

*Chairman, Committee on Foreign Relations.*

HENRY J. HYDE,

*Chairman, Committee on International Relations.*



## LETTER OF TRANSMITTAL

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DEPARTMENT OF STATE,  
*Washington, DC, March 31, 2005*

Hon. RICHARD LUGAR,  
*Chairman, Committee on Foreign Relations.*

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 2004*, prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

We hope this report is helpful. Please let us know if we can provide any further information.

Sincerely,

PAUL V. KELLY,  
*Assistant Secretary, Legislative Affairs.*

Enclosure.



## PREFACE

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### HUMAN RIGHTS REPORTS

In his second inaugural address, President Bush renewed America's commitment to stand for freedom and human dignity throughout the world:

America's vital interests and our deepest beliefs are now one. From the day of our founding, we have proclaimed that every man and woman on this earth has rights, and dignity, and matchless value, because they bear the image of the maker of heaven and earth. Across the generations we have proclaimed the imperative of self-government, because no one is fit to be a master, and no one deserves to be a slave. Advancing these ideals is the mission that created our nation. It is the honorable achievement of our fathers. Now it is the urgent requirement of our nation's security, and the calling of our time.

So it is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.

*The Country Reports on Human Rights Practices* provide a key framework that the United States and others around the world use in assessing the state of human freedom and in marshalling efforts to advance it. The conscientious compiling of these reports equips us to more effectively stand against oppression and for human dignity and liberty. Our embassies and Washington staff work closely with local citizens, human rights and other organizations, and community leaders to identify, investigate, and verify information. These volumes, available in the languages of most of the world's peoples, foster discussion, promote advocacy, permit the measurement of progress, and show where improvements are needed.

Over the last 12 months, we have worked closely with the international community to enable citizens in countries such as Guatemala, Indonesia, Ghana, Ukraine, and Afghanistan to make their votes truly count in selecting their governments. This fundamental right to effective suffrage opens the door for advancing a wide range of other rights, as the records in these countries have already begun to show.

This 28th edition of our Country Reports turns our spotlight on 196 countries, ranging from the stoutest defenders to the worst violators of human dignity. We take seriously our responsibility to report as accurately, as sensitively, and as carefully as possible the information in these reports.

The information contained in this report allows us to construct strategies for promoting freedom and individual liberty. In the coming month we will report on the specific steps we have taken over the past year to support human rights and democracy.

Mindful of the diligent effort and widespread cooperation both within and outside the Department that has gone into preparing these reports, I am pleased to transmit the Department of State's *Country Reports on Human Rights Practices for 2004* to the U.S. Congress.

CONDOLEEZZA RICE, *Secretary of State*

## **OVERVIEW AND ACKNOWLEDGEMENTS**

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### **HUMAN RIGHTS REPORTS**

#### **WHY THE REPORTS ARE PREPARED**

This report is submitted to the Congress by the Department of State in compliance with Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended. The law provides that the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate by February 25 “a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act.” We have also included reports on several countries that do not fall into the categories established by these statutes and that thus are not covered by the congressional requirement.

The responsibility of the United States to speak out on behalf of international human rights standards was formalized in the early 1970s. In 1976, Congress enacted legislation creating a Coordinator of Human Rights in the Department of State, a position later upgraded to Assistant Secretary. In 1994, the Congress created a position of Senior Advisor for Women’s Rights. Congress has also written into law formal requirements that U.S. foreign and trade policy take into account countries’ human rights and worker rights performance and that country reports be submitted to the Congress on an annual basis. The first reports, in 1977, covered only the 82 countries receiving U.S. aid; this year 196 reports are submitted.

#### **HOW THE REPORTS ARE PREPARED**

In August 1993, the Secretary of State moved to strengthen further the human rights efforts of our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of human rights violations, and new efforts were made to link mission programming to the advancement of human rights and democracy. In 1994, the Bureau of Human Rights and Humanitarian Affairs was reorganized and renamed as the Bureau of Democracy, Human Rights and Labor, reflecting both a broader sweep and a more focused approach to the interlocking issues of human rights, worker rights and democracy. The 2004 Country Reports on Human Rights Practices reflect a year of dedicated effort by hundreds of State Department, Foreign Service, and other U.S. Government employees.

Our embassies, which prepared the initial drafts of the reports, gathered information throughout the year from a variety of sources across the political spectrum, including government officials, jurists, armed forces sources, journalists, human rights monitors, academics, and labor activists. This information-gathering can be hazardous, and U.S. Foreign Service Officers regularly go to great lengths, under trying and sometimes dangerous conditions, to investigate reports of human rights abuse, monitor elections, and come to the aid of individuals at risk, such as political dissidents and human rights defenders whose rights are threatened by their governments.

After the embassies completed their drafts, the texts were sent to Washington for careful review by the Bureau of Democracy, Human Rights and Labor, in cooperation with other State Department offices. As they worked to corroborate, analyze, and edit the reports, the Department officers drew on their own sources of information. These included reports provided by U.S. and other human rights groups, foreign government officials, representatives from the United Nations and other international and regional organizations and institutions, experts from academia, and the media. Officers also consulted with experts on worker rights issues, refugee issues, military and police topics, women's issues, and legal matters. The guiding principle was to ensure that all relevant information was assessed as objectively, thoroughly and fairly as possible.

The reports in this volume will be used as a resource for shaping policy, conducting diplomacy, and making assistance, training, and other resource allocations. They also will serve as a basis for the U.S. Government's cooperation with private groups to promote the observance of internationally recognized human rights.

*The Country Reports on Human Rights Practices* cover internationally recognized individual, civil, political and worker rights, as set forth in the Universal Declaration of Human Rights. These rights include freedom from torture or other cruel, inhuman or degrading treatment or punishment, from prolonged detention without charges, from disappearance or clandestine detention, and from other flagrant violations of the right to life, liberty and the security of the person.

Universal human rights seek to incorporate respect for human dignity into the processes of government and law. All persons have the inalienable right to change their government by peaceful means and to enjoy basic freedoms, such as freedom of expression, association, assembly, movement and religion, without discrimination on the basis of race, religion, national origin, or sex. The right to join a free trade union is a necessary condition of a free society and economy. Thus the reports assess key internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, prohibition of forced or compulsory labor, the status of child labor practices, and the minimum age for employment of children, and acceptable work conditions.

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: Editor-in-Chief: Nadia Tongour; Deputy Editor-in-Chief: LeRoy G. Potts; Senior Advisors: Elizabeth Dugan, and Gretchen Birkle; Senior Editors: Cortney Dell, Dan Dolan, Stephen Eisenbraun, Leonel Mi-

randa, Jennifer M. Pekkinen and Stan Ifshin; Editors: Joseph S. Barghout, Jonathan Bemis, Ryan J. Casteel, Sharon C. Cooke, Stuart Crampton, Frank B. Crump, Mollie Davis, Sajit Gandhi, Joan Garner, Solange Garvey, Jerome L. Hoganson, Victor Huser, Kari Johnstone, David T. Jones, Sandra J. Murphy, Daniel L. Nadel, Donald E. Parker, Gary V. Price, Elizabeth Ramborger, Peter Sawchyn, and Julie Turner; Assistant Editors: Lori Rothamel, Janet Mayland, Editorial Assistants: Gene Bigler, Kent Brokenshire, Sally I. Buikema, Lynda Walker-Johnson and Carol G. Finerty; Technical Support: Linda C. Hayes, Mancharee Junk, Alonzo Simmons, and Tanika N. Willis.



## **INTRODUCTION TO THE COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2004**

On September 17, 2002, President Bush presented a new National Security Strategy for the United States based on the principle that promoting political and economic freedom and respect for human dignity will build a safer and better world. To guide and focus the national effort that had grown out of the war on terrorism, the strategy outlined a series of fundamental tasks which, among others, required our Government to champion aspirations for human rights and build democracy. In his second inaugural address on January 20, 2005, President Bush elaborated on that principle: “The survival of liberty in our land depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world.”

The United States and its international partners worked with many countries during 2004 to expand freedom by helping to protect the political rights of their citizens and to advance the rule of law in their societies. In a few cases, where concerns centered on the rights of the people to choose their own governments, dramatic developments focused global attention on their struggles and landmark achievements.

In the past three years since the removal of the Taliban regime, the people of Afghanistan have worked to diminish terrorism and improve security; to bridge traditional ethnic, religious, and tribal divides; to craft a new constitution faithful to their values and way of life; to extend fundamental rights to women and minorities; and to open their society to unprecedented political competition and freedom of expression. The international community responded to this undertaking by helping to register voters across a geographically scattered, largely illiterate population; by educating cadres of Afghan election workers and political participants in the conduct of elections and campaigns and by joining with Afghan forces to provide security during pre-election preparations and during the actual voting. In the presidential election, which took place in October, 18 candidates vied for the votes of the 10 million registered Afghans, more than 40 percent of whom were women. Despite threats and attacks before the vote and serious technical challenges, more than 8 million Afghans—including more than 3.2 million women—cast ballots to choose their leader in a truly democratic election for the first time, with a majority selecting President Hamid Karzai.

In Ukraine, the presidential election campaign was marred by government pressure on opposition candidates and by widespread violations and fraud during the voting. The Kuchma government engaged in fraud and manipulation during the presidential election in both the first and second round of voting on October 31 and November 21. The Government censored media outlets and journalists

to influence news coverage, which sparked the so-called “journalist rebellion” among reporters who refused to follow government directives. Eventually, popular demonstrations against the official results of the flawed November 21 vote gradually swelled into an “Orange Revolution,” the campaign color associated with opposition leader Viktor Yushchenko, who was widely believed to have won the election.

Respect for human rights in Ukraine took a decided turn for the better when, on December 3, the country’s Supreme Court invalidated the runoff election as fraudulent, vindicating the observations of many domestic and international monitors about numerous violations of electoral procedures, harassment of opposition candidates, heavily biased coverage in government-controlled media, and widespread voting and counting fraud. In the court-mandated repeat election on December 26, the people of Ukraine selected their new President. International observers of that vote, won by Yushchenko, noted the improvements in media coverage, increase in transparency of the voting process, decrease in government pressure to support a particular candidate, and fewer disruptions at the polls. The new President expressed a strong commitment to democracy, the rule of law, and observance of human rights.

In Iraq, people faced a series of difficult tasks as they prepared to choose their own leader through democratic elections, while the severity and ubiquity of terrorist attacks expanded the dimensions of the challenges. First, the Iraqi Governing Council achieved consensus on a framework for the transition of sovereignty back to Iraqi authorities under the aegis of the rule of law and clearly defined procedures by which Iraq’s citizens would be able to choose their own authorities and construct their own constitutional order. In March, the approval of the Transitional Administrative Law (TAL) achieved these objectives and paved the way for the second step, the transition of sovereignty from the Coalition Provisional Authority to the Iraqi Interim Government (IIG) on June 28.

Working with the assistance of the United Nations and other international advisors, the IIG established the Independent Electoral Commission of Iraq, an independent election authority that established procedures for registration of and voting by Iraqis and expatriates in 14 other countries. On August 15–18, the National Conference convened and elected a 100-member Interim National Council. Elections for the Transitional National Assembly, the country’s legislative authority and the first step in the formation of an Iraqi Transitional Government, were scheduled to take place on January 30, 2005. According to the TAL, the transitional government will draft a permanent constitution that is to be ratified by August 2005, and new elections are to be held for a permanent government under that Constitution by December 2005.

We believe events like these elections will increase the prospects for peace, provide a solid grounding for self-government in these countries and help create momentum for the improvement of human rights practices for all people participating in them. Yet progress along this path will not be easy or rapid, at least at first, as the 196 detailed reports in this volume amply demonstrate. In a number of cases, these reports will show that human rights practices may actually have eroded despite the successful completion of

internationally accepted elections, as has occurred in some respects with the judiciary and the media since the voting that took place last year in Venezuela.

It was in part the recognition of the complexity and difficulty of the task of promoting human rights that led Congress in 1977 to institutionalize the Department of State's process of compiling these annual Country Reports on Human Rights Practices. By providing this compendium of witness to the global human rights experience, we hope that the record of this work in progress will help illuminate both future tasks and the potential for greater cooperation in advancing the aspirations of the Universal Declaration of Human Rights.

#### THE YEAR IN REVIEW: DEMOCRACY, HUMAN RIGHTS AND LABOR

Behind the detail of 196 country reports contained in the pages that follow, the developments and experiences in certain countries stand out due not only to the intensity of the human rights problems but also to our involvement with the victims and their governments during 2004.

The Government of Sudan's human rights record remained extremely poor as it continued to restrict freedom of speech, press, assembly, association, religion and movement. It arrested and harassed those who exercised these rights.

At year's end, there were more than 1.5 million Internally Displaced Person (IDPs) in the Sudanese Province of Darfur, and another 200,000 civilians had fled to Chad, where the U.N. High Commissioner for Refugees (UNHCR) coordinated a massive refugee relief effort. Approximately 70,000 people reportedly died as a result of the violence and forced displacement.

Despite the Government's repeated commitments to refrain from further violence in Darfur, the atrocities continued. Government and government-supported militias known as the Jinjaweed routinely attacked civilian villages. Typically, the Jinjaweed, often in concert with regular government forces, conducted attacks under cover of military aerial support. In September, after carefully reviewing a detailed study conducted by independent experts covering the experience of more than 1,100 refugees, Secretary of State Colin Powell concluded that genocide had been committed against the people of Darfur, saying that "Genocide has been committed in Darfur and that the Government of Sudan and Jinjaweed bear responsibility and that genocide may still be occurring."

Government forces in that region routinely killed, injured, and displaced civilians, and destroyed clinics and dwellings intentionally during offensive operations. There were confirmed reports that government-supported militia also intentionally attacked civilians, looted their possessions, and destroyed their villages.

At the same time, year-end developments in negotiations related to the North-South conflict provided hope for peace and improvement of human rights practices in other areas of Sudan. By year's end, the State Department saw significant movement on the preliminary accords between the Government and the Sudan People's Liberation Movement Army after 21 years of low intensity conflict.

In response to the Democratic People's Republic of Korea's (North Korea) continued brutal and repressive treatment of its peo-

ple, the United States Congress enacted the North Korea Human Rights Act of 2004. The Act seeks to address the serious human rights situation in North Korea and to promote durable solutions for North Korean refugees, transparency in provision of humanitarian assistance, a free flow of information, and a peaceful reunification on the Korean peninsula.

In Belarus, police abuse and occasional torture of prisoners and detainees continued. The security forces arbitrarily arrested and detained citizens for political reasons; in addition, individuals were sued and sentenced to jail terms for such political crimes as “defamation” of state officials, often interpreted to include criticism of their policies. The Government of Belarus persisted in discounting credible reports regarding the role of government officials in the long-term disappearances of a journalist and well-known opposition political figures and failed to conduct full, transparent investigations into these disappearances. Instead, the Government appointed Viktor Sheiman, linked to disappearances by credible evidence in a Council of Europe report, as Head of the Presidential Administration, thus perpetuating a climate of abuse with impunity.

In Burma, the Junta ruled by decree and was not bound by any constitutional provisions providing any fundamental rights. Security forces carried out extrajudicial killings. In addition, disappearances continued, and security forces raped, tortured, beat, and otherwise abused prisoners and detainees. Arbitrary arrests and incommunicado detention were frequent. Security forces also regularly infringed on citizens’ privacy, forcibly relocated populations, and conscripted child soldiers.

The Government of Iran was responsible for numerous killings during the year, including executions following trials that lacked due process. There were numerous reports that security forces tortured prisoners and detainees. Additionally, there were arbitrary arrests, extended incommunicado detention, poor and overcrowded prisons, lack of access to counsel, punishment by the lash, and violation of personal privacy.

China’s cooperation and progress on human rights during 2004 was disappointing. China failed to fulfill many of the commitments it made at the 2002 U.S.-China Human Rights Dialogue. However, at the end of the year, working level discussions on human rights, which had been suspended when the U.S. supported a resolution on China’s human rights practices at the U.N. Commission on Human Rights (UNCHR), were resumed. During 2004, the government continued to arrest and detain activists, such as individuals discussing freely on the Internet, defense lawyers advocating on behalf of dissidents and the dispossessed, activists arguing for HIV/AIDS issues, journalists reporting on SARS, intellectuals expressing political views, persons attending house churches, and workers protesting for their rights. Abuses continued in Chinese prisons. The Government continued its crackdown against the Falun Gong spiritual movement, and tens of thousands of practitioners remained incarcerated in prisons, extrajudicial reeducation-through-labor camps, and psychiatric facilities. The National People’s Congress amended the Constitution to include protection of human

rights, yet it is unclear to what extent the Government plans to implement this amendment.

In Saudi Arabia, there were positive developments in a few areas, including a government-sponsored conference on women's rights and obligations and the formation of the first formal human rights organization permitted in the Kingdom. In October, the Government issued an executive by-law entitling some long-term residents to apply for citizenship, and by year's end, voter and candidate registration, albeit only for men, was well advanced for municipal elections scheduled for February 2005.

The record of human rights abuses and violations for Saudi Arabia, however, still far exceeds the advances. There were credible reports of torture and abuse of prisoners by security forces, arbitrary arrests, and incommunicado detentions. The religious police continued to intimidate, abuse, and detain citizens and foreigners. Most trials were closed, and defendants usually appeared before judges without legal counsel. Security forces arrested and detained reformers. The Government continued to restrict freedoms of speech and press, assembly, association and movement, and there were reports that the Government infringed on individuals' privacy rights. Violence and discrimination against women, violence against children, discrimination against ethnic and religious minorities, and strict limitations on worker rights continued.

In contrast to developments in a number of countries that increased direct citizen control over government authorities, in Russia changes in parliamentary election laws and a shift to the appointment, instead of election, of regional governors further strengthened the power of the executive branch. Greater restrictions on the media, a compliant Duma (Parliament), shortcomings in recent national elections, law enforcement corruption, and political pressure on the judiciary also raised concerns about the erosion of government accountability. Racially motivated violence and discrimination increased, despite considerable legislative prohibitions. Authorities failed to investigate actions against minorities while subjecting them to more frequent document checks, targeting them for deportation from urban centers, and fining them in excess of permissible penalties or detaining them more frequently. Government institutions intended to protect human rights were relatively weak.

The Government of Zimbabwe has conducted a concerted campaign of violence, repression, and intimidation. This campaign has been marked by disregard for human rights, the rule of law, and the welfare of Zimbabwe's citizens. Torture by various methods is used against political opponents and human rights advocates. War veterans, youth brigades, and police officers act with sustained brutality against political enemies. The Mugabe regime has also targeted other institutions of government, including the judiciary and police. Judges have been harassed into submission or resignation, replaced by Mugabe's cronies. The news media have been restricted and suppressed, with offending journalists arrested and beaten. Land seizures continue to be used as a tool for political and social oppression, and opponents of these destructive policies are subject to violent reprisals.

Respect for human rights remained poor in Venezuela during 2004, despite the Government victory in an August referendum to recall President Chavez. Opponents charged that the process was fraudulent, but Organization of American States (OAS) and Carter Center observers found that the official results “reflected the will of the electorate.” Throughout the year, the Government increased its control over the judicial system and its interference in the administration of justice. Nongovernmental organizations (NGOs) were subject to threats and intimidation by government supporters. In December, the legislature passed laws that erode freedom of the media, freedom of speech, and which in effect make criticism of the government a criminal offense. The U.S. Government sanctioned the Venezuelan Government for continuing to fall short in efforts to combat trafficking in persons.

Fidel Castro added another year to his record as the longest serving dictator in the world. The Government retained its stance of rejection of all democratic processes and continued its harassment and intimidation of pro-democracy activists, dissidents, journalists and other professionals and workers seeking to undertake economic activities not controlled by the state. The majority of the 75 dissidents sentenced to long jail terms in 2003 remained incarcerated despite international protests, and the authorities arrested 22 additional human rights activists and sentenced them for acts such as “contempt for authority.” Addressing abuses in Cuba continued to be a priority for the United States as a member of the UNCHR.

During its 2004 session, the UNCHR formally adopted a U.S.-sponsored resolution on Cuba, as well as resolutions on Turkmenistan, North Korea and Belarus for the second year in a row. A resolution on Burma was approved by consensus. With such member countries as Zimbabwe, Cuba, Sudan, and China, which fail to protect their own citizens’ rights, the 2004 session of the UNCHR fell short in several respects. The Commission failed to adopt resolutions on the human rights situations in China, Zimbabwe and Chechnya. The United States continued to emphasize the need to improve the functioning of the Commission, especially by supporting the inclusion of more countries with positive human rights records.

The United States believes that democratically elected governments are more likely to respect their citizens’ human rights. For this reason, the United States collaborated with other participating countries of the Community of Democracies (CD), a network of democratic countries working together to promote, solidify, and advance democracy throughout the world. In 2004, the U.S. joined other CD countries to help launch the formation of a democracy caucus, a group of like-minded countries that coordinates more closely in the UNCHR and other UN settings to advance goals consistent with democratic values. At the UNCHR, the United States—jointly with Peru, Romania and East Timor—introduced and succeeded in having adopted a resolution to enhance the UN’s role in promoting democracy. Among the resolution’s recommendations is a call for the establishment of a mechanism—a “Focal Point”—within the Office of the High Commissioner for Human Rights, dedicated to helping new and emerging democracies access UN resources available to support them.

In addition to its support for the creation of the UN democracy caucus, the CD sought to support the development of democratic institutions and values through projects linking democratic countries. It sent a multinational delegation of democracy practitioners to East Timor to share best practices with Timorese officials. Likewise, a group of Iraqi, election-related officials traveled from Iraq to Lithuania to observe and learn about election processes. Unifying democratic voices against violations of basic human rights—rights that have been codified in the Universal Declaration of Human Rights and that were reaffirmed in the CD's Warsaw Declaration and Seoul Plan of Action—is an essential way to maintain pressure on governments that deny and violate the rights of their own citizens.

#### INSTITUTIONAL CHANGES

In Qatar, the process of constitutional change continued with the Emir's approval of the draft of a new constitution that voters overwhelmingly had approved in 2003. Although the Emir's family will maintain hereditary rule, the new constitution expected to be enacted in June 2005, contains a number of human rights provisions.

In Pakistan, President Musharraf continued as Chief of the Army Staff, despite his promise to step down by year's end.

In Africa, the Central African Republic (CAR) enacted a new constitution and took a number of other steps to further an announced transition to democracy under President Bozize, who seized power in a March 2003 coup. In Guinea-Bissau, following a military coup in September 2003, the military installed a civilian government. In both cases, the stabilization of post-coup situations has been accompanied by a decline in the number of reported violations of human rights.

Turkey's desire to meet the EU Copenhagen Criteria to begin the accession process moved the Government to pass an important package of reforms, including a new, relatively more liberal penal code and a set of constitutional amendments to combat honor killings and torture; expand the freedom of religion, expression, and association; and reduce the role of the military in government. However, implementation of these reforms lagged. Security forces continued to commit numerous abuses, including torture, beatings, and arbitrary arrest and detention, although observers noted a decrease in such practices and the European Committee for the Prevention of Torture reported that local authorities were making efforts to comply with the Government's "zero tolerance" policy on torture. Honor killings continued. The Government relaxed some restrictions on the use of Kurdish and other languages, but restrictions on free speech and the press remained.

The year witnessed increasing efforts by some governments to fight corruption. Costa Rica was the most ambitious in actually investigating former high-level officials, as it launched separate investigations for misuse of funds, kickbacks, and illegal contracts by three former presidents. In Africa, anti-corruption campaigns focused on pecuniary as well as human rights abuses by officials. Gambian President Jammeh's campaign centered on curbing official corruption to restore international credibility, and the work of the Commission of Inquiry led to the dismissal of a number of top

officials and some prosecutions for economic crimes. Kenya created an anti-corruption czar, and the Government opened a number of investigations into allegations of extrajudicial killings. In Zambia, a Police Complaints Authority instituted in 2003 to combat police misconduct continued investigations into complaints.

#### POLITICAL RIGHTS

Regrettably, with the exception of Georgia and Ukraine, political developments in Eurasia remain a serious concern. Progress continues to be measured largely in terms of civil society development. More and more NGOs, opposition parties, and citizens are willing to organize and advocate for government accountability. In Turkmenistan and Uzbekistan, opposition parties are unable to register. At the same time, governments of the regions are drawing the wrong lessons from Ukraine and Georgia and attempt to stifle civil society by harassing democracy NGOs through bureaucratic obstacles and specious legal means.

In Georgia, the progress that international observers noted in last January's presidential election set the stage for "the most democratic elections in Georgia's history" in parliamentary voting in March. Other governments in the region have made some limited progress in improving electoral processes by drafting new election codes. New election laws introduced in Kazakhstan, Kyrgyzstan and Tajikistan are an improvement in some areas, but in all three countries, the laws continue to fall short of international standards. Likewise, elections in 2004 in Kazakhstan and Kyrgyzstan marked limited improvements over previous ones, but domestic and international observers raised questions about voting irregularities, abuse or harassment of opposition candidates, or limitations on equal access to the media.

In Belarus, the Government continued to deny citizens the right to change their government through a democratic political process. A seriously flawed referendum on October 17 removed constitutional term limits on the presidency. In advance of the referendum and the equally flawed parliamentary elections held simultaneously, the Government suspended independent newspapers and disqualified many parliamentary candidates. The Government used excessive force and in some cases beat and arrested political leaders who peacefully protested electoral fraud and the journalists covering the protests. During the year, the Government also shut down a number of major registered NGOs that focused on political rights, and state security authorities increasingly harassed those that remained.

In October, Bosnia and Herzegovina held its first self-administered municipal elections since the signing of the Dayton Peace Accords. The elections were judged to meet international democratic standards.

A notably high voter turnout in a series of three elections in Indonesia paved the way for the transition in political power there from a defeated incumbent to an elected opposition leader. The process also marked the defeat of military and police candidates who stood for seats in Parliament. In noteworthy elections in Africa, the incumbent political parties of Ghana and Mozambique gained re-election in processes that were judged generally free and

fair. Sierra Leone held its first local government elections in 32 years, although there were irregularities in some areas.

In Burundi, concern focused on the delay in holding elections and the progress of the country's transition to democracy. The Transitional Government failed to hold the local and national elections that are stipulated by the Arusha Peace and Reconciliation Agreement, and at the end of the year it also delayed indefinitely a referendum on a draft constitution. The Maoist insurgency and the deadlock among Nepal's political parties also prevented the holding of elections there during the year and helped deepen the country's political crisis.

In Rwanda, greatly circumscribed political rights were further limited when leading human rights organizations were either shut down or effectively dismantled. The action was justified as part of a campaign against "divisionism," according to a government report that accused human rights groups, journalists, teachers, and churches of promoting an "ideology of genocide."

The Iranian Government's respect for the freedom and political participation of its citizens continued to deteriorate. Elections that were widely perceived as neither free nor fair were held for the 290-seat Majlis (Parliament) in February. The conservative, cleric-dominated Guardian Council excluded virtually all reformist candidates, including 85 incumbent members of parliament. Reasons cited included not showing "demonstrated obedience" to the current system of government. As a result of the seriously-flawed elections, reformers were reduced to a small minority of the parliament. Meanwhile, the conservative backlash against reformist trends and parties continues.

#### INTERNAL AND OTHER CONFLICTS

The Truth and Reconciliation Commission of Sierra Leone completed public hearings in which approximately 10,000 citizens participated to air grievances as victims or provide confessions from the civil war. The Commission suggested legal, political and administrative reforms to the Government. The Government also released numerous children who had fought as child soldiers. By year's end, the UN Mission to Sierra Leone (UNAMSIL) had handed over responsibility countrywide to the Sierra Leone Armed Forces and the Sierra Leone Police, as UNAMSIL began preparations to withdraw by June 2005 as stipulated by its Security Council mandate.

After being elected in a runoff at the end of 2003, Guatemalan President Oscar Berger "re-launched" the 1996 Peace Accords as a national agenda and symbolically apologized to citizens on behalf of the State for human rights violations committed during that country's protracted civil war. The Government also reduced the size of the military, eliminated some major commands and units and reduced the military budget. In August, the military made public a new doctrine, which includes provisions on the importance of protecting human rights.

As a result of negotiations throughout the year, the Government of Colombia demobilized approximately 3,000 fighters from the paramilitary United Self-Defense Forces of Colombia (AUC) in November and December. In addition, hundreds of municipal officials returned to their towns after the government established a perma-

ment police presence in every urban center in the country. As a result, rates for homicides, kidnappings, and other violent crimes decreased.

In Haiti, domestic conflict continued throughout the year. The political impasse, combined with increasing violence between pro- and anti-Aristide factions, culminated on February 29, when President Aristide submitted his resignation and left the country. Despite the presence of UN peacekeeping forces, the constitutionally-established Interim Government remained weak. In September, pro-Aristide partisans in Port-au-Prince launched a campaign of destabilization and violence known as "Operation Baghdad." This campaign included kidnapping, decapitation and burning of police officers and civilians, indiscriminate shootings, and the destruction and incineration of public and private property. The violence prevented the normal functioning of schools, public markets, the seaport, and the justice system in Port-au-Prince for several weeks.

A series of conflicts continued to trouble South Asia. In Jammu and Kashmir and the northeastern states of India, violence continued, and security forces committed abuses with impunity, killing civilians and not just armed combatants. In Sri Lanka, both the Government and the terrorist organization, Liberation Tigers of Tamil Eelam, violated the ceasefire. In Nepal, the disappearance of persons in custody remained a very serious problem, and government security forces continued to have broad authority to arrest and detain individuals suspected of sympathizing with the Maoist insurgents. Security forces also used arbitrary and unlawful lethal force. As the Maoist insurgency continued, rebel militants tortured civilians, while government agents forcibly conscripted children as soldiers and conducted bombings that killed civilians.

The Great Lakes region of central Africa, which encompasses the Democratic Republic of the Congo (DRC), Rwanda, Burundi and Uganda, has been plagued by civil war, large-scale interethnic violence, and massive human rights abuses associated with them for well over a decade due to the continuing presence of armed groups and militia that move between the countries. These groups compete with one another for strategic and natural resources and inhabit an environment of shifting alliances. Among the most worrisome groups in the eastern Congo are those who took sanctuary in the region after the 1994 Rwandan genocide. This same group continues to oppose the Government of Rwanda and launch cross-border campaigns, as well as attack civilians in the DRC and commit numerous other abuses. There are also armed groups in the region who oppose the governments and peace process in Uganda and Burundi.

While prospects for peace in the Great Lakes region are promising, human rights abuses are almost routine. Children are the primary victims and are forcefully recruited, abducted, and turned into soldiers, although some of the governments have made progress in demobilizing child soldiers in their ranks. Some militia groups are predominantly comprised of children. Women and girls are particularly vulnerable, as rape increasingly is used as a weapon of war. The region is a home to approximately five million of the world's 25 million internally displaced persons and hosts a number of refugees. The United States is actively pursuing talks between

the DRC, Uganda and Rwanda. We continue to monitor the situation in all the countries in the region by focusing attention on the threat posed by armed groups.

In Cote d'Ivoire, an attack on the rebel positions and an air strike on French peacekeeping troops in November broke the tenous 18-month ceasefire between the Government and rebels. Despite the embargo and threat of sanctions, the Government has threatened to pursue a military solution to the conflict. President Bush determined that Cote d'Ivoire, once one of the United States' largest trading partners in the region through the Africa Growth and Opportunity Act (AGOA), was ineligible for AGOA this year due to concerns about the security situation and the general decline in the rule of law that make it a hostile place for foreign investment.

In Russia, the September attack on a school in Beslan in North Osetia and the ongoing disappearances of civilians detained by security forces underscored the extent to which both sides in the expanding conflict in the North Caucasus continue to demonstrate little respect for basic human rights. There were credible reports of serious violations, including politically motivated disappearances and unlawful killings, by both the government and Chechen rebels. Individuals seeking accountability for these abuses also continued to be targeted, and Chechen rebels continued to attack Russian civilians, including a bombing of a Moscow subway.

#### INTEGRITY OF THE PERSON

After years of controversy, the Chilean Supreme Court upheld an appeals court decision to lift the judicial immunity of former President Augusto Pinochet. On December 13, a prosecuting judge indicted Pinochet for crimes committed as part of "Operation Condor" during the 1970s. In Central African Republic as the process of transition to civilian rule continued, the government disbanded the Security Investigation Division, a military intelligence unit that was accused of committing numerous human rights abuses, including torture, rape and extortion, during 2003. In December 2003, President Bozize reconvened the permanent military tribunal after an eight-year suspension. The tribunal considered cases on a variety of alleged human rights abuses including extrajudicial killings, rape and armed robbery.

North Korea remains one of the world's most repressive and brutal regimes. An estimated 150,000-200,000 persons are believed to be political prisoners in detention camps in remote areas, and defectors report that many prisoners have died from torture, starvation, disease, exposure, or a combination of causes. The regime also subjects citizens to rigid controls over many aspects of their lives.

In Egypt, the 1981 Emergency Law, extended in February 2003 for an additional three years, restricted many basic rights. The security forces continued to mistreat and torture prisoners, which resulted in at least ten reported deaths in custody at police stations or prisons during the year. Arbitrary arrest and detention and prolonged pretrial detention remained serious problems. Dismal prison conditions persisted.

Widespread use of torture by the Government of Syria resulted in at least eight deaths during the year. Arbitrary arrest and de-

tention, prolonged pre-trial detention without trial, fundamentally unfair trials in the security courts, and deteriorating prison conditions all persisted. Throughout the year, the security services conducted mass arrests of Kurds in Hassakeh province, Aleppo, Damascus, and other areas. On March 12, security forces in Qamishli, in the northeastern Hassakeh province, opened fire on a crowd at a soccer match after clashes between Arab and Kurdish fans erupted. In the days of rioting that followed, dozens were killed, as many as 2,000 Kurds were detained, and nearly 300 Kurds remained in custody and were awaiting trial before the State Security Court and Military Court at year's end. The Government also continued to withhold information on the welfare and whereabouts of persons who have been held incommunicado for years.

In Uzbekistan, torture was routine in prisons, pretrial facilities, and local police and security service precincts, and members of the security forces responsible for documented abuses were rarely punished. However, the government took some notable steps to address torture and establish police accountability. It created preliminary procedures within some divisions of the Ministry of Internal Affairs for investigating and disciplining officers for human rights abuses and allowed NGO access to its prisons and to train prison guards in human rights practices. The Government also cooperated with international forensic experts to take part in investigations of deaths in custody in which torture had been alleged.

#### FREEDOM OF THE PRESS

A conservative backlash to democratic demands in Iran extended into a number of areas beyond explicit questions of political rights. For example, the investigation into the 2003 death of a Canadian/Iranian photographer who suffered a brain hemorrhage after sustaining injuries while in an Iranian prison stagnated during 2004. The Government also gradually suppressed all independent domestic media outlets and arrested or intimidated their journalists into silence. In 2004 the last forum for free debate, weblogs, came under pressure when the government began arresting their creators and forcing them to sign false confessions. The increase in government pressure and control of media in Russia continued to weaken freedom of expression and independence of the media there, as a trend of increasing control and harassment of the press was noted in a number of Eurasian countries, especially Belarus and some countries in Central Asia. The Russian approach centered on use of controlling ownership of broadcast media to limit access to information on sensitive issues, such as Chechnya. Government pressure also increased self-censorship of journalists.

In Togo, after the Government undertook formal political consultations with the European Union, it adopted a new press code with mixed results. It eliminated prison sentences for most journalistic offenses, but maintained them for inciting certain actions, such as ethnic hatred or violation of the law, as well as for publishing under a false name. The law also sets standards of professionalism for journalists and requires independent newspapers to ensure that at least one third of their staff meet the Government's standards.

While Algeria experienced its first contested democratic election in 2004, leading to the reelection of President Bouteflika, the Government acted to increase restrictions on the media. The use of defamation laws and government harassment of the press significantly increased, leading to the imprisonment of several journalists for terms from two to 24 months, closure or suspension of two newspapers, and more self-censorship by the press.

In Venezuela, international organizations and domestic journalists charged the government with encouraging a climate of hostility toward the media. Administrative acts, combined with a new law passed in December, created a climate of hostility toward the independent media with increasing threats of prosecution.

#### FREEDOM OF RELIGION

These issues are discussed in depth in the Annual Report on International Religious Freedom, released in September 2004, while these Country Reports further highlight and update important developments.

The International Religious Freedom Act requires that those countries that engage in particularly severe violations of religious freedom be designated as Countries of Particular Concern (CPC). In September 2004, the Secretary of State re-designated Burma, China, Iran, North Korea, and Sudan as CPCs, and designated for the first time Eritrea, Saudi Arabia, and Vietnam.

With the cessation of government-sponsored violations of religious freedom under Saddam Hussein, the Secretary acted to remove Iraq's CPC designation in June 2004. Since the liberation of Iraq by coalition forces, there have been no governmental impediments to religious freedom, and the Iraqi Transitional Administrative Law provides for "freedom of thought, conscience, and religious belief and practice."

The Government of Saudi Arabia's actions in the area of religious freedom were disappointing. Throughout 2004, senior U.S. officials engaged Saudi authorities in an intense discussion of religious practices, and in September, the Secretary of State designated Saudi Arabia as a "Country of Particular Concern" under the International Religious Freedom Act for particularly severe violations of religious freedom. The Government rigidly mandates religious conformity. Non-Wahabi Sunni Muslims, as well as Shia and Sufi Muslims, face discrimination and sometimes severe restrictions on the practice of their faith. A number of leaders from these traditions have been arrested and imprisoned. The government prohibits public non-Muslim religious activities. Non-Muslim worshippers risk arrest, imprisonment, torture, or deportation for engaging in religious activities that attract official attention. There were frequent instances in which mosque preachers, whose salaries are paid by the government, used violent language against non-Sunni Muslims and other religions in their sermons.

Vietnam continued to restrict freedom of religion and the operation of religious organizations other than those approved by the State. The Government failed to issue a nationwide decree banning forced renunciations of faith, did not end the physical abuse of religious believers, continued to hold a significant number of religious prisoners, and although it permitted the re-opening of some

churches closed in the Central Highlands in 2001, it refused to allow the re-opening and registration of hundreds of others. However, following CPC designation, some improvements in religious freedom were evident. Some religious leaders expressed cautious optimism about a new Ordinance on Religion that the Government released in November, and in December, the Evangelical Church of Vietnam North (ECVN) held its first National Congress in 20 years and named a new, independent leadership board. Among the gains in freedom of religion covered by the Country Reports, the Jehovah's Witnesses in Armenia succeeded in October to register with the government after they had experienced a string of rejected applications. In Bosnia and Herzegovina, a new state-level law on religious freedom passed both houses of the legislature. The law provides comprehensive rights to religious communities and confers a legal status upon them they had not held previously. And in Georgia, there were fewer reports of violence against minority religious groups this year.

#### TREATMENT OF MINORITIES, WOMEN AND CHILDREN

On December 30, the Department of State completed its Report on Global Anti-Semitism, July 1, 2003-December 15, 2004. Drawing extensively on material from our embassies, NGOs and accounts submitted for these Country Reports, this separate compendium was prepared in accordance with a separate legislative provision.

In the Czech and Slovak Republics, discrimination against Roma persisted, although both governments made efforts to improve the situation through such measures as revising legal norms and recruiting Roma to serve as community liaisons with the police forces or as health assistants.

In Croatia, the restitution of property to mostly Serb refugees has improved significantly, although local obstruction to the return of minority groups remained a problem. In Kosovo, acts of violence against the minority Kosovo Serb population and other non-Serb minorities took place during a series of riots over two days in March, demonstrating the continued tenuousness of minority rights there.

In Thailand, the government's human rights record was marred by abuses committed by security forces against Muslim dissidents in the southern part of the country. On April 28, elements of the police and military killed more than 100 persons while repelling attacks by Muslim separatists in Yala, Pattani, and Narathiwat provinces. On October 25, 78 Muslim detainees being transported to an army camp died from asphyxiation after police and military forces stacked them into overcrowded truck beds.

In Afghanistan and Iraq, women made unprecedented strides in exercising political rights by voting, holding public office and standing for election as candidates. In education and other areas as well, women made increasing strides in achieving basic rights. In Pakistan, special women's police stations with all female staff have been established in response to complaints of custodial abuse of women. Additionally, while honor killings continued in Pakistan, new legislation stiffened penalties for honor killings and criminal proceedings for the blasphemy laws and Hudood ordinances were changed to reduce abuses.

In a number of countries, one of the most significant problems related to the abuse of women and children is the failure of the state to combat vigorously against conditions that engender the trafficking of women and children.

In Burma, women and girls from villages were trafficked for prostitution at truck stops, fishing villages, border towns, and mining and military camps. Burmese men, women and children are also trafficked to other countries. Government economic mismanagement and forced labor policies worsen the situation.

In the United Arab Emirates (UAE), women and girls are used as prostitutes and domestic servants, and young boys are exploited as camel jockeys. A recent documentary on camel jockeys notes the very young age at which abuse often begins, the harsh conditions that may lead to serious injuries or death, and the malnutrition, and physical and sexual abuse by employers. The Government has pledged and taken some measures of limited effectiveness against these practices.

State promotion of tourism drives the predatory interests that promote sex tourism and sexual exploitation of underage girls for prostitution in Cuba.

The booming oil sector in Equatorial Guinea contributes to making the country both a transit point and destination for trafficking of women for prostitution.

The estimate of the number of Indians trafficked into forced labor and the sex trade runs into the millions, in addition to thousands of Nepalis and Bangladeshis trafficked to India for sexual servitude. Trafficking in persons in India is a significant problem, and some government officials participated in and facilitated the practice. While India continues to lack a national law enforcement response to its trafficking in persons problem, some progress has been noted in individual states and the central government recently expressed a commitment to establishing and implementing a national anti-trafficking policy.

Violence and discrimination towards vulnerable groups continued to be a problem in Tanzania. In August, the semi-autonomous island of Zanzibar outlawed homosexuality and set severe penalties for it in its autonomous island territory. On mainland Tanzania, 4 million women and girls have undergone female genital mutilation (FGM), and despite a law partially outlawing the practice, police rarely enforced the law and the average age of the practice appeared to have decreased in an effort to avoid detection.

#### WORKER RIGHTS

In Iraq, the exercise of labor rights remained limited, largely due to violence, unemployment, and maladapted labor organizational structures and laws, although, with international assistance, some progress was underway at year's end. According to the Brussels-based International Confederation of Free Trade Unions (ICFTU), workers reported organizing unions in workplaces where they were forbidden under the laws of the former regime and revitalized union structures previously dominated by the Ba'ath party. The International Labor Organization (ILO) provided technical assistance to Iraq throughout the year to help bring its labor laws into line with international labor standards, rebuild the capacity of the

Ministry of Labor and Social Affairs, establish emergency employment services, and put in place training and skills development programs.

In April, a Commission of Inquiry appointed under Article 26 of the ILO Constitution visited Belarus to investigate a complaint that the Government was systematically violating its obligations under the ILO's fundamental Conventions on freedom of association and protection of the right to organize and bargain collectively, both of which it has ratified. The Commission's report, issued in October, concluded that the country's trade union movement was subject to significant government interference. The Commission recommended that the government take all necessary steps to register independent unions, amend laws and decrees restricting freedom of association, protect independent trade unionists from anti-union discrimination, and disseminate the Commission's conclusions and recommendations. It stated that most of these recommendations should be implemented by June 2005 at the latest.

Under the leadership of President Bush the United States has stepped forward with its democratic allies to reaffirm our commitment to human rights and democracy. We rest upon the principle that nations governed by free people will be the cornerstone for the development of a world that is more peaceful for all. The execution of our democratic duty depends on the determination and passion of its promoters. Let the following Country Reports serve as an indicator of the progress made and as a guide for the challenges ahead.ststst

## AFRICA

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### ANGOLA

Angola is a constitutional republic in transition after its 27-year civil war ended in 2002. Legislation provides for decentralization; however, the Government remained highly centralized and dominated by the Presidency. The Popular Movement for the Liberation of Angola (MPLA) has ruled the country since its independence from Portugal in 1975. President Jose Eduardo dos Santos of the MPLA, who assumed power in 1979, won 49 percent of the votes cast in a 1992 election that U.N. observers considered generally free and fair. The Government of National Reconciliation was formed in 1997 after the National Union for the Total Independence of Angola (UNITA) and 10 smaller opposition parties joined the ruling MPLA. The National Assembly was weak; while opposition deputies held approximately 43 percent of National Assembly seats, few mechanisms exist to check the power of the MPLA majority or defeat legislation supported by the executive branch. The judiciary was subject to executive influence, functioned poorly at the provincial and municipal levels and did not always ensure due process.

The Ministry of Interior, through the Angolan National Police (ANP), is responsible for internal security. The internal intelligence service is directly answerable to the Office of the Presidency. The Armed Forces of Angola (FAA) is responsible for external security but also has domestic responsibilities; the FAA conducted counterinsurgency operations against the Front for the Liberation of the Enclave of Cabinda-Armed Forces of Cabinda (FLEC-FAC). The civilian authorities maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The mixed economy, dominated by oil, grew by over 10 percent during the year; however, most of the country's wealth remained concentrated in a few hands. Although commercial and agricultural activity in urban and rural areas increased since the end of the war, 70 percent of the population of approximately 13 million continued to live in poverty. Approximately 85 percent of the population residing outside of Luanda were employed in agriculture, mostly at a subsistence level. Corruption, nontransparent contracting practices, and unfair enforcement of regulatory and tax regimes favored the wealthy and politically influential. Poor governance continued to limit the provision of basic services to most citizens. Although conditions improved in many parts of the country, the U.N. Office for the Coordination of Humanitarian Assistance (OCHA) estimated that 1.1 million citizens were still at risk of food insecurity, with 500,000 needing immediate food assistance.

The Government's human rights record remained poor; although there were improvements in a few areas, serious problems remained. The right of citizens to change their government remained restricted due to the postponement of elections. Members of the security forces committed unlawful killings, were responsible for disappearances, tortured, beat, raped, and otherwise abused persons. Impunity remained a problem. Prison conditions were harsh and life-threatening. The Government continued to use arbitrary arrest and detention, and lengthy pretrial detention was a problem. The Government infringed on citizens' privacy rights. The Government at times restricted freedom of speech and of the press, and harassed, beat, and detained journalists. The Government at times restricted freedom of assembly. Unlike in previous years, there were no reports that internally displaced persons (IDPs) were displaced by conflict; however, there were unconfirmed reports that refugees were included in the expulsions carried out during Operacao Brilhante. The Government began implementing a law that could increase restrictions on non-governmental organizations (NGOs). Violence and discrimination against women, as well as adult and child prostitution, was common. Children and persons with disabilities continued to suffer as a result of poor economic conditions and limited protections against discrimination. Indigenous people suffered from discrimination and

economic exploitation. There were reports of trafficking in persons. The Government continued to dominate much of the labor movement and did not always respect worker rights. Child labor was a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings by the Government or its agents; however, security forces killed an unknown number of persons. Local human rights organizations reported that police and, increasingly, members of the Civil Defense Organization (ODC) were the primary human rights abusers and responsible for most unlawful killings (see Section 1.c.). Impunity remained a serious problem.

There were reports that military forces in Cabinda, including insurgency forces, executed civilians. The Human Rights Report on Cabinda, published by the civic association Mpalabanda, alleged that there were 19 civilians killed by military forces from September 2003 to December.

Clashes between Government troops and the FLEC-FAC in Cabinda continued. Reports of civilians killed occurred throughout the year. The failure of the Government to provide adequate protection for civilians contributed to the number of civilian casualties. In January, two civilians died in Mikuma, Cabinda in fighting between the FLEC and the FAA. In a reprisal attack, an army special forces unit killed four men in Kaiu. On April 24, an unidentified armed group believed to be guerrillas attacked Massabi, Cabinda, killing 6 and injuring 10 others. FLEC-FAC forces reportedly tortured and killed at least one civilian.

There were no further developments in the May 2003 case in which FLEC guerrillas executed a person for collaborating with the Government.

Police resorted regularly to unlawful killings, especially of known criminal gang members, as an alternative to relying on the country's ineffective judicial system.

Several persons died during an operation to expel illegal migrant workers from the country (see Section 1.c.). Police also killed several street vendors during riots following efforts to clear former market sites (see Section 2.b.).

Police and the military killed civilians during protest demonstrations (see Section 2.b.).

In July, the Government charged eight members of the Presidential Guard (UGP) for the November 2003 detention, torture, and drowning death of a car washer heard singing lyrics critical of the Government. All eight were acquitted in November.

There were no further developments in the April 2003 police shooting of a child in Boa Vista or the alleged killings by police reported in August 2003.

Prisoners died in official custody (see Section 1.c.).

Eight provinces, encompassing approximately 50 percent of the country, contained areas that were heavily mined. The U.N. Development Program (UNDP) estimated that there were 2 million unexploded munitions in the country; however, international NGOs conducting landmine clearance operations in the country estimated the number of landmines at 500,000. According to the Angolan Commission for Demining and Humanitarian Assistance, 73 persons were killed and 114 injured as a result of 86 mine-related incidents during the year. There were more than 80,000 landmine victims with injury-related disabilities.

On July 2, three unidentified men shot Mfulumpinga Landu Victor, leader of the Democratic Party for Congress (PDP-ANA), as he entered his car not far from his party's office. The Government and police considered the killing a botched carjacking. Some political opposition parties believed the crime to be politically motivated. Police launched an investigation and at year's end one of two suspects remained in custody. The other suspect was released due to lack of evidence.

On November 11, Vicente Tembo, a UNITA deputy, was shot but not killed in a suburb of Luanda. Opposition groups claimed the shooting was politically motivated; however, the police denied this claim. An investigation was underway at year's end.

*b. Disappearance.*—Persons taken into police custody reportedly disappeared in some cases, particularly in rural areas. Local human rights organizations in Cabinda reported several disappearances of persons detained by government forces during the year for alleged ties to FLEC insurgents.

In March, UNITA reported the disappearances of a municipal UNITA secretary and a member of the UNITA youth wing (JURA) in Benguela. These individuals were not found, and the MPLA denied any involvement in this disappearance.

There were no developments in the July 2003 disappearance of two young farmers in Huambo.

There were no further developments in the 2002 reported disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Penal Code prohibit all forms of mistreatment of suspects, detainees, or prisoners; however, security forces tortured, beat, raped, and otherwise abused persons. Local and international human rights organizations reported that these abuses were widespread. Government spokespersons acknowledged problems, ascribing them to poor training and individual misdoings.

FAA personnel were responsible for torture and other forms of cruel and degrading treatment, including rape, in Cabinda during the year. The Human Rights Report of Cabinda, published by the Cabinda civic association Mpalabanda, reported 50 cases of torture or cruel and degrading treatment during the year. Police were frequently accused of using torture and coerced confessions during investigations and often beat and released suspects in lieu of trials. Persons suspected of ties to FLEC were allegedly subjected to brutal forms of interrogation. During the year, a visit by the U.N. Special Representative for Human Rights Defenders, Hina Jilani, and a report by Human Rights Watch (HRW) brought further attention to the problems in Cabinda. The large number of FAA troops deployed within the Cabindan population was identified as a major contributor to the human rights abuses.

In an attempt to curb illegal diamond mining, the Government targeted and expelled over 120,000 Congolese and West African migrant miners. This operation, code named “Operacao Brilhante,” involved members of the FAA, National Police, and Ministry of Interior Immigration officials. Security forces detained, beat, raped, performed invasive body cavity searches, and shot migrant diamond workers as part of this operation. At least two persons drowned when forced to cross the river separating the country from the Democratic Republic of the Congo (DRC). Prior to expulsion, many were held for a few days in transit camps that lacked sufficient water, sanitation, and shelter. Lack of transport forced many to cover the last 40 miles of the journey to the border on foot. In July, the operation resumed after a 45-day suspension, as did reports of human rights abuses. The FAA and National Police reportedly changed their methods, and expulsions became more humane following a public announcement in September of condemnation by Agostinho Fernando Nelumba, Chief of Staff of the FAA. Nevertheless, problems remained, as evidenced by the December 6 prison deaths, and the operation continued at year’s end.

Police participated in acts of intimidation, robbery, harassment, and killings (*see* Sections 1.a. and 1.f.). Authorities forcibly moved and injured vendors in various Luanda markets as part of a campaign to clean up the streets and improve traffic circulation (*see* Section 2.b.).

During the year, police beat journalists (*see* Section 2.a.).

Police injured and killed persons while forcibly dispersing demonstrations (*see* Section 2.b.).

Government authorities harassed opposition party members (*see* Section 3).

Police harassed NGO workers during the year, extorted money from travelers, and harassed and abused refugees (*see* Sections 2.d. and 4).

There were no developments in the 2003 and 2002 cases of police torture and other cruel, inhuman, or degrading treatment by security forces.

There were also reports that police assaulted prostitutes during the year (*see* Section 5).

Landmines continued to result in injuries (*see* Section 1.a.).

The press reported that FLEC-FAC forces continued to torture and kill civilians in Cabinda.

Between July 17 and 21, a mob burned and looted 80 homes of known or supposed UNITA supporters in Cazombo, Moxico, to protest the appointment of a former UNITA general to the new UNITA office. During the war, the general had ordered the destruction of the locality’s bridge over the Zambezim River. Authorities arrested one traditional leader for instigating the violence.

Prison conditions were harsh and life-threatening. During the year, human rights activists reported that prison officials routinely beat and tortured detainees. The national prison system continued to hold approximately five times the number of prisoners for which it was designed. Overcrowding in Luanda prisons diminished after the completion in November of the rehabilitation and expansion of the Viana prison; however, local human rights organizations reported that conditions were considerably worse outside the Luanda prison system. In Bengo, Malange, and Lunda Norte Provinces, warehouses were used as prison facilities during the year. In Huila Province, the provincial penitentiary held 350 prisoners in a facility designed for 150.

On December 6, local media reported that between 8 to 16 prisoners died due to asphyxiation in an overcrowded police station cell in Mussendi, Lunda-Norte. The detainees, some of whom were from the DRC, were being held as part of Operacao

Brilhante. In protests following these deaths, police reportedly killed two individuals (see Section 2.b.). The National Police Commander publicly admitted wrongdoing, ordered the arrest of the local commander and several officers, and stated that an investigation was underway.

Many prisons, lacking adequate financial support from the Government, were unable to supply prisoners with basic sanitary facilities, adequate food, and health care. Prisoners depended on families, friends, or international relief organizations for basic support. There were reports that prisoners died of malnutrition and disease. For example, in the Condeueji prison in Luanda Norte, independent media reported that six inmates died between June 1 and 3 due to inadequate food and water, harsh conditions, and lack of medical treatment.

Prison officials, who were chronically underpaid, supported themselves by stealing from their prisoners and extorting money from family members. For example, prison guards continued to demand that prisoners pay for weekend passes to which they were entitled. There were reports of prison officials operating an informal bail system, releasing prisoners until their trial date for fees ranging from \$300 to \$1,500 (25,000 to 127,500 kwanza).

Female prisoners were held separately from male prisoners; however, there were reports that prison guards sexually abused female prisoners. Juveniles, often incarcerated for petty theft, were housed with adults and suffered abuse by guards and inmates. Pretrial detainees frequently were housed directly with sentenced inmates, and prisoners serving short-term sentences often were held with inmates serving long-term or life sentences for violent crimes.

The Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during the year; however, NGO officials were denied access or given limited access to prisons in the provinces. Government authorities refused access to protesters detained following the April demonstration in Canfunfo (see Section 2.b.). The Government did not consistently report the arrest of foreign nationals to the appropriate consular authorities.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, security forces did not always respect these provisions in practice. Persons were often denied due process. The National Police were the primary source of abuses during the year; however, reports of arbitrary detentions by the FAA continued in Cabinda. For example, in March, Cabindan authorities reportedly detained a man for having downloaded FLEC information from the Internet.

The National Police are under the Ministry of the Interior and are responsible for internal security and law enforcement. Other than those personnel assigned to elite units, police were poorly paid, and the practice of supplementing their income through extortion from the civilian population was widespread. Impunity remained a serious problem. The complaints office at the headquarters for the National Police received an average of 10 complaints from citizens a day regarding police misconduct. There were reports that police members were sanctioned internally and even removed from their positions for alleged violations. Most complaints were handled within the National Police via internal disciplinary procedures; however, on December 19 a member of the Luanda police was sentenced to 18 years' imprisonment for his involvement in the killing of a civilian in March, during an attempt to extort money from 3 individuals.

During the year, NGOs provided human rights and professional training to police and military. Police also participated in professional training with foreign law enforcement officials from several countries in the region.

Under the law, a person caught in the act of committing a crime may be arrested and detained immediately. Otherwise, the law requires that a judge or a provincial magistrate issue an arrest warrant. Arrest warrants also may be signed by members of the judicial police and confirmed within 5 days by a magistrate; however, security forces did not always procure an arrest warrant before placing individuals in detention.

The Constitution provides for the right to prompt judicial determination of the legality of the detention. A person may not be held for more than 135 days without trial. The National Security Law provides for a maximum of 180 days of investigative detention when an individual is caught in the act of committing a crime punishable by a prison sentence; however, in practice these limits were exceeded commonly.

The prosecution and defense have 90 days before a trial to prepare their case, although both sides generally have the right to request an extension of this deadline under extenuating circumstances. The Constitution also provides prisoners with the right to receive visits by family members; however, such rights were sometimes ignored in practice or made conditional upon payment of a bribe. There was a scarcity

of personnel and resources and a lack of official determination to ensure these rights. Although the Ministry of Justice was nominally in charge of the prison system, the police continued to arrest and detain persons without bringing detainees to trial.

The law permits detainees access to legal counsel; however, this right usually was not respected in practice, partially due to a severe shortage of lawyers. There is a functioning bail system that is widely used for minor crimes.

Although illegal detention continued to be a problem, government and NGO attention to the problem increased and NGOs were given better access to information within the judicial system. Human rights organizations, such as the Association for Justice, Peace, and Democracy (AJPD), continued their efforts to secure the release of illegally detained individuals. At year's end, there was no update on the status of the six individuals the AJPD reported in September 2003 were being held illegally.

According to the independent media, security forces continued to illegally detain individuals in Cabinda accused of collaborating with FLEC. As part of Operacao Brillhante, expelled miners and their families were detained in transit centers until their removal from the country (*see* Section 1.c.).

There were no new developments in the October 2003 incident when three young men were detained in Tandu-Macuco village.

Unlike in previous years, the Government did not temporarily detain human rights activists.

Police sometimes arrested persons holding demonstrations (*see* Section 2.b.).

An insufficient number of judges and poor communication between various authorities led to prolonged detention. More than 60 percent of inmates were awaiting trial and it was common for inmates to wait approximately 1 to 2 years for trial. In many cases, police beat and then released detainees rather than prepare a formal court case. Local human rights organizations, such as Maos Livres and AJPD, were successful in securing the release of some detainees during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was subject to executive influence. The judiciary functioned poorly at the provincial and municipal levels, and did not ensure due process for criminal or civil cases. In practice, the court system lacked the means and political support to assure its independence. During the year, the Government continued to rebuild courts and train new magistrates and prosecutors; however, in civil and criminal provincial courts, there was often only one judge to cover all cases in the province.

During the year, the Human Rights Division of the U.N. Mission in Angola (UNMA) continued to support human rights training of municipal magistrates by the Ministry of Justice. The office trained 53 judges and 23 prosecutors during the year.

The court system consists of the Supreme Court at the appellate level plus municipal and provincial courts of original jurisdiction under the authority of the Supreme Court. The Supreme Court serves as the appellate court for questions of law and fact. The President has the power to appoint Supreme Court justices without confirmation by the National Assembly. The Constitution provides for judicial review of constitutional issues by the Supreme Court until the Constitutional Court is established. The creation of the Constitutional Court depends on the writing of a new Constitution, expected following legislative elections which the Government announced would be held in 2006.

There were long delays for trials at the Supreme Court. Trials for political and security crimes in principle are handled exclusively by the Supreme Court; however, there were no such trials. The criminal courts have a large backlog of cases that caused major delays in scheduling hearings. The legal code and rules of procedure underwent positive changes during the year. The Ministry of Justice implemented random assignment of judges, updated case management systems, and trained law clerks.

Due to the lack of judicial infrastructure in many provinces and municipalities, traditional or informal courts still were utilized. Traditional leaders, "sobas," were called upon to hear and decide local cases. These courts were expected to continue until the formal legal system is rebuilt. They did not provide citizens with the same rights to a fair trial as the formal legal system; instead their rules were established by the community in which they were located.

By law, defendants are presumed innocent; trials are public; defendants have the right to appeal; there is a functioning system of bail; and defendants have the right to counsel; however, the Government did not always respect these rights in practice. Trials are public; however, each court has the right to close proceedings. Defendants

do not have the right to confront their accusers. Judges were often not licensed lawyers; however, the Ministry of Justice increased efforts during the year to recruit and train lawyers to serve as magistrates. The judge and two laypersons adjudicate.

A Court for Children's Affairs, under the Ministry of Justice, functions as part of Luanda's provincial court system.

Government corruption was widespread and accountability was limited, despite the Anti-Corruption Tribunal (*see* Section 3). During the year, the Tribunal investigated five cases and found all parties guilty, levying fines but no prison sentences.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not always respect citizens' privacy rights. Legal requirements for search warrants occasionally were disregarded, most often in police searches for illegal vendors and periodic sweeps of public markets.

In April, policemen reportedly entered a residence in Cazenga, near Luanda, and stole \$1,000 (85,000 kwanza).

Citizens widely believed that the Government maintained surveillance of certain groups, including opposition party leaders and journalists.

There were fewer reports of abuses in Cabinda, but serious incidents were reported. Unlike in the previous year, there were no reports that army units burned villages. Local human rights organizations reported that the denial of access to agricultural areas led to the neglect and subsequent destruction of crops in Cabinda. Government forces in Cabinda reportedly attacked women in their homes, while they were working in the fields, near military camps, and during searches of homes.

Unlike previous years, there were no IDPs forced to resettle. All but 100,000 of the 3.8 million IDPs returned to their area of origin or decided to remain permanently with their host communities (*see* Section 2.d.).

Approximately 3 years after the Government evicted 4,200 families from their homes in the Boa Vista neighborhood of Luanda for an urban renewal project, the Government completed promised replacement houses and public buildings. Many of the houses the Government built lacked plumbing and electricity.

The Government continued to demolish informal squatter housing. On April 17, military members removed families from approximately 50 homes, which were later demolished, near Cidade Alta, Luanda. In many instances the Government offered no compensation to displaced residents. Residents of Soba Kapassa neighborhood evicted between 2001 and 2003 continued to wait for financial reimbursement from the Government. UNITA quartering areas officially closed in June 2003. Demobilized soldiers in Camacupa, Bie reported discrimination in land distribution. Radio Ecclesia reported that approximately 2,500 demobilized soldiers and UNITA soldiers moved away from Cazombo, Moxico for fear of their safety. Similar incidents in Benguela and Kuando Kubango also were reported. The Government indicated that a lack of economic opportunity played a role in these movements.

Unlike in previous years, the FAA did not employ forced movements of rural populations as part of its counterinsurgency operations against the FLEC.

There were no new developments in the July 2003 forced removal of subsistence farmers in Huambo, Huila, or Kwanza Sul provinces.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times restricted this right in practice. There were fewer restrictions on journalists during the year. Both radio and print media criticized the Government openly, and at times harshly. There were reports that police, especially outside Luanda, harassed, beat, and detained journalists. There were also reports that the Government paid journalists to publish pro-government stories. During the year, there was increasing media attention on corruption, economic mismanagement, and opposition politics; however, there were reports that journalists were investigated for reporting on sensitive issues and that the Government limited access by independent journalists to certain events and interviews. Journalists exercised self-censorship when reporting on highly sensitive matters. The Government did not restrict academic freedom.

The largest media sources were state-run and carried little criticism of government officials, though they often highlighted government program deficiencies. The Government owned and operated *Jornal de Angola*, the only daily newspaper. There were seven private weekly publications with circulation in the low thousands. The Government tolerated increasing criticism of its policies and actions in the independent media.

The state press often criticized independent journalists and opposition leaders; however, unlike in previous years, independent journalists were able to respond to these criticisms.

There were five commercial radio stations, including the Catholic Church's Radio Ecclesia and Radio Lac Luanda, which openly criticized government policies and highlighted poor socioeconomic conditions. In July, the Minister of Social Communication strongly criticized Radio Ecclesia and called it a "smuggler" organization for importing transmission repeaters and other necessary broadcasting equipment without approval. Although Radio Ecclesia broadcasts via the Internet, the Government continued to refuse to approve its nationwide FM broadcast authority. The Government also publicly criticized the international community's support for independent media. Government-owned and operated Angolan National Radio was the only radio station with the capacity to broadcast throughout the country other than over shortwave. The only television station was the government Angola Public Television (TPA), which broadcast in Luanda and most provincial capitals.

The Government did not restrict the activities of foreign media, including the British Broadcasting Corporation and Voice of America. Foreign journalists must receive authorization from the Ministry of the Interior to meet government officials or to travel within the country. Foreign journalists also must obtain work visas issued in their home countries to enter and report on the country.

Government authorities reportedly harassed, beat, and detained independent journalists on at least two occasions during the year. In April, the Criminal and Investigative Police in Saurimo, Lunda Sul beat an Angola News Agency journalist investigating a murder in the area. Despite presenting his press credentials, the journalist was detained for 1 day. In August, seven policemen beat and confiscated the camera of two TPA reporters filming the crackdown on rural women vendors in Rangel municipality, near Luanda. All were later released.

There were no developments in the 2003 or 2002 cases in which government authorities harassed journalists.

A committee composed of the Minister of Social Communication, the spokesman of the Presidency, and the directors of state-run media organizations had policy and censorship authority. The Government used its control of the government media to influence public opinion.

Defamation of the President or his representatives is a criminal offense, punishable by imprisonment or fines. Factuality is not a defense to defamation charges; the only allowable defense is to show that the accused did not produce the actual material alleged to have caused harm. On March 30, the editor of the independent weekly *Semanario Angolense* was sentenced to 45 days in jail or to pay a \$106 (9,000 kwanza) fine. He also was forced to pay a \$1,200 (102,000 kwanza) fine directly to one of the claimants for publishing an article that detailed the personal fortunes of prominent government officials.

There were no updates on the cases of journalists arrested by the Government in 2003 on charges of slander.

The Law on State Secrecy permits the Government to classify information. Following the classification of material the Government then has the ability to demand information regarding the source of the materials and persecute those that published the classified information. There were unconfirmed reports that the Government used this law to classify information unnecessarily, shielding the public from information of government decision-making.

The Government did not restrict access to the Internet, and it was available in several provincial capitals.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government at times restricted this right in practice. At times police used excessive force to break up demonstrations.

The law requires a minimum of 3 days prior notice before public or private assemblies are to be held and makes participants liable for "offenses against the honor and consideration due to persons and to organs of sovereignty." Applications for pro-government assemblies routinely were granted without delay; however, applications for protest assemblies sometimes were denied, usually based on the restriction of venue. During the year, official tolerance for public protest increased, although officials were not consistent in permitting such protests.

In February, government authorities prevented 1,500 activists from entering a stadium in Cabinda for a ceremony officially opening the civic association Mpalabanda. On June 17, police prevented 50 Democratic Aid and Progress Party (PADEPA) members from staging a demonstration against corruption in downtown Luanda. The Government also restricted two planned demonstrations by PADEPA in November and December.

Police used excessive force to break up demonstrations during the year. On March 4, a protest organized by vendors to protest closure of the Estalagem market in Viana resulted in clashes with police in which three civilians and one police officer were killed. Several others were injured and the police detained approximately 25 protestors. In April, all of the detainees were released and an official investigation into excessive force used by police officers continued at year's end.

On April 22, government forces, under provincial leadership, fired on a crowd protesting the removal of generators that provided neighborhood power in Canfunfo, Lunda Norte. Following a civilian attack on the local police station, an unconfirmed number of civilians were killed. The police arrested approximately 17 persons for their participation in these events. The authorities reported three of the detainees died in custody but refused to allow lawyers or family members access to the prison; the remaining detainees were all released by year's end.

In protests following the December 6 deaths of numerous individuals in Mussendi, Luanda-Norte police killed two individuals (*see* Section 1.c.). The National Police Commander publicly admitted wrongdoing, ordered the arrest of the local commander and several officers, and stated that an investigation was underway.

Unlike previous years, there were no reports that opposition supporters were detained after holding demonstrations.

No action was taken against security forces responsible for using excessive force to disperse demonstrations in 2003.

The Constitution provides for the right of association; however, the Government sometimes restricted this right in practice. There were fewer reports than in previous years that government officials interfered with private association. Legislation permits the Government to deny registration to private associations on security grounds. Although the Government approved most applications, including those for political parties, the Ministry of Justice continued to block the registration of the local human rights group AJPD by not taking action on its application originally filed in 2000 (*see* Section 4).

The Government arbitrarily restricted associations that it considered subversive by refusing to grant licenses for organized activities and through official harassment. Opposition parties were permitted to organize and hold meetings during the year; however, many reported harassment from local authorities outside Luanda (*see* Section 3). In March, UNITA members complained that a rural MPLA official in Bie ordered police to whip 13 residents to discourage attendance at a UNITA rally; however, these allegations could not be confirmed.

Independent labor activists reportedly also encountered difficulty with provincial governments registering branch associations; however, vigils and demonstrations took place throughout the year (*see* Section 6.b.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious groups must register with the Ministry of Justice and the Ministry of Culture. Colonial-era statutes ban non-Christian religious groups; however, they were not enforced during the year. In March, the National Assembly approved a law establishing stricter criteria for the registration of religious groups to curb the growth of cults, although the law did not have any effect on the registration process. The Minister of Justice also announced his opposition to Muslim proselytizing.

A total of 17 religious groups in Cabinda remained banned during the year on charges of practicing traditional medicine on the groups' members.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times restricted these rights in practice. Extortion and harassment at government security checkpoints in rural and border areas interfered with the right to travel. Police routinely harassed returning refugees at border checkpoints. The Government restricted access to areas of Cabinda that were deemed insecure. During the year, previously inaccessible areas were opened to travel.

Extortion at checkpoints was routine in Luanda, pervasive on major commercial routes, and served as a principal source of income for many of the country's security service personnel. As part of Operacao Brillhante, security forces harassed expelled miners and their families as they crossed the border into the DRC (*see* Section 1.c.). In Malanje, Congolese citizens reportedly avoided deportation through payments that ranged from \$50 to \$200 (4,250 to 17,000 kwanza) (*see* Section 1.c.).

Police forcibly moved poor residents from central neighborhoods in Luanda to outlying areas as part of urban renewal programs (*see* Section 1.f.).

Landmines remaining from the civil war were a major impediment to the freedom of movement (*see* Section 1.a.).

Foreign journalists must obtain authorization from the Ministry of the Interior to travel within the country.

The Constitution prohibits forced exile, and the Government did not use it.

The Government did not place restrictions on emigration and repatriation; however, there were reports that immigration officials harassed and extorted money from travelers. In February, OCHA declared that approximately 100,000 IDPs remained unsettled; however, 70 percent of the returnees resettled in areas where the preconditions specified in the national guidelines for the resettlement of IDPs had not been met. An estimated 40 percent of returnee communities remained closed to international humanitarian and development agencies due to destroyed access routes or mine obstruction.

The Ministry of Assistance and Social Re-Insertion (MINARS) has primary responsibility for returnees and remaining IDPs, as well as continued housing and resettlement programs; however, these efforts remained inadequate. Provincial governments have primary responsibility for actual resettlement, ensuring safe, voluntary resettlement to areas cleared of mines and with access to water, arable land, markets, and adequate state administration. Unlike in previous years, there were no confirmed reports of forced relocation of IDPs; however, there were unconfirmed reports in connection with Operacao Brilhante. More than 65 percent of returnees did not have access to primary health care, 65 percent had no potable water, and 75 percent had no basic sanitation.

There were no new developments on the 2003 reports of unsafe conditions at provincial reception centers for IDPs.

During the year, an estimated 145,000 refugees returned, including 49,570 through the U.N. office of the High Commissioner for Refugees (UNHCR) voluntary repatriation program. There were reports that border officials robbed, harassed, sexually harassed, and charged refugees illegal taxes at border posts. UNHCR reported an increase in crimes against returnees in Moxico Province; incidents included physical assaults, confiscation of goods, and bribes. According to UNHCR, an estimated 83,000 to 200,000 citizens were still living outside the country.

The law provides for the granting of refugee status and asylum to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status and asylum. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. An eligibility committee to evaluate asylum claims, under the authority of the Ministry of Justice, continued to meet periodically to consider asylum requests. Of the approximately 3,000 West Africans detained in June in Viana, near Luanda, as part of Operacao Brilhante, at least 10 were refugees or asylum seekers. According to the UNHCR, the country had approximately 12,000 refugees, most of whom were from the DRC.

In Bengo province, local residents continued to harass approximately 300 Congolese refugees in Sungui Camp.

There were no new developments in the June and October 2003 harassment of an NGO working in the area.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, in practice this right remained restricted due to the delay in scheduling elections. Opposition parties complained of harassment and intimidation by the Government.

In 1992, the first multiparty presidential elections were held. MPLA president Jose Eduardo dos Santos won a plurality of votes cast. Although local and international observers declared the election to be generally free and fair and called on UNITA to accept the results, UNITA claimed that the elections were fraudulent, rejected the results, and returned to civil war, preventing a run-off election.

Active civil society discussions and political party activity for elections were underway during the year. On May 12, opposition parties walked out of the National Assembly's Constitutional Commission in protest at the Government failure to decide on a national election timetable. In August, the ruling MPLA party presented a tentative electoral timetable with legislative and presidential elections scheduled for September 2006. On November 11, President dos Santos spoke favorably of an

opposition proposal to hold parliamentary elections in late 2006, with the Presidential election postponed until the following year. This would allow the newly elected parliament to draft a new Constitution, under which the presidential elections would be held in 2007. A formal election timetable is expected in early 2005.

The President is elected by an absolute majority. If no candidate wins a majority, a runoff must take place between the two candidates with the most votes. Of the 220 deputies in the National Assembly, 130 are elected on a national ballot, and 90 are elected to represent provinces. The Electoral Law also calls for the election of three additional deputies to represent citizens living abroad; however, those positions were not filled in the 1992 elections.

Ruling power is concentrated in the President and the Council of Ministers, through which the President exercises executive power. The Council can enact decree-laws, decrees, and resolutions, which means it can assume most functions normally associated with the legislative branch. Although the Constitution established the position of Prime Minister, the President filled the position from 1998 to 2002. In 2002, the President named former Interior Minister Fernando Dias dos Santos "Nando" as Prime Minister. While opposition deputies held approximately 43 percent of National Assembly seats and substantive debates sometimes took place, few mechanisms existed to check the power of the MPLA majority or defeat legislation supported by the executive branch. Laws such as the Law on State Secrecy and the Law on National Security further strengthened executive authority and limited legislative oversight (*see* Section 2.a.).

There were more than 120 registered opposition parties, of which 11 received a public subsidy based on their representation in the National Assembly. The majority of opposition parties have limited national constituencies. The two historical opposition parties that date back to independence, UNITA and the National Front for the Liberation of Angola (FNLA), traditionally derived support from the Ovimbundu and Bakongo ethnic groups. During the year, UNITA completed the transition from a disbanded military organization to the largest opposition party.

Opposition parties complained of harassment and intimidation by the police, army, ODC, and supporters of the Government outside Luanda. On February 28, government authorities attacked two UNITA activists in Mungo municipality. On March 29, a group of men in FAA uniforms and ODC badges attacked and set fire to a UNITA office in Kalima, Huambo province and threw stones at the occupants, injuring two persons. The UNITA members fled to Huambo City. In both of these cases, investigations were started and meetings were held between local officials and UNITA leaders to discuss culpability for these incidents; the cases were ongoing at year's end.

There were no new developments in the 2003 reports of harassment and intimidation.

The Government took steps to increase transparency and reduce state expenditures not reflected in the official budget. Parastatals, most notably the state oil company SONANGOL, were required to report their revenues to the central bank, though information gaps remained a concern. SONANGOL and ENDIAMA, the state diamond marketing company, must undergo regular audits conducted by international accounting firms.

During the year, the Government made a \$2.25 billion (191.25 billion kwanza) commercial oil-revenue backed loan and established a \$2 billion (170 billion kwanza) credit line with China's ExIm Bank. The IMF and World Bank expressed concerns that these funds may not be used in a transparent manner. Transparency in the business environment improved but cartel-like business practices continued to favor those connected to the Government. Petty corruption among police, teachers and other government employees was prevalent, due in part to low salaries. During the year, four government officials, including a former Ambassador and Governor, were formally charged with corruption.

There were 35 women in the 220-seat National Assembly, and 10 women in the 41-member Cabinet including 3 ministers.

There were 7 members of minorities in the 220-seat National Assembly. There were 3 members of minorities in the 61-member Cabinet.

#### *Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups operated in the country and investigated and published their findings on human rights cases. The Government did not prohibit independent investigations of human rights abuses; however, it failed to cooperate and often used security conditions as a justification to deny access in Cabinda.

In February, the Government placed new restrictions on NGOs, requiring them to submit detailed activity reports, sign agreements with applicable ministries, and provide banking and financial details. Under the new regulations, the Government has the right to determine where and what projects each NGO may implement but did not exercise this right during the year.

There were more than 100 international NGOs operating in the country and approximately 350 domestic NGOs, of which an estimated 100 worked on human rights activities. Local NGOs actively promoted human rights during the year by documenting prison conditions and providing free legal counsel; however, the Government continued to be suspicious of local NGOs receiving international support.

The Ministry of Justice continued to block the registration of AJPD by not acting on its application, which has been pending since 2000. At year's end, AJPD was awaiting a Supreme Court decision on its suit against the Ministry of Justice for not processing the organization's registration application. In spite of its uncertain legal position, AJPD continued to function throughout the year without government interference.

The Cabinda civic association, Mpalabanda, formed in March, worked extensively on human rights issues. Their efforts focused on helping those abused, documenting the cases of abuse, educating the population on human rights issues and working with the provincial government and the FAA to curb abuses. They also reported on human rights abuses that occurred during the year (*see* Section 1.a. and 1.c.).

Unlike in the previous year, the Government did not temporarily detain human rights activists.

In February, municipal authorities expelled a foreign NGO worker from Lumbala N'guimbo, Moxico on charges of undermining the Government, improperly collaborating with UNITA, and traveling without proper authorization. The worker left the country to avoid prosecution.

There were no further developments in the August 2003 case of a local human rights leader being recalled from overseas medical treatment for police questioning or the October 2003 report of individuals in FAA uniforms stealing humanitarian supplies from an NGO.

Several international organizations have a permanent presence in the country, including the International Committee of the Red Cross (ICRC) and the U.N. Human Rights Commission. Human Rights Watch visited the country multiple times during the year and released a report in July on media and political freedoms in the country.

During the year, U.N. humanitarian agencies maintained large-scale operations for food security programs, repatriation and reintegration activities, and development projects.

The National Assembly's Committee on Human Rights conducted visits to prisons, held hearings on human rights issues, and, in December, held a public workshop on human rights that recommended the establishment of a National Ombudsman for Human Rights.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

Under the Constitution, all citizens are equal before the law and enjoy the same rights and responsibilities regardless of color, race, ethnicity, sex, place of birth, ideology, degree of education, or economic or social condition; however, the Government did not effectively enforce these provisions.

*Women.*—Violence against women was widespread. Credible evidence indicated that a significant proportion of homicides were perpetrated against women, usually by spouses. The Ministry of Women and Family deals with violence against women and reported receiving an average of 20 domestic violence cases a month; however, most cases of domestic violence were not reported. The Government continued its project to reduce violence against women and improve their status. Domestic violence is prosecuted under rape, assault, and battery laws.

Rape is defined as a forced sexual encounter and is punishable by up to 8 years in prison. The law treats sex with a minor under the age of 12 as nonconsensual; however, limited investigative resources and an inadequate judicial system prevented prosecution of most cases.

Due to poor economic conditions, many women engaged in prostitution. Prostitution is illegal under the Constitution; however, the prohibition was not enforced. In January, independent media reported on police assaults on prostitutes in Luanda as part of an effort to forcibly reduce illegal street activity.

There are no specific legal prohibitions regarding sexual harassment; however, such cases may be prosecuted under assault and battery and defamation statutes. Sexual harassment was not a salient issue in the country.

The Constitution and Family Code provide for equal rights without regard to gender; however, societal discrimination against women remained a problem, particularly in rural areas. In addition, the Civil Code includes discriminatory provisions against women in the areas of inheritance, property sales, and participation in commercial activities. There were no effective mechanisms to enforce child support laws, and women carried the majority of responsibilities for raising children. The law provides for equal pay for equal work; however, in practice women rarely were compensated equally with men. Some women held senior positions in the armed forces (primarily in the medical field) and civil service, but women generally were relegated to low-level positions in state-run industries and in the private sector. Under the law, women may open bank accounts, accept employment, and own property without interference from their spouses. Upon the death of a male head of household, the widow automatically is entitled to 50 percent of the estate with the remainder divided equally among legitimate children. In much of the country, women constituted a growing percentage of persons with disabilities, as they were most likely to become victims of landmines while foraging for food and firewood in agricultural areas.

*Children.*—Although international reports estimate that approximately 60 percent of the population is under the age of 15, the Government's attention to children's rights and welfare was insufficient. The Ministry of Education and Culture (MEC) functioned poorly due to a lack of resources and lack of administrative capacity. Nevertheless, the MEC, together with UNICEF, continued a program to provide informal learning and life skills for vulnerable children outside of the formal education system. During the year, the MEC Back-to-School campaign efforts consisted of training 20,000 new teachers for placement in schools throughout the country. The National Institute for Children has daily responsibility for children's affairs.

Although primary and secondary education was free and compulsory until the sixth grade, students often had to pay significant additional expenses, including for books and supplies. Teachers were chronically unpaid and allegedly often demanded unofficial payment or bribes from students. Most of the educational infrastructure was damaged during the war, and schools lacked basic equipment and teaching materials. UNICEF reported that 56 percent of 6- to 9-year-olds attended school, but only 6 percent of 10- to 11-year-olds did. According to UNESCO, there was a gender gap in the enrollment rate, favoring boys over girls. More than 1 million children were estimated to be out of school; however, MEC efforts to bring more students into the system should decrease this number. Only 42 percent of the population was literate, and the illiteracy rate for women was almost twice that of men.

The Government provides free medical care for children at the one pediatric hospital in Luanda in addition to supporting child immunization programs and general medical care at public hospitals and clinics around the country. In many areas, formal health care was limited or non-existent. According to UNICEF, the mortality rate for children under 5 years of age was 250 per 1,000 live births. Local NGOs estimated that 100,000 children were abandoned or orphaned as a result of the civil war, and malnutrition was a problem. Landmine explosions continued to kill and injure children.

Child abuse was widespread. Physical abuse was commonplace with in the family and was largely tolerated by local officials.

There were reports of trafficking in children (*see* Section 5, Trafficking).

Child prostitution is prohibited by a general criminal statute; however, an international NGO estimated that there were as many as 1,000 underage prostitutes in Luanda. Sexual relations with a child under 12 years of age is considered rape. Sexual relations with a child between the ages of 12 and 15 may be considered sexual abuse with convicted offenders liable for up to 8 years in prison.

Unlike in previous years, there were no confirmed reports that children were recruited into the armed forces. According to the Ministry of Justice, over 3.8 million children were registered locally between August 2001 and March in a campaign to limit the exploitation of children. By March, the UNICEF-supported National Family Tracing and Reunification Program had identified 11,076 separated children and successfully reunited 3,670 children with their families.

Using information collected during the Government's first child registration campaign, it was estimated that there are approximately 1,500 street children in Luanda. Conditions in government youth centers were poor; most homeless children slept on city streets. They shined shoes, washed cars, and carried water, and many resorted to petty crime, begging, and prostitution to survive. The government-sponsored National Institute for Children was responsible for child protection, but it lacked the technical capacity to work with international NGOs. The Government

publicized the problems of street and homeless children during the year but did not develop any programs to assist them.

Human rights abuses due to accusations of sorcery and wizardry were a rising concern, especially against children. Individuals placed blame on the use of charms or other forms of witchcraft for their personal misfortunes. In some cases it was believed that deaths occurred during attempts to stop purported acts of witchcraft. There were reports of children being tortured by local "prophets" to stop these alleged actions in Uige and Zaire provinces that were under police investigation at year's end. A local NGO, "Crianca Futuro," sheltered 22 children abandoned due to allegations of witchcraft.

In November, two Painial-Mefa Evangelic Church priests from Cabinda were taken into custody in connection with the maltreatment of three children accused of witchcraft. The outcome of this case was still pending at year's end.

The Government, assisted by UNICEF, continued implementation of the post-conflict child soldier protection strategy. As outlined in the strategy, those designated as child soldiers were given access to special resources, including skills training, assistance with civil registration, access to special social assistance, and were guaranteed to not be recruited or reenlisted in the military. During the year, the World Bank also began assisting with the implementation of this strategy.

There were active domestic private children's rights advocacy groups, such as the Angolan Bar Association, the Angolan Woman Lawyers' Association, Crianca Futuro, and local organizations within the Catholic Church. Several international organizations also promoted children's rights in the country.

*Trafficking in Persons.*—The Constitution prohibits slavery; however, no specific laws exist to combat trafficking in persons, and there were reports of trafficking.

There were reports that women and children were trafficked during the year, primarily to Europe and South Africa, for labor and sexual exploitation. IDPs, along with homeless and orphaned children, remained the groups most vulnerable to trafficking. There were reports of child trafficking in Santa Clara, on the Angola-Namibia border in Cunene Province. Children have been recruited and used in exploitative labor such as carrying goods across the border, prostitution, illegal money exchange, and selling goods.

The Ministry of Justice continued its campaign to register children, provide them with identity papers, and protect them against potential trafficking. The Government operated facilities throughout the country for abandoned and abducted children; however, the facilities were under funded, understaffed and overcrowded in many cases. A Catholic-based center in Namacumbe, near the Namibian border, assisted victims of trafficking to reintegrate them into the community.

*Persons with Disabilities.*—While there was no institutional discrimination against persons with disabilities, the Government did little to improve their physical, financial, or social conditions. The number of persons with disabilities included more than 80,000 landmine victims. Handicap International estimated that up to 10 percent of the population have physical disabilities. There is no legislation mandating accessibility for persons with disabilities to public or private facilities, and it was difficult for persons with disabilities to find employment or participate in the education system.

*Indigenous People.*—The population included 1 to 2 percent of Khoisan and other hunter-gatherer tribes linguistically distinct from their Bantu compatriots. At least 3,400 San people lived in 72 small dispersed communities in Huila, Cunene, and Kuando Kubango provinces. San communities continued to suffer from social exclusion, discrimination, and economic exploitation. Greatly reduced access to land and natural resources and insecure and limited land rights eroded the San's former hunter-gatherer livelihoods and exacerbated ethnic tensions with neighboring groups. Hunter-gatherer communities generally did not participate actively in the political or economic life of the country, and had no ability to influence government decisions concerning their interests.

There continued to be a lack of adequate protection for the property rights of traditional pastoral communities. In April, the Agricultural Department confirmed that a private farm could expand beyond its concession of 5,000 hectares to an area of approximately 20,000 hectares. While this did not have direct effect on indigenous communities during the year, it created the possibility of reduced access in the future as large farms expanded throughout the interior. On August 10, the National Assembly passed a new land tenure law. International NGOs expressed concern that this law further excludes indigenous communities from access to land they had formerly cultivated or occupied, thereby increasing their vulnerability. The immediate effects of the law on indigenous communities were unknown. Opposition parties remained opposed to the law.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form and join trade unions and engage in union activities; however, the Government did not respect these rights consistently in practice. The MPLA controlled the National Union of Angolan Workers (UNTA), which claimed to have more than 400,000 members. There were two prominent independent unions, the General Center of Independent and Free Labor Unions of Angola (CGSILA), with approximately 50,000 members, and the small Independent Union of Maritime and Related Workers (SIMA). Restrictions on civil liberties, such as freedom of speech and freedom of assembly, prevented labor activities not approved by the Government (*see* Sections 2.a. and 2.b.).

The law requires the Government to recognize the right of labor unions to organize; however, SIMA continued to encounter difficulties with provincial government authorities in registering branch associations and organizing dock and oil platform workers.

Legislation prohibits discrimination against union members and calls for worker complaints to be adjudicated in regular civil courts. Under the law, employers found guilty of anti-union discrimination are required to reinstate workers who have been dismissed for union activities. In practice, neither the Labor Code nor the judicial system defended or enforced these rights.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and for collective bargaining; however, the Government did not always respect these rights in practice. The Government did not facilitate constructive labor management negotiations. The Ministry of Public Administration, Employment, and Social Security set wages and benefits on a semi-annual basis (*see* Section 6.e.).

The Constitution provides for the right to strike, and the law regulates such actions. The law prohibits lockouts and worker occupation of places of employment and provides protection for nonstriking workers. It prohibits strikes by armed forces personnel, police, prison workers, and fire fighters. The law does not effectively prohibit employer retribution against strikers; it permits the Government to force workers back to work for breaches of worker discipline and participation in unauthorized strikes. Workers exercised their right to strike during the year.

SIMA continued an organized protest begun in 2000 to demand severance compensation from Angonave, the national shipping company. Unlike in previous years, participants in the vigil were not subject to government harassment during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children and the Ministry of Justice has effective enforcement mechanisms for the formal economic sector; however, the majority of labor law violations occur outside the official labor market and are not subject to legal enforcement. The law permits the Government to force workers back to work for breaches of worker discipline and participation in strikes. There were no further developments on the media reports that a prison director in Huambo used prisoners as domestic laborers in 2003.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was restricted under the law; however, child labor remained a problem. The legal minimum age for employment is 14 years. Children between the ages of 14 and 18 may not work at night, in dangerous conditions, or in occupations requiring great physical effort. The Government prohibits children younger than 16-years-old from factory work. These provisions rarely were enforced, and UNICEF believes that a high percentage of children between 5- and 14-years-old worked. Children worked on family farms, as domestic servants, and in the informal sector as street vendors. Family-based child labor in subsistence agriculture was common. Children under 12 years of age worked for no reimbursement for their families and in apprenticeships. Poverty and social upheavals have brought large numbers of orphaned and abandoned children into unregulated urban employment in the informal sector.

The Inspector General of the Ministry of Public Administration, Employment, and Social Security is responsible for enforcing labor laws, and child labor law enforcement is under the jurisdiction of the courts; however, in practice, the court system did not provide adequate protection for children. In 2003, a Court for Children's Affairs, under the Ministry of Justice, was established as part of Luanda's provincial court system; however, these courts were not yet operational in the provinces by year's end. Child labor violations are punishable with fines. There is no formal procedure for inspections and investigations into child labor abuses outside of the fam-

ily law system, although private persons can file claims for violations of child labor laws.

*e. Acceptable Conditions of Work.*—The Ministry of Public Administration, Employment, and Social Security kept the minimum wage at the equivalent of \$50 (4,250 kwanza) per month. Many urban workers earned less than \$20 (1,700 kwanza) per month. Neither the minimum wage nor the average monthly salary, which was estimated to be between \$40 and \$150 (3,400 to 12,500 kwanza) per month, provided a decent standard of living for a worker and family. As a result, most wage earners held second jobs or depended on the informal sector, subsistence agriculture, or support from abroad to augment their incomes. Employees receiving less than the legal minimum wage have the right to seek legal recourse; however, it was uncommon for workers to do so.

A government decree limits the legal workweek to 44 hours; however, the Ministry was unable to enforce this limit or occupational safety and health standards. In practice, workers cannot remove themselves from dangerous work situations without jeopardizing their continued employment.

Foreign workers are not protected under the labor law. They receive legal protection only if they work under contract; otherwise, they receive protection only against criminal acts.

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## BENIN

The Republic of Benin is a constitutional democracy headed by President Mathieu Kerekou, who was inaugurated in 2001 after elections that observers generally viewed as free but not entirely fair. The March 2003 parliamentary elections, which were generally free, fair, and transparent, resulted in a loss of seats by the opposition. One opposition party joined the government coalition; as a result, the opposition holds 18 of 83 seats. During the year, the executive branch interfered with the judiciary, which was inefficient and susceptible to corruption at all levels.

The security forces consist of the armed forces, headed by the State Ministry of Defense, and the police force under the Ministry of Interior, Security, and Decentralization. The Ministry of Defense supervises the Gendarmerie, which exercises military police functions in rural areas, while the Ministry of Interior supervises other police forces. The armed forces under the Ministry of Defense continued to play an apolitical role in government affairs despite concerns about lack of morale within its ranks. Civilian authorities maintained effective control of the security forces. Members of the security forces committed some human rights abuses.

The country was extremely poor with average yearly per capita income of \$1,100; its population was approximately 7.2 million. The economy was mixed and based largely on subsistence agriculture, cotton production, and regional trade. The Government maintained the austerity program; continued to privatize state-owned enterprises; reduced fiscal expenditures; and deregulated trade. However, the economy's growth rate contracted from 5.5 percent in 2003 to 3 percent at year's end due to Nigeria's increased enforcement of import regulations, loss of revenue at the Port of Cotonou, and endemic corruption.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. There were credible reports that police sometimes beat suspects, and at times the authorities arbitrarily arrested and detained persons; however, unlike in the previous year, police did not detain or beat journalists. Police forcibly dispersed demonstrations, which resulted in deaths and injuries. The most serious human rights problems continued to be the failure of police forces to curtail acts of vigilantism and mob justice; harsh and unhealthy prison conditions; prolonged pretrial detention; judicial corruption; violence and societal discrimination against women; and trafficking and abuse of children. The practice of female genital mutilation (FGM) and, to a lesser extent, infanticide also remained problems. Child labor, including forced and compulsory child labor, continued to be a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, security forces shot and killed persons during violent demonstrations during the year (*see* Section 2.b.).

During the year, incidents of mob justice continued to occur, in part due to the perceived failure of local courts to adequately punish criminals. Most often these were cases of mobs killing or severely injuring suspected criminals, particularly thieves caught in the act. On August 12, for example, after the release on a technicality of six carjackers, a mob in Cotonou burned to death a man caught stealing motorbikes; during the same month, a separate mob beat to death two men caught robbing a local woman. Although a number of these incidents occurred in urban areas and were publicized in the press, the Government apparently made no concerted attempt to investigate or prosecute anyone involved, and police generally ignored vigilante attacks.

There was no known action taken against persons responsible for mob killings in 2002.

*b. Disappearance.*—There were no reports of politically motivated disappearances. During the year, hundreds of children were trafficked within the country and to neighboring countries to work as domestic servants, prostitutes, or laborers in quarries or farms (see Section 5). While some of these children were trafficked with the consent of their families for economic reasons, some children were kidnapped by force.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports during the year that police sometimes beat those in custody.

The Government continued to make payments to victims of torture under the military regime, and some persons received payment for property they lost under the regime. During the year, some citizens who fled the country during the military regime continued to receive compensation.

Unlike in the previous year, there were no reports that police detained and beat journalists.

On October 30, the military paid \$5,865 (2.9 million FCFA) in compensation to each person injured in January 2003, when 40 paratroopers in the district of Zogbodome attacked civilians with knives, bottles, machetes, and other types of weapons in retaliation for the injury to one of their colleagues in a bar fight.

Mob justice resulted in deaths and injuries (see Section 1.a.).

Prison conditions continued to be extremely harsh. Overcrowding and lack of proper sanitation and medical facilities posed a risk to prisoners' health. According to the Justice Ministry, at times, the country's eight civil prisons were filled to more than three times their capacity. The prison diet was inadequate, and malnutrition and disease were common. Family members were expected to provide food for inmates to supplement prison rations.

Women were housed separately from men; however, juveniles at times were housed with adults. Pretrial detainees were held with convicted prisoners; however, they were not held with the most violent convicts or those subject to the death penalty.

The Government permitted prison visits by human rights monitors; nongovernmental organizations (NGOs) and other agencies continued their prison visits.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, at times the authorities did not respect these prohibitions in practice.

The police, who were poorly equipped and trained, were criticized for corruption and ineffectiveness. During the year, the Government took steps to address these problems by recruiting more officers, building more stations, and modernizing equipment. Impunity was a problem; however, several police officers accused of corruption were dismissed during the year.

The law requires arrest warrants and prohibits detention for more than 48 hours without a hearing by a magistrate whose order is required for continued detention. Detainees must be brought before a judge within 48 hours of arrest. After examining a detainee, the judge has 24 hours to decide whether to continue the detention or release the individual. Suspects have the right to an attorney, but only after being brought before a judge. Warrants authorizing pretrial detention were effective for 6 months and could be renewed every 6 months until the suspect was brought to trial. The Government provided counsel in criminal cases only.

On April 2, police arrested and detained student demonstrators at the University of Abomey-Calavi (see Section 2.b.).

Despite the legal provision that prohibits detention for more than 48 hours, there were credible reports that authorities exceeded this limit in many cases, sometimes by as much as a week, using the common practice of holding a person indefinitely "at the disposition of" the public prosecutor's office before presenting the case to a magistrate. Approximately 75 percent of persons in prison were pretrial detainees.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the Government did not always respect this provision in practice. The executive branch has important powers with regard to the judiciary, which struck intermittently during the year to protest executive branch interference (*see* Section 6.b.). The judiciary remained inefficient in some respects and susceptible to corruption at all levels.

The President appoints career magistrates as judges in civil courts, and the Constitution gives the Ministry of Justice administrative authority over judges, including the power to transfer them. Inadequate facilities, poorly trained staff, and overcrowded dockets delayed the administration of justice. Low salaries made magistrates and clerks susceptible to corruption.

During the year, the Government continued its efforts to curb judicial corruption. On June 4, the court rendered its decision on the 87 judges, court clerks, and public accountants detained for 29 months on corruption charges: 62 persons received sentences from 6 months' to 5 years' imprisonment; and 25 persons were acquitted. Judicial salaries increased significantly during the year, and the Justice Ministry reinstated training programs for incoming magistrates.

A civilian court system operated on national and provincial levels. The Supreme Court was the court of last resort in all administrative and judicial matters. There were two courts of appeals, one of which was added during the year. The Constitutional Court was charged with deciding on the constitutionality of laws, disputes between the President and the National Assembly, and disputes regarding presidential and legislative elections. It demonstrated its independence in previous years by ruling against both the executive and legislative branches; however, the Constitutional Court, which also has jurisdiction in human rights cases, was accused of bias in favor of the President during the 2001 presidential elections (*see* Section 3). There was also a High Court of Justice to try the President and ministers for crimes related to their professional responsibilities.

Military disciplinary councils deal with minor offenses by members of the military services, but they have no jurisdiction over civilians.

The legal system is based on French civil law and local customary law. The Constitution provides for the right to a fair public trial. A defendant is presumed innocent and has the right to be present at trial and to representation by an attorney, at public expense if necessary. In practice, the court provided indigent defendants with court-appointed counsel upon request. A defendant also has the right to confront witnesses and to have access to government-held evidence. Trials were open to the public, but, in exceptional circumstances the president of the court may decide to restrict access to preserve public order or to protect the parties. Defendants who were awaiting a verdict may request release on bail; however, the courts granted such requests only on the advice of the Attorney General's office.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. Police were required to obtain a judicial warrant before entering a private home, and they usually observed this requirement in practice.

The results of the National Assembly's 2001 investigation into alleged governmental wiretapping was released during the year; however, the results were inconclusive and did not lead to further prosecutions.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. Unlike in the previous year, there were no reports that police beat and detained journalists.

The law provides for prison sentences involving compulsory labor for certain acts or activities related to the exercise of the right of free expression. The law concerns threats to public order or calls to violence, but it is vaguely worded and susceptible to abuse.

During the year, the Government ordered the NGO Association ELAN to remove its billboards that expressed opposition to amending the Constitution; the billboards were viewed widely as referring to an amendment to allow President Kerekou to run for a third term of office. The Government publicly accused ELAN of conducting an electoral campaign outside of the designated campaign season. ELAN did not remove the billboards, which security forces subsequently defaced.

There was a large and active privately-owned press composed of more than 20 daily newspapers. These publications criticized the Government freely and frequently, but the effect on public opinion was limited because of their urban concentration and widespread illiteracy. A nongovernmental media ethics commission

(ODEM) continued to censure some journalists during the year for unethical conduct, such as reporting falsehoods or inaccuracies or releasing information that was still under embargo. During the year, ODEM criticized three newspapers for publishing articles inciting regionalism along ethnic lines. ODEM also charged that some journalists had failed to adhere to professional standards.

Privately owned radio and television stations were popular sources of information. Programs critical of the Government were broadcast without interference during the year, and "call-in" and other talk shows often were used for public discussion of various topics.

The Government continued to own and operate the media that were most influential in reaching the public because of broadcast range and infrastructure. The majority of citizens were illiterate, lived in rural areas, and generally received their news via radio. The Office of Radio and Television (ORTB) broadcast in French and local languages. Radio France International and the British Broadcasting Corporation broadcast in Cotonou. Fifteen rural radio stations, which were governed by local committees and received support from the ORTB, broadcast several hours a day exclusively in local languages.

The ORTB television station broadcast more than 12 hours per day, primarily in French. Several private television stations broadcast, including GOLF TV and LC-2. Although neither television station broadcast partisan programs, the vast majority of news programming centered on government officials' activities, government-sponsored conferences, and international stories provided by French television or other foreign sources.

The government entity that oversaw media operations was the High Authority for Audio-Visual Media and Communications, which required broadcasters to submit weekly lists of planned programs and required publishers to deposit copies of all publications with it; however, the media did not comply with these requirements in practice. The information was used for administrative purposes; however, journalists often complained that it was an attempt at censorship.

The Government did not restrict the Internet.

The University of Abomey-Calavi, which closed in April after a violent student demonstration, subsequently reopened; however, most classes did not resume because of a nationwide teacher's strike (see Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. The Government requires permits for use of public places for demonstrations and generally granted such permits; however, the Government sometimes used "public order" to deny legitimate requests for permits from opposition groups and labor unions.

During the year, police forcibly dispersed demonstrations, which resulted in two deaths and numerous injuries.

On April 2, police used tear gas to disperse a violent demonstration at the University of Abomey-Calavi. Dozens of students were arrested and briefly detained, some students were injured, and the University was closed. The demonstration, which was triggered by the death of a student in an accident with a university bus, became violent when students discovered an undercover police officer among them. The University subsequently reopened; however, most classes did not resume due to a nationwide teacher's strike.

On August 18, police in Porto Novo fired into a crowd of violent demonstrators; one person was killed and numerous persons were injured. The mob was protesting the August 18 arrest of several persons who had smuggled cheap gasoline into the country and attacked the gas station owners, who were believed to have informed the police. The police first arrived at the scene without enough officers or equipment, but they returned and used teargas to disperse the crowd, which had looted buildings and vehicles and attempted to burn the National Assembly building. A second death was reported during the clash, but it was unclear how the person was killed. There were no arrests in connection with the incident by year's end.

In October, police forcibly dispersed students demonstrating against tuition increases; there were no reported injuries.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Government requires associations to register and routinely granted registrations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Persons who wish to form a religious group must register with the Ministry of the Interior. There were no reports that any group was refused permission to register or was subjected to unusual delays or obstacles in the registration process.

For a more detailed discussion, see the *2004 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, the presence of police, gendarmes, and illegal roadblocks impeded domestic movement. Although ostensibly meant to enforce automotive safety and customs regulations, many of these checkpoints served as a means for officials to exact bribes from travelers. The Government maintained previously implemented measures to combat such corruption at roadblocks; however, they were not always effective, and extortion occurred.

In May, Nigeria secured its western border with the country to curb the smuggling of stolen cars and other products. Increased surveillance and security measures remained in place at year's end.

The Government maintained documentary requirements for minors traveling abroad as part of its continuing campaign against trafficking in persons (see Section 5).

The Government's policy toward the seasonal movement of livestock allowed migratory Fulani herdsmen from other countries to enter freely; the Government did not enforce designated entry points. Disputes arose between the herdsmen and local landowners over grazing rights.

The Constitution prohibits the forced exile of citizens, and it was not practiced.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. The UNHCR estimated that there were more than 5,000 refugees of various nationalities in the country and that approximately 1,000 persons residing in the country were requesting asylum. During the year, a number of citizens of Togo entered the country and were granted refugee status or given temporary protection; however, many returned to Togo and reportedly worked in Togo while still claiming refugee benefits in the country. Despite severe economic pressures that limited its ability to provide education for children, the Government allowed these Togolese to enroll their children in local schools and permitted their participation in most economic activities.

During the year, the UNHCR determined that the more than 200 Ogoni refugees from Nigeria could safely return home and were no longer entitled to refugee status. Although no Ogoni were forcibly returned to Nigeria, the UNHCR ran incentive programs to encourage their repatriation and reduced food and housing subsidies to the Ogoni.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and generally fair elections held on the basis of universal suffrage. Observers viewed the March 2003 National Assembly and 2002 municipal elections as generally free and fair; however, opposition parties charged that there were some irregularities. The Constitution provides for a 5-year term of office for the president (who is limited to two terms) and 4-year terms for National Assembly members (who may serve an unlimited number of terms). The Constitution limits candidates for the presidency to persons between the ages of 40 and 70 years. Municipal terms are for 4 years. There were 12 political parties and coalitions represented in the unicameral, 83-member National Assembly.

The March 2003 National Assembly elections resulted in a loss of seats by the opposition, notably the Rebirth of Benin (RB), the primary opposition party led by former president Nicephore Soglo. A second opposition party, that of the former Prime Minister Adrien Houngbedji, joined the government coalition, leaving only Soglo's party and the minor Star Alliance (AE) party in the opposition. The RB held 15 of the National Assembly's 83 seats; AE held 3 seats.

Opposition parties criticized the National Election Commission's handling of the country's first-ever municipal elections in 2002 and charged that the pro-Kerekou coalition engaged in vote-buying, forged voter cards, and other types of fraud. Despite these charges, the opposition won the majority of seats on the municipal councils in the large cities.

President Kerekou was inaugurated in 2001. Observers viewed the reelection of Kerekou as free but not entirely fair because of the apparent judicial manipulation of the presidential electoral counts, the intimidation of opposition deputies, and the unprecedented scope of the campaign expenditures made by the President's coalition. When opposition candidates challenged the preliminary, first-round presidential vote tallies, the court initially affirmed those results despite the electoral commission's concession that computer failures and other irregularities made those tallies unreliable. Following extensive public criticism, the court reviewed the evidence in more detail, modified the tallies, and gave some of the numerous opposition candidates marginally higher total votes. No members of the opposition were in the President's Cabinet or in the National Assembly's Executive Committee.

Official corruption was widespread. During the year, there were reports of financial improprieties in the privatization of Sonacop, the state-owned oil company. During a November 2003 radio broadcast, the Chief of the Government's Anti-Corruption Commission charged that 95 percent of government ministers sought to bypass procurement rules and procedures. In 2003, President Kerekou stated publicly that senior officials of his cabinet were involved in corruption and related offenses.

There were no laws that provided for public access to government information.

There were 4 women in the 21-member Cabinet. There were 5 women in the 83-member, unicameral National Assembly, including the leader of the largest opposition party. The President of the Constitutional Court was a woman.

Minority ethnic groups were well represented in government agencies, civil service, and the armed forces. In the National Assembly, 19 members were from the Goun-Nago-Yoruba ethnic group, 15 from the Bariba, and 10 from the Somba-Dendi and other smaller groups.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The International Federation of Human Rights published a report during the year that criticized the Government; observers in the media and civil society charged that the report was unduly critical of the Government and sometimes factually wrong.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race and sex; however, societal discrimination against women continued. Persons with disabilities were disadvantaged.

*Women.*—Domestic violence against women, including wife beating, was common. NGO observers believed that women remained reluctant to report cases. Judges and police also were reluctant to intervene in domestic disputes; society and law enforcement considered such cases to be an internal family matter. The maximum penalty ranged from 6 to 36 months' imprisonment. In March 2003, a local chapter of a regional NGO, Women in Law and Development-Benin, opened to offer social, legal, medical, and psychological assistance to victims of domestic violence; the organization was effective during the year.

The Law prohibits rape, and the Government enforced the law effectively. Sentences for rape ranged from 1 to 5 years' imprisonment.

FGM was practiced on females ranging from infancy through 30 years of age and generally took the form of excision; approximately 50 percent of women in the country have undergone FGM. FGM was outlawed in March 2003, and the law provides for penalties for performing the procedure, including jail sentences of up to 10 years in prison and \$10,000 (6 million CFA francs); however, the Government generally was unsuccessful in preventing the practice. There was a strong profit motive in the continued practice of FGM by those who performed the procedure, usually older women. The efforts of NGOs and others to educate rural communities about the dangers of FGM and to retrain FGM practitioners in other activities continued during the year. A prominent NGO, the local chapter of the Inter-African Committee, made progress in raising awareness of the dangers of the practice, and the Government cooperated with its efforts. During the year, the Ministry of Family continued an education campaign that included conferences in schools and villages, discussions with religious and traditional authorities, and banners. NGOs also addressed this issue in local languages on local radio stations.

Prostitution, which is illegal, was a problem, particularly child prostitution. Sentences for prostitution included imprisonment of 6 months to 2 years and a fine of \$800 (400,000 CFA francs) to \$8,000 (4 million CFA francs).

Although the Constitution provides for equality for women in the political, economic, and social spheres, women experienced extensive societal discrimination, especially in rural areas where they occupied a subordinate role and were responsible for much of the hard labor on subsistence farms. In urban areas, women dominated the trading sector in the open-air markets. A new Family Code was promulgated during the year and provides women with better inheritance and property rights and significantly increases their rights concerning marriage, including a prohibition on forced marriage and polygyny.

*Children.*—The Government has stated publicly its commitment to children's rights and welfare; however, it lacked the resources to demonstrate that commitment. The Ministry of Family was responsible for the protection of children's rights, primarily in the areas of education and health. The National Commission for Children's Rights and the Ministry of Family had oversight roles in the promotion of human rights issues with regard to children and their welfare.

Primary education was compulsory for all and tuition-free for girls; however, in some parts of the country, girls received no formal education, and parents paid tuition for both boys and girls because many schools had insufficient funds. The Government implemented programs such as offering books at reduced prices to promote children's access to primary schools and to enhance the quality and relevance of schooling received. According to UNICEF, primary school enrollment was approximately 90 percent of boys and approximately 60 percent of girls nationwide; only 26 percent of boys and 12 percent of girls were enrolled in secondary school. Girls did not have the same educational opportunities as boys, and female literacy was approximately 18 percent (compared with 50 percent for men). However, recent elementary school pass rates for girls have increased. Strikes by teachers during the year seriously disrupted the school year (*see* Section 6.b.).

There was a tradition in which a groom abducts and rapes his prospective child bride (under 14 years of age). The practice was widespread in rural areas, but the Government and NGOs worked to end it through information sessions on the rights of women and children.

Criminal courts meted out stiff sentences to criminals convicted of crimes against children; however, many such crimes never reached the courts due to lack of education and access to the courts or fear of police involvement in the problem.

FGM was commonly performed on young girls (*see* Section 5, Women).

The Constitution and the law prohibit child prostitution; however, enforcement was frequently lax, and the commercial sexual exploitation of children was a problem (*see* Section 5, Trafficking). Some street children became prostitutes to support themselves.

Trafficking in children remained a problem. Some trafficking of children occurred in connection with the forced servitude practice called "vidomegon," in which children worked, but the arrangement was voluntary between the two families (*see* Section 5, Trafficking).

Traditional practices included the killing of deformed babies, breech babies, and one of two newborn twins (all of whom were thought to be sorcerers) in some rural areas; however, such practices sharply decreased during the year, in large part due to widespread NGO media campaigns against the practice. Some NGOs combined their anti-infanticide efforts with programs to counter FGM.

*Trafficking in Persons.*—Although no law specifically prohibits trafficking in persons, the Government interprets its laws as prohibiting trafficking in persons in general and in underage girls in particular; however, there were reports of trafficking in children. The Criminal Code prohibits kidnapping. The country was a source, transit, and destination for trafficked persons, primarily children.

Penalties for traffickers involved in "labor exploitation" ranged from fines, to prison terms, to forced labor, to the death penalty, depending on the severity of the crime and the length of time over which the exploitation occurred. Penalties for the trafficking of minors for prostitution ranged from 2 to 5 years' imprisonment with a fine of \$2,000 (1 million CFA francs) to \$20,000 (10 million CFA francs).

In March, authorities intercepted a truck carrying more than 100 children to be trafficked to Nigeria; however, it was unclear whether anyone was prosecuted in the case. In July, police arrested Enoumekpe Sowlaoude, a Togolese citizen, for trafficking eight Togolese girls into the country to work as domestic servants. In 3 other cases in July, police arrested 4 traffickers trying to smuggle 27 children out of the country to Togo, Cote d'Ivoire, and Ghana. The traffickers, two citizens of the country and two Togolese, were arrested and awaiting trial at year's end. The children in these cases, all of whom had been trafficked with the consent of their parents to earn money, were returned to their families.

The traditional practice of vidomegon, in which poor, often rural, families placed a child, primarily a daughter, in the home of a more wealthy family to avoid the burden the child represented to the parental family, increasingly involved abuse. While originally a voluntary arrangement between two families, vidomegon increasingly involved the child in forced labor, long hours, inadequate food, and sexual exploitation. Approximately 90 to 95 percent of the children in vidomegon were young girls. Children were sent from poorer families to Cotonou and then some of the children were sent to Gabon, Cote d'Ivoire, and the Central African Republic to help in markets and around the home. The child received living accommodations, while income generated from the child's activities was split between the child's parents in the rural area and the urban family that raised the child.

Children were trafficked to Ghana, Nigeria, and Gabon for indentured or domestic servitude, farm labor, and prostitution. In addition, hundreds of children were taken across the border to Togo and Cote d'Ivoire to work on plantations. Children from Niger, Togo, and Burkina Faso have been trafficked to the country for indentured or domestic servitude. Trafficking victims generally originated from the country's southernmost provinces, those with the easiest access to the paved coastal highway that links Cote d'Ivoire, Togo, Benin, and Nigeria. Trafficked children generally came from poor rural areas and were promised educational opportunities or other incentives.

According to UNICEF, four distinct forms of trafficking occur in the country. "Trafic-don" was when children were given to a migrant family member or stranger, who turned them over to another stranger for vocational training or education. "Trafic-gage" was a form of indentured servitude, in which a debt was incurred to transport the child, who was not allowed to return home until the debt was repaid. "Trafic-ouvrier" involved children of ages 6 years to 12 years, and they worked as artisans, construction laborers, or agricultural or domestic workers. This was the most common variant, estimated to be 75 percent of the total traffic of the three provinces UNICEF surveyed in 2000. Finally, "trafic-vente" was the outright sale of children.

According to a survey of child labor conducted in 1999, 49,000 rural children, constituting 8 percent of the rural child population between the ages of 6 and 16, worked abroad, primarily in the mines of Nigeria, as agricultural workers on plantations in Cote d'Ivoire, and as domestic workers in Gabon. Only children who had been trafficked explicitly for labor purposes were counted among the 49,000 children that were estimated to be victims of trafficking. However, the children who left "for other reasons" may conceal an additional number of trafficked children and bring the number close to 80,000. Of the trafficked children in this child labor study, 61 percent were boys and 39 percent were girls. Organized child traffickers particularly have victimized certain villages, and there were villages where up to 51 percent of children were trafficked.

Child prostitution mainly involved girls whose poor families urged them to become prostitutes to provide income. Such children were abused sexually by teachers who sought sex for better grades and lured to exchange sex for money by older men who acted as their "protectors." There were reports of sexual tourism and reports that adult males preferred young girls because they were viewed as less demanding and less likely to have HIV/AIDS. NGOs and international organizations organized assistance to child prostitution victims and worked on prevention programs.

The Government had bilateral agreements with Togo, Gabon, and Nigeria, which focused on border control and repatriation of trafficking victims. Security forces in the country and in Nigeria conducted joint border patrols to curb smuggling and banditry. Regional efforts also continued between heads of state of concerned countries to cooperate to identify, investigate, and prosecute agents and traffickers, and to protect and repatriate trafficking victims.

On February 27, the Government established a 15-member national child protection committee to oversee the fight against child trafficking and the work of child protection organizations. Committee members were drawn from the Government, police, and child welfare organizations. Committee goals included publishing a directory of child welfare organizations and an evaluation of the effectiveness of each.

The Brigade for the Protection of Minors, under the jurisdiction of the Interior Ministry, fought crimes against children. The Ministry of the Family also opened centers in urban areas to provide education and vocational training to victims of vidomegon. The Government also worked with NGOs to combat trafficking in children, taking measures that included media campaigns and greater border surveillance; however, police complained that they lacked equipment to monitor trafficking adequately.

During the year, the Ministry of Family, international NGOs, and the donor community assisted numerous children who had been trafficked to other countries to

work in mines, quarries, and farms. Efforts included the provision of food, shelter, medical treatment, and subsequent placement in educational and vocational programs. During the first 6 months of the year, approximately 500 trafficked children were reunited with their families.

*Persons with Disabilities.*—The Constitution provides that the State should care for persons with disabilities; however, there were no legal requirements for the construction or alteration of buildings to permit access for persons with disabilities. The Government operated few institutions to assist persons with disabilities, and many such individuals were forced to beg to support themselves.

The Labor Code includes provisions to protect the rights of workers with disabilities, which were enforced with modest effectiveness during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers with the freedom to organize, join unions, and meet, and the Government generally respected these rights in practice. The labor force of approximately 2 million was engaged primarily in subsistence agriculture and other primary sector activities, with only a small percentage of the population engaged in the formal (wage) sector. Although approximately 75 percent of the wage earners belonged to labor unions, a much smaller percentage of workers in the private sector were union members.

The Labor Code prohibits employers from taking union membership or activity into account regarding hiring, work distribution, professional or vocational training, or dismissal; however, the Government did not always enforce these provisions, and there were reports that individuals were dismissed for union activity.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code generally allows workers the freedom to organize and administer their own unions. The Labor Code provides for collective bargaining, and workers freely exercised these rights. Wages in the private sector were set in negotiations between unions and employers. The Government sets wages in the public sector by law and regulation. There are no export processing zones.

Strikes were permitted, and workers must provide 3 days advance notice; however, the authorities can declare strikes illegal for stated causes, such as threatening to disrupt social peace and order, and can requisition striking workers to maintain minimum services. Workers exercised their right to strike during the year. The Government may not prohibit any strike on the grounds that it threatens the economy or the national interest. A company may withhold part of a worker's pay following a strike. Laws prohibit employer retaliation against strikers, and the Government enforced them effectively.

Teacher strikes, which disrupted schools from the primary through university levels, were conducted from August through year's end. In some cases, students lost nearly a year of instruction.

Judicial employees went on strike for 2 months to protest executive interference in a carjacking case.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, and trafficking was a problem (*see* Sections 5 and 6.d.). The law provides for sentences of imprisonment involving compulsory labor for certain acts or activities related to the exercise of the right of free expression (*see* Section 2.a.); no such sentences were imposed during the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise; however, child labor remained a problem. The Ministry of Labor enforced the Labor Code in only a limited manner (and then only in the formal sector) due to the lack of inspectors. To help support their families, children of both sexes—including those as young as 7 years old—continued to work on rural family farms, in small businesses, on construction sites in urban areas, in public markets as street vendors, and as domestic servants under the practice of *vidomegon* (*see* Section 5). A majority of children working as apprentices were under the legal age of 14 for apprenticeship.

Some financially desperate parents indentured their children to “agents” recruiting farm hands or domestic workers, often on the understanding that wages for the children would be sent to the parents. According to press reports, in some cases, these agents took the children to neighboring countries for labor (*see* Section 5). Also, many rural children were sent to cities to live with relatives or family friends, often on the understanding that in return for performing domestic chores, they would receive an education. Host families did not always honor their part of the bargain, and the abuse of child domestic servants occurred.

The Government took steps to educate parents and to prevent such placing of children in compulsory labor. The Government undertook media campaigns, regional workshops, and public pronouncements on child labor problems. The Government worked with a network of NGOs and journalists to educate the population on the problems of child labor and child trafficking.

The Ministry of Family, in conjunction with the Labor Ministry and the Justice Ministry, continued a 2003 program to fight child labor in major cities.

*e. Acceptable Conditions of Work.*—The Government administratively set minimum wage scales for a number of occupations. In 2000, the Government raised the minimum wage to approximately \$50 (25,000 CFA francs) per month. However, the minimum wage did not provide a decent standard of living for a worker and family. Many workers had to supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector earned more than the minimum wage, although many domestics and other laborers in the informal sector earned less.

The Labor Code establishes a workweek of between 40 and 46 hours, depending on the type of work, and provides for at least one 24-hour rest period per week. Domestic and agricultural workers frequently worked 70 hours or more per week. The authorities generally enforced legal limits on workweeks in the formal sector.

The code establishes health and safety standards, but the Ministry of Public Service, Labor, and Administrative Reform did not enforce them effectively. The law does not provide workers with the right to remove themselves from dangerous work situations without jeopardy to continued employment. The Ministry has the authority to require employers to remedy dangerous work conditions but did not enforce this authority effectively.

The law protects legal foreign workers.

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## BOTSWANA

Botswana is a longstanding multiparty democracy. Constitutional power is shared between the President and a popularly elected National Assembly. On October 30, Festus Mogae, who has led the Botswana Democratic Party (BDP) since 1998, was reelected President in parliamentary elections deemed generally free and fair; however, there were opposition complaints of unequal access to coverage by state-owned television. The BDP, which has held a majority of seats in the National Assembly continuously since independence, won 44 of 57 National Assembly seats. The Government generally respected the constitutional provisions for an independent judiciary; however, a shortage of judges resulted in a large backlog of cases.

The Botswana Defense Force, which is under the control of the Defense Council within the Office of the President, has primary responsibility for external security, although it assisted with domestic law enforcement on a case-by-case basis. The Botswana Police Service (BPS) has primary responsibility for internal security. The civilian Government maintained effective control of the security forces. Some members of the security forces, in particular the police, reportedly committed human rights abuses.

The economy of the country, which had a population of 1.7 million, was market oriented with strong encouragement for private enterprise through tax benefits. Approximately 32 percent of the labor force worked in the informal sector, largely subsistence farming and animal husbandry. Rural poverty remained a serious problem, as did a widely skewed income distribution. From 2002 to 2003, gross domestic product (GDP) grew by 6.7 percent, according to the Bank of Botswana. Diamond exports provided approximately 75 percent of export income, 50 percent of government revenues, and 33 percent of GDP. The high incidence of HIV/AIDS strained government finances and decreased productivity.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Police reportedly beat or otherwise mistreated criminal suspects on occasion to obtain evidence or coerce confessions. Prison conditions were poor and possibly life threatening. The judicial system did not provide timely fair trials due to a serious backlog of cases. The Government continued to dominate domestic broadcasting and limited freedom of the press. Some citizens, including groups not numbered among the eight ethnic groups of the majority Tswana nation, remained marginalized in the political process. Violence and discrimination against women remained serious problems. Societal discrimination against ethnic San (Basarwa) and persons with HIV/AIDS were problems. Child abuse was a problem. Trade unions continued to face some legal restrictions, including those against the right to strike, and the Government did not always ensure that labor laws were

observed in practice; however, during the year, the Government recognized the right of civil servants to organize.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, on March 19, prison officials shot and killed an illegal immigrant as he attempted to escape from the Center for Illegal Immigrants. Officials reportedly fired 11 warning shots first. The shooting triggered a prison riot in which one person was injured seriously (*see* Section 2.d.). The results of a government investigation into the incident had not been released by year's end.

On November 13, police shot and killed a suspected criminal after he threatened the officers with a machete in an attempt to escape arrest. The fugitive, who was wanted for theft, had escaped from custody 4 days earlier.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution explicitly prohibits such practices; however, there were reports that on occasion, police used beatings and other forms of abuse to obtain evidence or elicit confessions. Coerced confessions and evidence gathered through coercion or abuse are inadmissible in court.

On September 8, the independent media reported that a group of bank employees had filed a suit against the Government alleging that police officers had tortured them to extract information in connection with a fraud investigation; police denied the allegations. The employees, who charged that interrogators had suffocated some suspects with plastic bags and stripped, bound, and kicked one suspect, had not filed a police report by year's end. No further information was available.

Customary courts continued to impose corporal punishment in the form of lashings on the buttocks, generally against young offenders in villages for crimes such as vandalism, theft, and delinquency. During the year, the Government denied foreign media charges that illegal Zimbabwean immigrants in the country had been subjected to torture and killings; however, the Government noted that the law provides for corporal punishment and applies it to all, including foreigners and citizens of the country.

Prison conditions remained poor and possibly life threatening. The 24 prisons across the country had a capacity of 3,870 inmates, but held 5,864 as of August 27. Overcrowding, which was worse in men's prisons, constituted a serious health threat because of the country's high incidence of HIV/AIDS and tuberculosis. Rape between inmates occurred. During the first 8 months of the year, 47 detainees died following long illnesses, according to the Government. HIV/AIDS testing and the U.N. Development Program (UNDP) peer counseling were available to all prisoners; however, prison officials still lacked reliable statistics on the HIV infection rate within the prison population. The Prison Commissioner has the authority to release terminally ill prisoners who are in the last 12 months of their sentences and to allow citizen prisoners with sentences of 12 months or less to perform "extramural" labor. From January through August, the Government released 587 prisoners under the extramural labor program. Foreign prisoners were required to serve their entire sentences.

The Prisons Act makes it illegal for prison officials to mistreat prisoners. The Department of Prisons is required to forward to police allegations of the mishandling of prisoners by prison officials.

The March 19 shooting to death by prison guards of an inmate attempting to escape triggered a riot that resulted in injuries (*see* Section 1.a.).

Men were held separately from women, and juveniles generally were held separately from adults; however, some juveniles were held with adult prisoners due to overcrowding or requests by family members to facilitate visitation. Pretrial detainees were held in the same facilities as convicted prisoners. The planned opening during the year of a new juvenile prison did not occur because of construction delays.

The Prisons Act provides for a governmental visiting committee for each prison, the members of which are appointed by the Minister of Labor and Home Affairs. Members of these committees serve 3-year terms, must visit their prison four times a year, and issue a report both to the Commissioner of Prisons and the Minister of Labor and Home Affairs. These reports generally were not released to the public. During the year, the committees visited each prison quarterly.

The Prisons Act grants relatives, lawyers, magistrates, and church organizations the right to visit prisoners for "rehabilitative purposes"; however, the Commissioner

of Prisons has the authority to decide whether domestic and international human rights organizations may visit. Independent monitoring of prison conditions by human rights groups, the media, or the International Committee of the Red Cross (ICRC) generally was allowed if these organizations sought permission from the Commissioner of Prisons. However, following the March 29 shooting of an inmate attempting to escape from the Center for Illegal Immigrants, the Botswana Center for Human Rights was denied permission to visit due to an ongoing investigation of the incident; a delegation of EU ambassadors subsequently visited the Center. The ICRC visited some prisons in September.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice.

There were approximately 7,000 police officers in the country. National and local police do not generally carry firearms. Corruption was not common, and impunity generally was not a problem. According to the Government, 32 police officers were convicted of various criminal acts during the year: 5 were discharged for discreditable conduct, 3 were reprimanded for the same offense, and 7 were charged with official corruption during the year.

Suspects must be informed of their legal rights upon arrest, including the right to remain silent. Detainees must be charged before a magistrate within 48 hours. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. Detainees have the right to contact a family member and to hire attorneys of their choice, but in practice, most were unable to afford legal counsel. Poor police training and poor communications in rural villages made it difficult for detainees to obtain legal assistance, and authorities did not always follow judicial safeguards. The Government did not provide counsel for the indigent, except in capital cases. Most citizens charged with noncapital offenses were released on their own recognizance; some were released with minimal bail. Detention without bail was highly unusual, except in murder cases, where it is mandatory. Incommunicado detention was rare, except for prisoners awaiting execution. Constitutional protections were not applied to illegal immigrants, although the constitutionality of denying them due process has not been tested in court.

Pretrial detention was prolonged in numerous cases. The average wait in prison between the filing of charges and the start of a trial was approximately 6 months. The Government attempted to alleviate the backlog of cases by temporarily hiring more judges; however, the backlog of cases persisted.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of both a civil court (including magistrates' courts, a High Court, and a Court of Appeal) and a customary (traditional) court system.

The law provides for the right to a fair trial; however, the civil courts remained unable to provide timely, fair trials due to severe staffing shortages and a backlog of pending cases. Most trials in the regular courts were public, although trials under the National Security Act may be held in secret. There was no jury system. Those charged with noncapital crimes were tried without legal representation if they could not afford an attorney. As a result, many defendants were not informed of their rights in pretrial or trial proceedings. There is a presumption of innocence, and defendants have the right to appeal. The Botswana Center for Human Rights provided free legal services, but its capacity was limited. The University of Botswana Legal Assistance Center provided free legal services in civil, but not criminal, matters.

On October 6, the two San convicted of a 1995 murder appeared before the High Court to seek a stay of execution; the Court had not rendered a decision by year's end.

Most civil cases were tried in customary courts, under the authority of a traditional leader. These courts handled minor offenses involving land, marital, and property disputes. Foreigners may be tried in customary courts. In customary courts, the defendant does not have legal counsel, and there were no precise rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the customary courts varied considerably. In some cases, tribal judges may mete out sentences such as public lashings (*see* Section 1.c.). In communities where chiefs and their decisions were respected, plaintiffs tended to take their cases to the customary court; otherwise, persons sought justice in the civil courts.

There is a military court system; civilians are not tried in military courts.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, in 2002, the Government forcibly resettled the San

out of the Central Kalahari Game Reserve (CKGR). Government officials maintained that the resettlement program was voluntary and necessary to reduce the cost of providing public services and to minimize human impact on wildlife. The Government made no effort to relocate the few San who returned to the CKGR. At year's end, ethnic San remained in resettlement sites after the Government forced them to abandon their ancestral communities within the CKGR in 2002 (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and the Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected freedom of speech in practice; however, the Government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The Government occasionally censored stories or news sources that it deemed undesirable. The Government did not restrict academic freedom.

The Botswana Press Agency, owned and operated by the Government, provided most of the information found in the media through the Daily News newspaper (distributed nationwide at no cost) and two FM radio stations, Radio Botswana and Radio Botswana 2. News coverage in the state-owned media generally supported government policies and actions. The Daily News also published general coverage of current events and issues and included a second front page in Setswana, the most commonly spoken language.

The independent press was small but vigorous and had a long tradition of candid discourse. Reporters actively covered the political arena and frequently criticized the Government and the President without fear of closure. The circulation of privately owned print media continued to be limited primarily to the main cities and towns: 8 privately owned weekly newspapers and 1 daily newspaper were published in Gaborone; 1 privately owned weekly newspaper was published in Francistown; and 11 privately owned monthly magazines were published nationally.

Radio remained the most important medium of public communication. Two private radio stations, Yarona FM and Gabz FM, broadcast in 5 of the country's 10 largest towns; state-owned radio continued to be the only domestic radio service broadcasting to the entire country. The law provides for the issuance of broadcast licenses to private companies and provides copyright protection of broadcast material; the autonomous National Broadcasting Board (NBB) granted the licenses routinely. On December 21, the NBB licensed state-owned Radio Botswana.

BTV broadcast south from Gaborone to Lobatse, north to Serowe and Francistown, and was scheduled to be available throughout the country within a few years.

The privately-owned Gaborone Broadcasting Company (GBC) broadcast mostly foreign programming and was the only other television station operating in the country. GBC broadcasts reached viewers only in the capital area.

Independent radio and television broadcasts from neighboring South Africa were received easily in border areas. Satellite television from a South African-based company was available readily, although its cost prevented many persons from subscribing to the service.

During the year, the media and opposition parties charged that the Government pressured state-owned media to minimize coverage of opposition parties.

In November 2003, Minister of Communication, Science, and Technology Boyce Sebetela announced that due to resource constraints, BTV would restrict coverage of campaign events. BTV subsequently covered any event at which the President or Vice President presided, including campaign events, which prompted opposition criticism of inequitable access to the media. As a result of the criticism, BTV expanded its coverage to include all presidential candidates.

During the year, Radio Botswana cancelled a program that reviewed lead stories carried by independent newspapers each morning. The Government charged that the radio program was "unsustainable"; however, journalists attributed the cancellation to Minister Sebetela's desire to ensure BDP-friendly programming.

The Government's November 2003 suspension of *Masa-a-sele*, a radio call-in program, remained in effect at year's end; the Government cited the program's content and use of profanity as the reason for the suspension.

Government officials sometimes complained of bias in the private press; however, government officials and other public figures have recourse to the courts if they believe that they have been libeled. Libel is a civil law matter; there are no criminal libel laws.

The Government did not restrict Internet usage.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

In 2002, the Government required the San to relocate from the CKGR to one of three designated settlements outside of the reserve (see Sections 1.f. and 5). Visitors to the Reserve, including relocated former residents, had to register with Department of Wildlife officials to obtain a permit to enter the CKGR. Estimates of the San population within the Reserve varied between 50 and 200 as members of the community moved in and out of the CKGR during the year.

The law prohibits forced exile, and the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government generally provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. During the year, the Government also provided temporary protection to approximately 550 individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

The Government held newly arrived refugees and asylum seekers in the Center for Illegal Immigrants in Francistown until the Refugee Advisory Committee, a governmental body whose Chairperson is the District Commissioner of Francistown, interviewed them; UNHCR was present with observer status at such interviews. Once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp until their resettlement or voluntary repatriation. Refugee applicants who were unsuccessful in obtaining asylum also were allowed to remain at Dukwe until the Government referred their cases to the UNHCR for resettlement.

As of August, the Center for Illegal Immigrants, which has a capacity of 504, held 236 illegal immigrants. The UNHCR opposed the detention of asylum seekers at the Center on the grounds that asylum seekers should not be held in detention facilities. Concern about conditions increased after the March 19 shooting of an illegal immigrant as he tried to escape, reportedly because he had been detained without a hearing for much longer than the 28 days mandated by law (see Section 1.a.).

During the year, approximately 4,800 illegal immigrants from Zimbabwe were repatriated each month. Unlike during the previous year, there were no reports that security forces used excessive force in repatriating Zimbabweans. The few Zimbabweans who requested asylum or refugee status were allowed to apply for official status.

At year's end, there were more than 3,000 refugees at Dukwe, primarily from Namibia, Angola, and Somalia. Refugees are permitted to reside outside Dukwe Refugee Camp with a permit from the Office of the President. An estimated 500 refugees, including a number of students, were living elsewhere in the country.

The Government, UNHCR, and the Government of Angola signed a tripartite repatriation agreement during the year to facilitate the voluntary return of an estimated 1,200 Angolan refugees living in Dukwe camp; the registration process for the refugees was ongoing at year's end. By year's end, 60 families had returned to Angola; another 153 individuals had registered for repatriation.

The country continued to host approximately 1,200 refugees from the Caprivi Strip in neighboring Namibia. Many were associated with the Caprivian separatist movement. Unlike in the previous year, none chose to be voluntarily repatriated.

In February, the Namibian High Court ordered the release of 13 of the 120 detainees charged with treason; the Judge ruled that their extradition from Botswana and Zambia did not conform to the extradition procedures in either country. The suspects were subsequently released and rearrested on the same charges. In July, the Namibian Supreme Court overturned the High Court's decision; criminal proceedings for all 120 were scheduled to resume in January 2005.

In July, the Court of Appeal ruled against the Namibian Government's request to have 13 alleged Caprivi secessionists extradited to face charges of murder and high treason. During the year, 2 of these individuals died of natural causes; the re-

maining 11 were being held at the Center for Illegal Immigrants while the UNHCR reviewed their refugee claims.

The seven refugees who were arrested on related charges of high treason in Namibia after being forcibly returned from the country in December 2003 remained in detention at year's end; their trial was scheduled for early 2005.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal adult (18 years of age) suffrage. The President is elected by the National Assembly and is limited to two 5-year terms in office. The BDP has held a majority of seats in the National Assembly and has controlled the presidency continuously since independence. Membership in the dominant BDP conferred some advantages, mostly in the form of government employment or provision of government services, such as water and utilities.

On October 30, National Assembly elections were held: The BDP increased its majority to 44 of 57 seats; the Botswana National Front (BNF) won 12 seats; and the Botswana Congress Party (BCP) won 1 seat. Redistricting prior to the parliamentary elections increased the number of competitive seats in the National Assembly from 44 to 57; 4 additional members are appointed by the President, bringing the total number of National Assembly seats to 61. The elections generally were regarded as free and fair by domestic and international observers; however, BDP candidates had preferential access during much of the campaign to state-owned television. Reports of large anonymous campaign contributions to the ruling party, particularly by international diamond interests, resulted in public calls for greater transparency in political party funding.

The House of Chiefs, an advisory body with limited powers, was restricted constitutionally to the eight principal ethnic groups of the majority Tswana ethnic group and four elected chiefs representing smaller ethnic groups, including the Bakalanga, Balozi, Hambukushu, and Bakgalagadi; other groups such as the San, Ovaherero, or Bayei consequently were not represented. Given the limited authority of the House of Chiefs, the impact of excluding other groups of citizens largely was symbolic, but some nonethnic Tswana viewed it as important in principle. No action to change this policy had been taken by year's end.

There were 14 local councils, but they had no fiscal autonomy and relied on the central Government for revenue.

During the year, the Government continued its efforts to combat public corruption. On August 13, the Judicial Commission of Inquiry into State Land Allocations published a report that found numerous irregularities in the allocation of public land.

On September 22, the Directorate on Corruption and Economic Crime (DCEC) marked its 10th anniversary with a 2-day conference on corruption and how to combat it. Participants openly debated whether the DCEC was sufficiently independent, how to institute transparency in political party funding, and how to ensure that prominent persons in the public and private sectors were not exempt from prosecution for corrupt practices.

There are no laws that compel the Government to disclose information to the public upon request.

There were 7 women in the 61-seat National Assembly, 5 women in the 19-seat Cabinet, and 3 female justices in the 13-seat High Court. In 2003, the first woman in the country's history was elected chairperson of the House of Chiefs, and another woman became regent of the Batawana tribe.

The Constitution recognizes only the eight principal ethnic groups of the Tswana nation; however, members of ethnic groups not recognized in the Constitution participated actively in the Government, particularly members of the Kalanga and Bakalagadi ethnic groups. During the year, 17 members of minority ethnic groups held seats in the National Assembly, and 8 held seats in the Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups, including the Botswana Center for Human Rights, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views.

The Government cooperated with the UNHCR and UNICEF, as well as other international organizations, and the ICRC visited during the year (*see* Section 1.c.).

There is an independent, autonomous ombudsman who handles human rights and other issues; the Government generally cooperated with the ombudsman.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the Government generally respected these provisions in practice. However, neither the Constitution nor the law prohibits discrimination by private persons or entities. There was societal discrimination against women, persons with disabilities, persons with HIV/AIDS, and minority ethnic groups, particularly the San, who lived in remote locations where access to education, public services, employment, and land is extremely limited.

*Women.*—The law does not prohibit domestic violence against women, and it remained a serious problem. Under customary law and in common rural practice, men have the right to “chastise” their wives. Greater public awareness and improved legal protection have resulted in increased reporting of domestic violence and sexual assault; however, police rarely were called to intervene in such cases. During the year, the Police Service took steps to increase privacy at police stations to encourage victims of domestic abuse to report such incidents.

Rape was another serious problem, especially given the high incidence of HIV/AIDS. During the year, 1,386 incidents of rape were reported. By law, the minimum sentence for rape is 10 years increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew his or her HIV-positive status. A person convicted of rape is required to undergo an HIV test before being sentenced; however, the test did not determine if the person was HIV positive at the time of the crime. Police lacked basic investigative techniques in rape cases. The law does not address marital rape; however, in August 2003, a magistrate dismissed a case of alleged marital rape on the grounds that the marriage contract implies consent, making rape impossible unless a husband and wife were legally separated. The plaintiff, who had sought refuge in a women’s shelter, had been abducted and raped repeatedly by her husband.

Prostitution is illegal but was widespread throughout the country.

Sexual exploitation and harassment continued to be problems with men in positions of authority, including teachers, supervisors, and older male relatives who pressured women and girls to provide sexual favors.

Women legally enjoyed the same civil rights as men; however, in practice, societal discrimination persisted. A number of traditional laws enforced by tribal structures and customary courts restricted women’s property rights and economic opportunities. A woman married under traditional law or in “common property” was held to be a legal minor and required her husband’s consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under the law, women married under an intermediate system, referred to as “in community of property”, were permitted to own immovable property in their own names. Moreover, the law also stipulates that neither spouse can dispose of joint property without the written consent of the other party. Women increasingly exercised the right to marriage “out of common property,” in which case they retained their full legal rights as adults. Discrimination against women was most acute in rural areas, where women engaged primarily in subsistence agriculture had few property rights. Polygyny was legal under traditional law with the consent of the first wife, but it rarely was practiced.

The Government and local nongovernmental organizations (NGOs) focused on constructive methods to address discrimination against women in the areas of marital power, legal disabilities, and proprietary consequences of marriage under common law, customary law, and the Married Persons Property Act. On December 8, the President signed into law the Abolition of Marital Powers Act, which established equality of control over the joint estates of marriages and equal guardianship of parents over minor children. The Act also removes the domicile of husbands and fathers as the grounds for establishing the domicile for wives and minor children. Marriage laws set the marriage age for men and women at 18 years.

Well-trained urban women had growing entry- and mid-level access to white collar jobs, but the number of opportunities decreased sharply as they rose to senior management.

Young women did not have access to military training.

The Government and NGOs met regularly to implement the long-term plan of action described in the National Policy on Women. The Women’s Affairs Department helped support a number of NGOs during the year, and the Department provided financial assistance for legal aid in cases of domestic violence and defilement.

*Children.*—The rights of children are addressed in the Constitution and the Children’s Act, and the Government remained committed to the protection of these rights. The Government continued to allocate the largest portion of its operating ex-

penditures to the Ministry of Education and the second largest portion to the Ministry of Local Government, which distributed books, food, and materials for primary education. Under the law, the country has a court system and social service apparatus designed solely for juveniles.

During the year, the Government expanded its provision of free primary education for children from 7 years to 10 years, although attendance was not compulsory. Approximately 88 percent of children attended school, and approximately 30 percent completed secondary school, according to the Government. Girls and boys attended school at similar rates. School attendance and completion rates were highest in urban areas and lowest in remote rural areas, especially those inhabited chiefly by the San. The literacy rate was 81 percent: 82 percent for females and 80 percent for males.

UNAIDS estimated that 37.4 percent of persons between the ages of 15 and 49 were infected with HIV/AIDS. UNICEF reported there were approximately 112,000 orphans in the country, due largely to deaths from HIV/AIDS; however, 28 percent of babies born from HIV positive mothers were protected from the virus, largely as a result of the Prevention of Mother to Child Transmission Program. As of December, the Government had registered approximately 47,000 orphans. Once registered, orphans may receive food baskets and school uniforms. Many children, mostly believed to be orphans, became beggars in urban areas, and some became prostitutes. Relatives continued to deny inheritance rights to orphans.

Sexual abuse of students by teachers was a problem. Reports of rape and sexual assault of young women and cases of incest and defilement of young girls appeared with greater frequency in the news. The increasing number of HIV/AIDS orphans contributed to an increase in incest. The law considers incest a punishable act only if it occurs between blood relatives, leaving children unprotected from incestuous acts performed by step parents, caregivers, and the extended family. The age of sexual consent was 16. Child prostitution and pornography were criminal offenses, and the law stipulates a 10-year minimum sentence for defilement of persons under 16 years of age. In view of the belief held by some persons in southern Africa that intercourse with a virgin was a cure for HIV/AIDS, intergenerational sex (sexual relations between older men and girls) and the problems of teenage pregnancy caused by older men continued to receive extensive media attention during the year.

There were reports of child labor (*see* Section 6.d.).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, although penal code provisions cover such related offenses as abduction and kidnapping, slave trafficking, compulsory labor, and procuring women and girls for the purpose of prostitution; however, there were unconfirmed reports that women were trafficked through the country to other destinations. During the year, there were reports that poor rural children were taken from their homes under false pretenses and forced to work as maids or cattle herders. There were reports that some children who were orphaned by HIV/AIDS became prostitutes in urban areas (*see* Section 5, Children). Traffickers charged with kidnapping or abduction could be sentenced to 7 years' imprisonment.

During the year, the Government took steps to develop a national plan of action to address trafficking. In February, the Government and UNICEF established a task force on trafficking chaired by the police, and the Ministry of Foreign Affairs and International Cooperation convened a meeting on trafficking with other government agencies, NGOs, and foreign diplomats. Local police in cooperation with their South African counterparts continued an intensive program to increase border controls.

*Persons with Disabilities.*—There was some discrimination against persons with disabilities, and employment opportunities remained limited. The Government has a national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking; however, the Government did not mandate access to public buildings or transportation for persons with disabilities. The Government funded NGOs that provided rehabilitation services and supported small-scale work projects by workers with disabilities.

*Indigenous People.*—The San, who now chiefly inhabit the Kalahari Desert, are the earliest known inhabitants of the country. They were linguistically, culturally, and often morphologically distinct from the rest of the population; however, they were not a homogenous group. The San remained economically and politically marginalized, have lost access to their traditional land in fertile regions of the country, and were vulnerable to exploitation by their non-San neighbors. Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress. The estimated 52,000 to 65,000 San represented approximately 3 percent of the country's population. Although the San traditionally were hunter-gatherers, most employed San worked as agricultural laborers on cattle ranches that belonged

to other ethnic groups. During the year, a substantial proportion of the San resided in government-created Remote Area Dweller settlements and subsisted on government social welfare benefits.

The colonial government established the 20,000-square-mile CKGR in 1961 to protect the food supply of some San groups still pursuing a subsistence hunter-gatherer livelihood; however, by 2001, the Government delivered an ultimatum declaring that all residents of the CKGR would be removed and relocated. The Government continued to provide the San with water, healthcare services, and old age, orphan, and destitute benefits until January 2002, when all public services were terminated, and subsistence hunting licenses were revoked. In April 2002, the Government forcibly resettled all San from the CKGR to the government-created settlement areas of Kaudwane, New Xade, and Xere. The San continued to struggle with the lack of services and opportunities in the relocation areas, and a few have moved back into the CKGR. Settlement sustainability was threatened by the lack of employment opportunities and rampant alcohol abuse. San groups have called for the Government to recognize their land use system and to grant them land rights.

On July 12, the High Court began hearing a case filed by the First People of the Kalahari, an NGO representing the San, against the Government to challenge the constitutionality of the Government's removal of the San from the CKGR into settlements. The case, which the Government announced it would appeal should it lose, was scheduled to resume in January 2005.

President Mogae announced during that year that residents of the CKGR were "allowed to hunt inside the CKGR provided they hunt by traditional means, i.e., hunting on foot using bows and arrows." San who moved out of the CKGR were not allowed to hunt there; however, they were allowed to obtain free Special Game Licenses to hunt in designated areas outside of the CKGR. During the year, 74 such permits were issued to residents of New Xade; however, game was scarce in those areas, and few San used the licenses.

A number of NGOs have made efforts to promote the rights of indigenous people; however, the programs have had limited impact.

*Other Societal Abuses and Discrimination.*—There was strong societal discrimination against persons with HIV/AIDS. In the past, some employers fired HIV-positive employees after learning of their status; however, there were no reports of such activities during the year, according to the Botswana Business Council on HIV/AIDS. On February 26, the Botswana Building Society (BBS) announced that it would no longer require HIV testing as a condition of employment; in October 2003, a BBS employee sued her employer for terminating her services after she refused to undergo an HIV test.

The Government funded community organizations that ran programs to reduce the stigma of HIV/AIDS. President Mogae, who has repeatedly encouraged senior government officials to speak out about HIV/AIDS, announced publicly in 2003 that he tested negative for HIV.

The law prohibits homosexuality.

#### Section 6. Worker Rights

*a. The Right of Association.*—The Constitution provides for the right of workers' association, and during the year, the Government extended this right to government employees, the only group that had been excluded in the past from joining or organizing unions of their own choosing. The industrial or wage economy was small, and unions were concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors.

During the year, the President signed a law that rescinded a former government requirement that elected union officials work full-time in the industry of their union representation.

Workers may not be fired for union-related activities. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than 2 months' severance pay.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for collective bargaining for unions that have enrolled 25 percent of a labor force; however, only the mineworker and diamond sorter unions had the organizational strength to engage in collective bargaining. The country has only one export processing zone, and it was subject to the same labor laws as the rest of the country.

The law severely restricts the right to strike. Legal strikes theoretically are possible only after an exhaustive arbitration process. Sympathy strikes are prohibited.

On August 22, approximately 1,500 members of the Botswana Mine Workers Union (BMWU) went on strike to protest compensation, the use of expatriate labor, and the pressuring by management of union officials. The Industrial Court ruled the strike illegal, and on September 6, the strikers returned to work.

*c. Prohibition of Forced or Compulsory Labor.*—The Government does not prohibit forced and compulsory labor, including by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor is addressed in the Children's Act; however, some child labor occurred. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 14 may be employed in any industry without permission from the Commissioner of Labor. No organization has petitioned the Commissioner for such permission. Only persons over age 16 may be hired to perform night work, and no person under age 16 is allowed to perform hazardous labor, including mining.

District and municipal councils had child welfare divisions, which were responsible for enforcing child labor laws; however, no systematic investigation has occurred. The Labor Commissioner; officials of the Ministry of Local Government, Lands, and Housing; and UNICEF generally agreed that child labor was limited to young children in remote areas who worked as cattle tenders, domestic laborers, and child care providers. Childline, a child welfare organization, received 25 reports of child labor during the year.

The law provides that adopted children may not be exploited for labor and protects orphans from exploitation or coercion into prostitution; however, HIV/AIDS has resulted in numerous orphans who were forced to leave school to care for sick relatives and who were vulnerable to such exploitation.

*e. Acceptable Conditions of Work.*—The minimum hourly wage for most full-time labor in the private sector was \$0.64 (2.9 pula), which did not provide a decent standard of living for a worker and family. The Cabinet determined wage policy based on recommendations made by the National Economic, Manpower, and Incomes Committee, which consists of government, BFTU, and private sector representatives. The Ministry of Labor was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector. Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners; however, an insufficient number of commissioners resulted in 1- to 2-year backlogs in resolving such disputes.

Formal sector jobs generally paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were included, frequently paid below the minimum wage. There was no mandatory minimum wage for domestic workers, and the Ministry of Labor did not recommend a minimum wage for them.

The law permits a maximum 48-hour workweek, exclusive of overtime, that is payable at time and a half for each additional hour. Most modern private sector jobs had a 40-hour workweek; however, the public sector had a 48-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired; however, the Government's ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers generally provided for worker safety, with an occasional exception in the construction industry.

Illegal immigrants from poorer neighboring countries, primarily Zambians and Zimbabweans, were exploited easily in labor matters, since they would be subject to deportation if they filed grievances against their employers.

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## BURKINA FASO

Burkina Faso is a parliamentary republic. President Blaise Compaore continued to dominate the Government of the Fourth Republic, assisted by members of his party, the Congress for Democracy and Progress (CDP), despite gains made by the opposition in the 2002 legislative elections. In 1998, President Compaore was re-elected to a second 7-year term with 88 percent of the vote. International observers considered the 2002 legislative elections to have been substantially free and fair, although a collective of 14 local nongovernmental organizations (NGOs) cited voter list irregularities and cases of fraud. The judiciary was subject to executive influence and corruption.

The security apparatus consists of the armed forces and the gendarmerie, which are controlled by the Ministry of Defense; the national police, controlled by the Ministry of Security; and the municipal police, controlled by the Ministry of Territorial Administration. The Presidential Guard is an autonomous security force, although technically it is subject to the jurisdiction of the armed forces and part of the army.

The civilian authorities maintained effective control of the security forces. Some members of the security forces committed serious human rights abuses.

The economy was market-based; an estimated 85 percent of the population of approximately 12.2 million engaged in subsistence agriculture. A locust outbreak in August severely damaged the grain harvest in the northern provinces. Frequent drought, limited communication and transportation infrastructures, and a 77 percent illiteracy rate were longstanding problems. The Government's antipoverty strategy to open the economy to market forces while shifting resources to the education and health sectors continued during the year. Gross national product per capita was \$375.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The continued dominance of President Compaore and his ruling party limited citizens' right to change their government. Security forces were responsible for some killings of criminal suspects; however, there were fewer reports of such killings than in previous years. Security forces continued to torture and abuse detainees, although there were fewer such cases than in previous years. Prison conditions remained harsh. Arbitrary arrest and detention were problems, and authorities on occasion did not provide detainees with due process. Impunity remained a problem. Unlike in the previous year, authorities did not restrict the media; however, at times, journalists practiced self-censorship. Police used violence to disperse meetings and demonstrations. Violence and discrimination against women, including female genital mutilation (FGM); violence against children; child labor; and child trafficking continued to be problems. The Government continued to take steps to combat FGM, child labor, and trafficking in persons. Social discrimination against persons with disabilities was widespread. Mobs killed or beat criminal suspects during the year.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, security forces were responsible for the deaths of criminal suspects and detainees, although fewer than in the previous year.

On February 1, Badolo Wango was tortured and died in Koudougou prison, Boukhiemde Province, after an unsuccessful escape attempt. Four of the prison guards accused in his death were removed from their post, arrested, and jailed; however, the four were subsequently released on bail, and no further action had been taken by year's end.

On April 4, the Burkinabe Movement for Human Rights (MBDHP) reported that security forces were responsible for the deaths of two unidentified criminal suspects whose bodies had been found near the road to Tougouri, Sanmatenga Province; the victims apparently had been shot to death. The MBDHP, the country's largest human rights organization and a vocal critic of the Government, demanded an investigation; however, no action had been taken by year's end.

On July 25, Pitroipa Yemdaogo died after being detained for approximately 6 months at the House of Arrest and Correction of Ouagadougous; Yemdaogo was arrested in Ghana on February 25 for suspected involvement in the killing of three policemen in Zaogho, Kouritenga Province, and subsequently repatriated. Authorities had given no official reason for Yemdaogo's death by year's end; however, some human rights NGOs suspected his death was the result of abuse.

No action was taken during the year against security forces believed to be responsible for the 2003 executions of 6 men in Godin, Boukhiemde Province and 12 men in Fada N'Gourma or in the 2003 killings of 18 criminal suspects or of 4 persons who died under suspicious circumstances following incarceration or contact with security forces.

There were no developments in any of the 2002 cases of killings by security forces.

On June 22, a trial was conducted in the 1999 killing by police in Banfora, Camoé Province, of Mamadou Kone, who was shot after striking two policemen during an escape attempt. Dabila Ouattara, one of the policemen accused in the case, was acquitted; however, the court ordered the Government to pay Kone's family approximately \$176,000 (100.3 million CFA francs) in compensation.

Societal violence resulted in deaths during the year. On April 30, conflict between the residents of Sigle county seat and Tiemnore village, Boukhiemde Province, resulted in the death of Urbain Sibnoaga Gansore from Sigle. Police subsequently charged and detained Arsene Kabore of Tiemnore with the killing. In revenge for the killing of Gansore, residents of Sigle looted the police station and beat Kabore

to death. Police arrested and detained 10 persons, who subsequently were released on bail and awaiting trial at year's end.

On June 29 and 30, a land use conflict between Gourmantches farmers and Fulani herders from the village of Balere resulted in the deaths of 10 Fulani cattle herders; approximately 15 farmers from the Gourmantche and Zaosse ethnic groups were arrested, and an investigation was ongoing at year's end. Farmers have traditionally accused herders of destroying scarce farmland.

On November 30 and December 1, in Po county seat, another land use conflict between Kassena farmers of the Gourunsi ethnic group and Fulani herders resulted in the death of a Fulani herder, the injuring of another, the displacement of hundreds of Fulanis, and the destruction of Fulani houses and property. Police arrested 15 Kassena farmers, who were awaiting trial at year's end.

There were no results in the investigation of the November 2003 killing of Assami Tonde, who reportedly had trespassed on sacred ground prior to a traditional ceremony; Tonde was allegedly beaten to death by the retainers of the Naaba Kiiba of Yatenga, a traditional chieftain. There were no further developments.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, members of the security forces continued to abuse persons, and suspects were frequently subjected to beatings and threats and sometimes torture to extract confessions. Abuse by security forces resulted in deaths (*see* Section 1.a.).

The Government took no known disciplinary action against those responsible for abuses, and the climate of impunity created by the Government's failure to prosecute abusers remained the largest obstacle to ending abuses.

On June 6, police arrested, stripped naked, and beat with rubber batons 11 residents of Yako, Passore Province for allegedly instigating riots and assaulting a detainee in the Yako jail; the 11 were subsequently released on bail. No action had been taken against the police by year's end.

Police beat persons during demonstrations (*see* Section 2.b.).

There were no developments in the 2002 case in which soldiers beat police and civilians in the town of Kaya.

Prison conditions were harsh and could be life threatening. The federal prison in Bobo-Dioulasso, built in 1947, housed approximately 900 prisoners, although it was designed to hold less than half that number. The prison diet was poor, and inmates often relied on supplemental food from relatives. There were separate facilities for men, women, children, and high-profile persons; however, these facilities typically were crowded, common rooms rather than individual cells. Pretrial detainees usually were not held separately from convicted prisoners.

Prison visits were granted at the discretion of prison authorities; however, permission generally was granted, and advance permission was not required. Prison observers visited prisons during the year.

Numerous human rights organizations and the International Committee of the Red Cross were permitted to visit the 16 detainees accused of participating in an alleged coup plot in October 2003 (*see* Section 1.e.).

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the Government did not observe these prohibitions in practice.

The national police, under the Ministry of Security, and the municipal police, under the Ministry of Territorial Administration, are responsible for public security; gendarmes reporting to the Ministry of Defense also are responsible for some aspects of public security. Corruption was widespread, particularly among lower levels of the police. A Committee Against Corruption continued to address corrupt practices within the police.

The Constitution provides for the right to expeditious arraignment and access to legal counsel after a detainee has been charged before a judge; however, authorities did not ensure due process. The law limits detention for investigative purposes without charge to a maximum of 72 hours, renewable for a single 48-hour period; however, police rarely observed these provisions in practice. The average time of detention without charge was 1 week, and the law allows judges to impose an unlimited number of 6-month preventive detention periods. Defendants without access to legal counsel were often detained for weeks or months before appearing before a magistrate. In some cases, prisoners were held without charge or trial for longer periods than the maximum sentence they would have received if convicted of the alleged offense. There was a pretrial release system; however, it was unknown how often it was used.

On September 28, police detained opposition leader Herman Yameogo and his cousin and political aide Noel Yameogo upon their arrival at Ouagadougou airport

from a trip to several neighboring countries. The Government, which accused the men of providing Mauritania, Cote d'Ivoire, Guinea, and the NGO Reporters Without Borders with false information, subsequently released Herman Yameogo after confiscating his diplomatic passport and threatening to remove his parliamentary immunity. On October 7, the State Prosecutor indicted Noel Yameogo for treason and for being "a threat to state safety"; he remained in detention awaiting trial at year's end. On December 2, the day before Yameogo challenged the passport confiscation in court, the Government returned his passport.

Police arbitrarily arrested a journalist and detained demonstrators during the year (see Sections 2.a. and 2.b.).

On April 6, 13 of the 17 military and civilian persons detained in connection with the October 2003 coup plot went on trial (see Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was subject to executive influence in practice. The President has extensive appointment and other judicial powers. The Constitution stipulates that the Head of State also is the President of the Superior Council of the Magistrature, which can nominate and remove high-level magistrates and examine the performance of individual magistrates.

Systemic weaknesses in the justice system included the removability of judges, outdated legal codes, an insufficient number of courts, a lack of financial and human resources, and excessive legal costs.

There are four operational higher courts: The Supreme Court of Appeal; the Council of State; the Audit Court and Office; and the Constitutional Council. Beneath these higher courts are 2 courts of appeal and 18 provincial courts. There also is a High Court of Justice with jurisdiction to try the president and senior government officials for treason and other serious crimes. On September 8, the National Assembly passed a bill that established a tribunal to try persons under 18 who are charged with felonies or misdemeanors as children rather than adults. The military court system, which tried only military cases, was subject to executive influence.

The Constitution provides for the right to public trial, access to counsel, a presumption of innocence, and has provisions for bail and appeal. While these rights were generally respected, the ability of citizens to obtain a fair trial remained restricted by their ignorance of the law and by a continuing shortage of magistrates.

On April 6, 13 of the 17 military and civilian persons detained in connection with the October 2003 coup plot went on trial: 4 were convicted and sentenced to between 5 and 10 years' imprisonment; 3 received suspended sentences of between 12 months and 2 years; and the remaining 6 were acquitted. Several of the defendants retracted their confessions during the trial, alleging that they had been beaten and coerced into signing the statements. The MBDHP and other human rights groups that visited the defendants during pretrial detention reported that the defendants had been well treated.

In addition to the formal judiciary, customary or traditional courts presided over by village chiefs handled many neighborhood and village problems, such as divorce and inheritance disputes. Citizens generally respected these decisions, but also could take a case to a formal court.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. However, in national security cases, a law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant. By law and under normal circumstances, homes may be searched only with the authority of a warrant issued by the Attorney General.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and the law provide for freedom of speech and of the press; however, the Government at times restricted these rights and intimidated journalists into practicing self-censorship. The President and his Government remained sensitive to criticism. Journalists charged with libel may defend themselves in court by presenting evidence in support of their allegations. The independent press, particularly the written press, continued to exercise greater freedom of expression. The Government did not restrict academic freedom.

The official media, including the daily newspaper Sidwaya, and the national radio and television, displayed progovernment bias. The independent press included three daily and approximately a dozen weekly newspapers; some newspapers appeared only occasionally. There were numerous independent radio stations and three television stations. Some of these media outlets were critical of the Government. Foreign radio stations broadcast without government interference.

All media were under the administrative and technical supervision of the Ministry of Information. The audiovisual media were regulated further by the Superior Council of Information, which was under the Presidential office and had limited independence.

There are regulations for private and independent radio and television. Radio stations were held responsible if their call-in programs threatened the public order or the rights of any third party.

Presse Dimanche, a popular television talk show cancelled in November 2003 allegedly at the behest of the Minister of Information, did not resume broadcasting during the year.

Despite some self-censorship, independent newspapers and radio stations often criticized the Government, reported allegations of corruption and mismanagement by authorities, and accused the Government of human rights violations. The independent media also reported the opposition's and human rights associations' criticism of the Government's failure to investigate and prosecute human rights violations.

On November 5, police arrested journalist and opposition activist Mathieu N'Do upon his arrival from a reporting mission in Cote d'Ivoire. N'Do, who was detained for questioning for 6 days at the riot police headquarters, was accused of having had close contact with the President of Cote d'Ivoire; however, no charges were filed upon his release.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government at times restricted this right in practice.

Political parties and labor unions were allowed to hold meetings and rallies without requesting government permission. However, the law also requires that authorities be notified in advance of planned demonstrations and allows the authorities to invoke the need to preserve public order to forbid demonstrations. Penalties for violation of the advance notification requirement include 2 to 5 years' imprisonment. Permits must be obtained from municipal authorities for political marches, and authorities may alter or deny requests on grounds of public safety. Denials or modifications may be appealed before the courts.

On February 12, police surrounded a group of merchants who had gathered to discuss government plans to relocate them from Central Ouagadougou Market, which had burned down in a fire, to an area outside of Ouagadougou, where business was not as profitable. The police fired directly into the crowd with shotguns and teargas and also beat individuals with rubber batons. An estimated 10 persons were injured, including a man whose foot had to be amputated after being hit with buckshot. On February 13, merchants and unemployed youth responded by blocking roads, burning vehicles and buses, and attacking foreign businesses and property; police again used shotguns and teargas to disperse demonstrators. A total of 75 persons were arrested and subsequently released. In justifying police action, the mayor of Ouagadougou claimed that he had not authorized the merchants' gathering. No action had been taken against police by year's end.

On May 1, Konde Hakani Elizabeth, the mayor of Dedougou city, Mouhoun Province, restricted a union's peaceful march around the city. The mayor claimed that she had not received any request for a permit to march; however, the union claimed to have sent the request on April 28.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Political parties and labor unions were permitted to organize without seeking government permission.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government required that religious groups register with the Ministry of Territorial Administration. There were no penalties for failure to register. All groups were given equal access to licenses, and the Government approved registrations in a routine fashion.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Gendarmes and police agents routinely stopped travelers for identity checks and to levy road taxes. Customs agents stopped travelers for customs checks. During the year, the Government confiscated the passport of a political leader (see Section 1.d.).

The law prohibits forced exile, and the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they faced persecution, and granted refugee or asylum status. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. There were 465 persons with refugee status and 549 persons who had requested refugee status residing in the country. Most were nationals of Cote d'Ivoire, Rwanda, Burundi, the Democratic Republic of the Congo, and the Republic of the Congo; others were from Chad and Liberia. Almost all the refugees and applicants lived in Ouagadougou.

During the year, the governmental National Refugee Committee and UNHCR continued their efforts to respond to the needs of refugees. Some refugees asked the UNHCR to send them to third countries; these requests were still being evaluated at year's end.

Despite increased violence in Cote d'Ivoire, there were fewer voluntary repatriations of Burkinabe nationals from Cote d'Ivoire than in previous years. Burkinabe returnees reported physical abuse, harassment, and extortion from Ivoirian police officials.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully through multiparty elections; however, in practice citizens were unable to exercise this right fully due to the continued dominance of the President and his ruling party. In the 1998 presidential election, President Compaore won 88 percent of the vote; 56 percent of the eligible voters went to the polls. The two candidates who opposed the President provided only token opposition and reportedly were persuaded by the Government to run for the presidency to help create the appearance of a contested election. National observers identified a number of systemic weaknesses in the electoral code that precluded a totally regular and transparent vote, and a coalition representing a number of opposition parties boycotted the election. Nevertheless, neither of the two candidates opposing President Compaore contested the results.

The Compaore Government included a strong presidency, a Prime Minister, a cabinet presided over by the President, a one-chamber (formerly two-chamber) National Assembly, and the judiciary. The legislature was independent, but it remained susceptible to influence from the executive branch. The cabinet includes four members from small opposition parties who generally support the ruling party; however, the major opposition bloc, the Group of 14 February (G-14), refused to participate.

In 2001, the Constitution was amended to provide that the presidential term of office be 5 years, renewable once, starting in 2005. The provision was not retroactive, and the National Assembly has determined that this provision will not be applied retroactively to President Compaore. Previously, the Constitution allowed the President to run for an unlimited number of terms.

The government-funded Independent National Electoral Commission (CENI) has full responsibility for managing its budget and is the only organization responsible for monitoring elections and referendums. Five representatives of opposition parties, including the G-14 coalition, served on the CENI, in addition to five representatives of pro-government parties (including the CDP) and five representatives of civil society.

In 2002, the Government held parliamentary elections. For the first time in the country's history, multiple political parties, including opposition parties, participated in the elections. The ruling CDP won 57 out of the 111 parliamentary seats. The opposition parties unified to compete in the elections and won 54 seats. Domestic observers characterized the elections as generally free and fair. Independent observers characterized CENI's conduct during the elections as generally fair.

Following the May 2002 legislative elections, the Government was reorganized, and the 2000 protocol, which ceded one-third of cabinet posts to the opposition and which the Prime Minister and opposition had signed, was voided by the ruling party. Of the 31 cabinet members, there were 4 ministers from parties other than the ruling CDP. All but one of the country's mayors were CDP members, most appointed provincial officials were members of the CDP, and most traditional chiefs also were members of the CDP.

CDP membership conferred advantages, particularly for businessmen and traders in competition for open bidding contracts.

On April 27, the National Assembly adopted a controversial bill to revise the electoral code through redistricting and other measures. The CDP claimed the law would correct imbalances in the previous system; however, opposition parties, which boycotted the April 27 session, charged that the bill was designed to rescind reforms that facilitated large opposition gains in the May 2002 legislative elections. Most observers believed the changes would favor larger and more organized parties.

During the year, the Government continued efforts to curb official corruption, which was a serious problem. In January, the High Authority to Fight Against Corruption issued a report that cited numerous instances of corruption in government and civil society. However, there were no prosecutions of corrupt officials during the year.

There were no laws that provided for public access to government information; however, government ministries generally released non-sensitive documents.

There were 12 women in the 111-seat National Assembly, 3 women in the 31-member Cabinet, and 4 women in the Supreme Court. The Cabinet included 17 minority members; the National Assembly included 61 minority representatives.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The Government permitted international human rights groups to visit and operate in the country. The MBDHP was affiliated with the Inter-African Human Rights Union.

The Government failed to honor repeated requests for information from the African Union about alleged human rights abuses that occurred between 1983 and 1997. The Government did not prosecute the perpetrators of these offenses; however, in 2002, it established a \$9 million fund to compensate families of the victims of political violence. By year's end, the Government had distributed more than \$7 million (approximately 3.99 billion CFA francs) of the fund.

On August 22, a U.N. Independent Commission of Inquiry arrived in the country to investigate human rights violations in Cote d'Ivoire. The 5-member team also met with some of the more than 350,000 citizens of the country who have returned from Cote d'Ivoire since September 2002; many claimed to have been mistreated.

The National Commission on Human Rights serves as a permanent framework for dialogue on human rights concerns. Commission members included representatives of human rights NGOs, union representatives, government officials, and representatives from professional associations. The MBDHP, which did not participate on the Commission, has charged that the Commission was established to undermine human rights organizations that criticized the Government; however, there were no clear indications of such interference.

During the year, the Government took several steps to advance human rights. On June 4, the Ministry for the Promotion of Human Rights, which was established in 2002, opened an information center in Bobo-Dioulasso, the second biggest city of the country. From June 17 to 18, the Ministry held a training seminar for the 34 members of the Commission on human rights principles and the roles of the U.N. and regional NGOs in protecting human rights. On August 16, the Commission held a conference on preventing deaths in detention in Bobo-Dioulasso.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, ethnic origin, gender, disability, and social status; however, the Government was unable to enforce this prohibition effectively. Discrimination against women and persons with disabilities remained a problem. Various ethnic groups were represented in the inner circles of the Government, and government decisions did not favor one group over another.

*Women.*—Domestic violence against women, especially wife beating, occurred frequently. No law specifically protects women from domestic violence, and cases of wife beating usually were handled through customary law and practice. There were no statistics on rape, although it was recognized as a crime. Spousal rape was not discussed. There were organizations that counseled rape victims, including Catholic and Protestant missions, the Association of Women Jurists in Burkina, the MBDHP, the Association of Women, and Promofemmes—a regional network that works to combat violence against women. The Government has attempted to change attitudes toward women, using education through the media.

FGM was practiced widely, especially in many rural areas, and usually was performed at an early age. Up to 70 percent of girls and women have undergone this procedure; however, the Government has demonstrated its commitment to eradicate FGM through education, and the National Committee for the Fight Against Excision reported that the incidence of excision has decreased by approximately 40 percent since 1990. FGM is a crime, with strict punishments for those involved in its practice. Perpetrators were subject to imprisonment of 6 months to 3 years and a significant fine.

During the year, the Government arrested and prosecuted several women who performed FGM. On January 21, police arrested Yiere Mamou Berte for practicing FGM on 41 young girls in Sefina village, Kenedougou Province; Berte was in prison awaiting trial at year's end. On February 4, Mariam Kone was given a 12-month suspended sentence for practicing FGM on eight young girls in Banwa Province. On August 16, police arrested a woman in Ouagadougou for circumcising 12 girls ranging in age from 2 to 12; the arrest received widespread media coverage because of the public outcry that the practice still occurred in metropolitan areas.

The law does not specifically prohibit prostitution; however, pimping and soliciting are illegal.

Scarification of the faces of both boys and girls of certain ethnic groups was gradually disappearing.

There were occasional reports of trafficking in women (*see* Section 5, Trafficking).

The Penal Code explicitly prohibits sexual harassment; however, such harassment was common.

The law prohibits forced marriage, with specific penalties under the Penal Code for violators. Polygyny was permitted, but both parties must agree to it prior to a marriage, and the woman maintained the power to oppose further marriages by her husband if she could provide evidence that he abandoned her and her children. Either spouse could petition for divorce; custody of children was granted to either parent based on the children's best interests.

Although the law provides equal property rights for women and some inheritance benefits depending on other family relationships, in practice, customary law prohibits women from the right to own property, particularly real estate. In rural areas, land belonged to the family of the man whom a woman married. Women still did much of the subsistence farming work. Customary law does not recognize inheritance rights for women and regards the woman as property that can be inherited upon her husband's death.

There were no specific constitutional provisions or laws protecting women, who faced extensive discrimination. In general, women continued to occupy a subordinate position and experienced discrimination in such areas as education, jobs, property, and family rights. Overall, women represented 45 percent of the workforce. In the modern sector, women comprised one-fourth of the government workforce, although usually they were found in lower paying positions. The Ministry of Women's Promotion actively promoted women's rights during the year; the Minister was a woman. The Government also established income generating activities for women during the year, including the production of fabric, shea butter, and soap.

Several NGOs were active in promoting women's rights, including Women in Law and Development in Africa, Association of Female Judges, Association of Elected Women of Burkina Faso, Women's Coalition of Burkina Faso, and Kebayina Association of Women of Burkina Faso.

*Children.*—The Constitution nominally protects children's rights. The Government demonstrated its commitment to improve the condition of children by continuing efforts, in cooperation with donors, to revitalize primary health care by focusing on care for nursing mothers and infants; vaccination campaigns for measles, meningitis, and other illnesses; and health education.

The Government allotted approximately 25 percent of the national budget to education, and the law provides for free compulsory education; however, the Government lacked the means to provide universal, free primary education. If a child qualified on the basis of grades and social condition (that is, the family was "poor"), tuition-free education could continue through junior high and high school. Children still were responsible for paying for school supplies, and many parents could not afford to lose a child's labor in the fields or at other remunerative jobs; as a result, overall school enrollment was approximately 52 percent (46 percent for girls). The Government has taken steps to promote primary education for girls through encouragement of donor scholarships, school feeding programs, and information campaigns to change societal attitudes toward educating girls. Girls made up slightly more than one-third of the total student population in the primary school system. Schools in rural areas had even lower percentages of female students than schools in urban

areas, and illiteracy for girls in the rural areas ran as high as 95 percent. The rate of male literacy was approximately 32 percent, and female literacy was 15 percent.

The law prohibits the abuse of children under 15 years old and provides for the punishment of abusers. On March 3, the tribunal of Koudougou, Boulikemde Province, sentenced Pauline Ouoba and her husband Saidou Pandamba to 6 months' imprisonment and 12 months' suspended sentence, respectively, for severely beating their 12-year-old adopted child.

FGM was performed commonly on young girls (*see* Section 5, Women).

Trafficking of children was a problem (*see* Section 5, Trafficking).

*Trafficking in Persons.*—The Constitution specifically prohibits slavery, inhumane treatment, and mistreatment of children and adults, and the Penal Code prohibits kidnapping, violence, and mistreatment of children; however, the country was a source, transit, and destination country for internationally trafficked persons, including children. In May 2003, the National Assembly adopted an anti-trafficking law that punishes child traffickers with 1 to 10 years' imprisonment and fines of \$525 (299,250 CFA francs) to \$2,600 (1.5 million CFA francs); however, the law had not been implemented by year's end. The sexual exploitation of children was a problem.

During the year, 25 child traffickers were arrested: At year's end, 16 had been sentenced to prison; 3 were being tried; and 6 were in detention awaiting trial.

The Ministry of Social Affairs and the Directorate of Labor Health and Security, Child Labor, and Trafficking Division of the Ministry of Labor implement and enforce child labor laws and regulations; however, the Government had limited resources to combat trafficking in women and children.

The country was an occasional source for women who traveled to Europe to work as domestics, but subsequently were exploited sexually. The country was a transit point for trafficked children, notably from Mali, who often were trafficked to Cote d'Ivoire. Malian children also were trafficked into the country. Destinations for trafficked children of the country included Mali, Cote d'Ivoire, Ghana, and Nigeria.

Trafficked children were subject to violence, sexual abuse, forced prostitution, and deprivation of food, shelter, schooling, and medical care. Organized child trafficking networks existed throughout the country. One study identified eight networks in Ouagadougou and seven in Bobo-Dioulasso. Child trafficking networks cooperated with regional smuggling rings.

In January, the Directorate for the Protection of Infants and Adolescents published a report based on interviews with the 1,710 trafficked children whom security forces had intercepted from 2000–03: 45 percent were between the ages of 12 and 15, and 80 percent had never gone to school. The report estimated that 175,000 children between the ages of 6 and 17 worked and lived apart from their families, including 95,000 who worked abroad.

In the past, some children voluntarily traveled to Cote d'Ivoire to work as agricultural laborers to escape poverty at home. In other cases, children were lured to plantation work in Cote d'Ivoire by false promises of generous remuneration, only to be forced to work under very harsh conditions for little or no payment. Some children were forced to work long hours without pay, allegedly to repay the cost of their transport to Cote d'Ivoire and of the food and housing on the plantation.

However, according to Lutrena, a local NGO that collaborated with both the International Program for Elimination of Child Labor (IPEC) and the International Labor Organization (ILO) to fight against child trafficking, the flow of children going to Cote d'Ivoire for work purposes declined significantly following the September 2002 military rebellion there. Many of these working children reportedly headed for Mali either to work in rice plantations or study in Islamic schools or for coastal countries like Benin. According to the Ministry of Social Action and National Solidarity, security forces and regional trafficking surveillance committees intercepted 644 trafficked children in 2003.

The Government worked with international donors and the ILO to address child trafficking, in part by organizing seminars against child trafficking for customs officers. During the year, security services and civil society groups organized similar workshops and seminars. The Government also established watch committees in certain provinces in which child trafficking and labor were problems. The watch committees included representatives of industries usually implicated in child labor (cotton growers, for example), the police, NGOs, and social welfare agencies. An IPEC program to prevent child trafficking for work purposes on cotton plantations continued during the year.

*Persons with Disabilities.*—There was no legislation to protect persons with disabilities from discrimination, and advocates reported that such persons often faced social and economical discrimination. There was no government mandate or legisla-

tion concerning accessibility for persons with disabilities. Programs to aid persons with disabilities were limited. Persons with disabilities who were willing and able to work frequently found it difficult to find employment, including in government service, because of deeply entrenched societal attitudes that persons with disabilities should be under the care of their family and should not enter the workforce.

*Other Societal Abuses or Discrimination.*—Societal discrimination against homosexuals and persons with HIV/AIDS was a problem.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers, including civil servants, the right of association, and workers exercised this right. Essential workers, such as police, could not join unions. Approximately 85 percent of the workforce was engaged in subsistence agriculture. Of the remainder, approximately 50 percent of private sector employees and 60 percent of public sector employees were union members.

*b. The Right to Organize and Bargain Collectively.*—Unions have the right to bargain directly with employers and industry associations for wages and other benefits, and there was extensive collective bargaining in the modern wage sector; however, it encompassed only a small percentage of workers. There are no export processing zones.

The Constitution provides for the right to strike, and workers exercised this right in practice. Legal strikes occurred during the year, including a 3-day strike by health workers for better pay and working conditions. In May 2003, all the major trade union federations and autonomous unions called a strike, in part to protest the privatization of parastatal organizations; none of their demands were met, and some public institutions and private enterprises were closed.

During the year, the mayor of Dedougou city restricted a union march (*see* Section 2.b.).

*d. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that children were employed for domestic labor outside their own families without any status or formal remuneration and that young girls were procured for domestic labor (*see* Sections 5 and 6.d.). Trafficking of women and girls was a problem (*see* Section 5).

*e. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code sets the minimum age for employment at 14 years; however, child labor was a problem. In the domestic and agricultural sectors, the law permits children under the age of 14 to perform limited activities for up to 4<sup>1</sup>/<sub>2</sub> hours per day; however, many children under the age of 14 years worked longer hours. According to a pamphlet published by the Ministry of Labor in 2000, more than 50 percent of children worked, largely as domestic servants or in the agricultural or mining sectors, where working conditions were harsh. Children commonly worked with their parents in rural areas or in family-owned small businesses in villages and cities. Most children actually began working at an earlier age on small, family subsistence farms, in the traditional apprenticeship system, and in the informal sector. There were no reports of children under the age of 14 employed in either state or large private companies.

The Ministry of Employment, Labor, and Youth, which oversees labor standards, lacked the means to enforce work safety and age limit legislation adequately, even in the small business sector.

The Government organized workshops during the year, and in cooperation with donors, has undertaken many sensitization programs to inform children and parents of the dangers of sending children away from home to work.

*f. Acceptable Conditions of Work.*—The Labor Code mandates a minimum monthly wage of approximately \$40 (22,800 CFA francs) in the formal sector; the wage did not apply to subsistence agriculture. The minimum wage did not provide a decent standard of living for an urban worker and family. Wage earners usually supplemented their income through reliance on the extended family, subsistence agriculture, or trading in the informal sector. The Labor Code also mandates a standard workweek of 40 hours for nondomestic workers and a 60-hour workweek for household workers, and establishes safety and health provisions.

A system of government inspections under the Ministry of Employment, Labor, and Youth and the labor tribunals was responsible for overseeing occupational health and safety standards in the small industrial and commercial sectors, but these standards did not apply in the subsistence agricultural sector. The Government paid social security benefits on a sliding scale according to an employee's length of service and pay, up to a ceiling established by presidential decree in January 2003 of \$1,051 per month (599,070 CFA francs). The Government's Labor In-

spector Corps did not have sufficient resources to fulfill its duties adequately. Every company was required to have a work safety committee. If the Government's Labor Inspection Office declared a workplace unsafe for any reason, workers had the right to remove themselves from the dangerous work without jeopardy to continued employment. There were indications that this right was respected in practice; however, such declarations by the Labor Inspection Office were relatively rare.

## BURUNDI

Burundi is a republic with a Transitional Government established in November 2001, under the Arusha Peace and Reconciliation Agreement (Arusha Agreement). In April 2003, Domitien Ndayizeye, a member of the Hutu ethnic group, succeeded Pierre Buyoya, a member of the Tutsi ethnic group, as President. The Arusha Agreement obliged the Transitional Government to hold local and national elections before November 1; however, by year's end, no elections had been held. On October 18, the National Independent Electoral Commission (CENI) proposed to delay national and local elections until 2005 for technical reasons. On October 20, the Transitional Government approved an interim constitution that allowed the Transitional Government to remain in power until a referendum on a post-transition constitution was held. By year's end, the CENI announced that a referendum on the draft post-transition constitution, scheduled for December 22, would be delayed, and a date had not been set.

The country remained engaged in an armed conflict between the Government and the Party for the Liberation of the Hutu People/National Liberation Front (PALIPEHUTU-FNL) led by Agathon Rwasa. Government forces were aided in this conflict by fighters of the National Council for Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD), a former rebel group. The security situation improved markedly in most parts of the country after the CNDD-FDD joined the Transitional Government in November 2003. However, in Bujumbura Rural Province, which surrounds the capital and was the stronghold of the PALIPEHUTU-FNL, fighting continued. Human rights violations resulting from the conflict continued to occur, primarily in Bujumbura Rural. The judicial system continued to be corrupt, subject to political manipulation, and inefficient.

The security forces were controlled by the Transitional President, and consisted of the Burundian Armed Forces (FAB) and the gendarmerie under the Ministry of Defense, police under the Ministry of Public Security, and the intelligence service under the presidency. The Ministry of Defense reduced the role and numbers of the Guardians of the Peace (GP), armed paramilitary civil defense units. CNDD-FDD forces created de facto parallel police forces and administrations in parts of the country and operated with significant autonomy. On June 1, the U.N. Operation in Burundi took over the international peacekeeping function from the South African-led African Union Mission to Burundi.

The country's U.N.- and World Bank-supported process to disarm, demobilize, and reintegrate former soldiers and former rebels began in December. By year's end, a total of approximately 3,300 former soldiers, as well as approximately 2,900 child soldiers, had been demobilized.

Civilian authorities did not maintain effective control of the security forces, including the CNDD-FDD. Members of the security forces, including the CNDD-FDD, committed numerous serious human rights abuses.

The country, which by World Bank estimates had a population of 7.2 million, was extremely poor. The majority of the population was dependent on subsistence agriculture. The Transitional Government controlled the price of some commodities and the rates of exchange; however, it took steps to reduce the difference between the official and parallel exchange rates. The public sector, including government-owned enterprises, dominated the small formal section of the economy. The armed conflict caused severe economic disruption, and internally displaced persons (IDPs) were dependent on international humanitarian assistance. The country's gross domestic product was \$669.2 million in 2003, according to the World Bank. Wages did not keep pace with inflation. An estimated 8.3 percent prevalence rate of HIV/AIDS continued to place a burden on the country's resources through rising medical expenditures, absenteeism from work, labor shortages resulting from morbidity and mortality, and training of replacement labor.

The Transitional Government's human rights record remained poor, and the Transitional Government continued to commit numerous serious human rights abuses. Citizens did not have the right to change their government. Security forces, including the CNDD-FDD, continued to commit numerous arbitrary and unlawful killings,

including killings of unarmed civilians, many of whom were killed during reprisal attacks on those suspected of cooperating with the PALIPEHUTU-FNL. There were credible reports of disappearances, and security forces continued to torture, beat, rape, and otherwise abuse persons. Prison conditions remained harsh and sometimes life threatening. Impunity and the continuing lack of accountability for those who committed past abuses remained serious problems. Arbitrary arrest and detention, and lengthy pretrial detention were problems; there were also credible reports of incommunicado detention. The court system did not ensure due process or provide citizens with fair trials. The Transitional Government infringed on citizens' privacy rights. The Transitional Government restricted the freedoms of speech, association, and movement, and at times it restricted the freedoms of press and assembly. Since 1993, the civil war caused thousands of civilian deaths and massive internal population displacement. Corruption was a serious problem. The armed forces sometimes limited access to certain areas by human rights observers, citing security conditions. Violence and discrimination against women continued. The continued use of child soldiers was a problem; however, the Transitional Government and all former rebel groups demobilized child soldiers throughout the year. Trafficking in persons was a problem. Discrimination against persons with disabilities and indigenous Twa populations remained problems. There was also a disproportionate number of Tutsis in state institutions. Societal discrimination between Hutus and Tutsis continued along with incidents of ethnically motivated conflict. Child labor, including forced labor, was a problem. Mob killings were a problem.

The PALIPEHUTU-FNL also continued to commit numerous serious human rights abuses against civilians, including killings, kidnappings, rapes, theft, extortion, the forcible recruitment and employment of children as soldiers, and forced labor.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports that security forces committed political killings; however, security forces committed unlawful killings of civilians during the year.

At year's end, six of the seven individuals accused in the 2001 killing of Kassi Manlan, including Colonel Gerard Ntunzwenayo, remained in jail and their trial was ongoing. No action had been taken against the seventh, Commander Sylvestre Hakizimana. At year's end, police held in custody another man allegedly involved in the killing. Two other individuals accused of having taken part in the killing had disappeared; however, the Attorney General told the court that they were being held in a safe place for security reasons.

The FAB regularly committed unlawful killings, often with impunity, of Hutu and Tutsi civilians following fighting with rebels, in reprisal for rebel attacks, and for suspected collaboration with rebels (see Section 1.g.).

League Iteka reported that on February 21, a FAB soldier reportedly killed Melchiade Basingwa and his wife in Kiremba Commune, Ngozi Province, and stole approximately \$280 (300,000 Burundian francs). The soldier was arrested on March 15 and held for interrogation. At year's end, it was unknown if he was still in detention.

There were no developments in the February 2003 killing of Abraham Nshirimana, allegedly by FAB soldiers.

During the year, there were reports that suspects were killed while in the custody of security forces and the CNDD-FDD. For example, League Iteka reported that on May 6, in Bujumbura city's Kanyosha Zone, the local gendarmerie reportedly shot and killed a bicycle taxi operator who was in custody. There had been no investigation into the killing at year's end.

On August 13, members of the CNDD-FDD detained and beat to death Albert Ntahomvukiye in Mutimbuzi Commune, Bujumbura Rural province. Ntahomvukiye's son was beaten until he was unable to walk. League Iteka reported that the CNDD-FDD suspected them of collaborating with the PALIPEHUTU-FNL.

League Iteka reported that on September 20, the corpse of an alleged thief who had been in FAB custody was found near a FAB position in Bugabira Commune, Ngozi Province. There were no reports that action was taken against persons responsible for the alleged killing.

There were no developments in the June 2003 torture death of FAB soldier Mathias Nkurunziza.

Civilians were killed during fighting between government and rebel forces, and women died as a result of being raped (see Section 1.g.).

There continued to be reports of deaths and injuries caused by landmines laid by both government and rebel forces.

Although very few exact figures were available, there were numerous political killings by unidentified assailants during the year. For example, Bujumbura Rural Province Governor Ignace Ntawembarira reported that 38 local government officials were killed in the province during the year.

According to League Iteka, on September 8, in Kayanza Province, seven armed men in military uniforms killed CNDD-FDD Gatara Commune representative Sebastien Bamporubusa, severely tortured the Karurusi colline chief, and amputated the fingers of one of Bamporubusa's neighbors.

There were no developments in the following 2003 killings by unknown assailants: The February killing of Leonard Masengo; the May killing of Jean Nkurukiye; the September killing of Raphael Nzinahora; or the November killing of World Food Program official Philbert Nsengiyumva.

There were reports that the GP committed killings, rapes, and armed robberies during the year.

The PALIPEHUTU-FNL rebels killed numerous persons during the year and committed serious abuses against the civilian population, including a massacre of refugees in August (see Section 1.g.).

Killings by bandits were a serious problem during the year, particularly by year's end. In November, a U.N. spokesperson told the press that between 6 and 10 persons were dying every day as a result of acts of banditry.

There were numerous reports during the year of mob violence, lynchings, and the killing of suspected witches. For example, League Iteka reported that on February 12, a mob killed Nephtalie Sindayihebura, whom the local population accused of being a witch, in Rumonge Commune, Bururi Province.

League Iteka also reported that on February 28, the local population of Rugombo Commune, Cibitoke Province, lynched an individual accused of using witchcraft to paralyze and kill a local youth.

On April 9, a mob stoned to death a man accused of injecting persons in the markets of Kayanza Province with the HIV/AIDS virus. In August, there were several similar reports that mobs killed individuals accused of injecting persons with poison.

During the year, the local press reported numerous incidents in which individuals threw hand-grenades into bars or other public gathering places, resulting in deaths and injuries. For example, on April 14, in Kirundo Province, four men were killed in a pub after an unidentified individual threw a grenade into the establishment.

On July 10, in Rutana Commune, Rutana Province, two persons were killed and 19 wounded after an unidentified individual threw a grenade into a wedding reception.

*b. Disappearance.*—Although precise numbers were unavailable, there were frequent reports of kidnappings during the year; however, there were no reports of politically motivated kidnappings.

For example, League Iteka reported that on July 7, members of the CNDD-FDD kidnapped a man, his wife, and two others in Kanyosha Commune, Bujumbura Rural Province. At year's end, it was unknown if they were still being held.

The PALIPEHUTU-FNL was reportedly responsible for many disappearances during the year.

For example, on February 15, unidentified assailants kidnapped six persons in Ndava Commune, Mwaro Province, according to League Iteka. They have not been found or released.

League Iteka reported that on March 10, members of the PALIPEHUTU-FNL kidnapped and held for ransom the Mutambu Zone Chief, whom they reportedly suspected of passing information to the FAB. The Chief was later released.

On September 14, members of the Rwandan Interahamwe militia group took nine individuals hostage in the Kibira forest, Cibitoke Province. According to League Iteka, they were released after 3 weeks and at least two of the hostages reportedly paid a ransom of \$180 (194,000 Burundian francs).

There were no developments in the 2002 disappearance of two persons in Buhonga, Bujumbura Rural Province.

Unlike in the previous year, there were no reports that children were kidnapped by rebels and then used as child soldiers.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Transitional Constitution prohibits such practices; however, members of the security forces continued to torture and otherwise abuse persons.

Throughout the year multiple credible sources reported that the CNDD-FDD set up illegal detention and torture centers across the country, including at least five in Bujumbura.

League Iteka reported that members of the security forces and CNDD-FDD members beat and tortured civilians and detainees throughout the year.

On February 17, in Nyambuye Zone, Bujumbura Rural province, members of the CNDD-FDD detained and tortured numerous individuals, several of whom were reportedly hospitalized; some young girls and women were raped (see Section 1.g.).

On April 14, two FAB soldiers in Mutambu Commune, Bujumbura Rural province, detained Judge Gaspard Gahungu, stole \$45 (48,000 Burundian francs) and a mobile phone, and beat him until he lost consciousness.

In April, members of the CNDD-FDD arrested many residents of Mutimbuzi Commune, Bujumbura Rural province, took them to detention center, beat them, forced them to spend the night in a trough filled with water, and later forced them to drink that water.

On September 29, in Mutimbuzi Commune, Bujumbura Rural province, CNDD-FDD members detained a 13-year-old student and four others, took them to a local CNDD-FDD garrison, and beat them with rods and batons until they could no longer walk. According to League Iteka, the five were accused of knowing members of the PALIPEHUTU-FNL.

There were no new developments in the July 2003 torture of Emmanuel Niyongabo by the Public Security Police and Ezechial Ncitiyinisalaba by security forces, or in the December 2003 torture of suspected witches by members of the CNDD-FDD.

Although precise figures remained unavailable, there were frequent reports that members of the FAB and the CNDD-FDD raped women with impunity (see Section 1.g.). For example, according to League Iteka, on June 1, a FAB soldier raped a 6-year-old girl in Bubanza province. On June 29, again in Bubanza province, two men in military uniforms raped a 12-year-old girl. The soldiers' superiors took no action in either case. League Iteka reported that on July 21, in Mwaro province, a FAB officer, Justin Nitunga, raped a 13-year-old girl. There was no official investigation of this case.

There were frequent reports that PALIPEHUTU-FNL members raped women (see Section 1.g.).

Government troops used excessive force in areas where there were civilians (see Section 1.g.).

Several persons were injured during the year by landmines laid by government and rebel forces.

Prison conditions remained harsh and sometimes life threatening. Severe overcrowding persisted. According to government officials and human rights observers, prisoners suffered from digestive illnesses, dysentery, and malaria, and prisoners died as a result of disease. The Transitional Government provided sufficient food, and families were permitted to supplement prisoner rations.

According to the Ministry of Justice, during the year, 7,568 inmates were held in facilities built to accommodate a maximum of 3,650 persons. Of this number, 2,728 were serving sentences, and 4,798 were pretrial detainees. Human rights NGOs lobbied the Transitional Government during the year for the release of prisoners who were held for long periods of time without charge. Between January and September, the Transitional Government released over 400 of these prisoners and had set up a commission to review the cases of pre-trial detainees.

On July 30, over 400 gendarmes stormed Mpimba prison in Bujumbura to quell a prison strike that was launched on July 19 by self-proclaimed political prisoners who demanded amnesty under the terms of the Arusha Agreement. According to press reports, the gendarmes used teargas to break up the strike, and at least four prisoners were wounded.

According to the Ministry of Justice, women were detained separately from men. During the year, there were 135 children in prisons, of whom 42 accompanied their convicted mothers. Juvenile prisoners were held with and often treated as adults. Political prisoners often were held with convicted prisoners. Pretrial detainees were held in communal lockups, but some were also incarcerated with convicted prisoners.

During the year, the Transitional Government permitted visits by international and local human rights monitors. NGOs continued their efforts to monitor and improve sanitation, hygiene, medical care, food, and water.

The ICRC was allowed access to prisoners and detained persons, including persons detained for "reasons relating to the conflict," and conducted visits regularly during the year.

*d. Arbitrary Arrest or Detention.*—The criminal code prohibits arbitrary arrest and arbitrary detention; however, security forces arbitrarily arrested and detained persons.

Impunity for those who committed serious human rights violations, and the continuing lack of accountability for those who committed past abuses, remained key factors in the country's continuing instability. The security forces did not always cooperate with civilian prosecutors or magistrates, including in investigations involving members of the security forces. Members of the GP were unpaid and poorly trained. Unlike in the previous year, there were no reports that members of the GP were coercively recruited. Corruption, abuse of the criminal code's standards on the duration of detentions, and mistreatment of prisoners remained problems.

The law requires arrest warrants, and presiding magistrates were authorized to issue them. Police and gendarmes could make arrests without a warrant but were required to submit a written report to a magistrate within 48 hours. Few aspects of these provisions were respected in practice, and the requirement that detainees be charged and appear in court within 7 days of their arrest was violated routinely. A magistrate could order the release of suspects or confirm charges and continue detention, initially for 15 days, then subsequently for periods of 30 days, as necessary to prepare the case for trial. The police were required to follow the same procedures as magistrates; however, the police have regularly detained suspects for extended periods without announcing charges, certifying the cases, or forwarding them to the Ministry of Justice as required. Multiple credible sources reported that incommunicado detention existed, although the law prohibits it. Bail was permitted in some cases.

There were numerous arbitrary and some politically motivated arrests, including some demonstrators, labor officials, and local NGO employees (see Sections 2.a., 2.b., and 4).

Many of the persons arrested on criminal charges since 1993 remained in pretrial custody. According to the Ministry of Justice, 4,798 prisoners were awaiting trial. There were 400 communal lockups where those who were arrested were supposed to be held no longer than 1 week; however, in practice, detainees were regularly kept in these facilities for much longer periods of time. Family members were required to provide all food for these detainees. Once detainees were transferred to larger detention facilities, the Government provided food.

*e. Denial of Fair Public Trial.*—The Transitional Constitution provides for an independent judiciary; however, in practice the judiciary was not independent of the executive and was dominated by members of the minority Tutsi community. The judicial system was inefficient and subject to bribes and other forms of corruption; many citizens had no confidence in its ability to provide even basic protection. Judicial reform was a priority of the Arusha Accord, but little progress was made during the year.

The judicial system consisted of civil and criminal courts with the Supreme Court and Constitutional Court at the apex. In all cases, the Constitutional Court had the ultimate appellate authority; however, in practice few cases of lower-ranking offenders reached this level.

Citizens generally did not have regular access to court proceedings and often had to travel more than 30 miles to reach a court of law. All trials were conducted before a jury. Defendants, in theory, are presumed innocent and have a right to counsel and to defend themselves; however, in practice, few had legal representation. Authorities sometimes were unable to carry out their investigations or transport suspects and witnesses to the appropriate court because of lack of resources and poor security conditions. According to the law, all defendants, except those in military courts, have the right to appeal their cases up to the Supreme Court, and in capital cases, to the President for clemency; however, in practice, the inefficiency of the court system extended the duration of the appeals process, effectively limiting the possibility of appeals, even by defendants accused of the most serious crimes.

The Transitional Government officially recognized the traditional system of communal arbitration, which functioned under the guidance of elders, the "Bashingantahe," and which facilitated the settlement and reconciliation of disputes. A Bashingantahe opinion often was necessary before access was granted to the formal civil court system. The Bashingantahe was limited to civil and minor criminal matters and had no jurisdiction over serious criminal matters. Community elders presided over deliberations under this system.

The law provides for an independent military court system, which in practice was influenced by the executive and higher ranking military forces. Courts of original jurisdiction for lower ranking military offenders were called "War Councils," and one existed in each of the five military districts. A court martial tribunal of appeals heard appeals of War Council decisions and also had trial jurisdiction for mid-ranking military offenders up to the rank of colonel. Military courts had jurisdiction over military offenders and civilians accused of offenses implicating members of the mili-

tary. Defendants were not provided attorneys to assist in their defense, although NGOs have provided some defendants with attorneys in cases involving serious charges. Trials generally were open to the public; however, they could be closed for compelling reasons, such as national security or “scandalous accusations against prominent people.”

Procedures for civilian and military courts were similar; however, military courts reached decisions more quickly, and trials generally failed to meet internationally accepted standards for fair trials. In addition, defendants in military courts are allowed only one appeal.

The detention of political prisoners remained a problem during the year. Local human rights NGOs claimed that the Government held approximately 4,000 political prisoners during the year. However, the Government stated that there were no political prisoners and that each person in detention had been convicted of a specific crime. Charges against defendants convicted for nonpolitical crimes sometimes were politically motivated.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Transitional Constitution provides for the right to privacy; however, these rights were not respected in practice. Authorities rarely respected the law requiring search warrants. It was widely believed that security forces monitored telephones.

There were numerous reports during the year that the FAB and CNDD-FDD looted and destroyed houses whose occupants were accused of harboring and aiding the PALIPEHUTU-FNL (see Section 1.g.).

There were numerous reports of looting by the PALIPEHUTU-FNL (see Section 1.g.).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—The ongoing conflict in Bujumbura Rural province resulted in numerous serious abuses against the civilian population by government and rebel forces; generally no actions were taken against perpetrators. The FAB and CNDD-FDD killed numerous civilians following fighting with the PALIPEHUTU-FNL, in reprisal for PALIPEHUTU-FNL attacks, and for suspected collaboration with the PALIPEHUTU-FNL. Abuses included the killing of civilians, the looting and burning of houses, attacks on noncombatants, the displacement of large numbers of civilians, and the rape of women. Security forces prevented international humanitarian aid agencies and human rights observers from reaching some areas of the country (see Section 2.d.).

While no definitive countrywide casualty figures were available, reports from media and NGOs estimate that more than 250,000 persons, mostly civilians, have been killed in conflict-related violence since 1993. Much of the unlawful killing and property destruction during the year was concentrated in Bujumbura Rural province, which was the scene of continuing fighting between the FAB and CNDD-FDD on one side, and the PALIPEHUTU-FNL on the other.

There were numerous reports that FAB forces deliberately killed civilians during the conflict. For example, on March 29, FAB soldiers killed a man who refused them entry into his home in Mutimbuzi Commune, Bujumbura Rural province, while they were searching the area for PALIPEHUTU-FNL rebels.

League Iteka reported that on April 27, in Kabezi Commune, Bujumbura Rural province, FAB soldiers killed four IDPs after fighting occurred in the area between FAB and PALIPEHUTU-FNL forces. According to League Iteka, on June 8, FAB soldiers killed two civilians and wounded three others that they suspected of having contacts with PALIPEHUTU-FNL members.

There were numerous reports that FAB forces killed civilians indiscriminately as a result of the conflict. For example, League Iteka reported that on January 26, FAB soldiers began firing into the marketplace in Mutambu Commune, killing six civilians. The soldiers reportedly opened fire after the PALIPEHUTU-FNL killed two FAB soldiers in the marketplace.

According to HRW, on March 16, during fighting between FAB soldiers and PALIPEHUTU-FNL rebels, FAB soldiers indiscriminately fired mortars into a crowd of fleeing civilians in Kabezi Commune, Bujumbura Rural Province. No additional information was available by year's end.

On May 29, FAB soldiers killed 23 persons in Kabezi Commune, Bujumbura Rural Province; at least 1 of the victims was raped prior to being killed.

CNDD-FDD soldiers operating in Bujumbura Rural Province, in cooperation with the FAB, were also accused by human rights organizations of killing civilians. According to HRW and local NGOs, one tactic the CNDD-FDD regularly employed was to search local areas for persons not known by the areas' inhabitants, or to search for wounded individuals, and to summarily execute them under suspicion of belonging to the PALIPEHUTU-FNL.

According to Human Rights Watch (HRW), on September 16, in Mutamba Commune, Bujumbura Rural Province, CNDD-FDD and FAB soldiers forced the local population to undress to inspect them for alleged battle-related injuries. One man, who was discovered to have wounds, was summarily executed.

According to the U.N. Office of the High Commissioner for Human Rights (UNOHCHR) and NGOs, soldiers and rebels used rape as a weapon of war. From January to May, Search for Common Ground reported 267 rapes, 54 of which were attributed to the security services and a significant number to the PALIPEHUTU-FNL.

On February 17, while searching for PALIPEHUTU-FNL members in Nyambuye Zone, Bujumbura Rural Province, members of the CNDD-FDD raped girls as young as 7 years old and several women, at least two of whom died from their injuries.

League Iteka reported that members of the CNDD-FDD raped a mother and her daughter in the Gatumba Zone of Bujumbura Rural Province in mid-April.

On April 30, six members of the CNDD-FDD raped a 22-year-old resident of Kamenge Zone in Bujumbura. The UNOHCHR reported that although the identities of the rapists were known, no action was taken to investigate this crime.

In February, FAB troops reportedly stole \$50,000 (54 million Burundian francs) worth of non-food humanitarian assistance from approximately 4,000 families.

The CNDD-FDD also reportedly pillaged houses throughout the year in Bujumbura Rural Province. During one operation that began on February 17, elements of the CNDD-FDD looted over 2,000 homes in Nyambuye Zone, Bujumbura Rural Province.

On September 6, members of the CNDD-FDD, who were searching for PALIPEHUTU-FNL members or sympathizers, looted approximately 15 houses in the Kanyosha Zone of Bujumbura and beat the owners of the houses, according to League Iteka.

No actions were taken against members of the security forces or CNDD-FDD responsible for abuses reported in 2003 or 2002.

Landmines placed by government and rebel forces in past years continued to cause civilian deaths and injuries.

During the year, security forces restricted access by humanitarian organizations to parts of Bujumbura Rural Province; although authorities said insecurity in those areas made delivery of aid impossible, commercial traffic was sometimes not restricted.

Security forces and former rebel groups continued to have child soldiers in their ranks; however, during the year, the Government and former rebel groups removed child soldiers from combat units and demobilized many of them by year's end (see Section 5).

There were numerous reports of civilians displaced by fighting (see Section 2.d.).

The PALIPEHUTU-FNL killed, beat, kidnapped, stole from, and raped civilians. During the year, League Iteka reported numerous incidents where the PALIPEHUTU-FNL killed civilians for supposedly cooperating with the FAB or the CNDD-FDD. For example, on March 31, in Mubimbi Commune, Bujumbura Rural Province, PALIPEHUTU-FNL members killed two men suspected of collaborating with the CNDD-FDD.

On June 1, PALIPEHUTU-FNL members in Muhuta Commune, Bujumbura Rural Province, killed Violette Nzitonda because her husband was a member of the CNDD-FDD.

On July 26, PALIPEHUTU-FNL members killed Paul Ndabanukiye for allegedly passing information to security forces in Nyambuye Zone, Bujumbura Rural Province.

The PALIPEHUTU-FNL claimed responsibility for the August 13 massacre of refugees from the Democratic Republic of the Congo (DRC) at the UNCHR-operated transit camp for refugees at Gatumba in Bujumbura Rural Province. The PALIPEHUTU-FNL claimed they were attacking armed individuals; however, 152 refugees, many of them women and children, were killed in the attack. Other armed groups may have been involved in the attack. In October, a team of U.N. experts submitted a report to the U.N. Secretary General regarding their investigation of the massacre (see Section 4).

The PALIPEHUTU-FNL and armed bandits often killed civilians who refused to comply with extortion. There were numerous reports that the PALIPEHUTU-FNL regularly ambushed minibuses on national highways, and robbed and killed the occupants. U.N. security officials reported numerous other ambushes during the year.

Throughout the year, members of the PALIPEHUTU-FNL were reported by League Iteka to have raped civilians.

League Iteka reported that the PALIPEHUTU-FNL looted homes throughout the year. For example, on May 26, in Gihanga Commune, Bubanza Province, PALIPEHUTU-FNL members pillaged over 40 homes.

There were no reports that rebel forces prosecuted or punished members who were responsible for abuses.

The PALIPEHUTU-FNL rebel group used or recruited children as soldiers during the year (see Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Transitional Constitution provides for freedom of speech and of the press; however, in practice, the Transitional Government restricted freedom of speech, and although respect for freedom of the press improved during the year, the Government at times limited this right. Unlike in the previous year, the Transitional Government did not arrest, harass, or detain journalists. However, the Transitional Government suspended the operations of one Internet news sheet, AGINFO, for 7 days and issued warnings to three other media groups. At times, the Transitional Government and security forces prevented journalists from going to rural areas where crimes occurred, making it difficult to gather information about perpetrators or victims. Journalists practiced self-censorship. During the year, there were no reports that the Transitional Government restricted academic freedom.

The Government restricted freedom of speech through arrests and intimidation. On June 24, the state prosecutor summoned Sangwe-Pader party chairman Leonidas Havyarimana for interrogation regarding statements he had made on the radio. Havyarimana, citing parliamentary immunity, disregarded the summons.

On September 24, police arrested COSYBU labor confederation president Pierre Claver Hajayandi and COSYBU treasurer Celestin Nsavyimana after they criticized the Transitional Government in an address to workers. The intelligence service detained the two men until September 30. In addition, the intelligence service confiscated COSYBU's computers.

On October 11, the state prosecutor questioned UPRONA party chairman Jean Baptiste Manwangari for allegedly insulting the president.

The Transitional Government controlled the major media. The Transitional Government owned the only daily newspaper, the country's only television station, and two radio stations, and exercised strong editorial control. The government-owned newspaper *Le Renouveau* was published daily. There were six private weekly publications and eight private Internet and fax-based news sheets.

Radio remained the most important medium of public information. The government-owned radio broadcast in Kirundi, French, and KiSwahili, and offered limited English programming. There were eight privately owned radio stations, including Radio Isanganiro, Bonesha FM, and African Public Radio (RPA), all of which broadcast in French, Kirundi, and KiSwahili. Some stations received funding from international donors. Listeners could receive transmissions of foreign news organizations.

Unlike in the previous year, there were no reports that security forces arrested or harassed journalists.

The Transitional Government continued to restrict, through direct and indirect means, reporting on the country's internal conflict. For example, on July 14, the Transitional Government suspended the news sheet AGINFO for 7 days for issuing a report alleging that South African peacekeepers were supplying arms to the PALIPEHUTU-FNL and an article claiming that there were signs of a genocide in the country. On the same day, the Transitional Government issued warnings to the news sheet NETPRESS, as well as to the radio stations Bonesha FM and RPA.

Unlike in the previous year, there were no reports that the Transitional Government suspended radio stations.

During the year, the Government used prohibitive licensing and rent fees to weaken the independent media.

A media law adopted in November 2003 provides for fines and criminal penalties of 6 months' to 5 years' imprisonment for the dissemination of insults directed at the President, as well as writings that are defamatory, injurious, or offensive to public or private individuals. Human rights observers criticized the law as a tool to intimidate and censor the media.

Following the passage of a November 2003 press law, newspapers were no longer required to have articles reviewed by the Transitional Government before their publication.

According to the British Broadcasting Corporation, as a result of government pressure, journalists continued to practice self-censorship.

The Transitional Government did not restrict access to the Internet during the year.

During the year, there were no reports that the Transitional Government limited academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Transitional Constitution provides for freedom of assembly; however, the Transitional Government at times restricted this right in practice. The law requires permits for public meetings and demonstrations, and applications were sometimes denied to groups, including those that criticized or opposed the Transitional Government. There were fewer reports that such applications were denied during the year.

The COSYBU labor confederation reported that the Transitional Government often denied its member trade unions the right to assemble and peacefully demonstrate during the year.

During the year, the Transitional Government denied requests by PA Amasekanya, a hard-line Tutsi movement, to demonstrate on several occasions.

During the year, security forces also broke up meetings and demonstrations, including political demonstrations. For example, on August 18, security forces used tear gas to break up a street demonstration led by refugees from the DRC protesting the massacre of refugees at Gatumba. Some protestors were arrested; however, all were released by year's end.

No action was taken against security forces responsible for using excessive force during demonstrations and marches in 2002.

The Transitional Constitution provides for freedom of association; however, the Transitional Government restricted this right in practice and arrested members of organizations (see Sections 4). Registration was required for private organizations and political parties. Private organizations were required to present their articles of association to the Ministry of Interior for approval; however, the Transitional Government routinely failed to complete the approval process for private organizations whose purposes the Transitional Government opposed. In November, U.N. representatives expressed concern over the Transitional Government's delay in registering former rebel groups as political parties.

From February 22 to May 2, approximately 67 members of PA-Amasekanya, a hard-line Tutsi movement, were arrested because of their membership in a pro-Tutsi militia group, according to PA Amasekanya and allied groups. At year's end, some members were still in detention.

*c. Freedom of Religion.*—The Transitional Constitution provides for freedom of religion, and the Transitional Government generally respected this right in practice.

The Transitional Government required religious groups to register with the Ministry of Interior, which kept track of their leadership and activities. The Government required religious groups to maintain a headquarters in the country.

On July 12, Dieudonne Hakizimana, a PALIPEHUTU-FNL rebel who reportedly admitted to taking part in the December 2003 killing of Papal Nuncio Michael Courtney, died in government custody of wounds sustained prior to his capture on February 1.

Archbishop Simon Ntamwana, who was ordered by the PALIPEHUTU-FNL to leave the country within 30 days in 2003 after the Papal Nuncio's killing remained in the country without incident.

On August 8, the PALIPEHUTU-FNL reportedly captured a 20-member delegation headed by Anglican bishop Pie Ntukamazina in Kabezi Commune, Bujumbura Rural Province. CNDD-FDD forces rescued the delegation the same day. The motive for the capture was not known.

On October 18, in Makamba Province, armed assailants shot and killed Catholic priest Gerard Nzeyimana. According to press reports, Nzeyimana was specifically targeted; the killers reportedly verified his identity before killing him. Catholic World News reported that Nzeyimana was killed for his stance against human rights abuses; a news report from the Fides Agency quoted sources who identified the killers as members of the PALIPEHUTU-FNL.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Immigration, and Repatriation*

The Transitional Constitution provides for these rights; however, the Transitional Government restricted them in practice. The Transitional Government continued to impose a curfew in parts of the country. During fighting between the FAB and CNDD-FDD on one side and the PALIPEHUTU-FNL on the other, local populations were routinely displaced and their movements were restricted by checkpoints, violence, and the threat of violence. Citing insecurity, security forces sometimes restricted humanitarian relief agencies' access to local populations in Bujumbura

Rural province. The Transitional Government also cited insecurity as grounds for denying human rights observers access to some areas of the country (see Section 4).

A November 2003 ban on bicycle taxis entering the city center remained in effect throughout the year, though it was not regularly enforced. The ban, as part of a security measure to prevent rebel infiltration of the city, primarily affected persons, particularly poor peasant farmers, who could not afford public transportation. The ban did not affect those using bicycles for other purposes.

The law does not provide for forced exile, and the Transitional Government did not use it as a means of political control; however, many persons remained in self-imposed exile in Belgium, Kenya, Tanzania, the DRC, and elsewhere.

By year's end, the U.N. High Commission for Refugees (UNHCR) had facilitated the voluntary repatriation of 83,849 Burundian refugees; in addition, there were approximately 6,500 refugees who spontaneously repatriated to the country during the year. The repatriates, most of whom came from Tanzania and returned to the eastern provinces, often returned to find their homes had been burned and their livestock stolen. Poor living conditions and a lack of food and shelter were problems for returnees during the year. During the year, the UNHCR and the Transition Government's National Commission for the Rehabilitation of War Victims (CNRS) assisted in the resettlement and reintegration of refugees and IDPs; however, some human rights groups criticized the Transitional Government for not allocating sufficient resources to strengthen the CRNS' capacity to improve conditions for IDPs and refugees. According to the UNHCR, as of August, an estimated 750,000 refugees remained outside the country.

Civilians were regularly displaced as a result of fighting in Bujumbura Rural province between the FAB and CNDD-FDD on one side and the PALIPEHUTU-FNL on the other. According to the U.N. Office for the Coordination of Humanitarian Affairs (UNOCHA), clashes between the PALIPEHUTU-FNL and government security forces, including the CNDD-FDD, caused temporary population displacements lasting from 2 days to 3 weeks in 8 of the 10 communes of Bujumbura Rural Province. At any given time during the year, estimated UNOCHA, between 25,000 and 70,000 persons were displaced in Bujumbura Rural province. For example, according to UNOCHA, 80,000 individuals were temporarily displaced in February and March, and 35,000 were temporarily displaced in April.

Unlike in the previous year, there were no reports that security forces restricted the movement of IDPs.

Timely relief was sometimes denied to populations in need, including IDPs, due to security conditions and security force restrictions (see Section 1.g.).

According to UNOCHA, there were 145,034 long-term IDPs living in 170 sites by year's end. The majority were Tutsis who were displaced by violence in 1993 and who never returned home. Soldiers provided a measure of protection to camp inhabitants. There were reports that camp inhabitants sometimes were required to perform labor for soldiers without compensation.

Unlike in the previous year, there were no reports that security forces killed persons who remained outside the displacement sites on suspicion of collaborating with the rebels, or that Hutu rebels killed IDPs for allegedly collaborating with government authorities.

The law does not provide for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Transitional Government has established a system for providing protection to refugees. There was a special ad hoc administrative body in the Transitional Government that coordinated refugees. In practice, the Transitional Government generally provided protection against refoulement, the return to a country where they feared persecution, and granted asylum status. The Transitional Government cooperated with the UNHCR and other humanitarian organizations assisting refugees. There were approximately 30,000 refugees in the country at year's end. The UNHCR reported in October that it was assisting roughly 9,000 refugees from the DRC who had settled in U.N.-run refugee camps. In addition, the UNHCR estimated that there were approximately 21,000 DRC refugees who had settled in urban areas of the country.

During the year, the Transitional Government provided protection to certain individuals who may not qualify as refugees under the 1951 U.N. Convention/1967 Protocol.

During the year, refugees and asylum seekers were subject to killings and other abuses. On August 13, PALIPEHUTU-FNL and possibly other armed elements killed 152 refugees from the DRC at the Gatumba transit camp (see Section 1.g.). There were reports that DRC refugees who survived the August 13 Gatumba massacre were coerced by refugee leaders to return to the DRC.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Arusha Agreement obliged the Transitional Government to hold presidential, legislative, and communal elections before November 1; however, none of these elections had been held by year's end, and citizens did not have the right to change their government. On October 18, the CENI, which was approved by the National Assembly on August 31, proposed to delay the completion of presidential, legislative, and communal elections until April 2005 for technical reasons. On October 20, the Transitional Government approved an interim constitution that provided for the Transitional Government to remain in power until a referendum on a post-transition constitution was held; however, on December 14, the CENI announced that the constitutional referendum would also be postponed for technical reasons. By year's end, the date of the referendum had not been set.

In 2000, the Arusha Accord, which provided for a 3-year transitional period to end the country's civil war, was signed and ratified by the National Assembly. In 2001, a Transitional Constitution was adopted, providing for power to be shared between the Tutsi minority, which has ruled the country for most of its history, and the Hutu majority. In November 2001, the transition period began, and President Buyoya was President, and Domitien Ndayizeye, then secretary general of FRODEBU, was Vice President.

In May 2003, President Ndayizeye succeeded former President Buyoya to begin the second half of the Transitional Government in accordance with the peace agreement; the predominantly Tutsi parties selected Alphonse-Marie Kadege as Vice President. During the year, the President and 14 of the 26 cabinet ministers were members of predominantly Hutu parties. The cabinet also included 12 ministers from predominantly Tutsi parties, including the Ministers of Defense and Foreign Affairs.

On November 10, the President dismissed Vice-President Kadege for having "failed in his primary mission to assist the President" and said he failed to support the country's constitution. Kadege and the predominantly Tutsi political parties aligned with him had criticized the draft interim constitution for, among other things, not providing for what they considered to be an acceptable number of seats in the National Assembly reserved for predominantly Tutsi parties. However, by December, most predominantly Tutsi parties reportedly had agreed to respect the interim constitution.

The Arusha Agreement, the Transitional Constitution, and the October 2003 agreement between the Transitional Government and the CNDD-FDD comprise a formula for the restoration of democracy. Under the agreement, democratic rule is to be accomplished through elections, and the protection of minority rights is to be reflected in a senate and armed forces that have a higher percentage of Tutsis than the population at large.

The National Assembly consisted of 186 parliamentarians: Those elected in 1993 who sat in the previous National Assembly (or substitutes from the same political party, if some of the original parliamentarians had died), and 40 additional members. Members of the Tutsi community filled 22 of the 40 new seats.

In March and April, with the entrance of the CNDD-FDD and other former rebel groups into the Government, an additional 44 parliamentarians were added to the National Assembly, of which 15 were from the CNDD-FDD. The total number of deputies was 220.

There were 26 recognized political parties by year's end. UPRONA and FRODEBU were the largest political parties and controlled most transitional government positions. Although not technically a political party, the CNDD-FDD was the largest former rebel group in the Transitional Government. The Transitional Government prevented or disrupted political demonstrations (see Section 2.b.).

The National Assembly continued to refuse the demands of human rights groups calling for the repeal of a provisional immunity law that the Assembly approved on August 2003. The law grants provisional immunity to political leaders who return from exile to take part in the transitional government institutions. The law covers "crimes with a political aim" committed from July 1, 1962, to the date of the law's promulgation.

The Transitional Government remained subject to a culture of impunity, and widespread corruption remained a problem. Corruption was prevalent in the public and private sectors and affected numerous public services, including procurement, the granting of land use concessions, public health, and the assignment of school grades. A portion of the Transitional Government's revenues and expenditures remained off-budget, allowing the Transitional Government to use monies collected from taxes of such things as beer and gas to fund military expenditures. According to Transparency International, in 2003, a report by financial inspectors drew atten-

tion to the misappropriation of \$20,000 (20 million Burundian francs) in public funds at Bujumbura's city hall. Transparency International also reported that the presence of military personnel throughout the countryside has contributed to an increase in petty corruption, including extortion at identity checks and levying fees on farmers harvesting after the curfew.

The Ministry of Good Governance is charged with fighting corruption, and by year's end, it had prosecuted three cases of corruption.

On March 31, the Transitional Government created a national auditing agency, to report to the National Assembly and oversee government expenditures, including military expenditures, but by year's end, it was not yet conducting audits.

According to Transparency International, the law does not provide for access to government information, and in practice, information was difficult to obtain. The law does not allow the media to invoke the right to broadcast or publish information in certain cases relating to national defense, state security, and secret judicial inquiries. Human rights observers criticized the law for its application of poorly defined restrictions on the right to access and disseminate information; they said that vague prohibitions regarding official secrets could easily be used as a broad shield to hide corruption or other human rights abuses.

There were 43 women in the 220-seat National Assembly and 10 women in the 54-seat Senate. Of the 26 cabinet seats, women held 3 portfolios. Three of the eight members of the Supreme Court were women, as were two of the seven Constitutional Court members, including its president.

Approximately 1 percent of the population was Twa; although there were no Twa in the Cabinet, one Twa was appointed to the National Assembly, and three were members of the Senate.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of local and international NGOs, including human rights groups, generally operated without government restrictions; however, the Government denied journalists, international relief workers, and human rights observers access to some areas of the country, citing insecurity in rural areas (see Sections 1.g. and 2.d.). Government officials, although limited by capacity and resources, cooperated with these groups by providing limited access to information and other resources.

Domestic human rights groups received varying degrees of cooperation from government ministries; the ministries provided them at times with information and facilitated visits to areas of interest. While well-established groups with international linkages and a presence in Bujumbura had a measure of protection from government harassment, indigenous NGOs in the countryside were more susceptible to government pressure. In addition, government security services—even if willing—were unlikely to be able to protect NGO members from private reprisals. Although the Transitional Government did not directly take action based on local NGO recommendations, local NGOs continued to engage in advocacy. The most prominent local human rights group, League Iteka, continued to operate and publish a newsletter.

At times, the FAB and CNDD-FDD denied human rights observers access to areas where they were accused of committing human rights violations. Human rights NGOs were unable to investigate reports of killings because of these restrictions, which they said were arbitrary. Parts of Bujumbura Rural Province often effectively remained off limits for humanitarian operations.

According to a U.N. news service, on October 27, CNDD-FDD combatants arrested Innocent Nzeyimana, an employee of a local NGO, along with three other civilians, and detained him in an illegal prison run by the CNDD-FDD in the northern suburb of Kamenge. Nzeyimana said he was accused of siding with the PALIPEHUTU-FNL; however, he said he believed he was arrested because he had advised the CNDD-FDD to stop harassing civilians.

The Transitional Government cooperated with the U.N., permitting visits by U.N. human rights representatives during the year. The U.N. Independent Expert for Human Rights visited the country from October 4 through 13. The UNOHCHR maintained a four-person observer team in the country. The U.N. Operation in Burundi (UNOB) had 20 human rights observers in place as of October.

In October, a team of U.N. experts submitted a report to the U.N. Secretary General regarding their investigation of the August 13 killing of 152 Congolese Tutsi refugees at the Gatumba transit camp (see Section 1.g.). The report stated that the Transitional Government "failed to move the refugee camp to a safer location prior to the attack and failed to adequately protect the refugees and come to their aid on the evening of the massacre." The report did not conclusively determine the identity of the assailants beyond what it called "the likely participation of FNL." The

report stated that credible but unverified information that suggested the involvement of one or more actors in the DRC warranted further investigation. The Transitional Government characterized the U.N. report as “incorrect” and objected to the report’s criticism of the security forces’ response to the attack.

In compliance with the Arusha Agreement, in May, the Transitional Government facilitated a U.N. delegation visit to assess the possibility of establishing an International Judicial Commission of Inquiry and an international tribunal if the Commission of Inquiry deemed it warranted. By year’s end, neither body had been established.

On December 27, the Burundian President signed a law establishing a National Truth and Reconciliation Commission (NTRC) to investigate crimes committed during the country’s recent civil war, as well as those committed since the country gained its independence in 1962.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Transitional Constitution provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, or opinion; however, the Transitional Government failed to effectively implement these provisions, and discrimination persisted.

*Women.*—Domestic violence against women was common; however, no credible statistics were available. Wives had the right to charge their husbands with physical abuse, but rarely did so. Police normally did not intervene in domestic disputes. The law does not specifically prohibit domestic violence; however, persons accused of domestic violence could be tried under assault provisions of the law. By year’s end, no known court cases had dealt with domestic abuse. The Transitional Government rarely investigated cases involving violence against women. According to League Iteka, women were beaten by their husbands, forced out of their homes, denied basic food necessities, and denied freedom of movement.

The law prohibits rape, which is punishable by up to 20 years imprisonment. The FAB, CNDD-FDD, and the PALIPÉHUTU-FNL raped women during the year (see sections 1.c. and 1.g.). According to a 2003 AI report, domestic rape (outside the context of the conflict) was common. According to UNHCR, many rapes of young girls were committed during the year with the belief that they would prevent or cure sexually transmitted diseases, including HIV/AIDS. Information on rape has only recently begun to be recorded. Few cases of rape were reported to the authorities, and many rape victims did not receive medical care due to the intimidation caused by cultural attitudes. Men often abandoned their wives following the abuse, and women and girls were ostracized. In some instances, police and magistrates reportedly ridiculed and humiliated women who alleged that they were raped; according to the UNOHCHR, there were reports that some police required that victims provide food and pay the costs for incarceration of those they accuse of rape. According to the UNOHCHR, those who sought judicial redress faced the weaknesses of the judicial system, including many judges who did not regard rape as a serious crime, and a lack of medical facilities for gathering important medical evidence. In the limited number of cases that were investigated, successful prosecutions of rapists were rare.

Civil society and religious communities attacked the stigma of rape to help victims reintegrate into families that rejected them. Domestic human rights groups League Iteka and APRODH continued to encourage women to press charges and seek medical care, and international NGOs provided free medical care in certain areas. The Transitional Government also raised awareness of the problem’s extent through seminars and local initiatives on the kinds of medical care available.

The law prohibits prostitution; however, it was a problem. There were reports that soldiers and rebels sexually exploited women and young girls residing near military installations and rebel camps. According to a 2003 report by the Women’s Commission for Refugee Women and Children, the ongoing conflict has forced many women into prostitution to feed their children. Increased prostitution continued to contribute to the growing incidence of HIV/AIDS.

Women faced legal and societal discrimination. Discriminatory inheritance laws, marital property laws, and credit practices continued. By law, women must receive the same pay as men for the same work, but in practice they did not. Women were far less likely to hold mid-level or high-level positions. In rural areas, women performed most of the farm work, married and had children at early ages, and had fewer opportunities for education than men.

Several local groups worked in support of women’s rights, including the Collective of Women’s Organizations and NGOs of Burundi, and Women United for Development.

*Children.*—The law provides for children's health and welfare, but the Transitional Government could not adequately satisfy the needs of children, particularly the large population of children orphaned by violence since 1993 and by HIV/AIDS.

According to the Ministry of Education, the maximum age up to which public schooling was provided was 22. Schooling was compulsory up to age 12; however, in practice this was not enforced. The Transitional Government provided primary school at nominal cost, but it was increasingly unaffordable due to the declining economy. UNICEF reported during the year that the net primary school enrollment/attendance rate for children was 47 percent, with 44 percent of girls enrolled/attending compared with 49 percent of boys. Sixth grade is the highest level of education attained by most children, with approximately 11 percent of children of secondary school age attending school.

Female illiteracy was a problem. Approximately 40 percent of women were literate compared with 56 percent of men.

An estimated 550,000 children of school age did not attend school for many reasons, including an inability of their families to afford school fees and materials, frequent displacement due to civil war, ill health, and the deaths of parents as a result of HIV/AIDS, which left children orphaned, homeless, or both. More than 25 percent of primary schools have been destroyed in the war, and many teachers have been killed. Teacher training was interrupted, and it was difficult to find qualified teachers to work in some parts of the country.

Under the law, the country's minimum age for military recruitment is 16, although the Transitional Government has stated that no one under 18 was recruited; however, throughout the year, there were reports that security forces and former rebel groups continued to have child soldiers in their ranks, despite the participation of all of these groups in a joint government-UNICEF project to demobilize and reintegrate children into their communities. No reliable figures were available on the exact number of child soldiers in the security forces, GP militia, and former rebel groups, and estimates varied significantly among different organizations and changed during the year, in part to reflect the reported results of demobilization.

In May, UNICEF estimated that approximately 3,000 child soldiers were serving in government forces or former rebel groups. According to the Coalition to Stop the Use of Child Soldiers, there were reports during the year that the FAB continued to use children as domestic laborers, spies, and in combat; however, in June, the FAB reportedly ceased conscripting children and—along with some former rebel groups—reportedly removed child soldiers from combat units. During the year, there continued to be reports that some former rebel groups continued to recruit and use child soldiers.

According to a U.N. news agency, some children joined the FAB voluntarily by using fraudulent documents such as birth certificates. In previous years, according to HRW, children voluntarily attached themselves to military units. Most of these children were orphans or IDPs who had no independent means of survival. Some observers believed the FAB allowed these children to perform menial tasks such as cooking in army encampments.

On January 26, the Transitional Government demobilized 24 child soldiers as it officially launched the National Structure for the Disarmament, Demobilization, Reintegration, and Prevention of Child Soldiers (National Structure). By year's end, the National Structure had demobilized and reintegrated 2,913 child soldiers, of which more than 2,000 came from the FAB and the GP militia, and 632 from former rebel groups. By October, all six former rebel groups, including the CNDD-FDD, had joined the child soldier demobilization effort.

The PALIPEHUTU-FNL continued to use and recruit child soldiers, and according to HRW, children were among the PALIPEHUTU-FNL combatants in the August 13 Gatumba massacre (see Section 1.g.).

Child labor was a problem (see Section 6.d.).

According to UNICEF, HIV/AIDS infection rates in girls aged 15 to 19 were roughly 2 times greater than in boys of the same age, and according to a 2003 UNICEF study, there were an estimated 200,000 children orphaned by HIV/AIDS in the country. The ongoing conflict and increasing prevalence of HIV/AIDS has increased the number of orphans, which has resulted in an increase in the number of street children. According to the Ministry for the Promotion of Women and for Social Action, there were approximately 5,000 street children by year's end. Street children were accused of involvement in street crimes. Following a series of rapes in December 2003, police rounded up 700 street children during the year and took them to a special government center for street children. By year's end, 175 remained in the center; the rest were returned to their provinces of origin or to the streets.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports of trafficking. Traffickers could be prosecuted under existing laws against assault, kidnapping, rape, prostitution, slavery, and fraud. During the year, the Transitional Government did not report any prosecutions, convictions, or sentences of traffickers; however, it investigated alleged cases of trafficking.

The Ministry of Reinsertion, Repatriation, and Reintegration and the Ministry of Institutional Reform, Human Rights, and Parliamentary Relations were responsible for combating trafficking. At year's end, the Transitional Government was aggressively investigating a case of suspected trafficking of women that emerged in 2003.

During the year, Burundi was a source and transit country for children trafficked for the purpose of forced soldiering, and there were reports of coerced sexual exploitation of women by both government soldiers and rebel combatants. The trafficking of child soldiers by both the CNDD-FDD and the PALIPEHUTU-FNL within the country was a problem (see Section 5, Children).

During the year, the Transitional Government supported public awareness campaigns and programs to prevent trafficking, and demobilized 2,913 child soldiers from the FAB, GP, and six former rebel groups (see Section 5, Children).

*Persons with Disabilities.*—The Government has not enacted legislation or otherwise mandated access to buildings or government services such as education for persons with disabilities, and this was due in part to a lack of government resources to ensure access to buildings and services. Discrimination against persons with disabilities was a problem. There were few job opportunities for persons with physical disabilities.

*National/Racial/Ethnic Minorities.*—There continued to be ethnic conflict between the majority Hutus and the minority Tutsis, and regional inequities between southern Bururi Province and much of the rest of the country. Almost 4 decades of violence and systematic societal discrimination have exacerbated tensions between Tutsis and Hutus. Tutsis claimed to have been the targets of genocide carried out in 1993 by Hutus angered by the assassination of democratically elected Hutu president Ndadaye. The Tutsis, particularly southern Tutsis from Bururi Province, historically have held power, dominated the economy, and controlled the security forces.

State discrimination against Hutus, who constituted an estimated 85 percent of the population, continued to affect every facet of society, most strikingly in higher education and certain branches of the Transitional Government, such as the armed services and the judicial system. Northern and eastern Tutsis also had a more difficult time acceding to positions of power than Tutsis from the south.

The Tutsi-dominated FAB discriminated against Hutu members by denying them promotion into and within the officer corps. However, progress was made in integrating officers from the predominantly Hutu CNDD-FDD into the security forces. For example, an integrated army general staff was instituted with 14 of 35 members coming from the CNDD-FDD.

*Indigenous People.*—The Twa (Pygmies), who were believed to be the country's earliest inhabitants, comprised approximately 1 percent of the population and generally remained economically, socially, and politically marginalized (see Section 3). Most Twa lived in isolation, without formal education, and without access to government services, including health care and the judicial system. A Refugees International report released during the year noted that the popular perception of the Twa as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

On September 16, authorities burned 50 Twa homes in Busoni Commune, Kirundo; Provincial Governor Philippe Njoni ordered that the houses be burned because they were built on state-owned land, League Iteka reported.

*Other Societal Abuses and Discrimination.*—During the year, there were reports that discrimination against persons with HIV/AIDS increased. In reaction to the perceived increase in discrimination, an association for persons living with HIV/AIDS campaigned during the year for the Government to enact a law protecting affected persons from discrimination and stigmatization.

#### Section 6. Worker Rights

*a. The Right of Association.*—The Labor Code protects the right of workers to form and join unions; however, the army, gendarmerie, and foreigners working in the public sector were prohibited from union participation. The Labor Code does not address state employees and magistrates. The Ministry of Labor does not have the authority to refuse the registration of a new union.

According to the International Confederation of Free Trade Unions (ICFTU), less than 10 percent of the formal private sector workforce was unionized, and only 50 percent of the public sector was unionized. However, most citizens worked in the unregulated informal economy, in which unrecognized workers have little or no legal protection of their labor rights.

According to the ICFTU, private sector employers systematically prevented the creation of trade unions, and the Government failed to protect private sector workers' rights in practice.

Tutsis continued to dominate the formal economy and unions; however, Hutus became more involved in the formal economy and unions during the year.

According to the ICFTU, there were allegations during the year that the Transitional Government did not allow trade union bodies to select their own representatives to the country's tripartite National Labor Council. The Labor Code prohibits employers from firing or otherwise discriminating against a worker because of union affiliation or activity, and the Transitional Government generally respected this right in practice. However, in the private sector, the Government often failed to protect workers from discrimination by employers, according to the ICFTU. In cases where employers dismiss employees because of their union affiliation, the Ministry of Labor can order an employee reinstated; if the employer fails to comply, the Ministry refers the case to the Labor Court, which makes a determination of the severance pay and indemnification that the employer must pay.

The Transitional Government often denied trade unions the right to assemble and peacefully demonstrate during the year (see Section 2.b.).

According to the Confederation of Burundi Labor Unions (COSYBU), Vincent Nyandwi, the head of the workers union at the state water and electricity company REGIDESO, was dismissed by REGIDESO, allegedly on account of his union membership in December 2003. In February, the Ministry of Labor called for him to be rehired. REGIDESO rehired Nyandwi but transferred him from the city of Bujumbura to an outlying area of Bujumbura Rural Province.

On September 24, police arrested COSYBU labor confederation president Pierre Claver Hajayandi and COSYBU treasurer Celestin Nsavyimana, and detained them until September 30 (see Section 2.a.).

*b. The Right to Organize and Bargain Collectively.*—The Labor Code recognizes the right to collective bargaining; however, wages are excluded from the scope of collective bargaining in the public sector. In practice, collective bargaining was freely practiced.

Since most workers were civil servants, government entities were involved in almost every phase of labor negotiations. Both COSYBU and the Confederation of Free Unions in Burundi (CSB) represented labor interests in collective bargaining negotiations, in cooperation with individual labor unions.

There are no export processing zones.

The Labor Code provides workers with a conditional right to strike, and workers exercised this right in practice. All other peaceful means of resolution must be exhausted prior to the strike action; negotiations must continue during the action, mediated by a mutually agreed upon party or by the Government; and 6 days' notice must be given. The Ministry of Labor must determine if strike conditions have been met. The Labor Code prohibits retribution against workers participating in a legal strike.

On March 9, the intelligence service arrested Eulalie Nibizi and Adolphe Wakana, heads of the teacher's unions STEB and SLEB; the arrest was reportedly in relation to a teachers strike between January and March. They were released the same day.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that it occurred. During the year, there were reports that security forces continued to use persons, including children, to perform menial tasks without compensation, and the use of child soldiers remained a problem (see Section 5).

The PALIPEHUTU-FNL forced rural populations to perform uncompensated labor, such as the transport of supplies and weapons, and recruited children for labor (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code states that children under the age of 16 cannot be employed by "an enterprise," except for the types of labor the Ministry of Labor determines to be acceptable, which includes light work or apprenticeships that do not damage their health, interfere with normal development, or prejudice their schooling; however, child labor remained a problem. Children under the age of 16 in rural areas regularly performed heavy manual labor in the daytime during the school year. According to the ICFTU, the vast majority of children in the country worked during the year.

Children were legally prohibited from working at night, although many did so in the informal sector. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and the informal sector. Child labor also existed in the mining and brick-making industries. The use of child soldiers and child prostitution continued to be problems (see Sections 5).

The Ministry of Labor enforced labor laws only when a complaint was filed; there was one employee complaint during the year (see Section 6.a.).

During the year, international organizations, a few NGOs, and labor unions engaged in efforts to combat child labor.

*e. Acceptable Conditions of Work.*—The legal minimum wage for unskilled workers continued to be \$0.15 (160 Burundian francs) per day. This amount did not provide a decent standard of living for a worker and family, and most families relied on second incomes and subsistence agriculture to supplement their earnings. Unionized employees, particularly in urban areas, generally earned significantly more than the minimum wage. Public sector wage scales were set by agreement between the Government and either the CSB or COSYBU; however, an employee's position on the wage scale was determined by individual negotiation between the employer and the employee. The government wage scale has remained unchanged since 1992, but allowances, such as for housing, have increased.

The Labor Code stipulates an 8-hour workday and a 45-hour workweek, except where workers were involved in activities related to national security; however, this stipulation was not always enforced in practice. Supplements must be paid for overtime. Alternative work schedules were negotiable.

The Labor Code establishes health and safety standards that require safe workplaces. Enforcement responsibility rests with the Minister of Labor, who was responsible for acting upon complaints; there were no reports of complaints filed with the Ministry during the year. Health and safety articles in the Labor Code did not directly address workers' rights to remove themselves from dangerous tasks.

Foreign workers, including undocumented workers, are protected by law and were not subject to discrimination; however, they were prohibited from union participation.

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## CAMEROON

Cameroon is a republic dominated by a strong presidency. Despite the country's multiparty system of government, the Cameroon People's Democratic Movement (CPDM) has remained in power since the early years of independence. In October, CPDM leader Paul Biya won re-election as President. The primary opposition parties fielded candidates; however, the election was flawed by irregularities, particularly in the voter registration process. The President retains the power to control legislation or to rule by decree. He has used his legislative control to change the Constitution and extend the term lengths of the presidency. The judiciary was subject to significant executive influence and suffered from corruption and inefficiency.

The national police (DGSN), the National Intelligence Service (DGRE), the Gendarmerie, the Ministry of Territorial Administration, Military Security, the army, the civilian Minister of Defense, the civilian head of police, and, to a lesser extent, the Presidential Guard are responsible for internal security; the DGSN and Gendarmerie have primary responsibility for law enforcement. The Ministry of Defense, including the Gendarmerie, DGSN, and DRGE, are under an office of the Presidency, resulting in strong presidential control of internal security forces. Although civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority. Members of the security forces continued to commit numerous serious human rights abuses.

The majority of the population of approximately 16.3 million resided in rural areas; agriculture accounted for 24 percent of gross domestic product. Real gross domestic product growth has averaged 4 to 5 percent annually with approximately 2 percent inflation. However, a rather large parastatal sector, excessive public-sector employment, and the Government's inability to deregulate the economy inhibited private investment and further economic recovery. Widespread corruption within the business sector and the Government also impeded growth. Members of the Beti ethnic group, including the Bulu subgroup, figured prominently in the Government, civil service, and the management of state-owned businesses.

The Government's human rights record remained poor, and the Government continued to commit numerous serious human rights abuses. Citizens' ability to change their government remained severely limited. Security forces committed numerous unlawful killings and were responsible for regular torture, beatings, and other abuses of persons, particularly detainees and prisoners. Impunity remained a serious problem. Prison conditions remained harsh and life threatening. Security forces continued to arrest and detain arbitrarily various opposition politicians, local human rights monitors, and other citizens, often holding them for prolonged periods without charges or trials, and, at times, incommunicado. The Government regularly infringed on citizens' privacy. The Government continued to restrict freedoms of speech and press and harassed and threatened journalists. The Government restricted freedom of assembly and limited freedom of association. Security forces limited freedom of movement. Corruption was a serious problem. Violence and discrimination against women remained serious problems. There were reports of trafficking in persons, primarily children, for the purposes of forced labor. Societal discrimination against indigenous Pygmies and ethnic minorities continued. The Government continued to infringe on worker rights and restricted the activities of independent labor organizations. Child labor remained a serious problem. There were reported incidents of slavery and forced labor, including forced child labor.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports of one politically motivated killing by government agents; and security forces continued to commit unlawful killings, including killings resulting from excessive force. Unlike in the previous year, there were no reports that security forces summarily executed suspected criminals.

On August 20, the private guards of Member of Parliament (M.P.) Gah Gwanyin Doh III, who was also the Fon (traditional ruler) of Balikumbat, a locality of the North West Province, reportedly beat to death John Kohntem, the District Chairman of the Social Democratic Front (SDF), the country's leading opposition party. The guards killed Kohntem when he was returning from a meeting about presidential election preparations, in which he accused the M.P. of committing pre-electoral fraud. Reports from regional political leaders, human rights advocates, journalists, and others indicated that Kohntem was killed because he challenged the Fon's traditional authority. There were no indications of involvement in the killing by the executive branch of the Government. In early September, police reportedly arrested and detained 11 suspects; however, the M.P., who had parliamentary immunity from prosecution, was not arrested. At year's end, a police investigation was ongoing, and the National Commission on Human Rights (NCHRF) was also investigating this case.

Prisoners died in custody during the year, due to abuse by security forces, harsh prison conditions, and inadequate medical treatment. For example, on January 30, prison wardens at the New-Bell prison in Douala beat to death Emmanuel Song Bahanag, whom the wardens had accused of assisting four convicts to escape. On February 7, the Director of Penitentiary Administration visited the prison, but by year's end, there was no record of any official investigation.

In April, police arrested and detained Laurent Gougang for 2 days on charges of robbery before transferring him to the Douala Judiciary Police headquarters, where he died. After his death, the Douala Prosecutor ordered an investigation and an autopsy, the latter of which confirmed that Gougang died from severe, continuous torture. At year's end, the investigation was ongoing, and no arrests had been made.

By year's end, there were no developments in the July 2003 death of Emmanuel Banye in police custody.

During the year, police used excessive force. There were numerous incidents where police beat and shot suspects, many of whom were fleeing the police. The police used deadly excessive force on a number of occasions. For example, on February 16, Christophe Ndi, a police officer in plainclothes, shot and killed security guard Justin Abena Ngon. According to a subsequent investigation, Ndi was beating a girl on a street in Mbandjock in the Center Province when Abena Ngon attempted to intervene. By year's end, Ndi was transferred to a different police precinct, and an investigation was ongoing.

On March 30, Samuel Mpacko Dikoume, an officer of the Douala anti-gang police unit, shot and killed Abel Ngosso in the Douala neighborhood of Bonadibong. Ngosso reportedly began to run from an unmarked car following him, and Officer Dikoume shot and killed him. By year's end, Officer Dikoume was under investigative detention, awaiting trial.

On May 12, police and gendarmes—including Police Inspectors Stephen Nguh and John Kunde, Second Grade Police Inspector Tonye, the Marshal of the Legion Tokoto, and Gendarme Major Lekunze—reportedly beat and severely burned Afuh Bernard Weriwo, who later died of his injuries. Police said they believed Weriwo had stolen a bicycle. The officers handcuffed Weriwo, beat him severely, and repeatedly burned him on his arms and legs while interrogating him at a roadside checkpoint near Kumba. Inspector Nguh allegedly forced Weriwo to drink Kerosene and set him on fire. In late July, Police Inspector Nguh was incarcerated. At year's end, an investigation by police and the NCHRF continued; however, no action had been taken against the other officers involved.

On June 28, Gendarme Nohote Messina shot and killed Desire Etoundi during a dispute at a bar in the Mvog-Mbi neighborhood of Yaounde. Authorities arrested Messina, and on July 6, he was transferred to the Yaounde Military Tribunal for preliminary hearings. At year's end, the case was ongoing.

In late March, the Douala Military Tribunal sentenced a gendarme officer to a prison term for the 2003 death of army soldier Benangui.

There were no new developments in the July 2003 killing of David Nesoe by an anti-gang police unit; the July 2003 killing by police of taxi driver Yeyena Ayouba and four persons protesting that killing; the August 2003 killing of Juvenile Mbanzamihigo; or the 2003 sentencing of Barthelemy Angandi.

There were no new developments in the 2003 appeal of the acquittal of six army officers charged with the execution of nine youths in Bepanda.

Mob violence and summary justice against those suspected of theft and the practice of witchcraft continued to result in deaths and serious injuries. Such incidents were reportedly the result of the long period of time it often took for law enforcement to respond to requests for assistance and the fact that many individuals arrested for serious crimes were released without charge hours after their arrests (see Section 1.d.).

On March 16, a mob burned to death Ngambi Evaristus, who reportedly had mental disabilities, after he allegedly killed Mama Assanah Chuyi in the North West. There were no reports that this case was under investigation at year's end.

On July 20, an angry crowd lynched Serge Ngogang in the Carrefour Tif neighborhood of Douala after he reportedly was caught stealing construction materials. By year's end, there were no reports that this case was under investigation.

On August 9, a mob beat to death two suspected thieves in Kumba in the South West Province. Their bodies were reportedly left on a street corner for days to serve as an example to others. In July and August, there were also credible reports of suspected thieves being stoned and burned to death near the North West town of Bamenda. There were no reports that any of these incidents were under investigation at year's end.

In September, a mob beat and killed Desire Sinzeu and Philegon Silatchom in the Banengo I neighborhood of Bafoussam in the West Province. The two were reportedly members of a local gang of thieves responsible for a number of area robberies. Security forces attempted to intervene to protect the individuals but were too late. By year's end, the Provincial Office of Judicial Police ordered an investigation, and 10 suspects had been arrested.

There were no developments in any of the 2003 mob killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

Some disappearances of persons who were in the custody of security forces in past years may be attributed to summary executions by security forces either in Douala or the northern regions; in these instances, bodies rarely were found, but the suspects were presumed dead.

There were no developments in the March 2002 disappearance of nine youths detained in the Bafoussam Gendarmerie brigade.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were credible reports that security forces continued to regularly torture, beat, and otherwise abuse prisoners and detainees. In the majority of cases of torture or abuse, the Government rarely investigated or punished any of the officials involved. There were reports that security forces detained persons at specific sites where they tortured and beat detainees (see Section 1.a.). Security forces also reportedly subjected women, children, and elderly persons to abuse. Numerous international human rights organizations and some prison personnel reported that torture was widespread; however, most reports did not identify the victim because of fear of government retaliation against either the victim or the victim's family. Most victims did not report torture for fear of government reprisal, or because of ignorance of or lack of confidence in the judicial system.

In New Bell and other non-maximum security penal detention centers, prison guards inflicted beatings, and prisoners were reportedly chained or at times flogged in their cells. Authorities often administered beatings in temporary holding cells within a police or gendarmerie facility. Two forms of physical abuse commonly reported by male detainees were the “bastonnade,” where authorities beat the victim on the soles of the feet, and the “balancoire,” during which authorities hung victims from a rod with their hands tied behind their backs and beat them, often on the genitals. There were reports that some nonviolent political activists have experienced this abuse during brief detentions that followed participation in opposition party activities (see Section 2.b.).

Security forces continued to subject prisoners and detainees to degrading treatment, including stripping, confinement in severely overcrowded cells, and denial of access to toilets or other sanitation facilities. Police and gendarmes often beat detainees to extract confessions or information on alleged criminals. Pretrial detainees were sometimes required, under threat of abuse, to pay “cell fees,” a bribe paid to prison guards to prevent further abuse.

During the year, there were reports that persons in police custody died as a result of torture (see Section 1.a.).

In early January, 11 police officers from the Douala 11 police precinct arrested and beat a man named Bikele after reportedly receiving a bribe from the man’s girlfriend, who said he had stolen chairs from her house. Bikele claimed that he owned the furniture. By year’s end, the police commissioner ordered Bikele’s release; however, there were no reports of any sanctions against the perpetrators of the beating.

On May 16, Officer Abo of the Bafang police in West Province and another officer beat a barrister named Saga after Saga refused to produce his identification papers. Saga fell into a coma, from which he later recovered. Saga and the Cameroon Bar Association subsequently filed a lawsuit against the two officers, who remained on active duty at year’s end.

On June 15, the Senior Divisional Officer of the Meme Division (a local government official), Joseph Otto Wilson, reportedly assaulted and arrested barrister Epie Nzoukwelle after the taxi cab Nzoukwelle was in almost collided with Wilson’s car. Nzoukwelle was released 24 hours later, after the intervention of the Senior State Counsel. The Cameroon Bar Association sued Officer Wilson and the gendarmes who arrested Nzoukwelle, and the case was ongoing at year’s end.

Security forces beat and harassed journalists during the year (see Section 2.a.).

On January 15, officers from the gendarmerie Mobile Unit in the Melen neighborhood of Yaounde sexually abused Biloa Ndongo while she was in custody. At year’s end, Biloa had a medical report documenting the sexual abuse, but she had not obtained the names of the officers involved and had not filed a complaint.

In late February, the Abong-Mbang First Instance Court sentenced a police officer to a 3-year prison term and ordered the officer to pay \$400 (200,000 CFA) for the rape of a teenager girl during police detention in January.

There were no further developments in the January 2003 shooting of Jules Temeze Nsangou; the August 2003 shooting of Desire Mbeng; the 2002 beating of Narcisse Kouokam; the 2002 beating of men and women in Noun Division, West Province; and the 2002 arrest and severe torture of Jean Rene Ndouma.

Some illegal immigrants were subjected to harsh treatment and imprisonment. Police and gendarmerie often targeted Nigerian and Chadian communities when seeking to identify illegal immigrants. During raids, members of the security forces extorted money from those who did not have regular residence permits or those who did not have valid receipts for store merchandise.

Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, unsanitary, and inadequate, especially outside major urban areas. Due to a lack of funds, serious deficiencies in food, health care, and sanitation were common in almost all prisons, including “private prisons” in the north operated by traditional rulers. Prisoners were kept in dilapidated colonial-era prisons, where the number of detainees was four to five times the intended capacity. According to a report by the International Center for Prison Studies, published in late July by the Catholic newspaper *La Croix*, there were 67 detention centers for the country’s approximately 20,000 detainees. Overcrowding was exacerbated by the large number of long pretrial detentions and the practice of “Friday arrests” (see Section 1.d.). In May, a senior official in Bafoussam estimated that out of the 1,800 inmates in his prison, 1,600 were awaiting trial. To relieve the worst of the overcrowding, prisoners were being transferred to less crowded prisons. On July 11, the Penitentiary Administration launched a program to decongest the New-Bell prison in Douala, and 74 inmates were transferred to the Mantum detention center in the North West Province.

Health and medical care were almost nonexistent, and prisoners' families were expected to provide food for their relatives in prison. Douala's New Bell Prison contained 7 water taps for a reported 3,500 prisoners, contributing to poor hygiene, illness, and death.

Prison officials regularly tortured, beat, and otherwise abused prisoners with impunity. Several prisoners died due to harsh prison conditions and inadequate medical treatment. On February 26, Ngaki Tiako, died from untreated tuberculosis in the chambers of the Douala Military Tribunal, where he had been in custody since 2002 on charges of banditry. Corruption among prison personnel was widespread. Prisoners sometimes could bribe wardens for special favors or treatment, including temporary freedom.

In May, the Secretary of State in Charge of Penitentiary Affairs at the Ministry of Territorial Administration, Emmanuel Oteh, visited prisons around the country. As a result of his tour, the refurbishment of a Yaounde detention center formerly used for political prisoners was underway at year's end. Also in May, an additional 800 individuals were recruited to work in the prison system. They were in training at year's end.

There were few detention centers for women, who routinely were held in prison complexes with men, occasionally in the same cells. In July, the Center for Human Rights and Peace Advocacy, a human rights organization based in Bamenda in the North West Province, criticized this practice. Mothers sometimes were incarcerated with their children or babies. Juvenile prisoners often were incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile prisoners. Pretrial detainees routinely were held in cells with convicted criminals. Some high-profile prisoners were separated from other prisoners and enjoyed relatively lenient treatment.

In the north, the Government continued to permit traditional Lamibe (chiefs) to detain persons outside the government penitentiary system, in effect creating private prisons. Private prisons within the palaces of traditional chiefs Rey Bouba, Gashiga, Bibemi, and Tcheboa had a reputation for serious abuse. In Garoua, in the North Province, palace staff estimated that 50 prisoners were being held in the palace prison annually, normally between 1 and 2 weeks. Individuals who were found guilty were also often beaten or subject to other forms of physical abuse. According to the palace staff, in serious cases, such as murder, the accused individuals were turned over to local police.

The Government has granted international humanitarian organizations access to prisoners. Both the local Red Cross and the NCHRF made infrequent, unannounced prison visits during the year. The Government continued to allow the International Committee of the Red Cross (ICRC) to visit prisons. During the year, the ICRC stated that the Government allowed international NGOs to have increased access to prisons.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention and requires an arrest warrant except when a person is caught in the act of committing a crime; however, security forces continued to arrest and detain citizens arbitrarily.

The DGSN includes the public security force, judicial police, territorial security forces, and frontier police. In rural areas, where there is little or no police presence, the primary law enforcement body is the gendarmerie. Citizens viewed police as ineffective, which resulted in mob violence (see Section 1.a.). It was widely believed that such individuals paid bribes to law enforcement and the judiciary to secure their freedom. Police officers and members of the Gendarmerie were widely viewed as corrupt and frequently arbitrarily arrested and detained citizens. Police demanded bribes at checkpoints, and influential citizens reportedly paid police to make arrests in personal disputes. Impunity was a serious problem. Insufficient funding and inadequate training contributed to a lack of professionalism in the DGSN.

During the year, the Government investigated and prosecuted a few cases of security personnel accused of violating the law between the fall of 2003 and January. For example, on February 24, the Douala Military Tribunal sentenced Luc Raymond Kamlo, a navy soldier, to an 8-year prison term, on banditry charges.

Police legally may detain a person in connection with a common crime for up to 24 hours and may renew the detention three times before bringing charges. The law provides for the right to judicial review of the legality of detention only in the two Anglophone provinces. Otherwise, the French legal tradition applies, precluding judicial authorities from acting on a case until the administrative authority that ordered the detention turns the case over to the prosecutor. After a magistrate has issued a warrant to bring the case to trial, he may hold the detainee in administra-

tive or pretrial detention indefinitely, pending court action. Such detention often was prolonged, due to the understaffed and mismanaged court system. The law permits detention without charge by administrative authorities such as governors and senior divisional officers for renewable periods of 15 days ostensibly to combat banditry and maintain public order. Persons taken into detention frequently were denied access to both legal counsel and family members. The law permits release on bail only in the Anglophone provinces; however, in practice, bail was granted infrequently.

Police and gendarmes often arrested persons on spurious charges on Fridays at mid-day or in the afternoon. While the law in the Anglophone provinces provides for a judicial review of an arrest within 24 hours, the courts did not convene sessions on the weekend, so the detainee remained in detention until at least Monday. Police and gendarmes accepted bribes to make such "Friday arrests" from persons who had private grievances. There were no known cases of policemen or gendarmes that were sanctioned or punished for this practice.

Security forces and government authorities continued to arrest and arbitrarily detain various opposition politicians, local human rights monitors, journalists, and other critics of the Government, often holding them for prolonged periods without charges or trials and, at times, incommunicado (see Sections 2.a. and 4). Police also arrested persons during unauthorized demonstrations (see Section 2.b.).

On May 19, the Minister of State for Culture reportedly ordered the arrest and detention of Clement Tjomb, the Chairman of the Board of the Copyright Association of Professional Photographers and Audiovisual Workers. Earlier that same day, a court had determined that Tjomb had been elected president of the association, and media reports suggested that the Minister supported one of the defeated candidates. On July 30, Tjomb was released from custody without being charged.

In October, gendarmes arbitrarily arrested Bernard Fosso, Secretary General of the African Movement for Total Liberation (Molita) and refused to disclose his location to his family members. Fosso, who said he was arrested because he had criticized the Government, was released several days later without having been charged with a crime.

In November, Fon Chafah XI, a local chief of the Northwest Province, arrested and detained Gabriel Ambo, Promotion Officer for the Human Rights Defense Group, for allegedly stealing from the Fon. Ambo said he was arrested because the Fon believed that he tried to start an affair with the Fon's wife. At year's end, he had been released and his trial was pending.

Police frequently arrested persons without identification during sweeps (see Section 1.f.).

Albert Mukong, who was awaiting trial after having been arrested in 2002 and subsequently released, died on July 12. At year's end, the 19 other Southern Cameroons National Council (SCNC) activists arrested with Mukong continued to await trial.

The law stipulates that detainees must be brought promptly before a magistrate; however, arbitrary prolonged pretrial detention remained a serious problem, and sometimes persons were held incommunicado for months or even years (see Section 1.c.). For example, in mid-September, attorney William Ndieng said his client Benoit Bilongo had been detained without trial for 7 years at the Yaounde Central Prison. During the year, the NCHRF and Ndieng filed a complaint calling for Bilongo's immediate release. By year's end, the case had not been heard by a court. Some persons were detained for several months simply because they were unable to present identification to authorities.

In September, the newspaper Mutations ran a story about Barnabe Atangana, who was arrested in 1984 for theft and whose case has never been brought to trial. According to Atangana's lawyer, the case has been delayed because the court was unable to locate Atangana's file. Atangana was still in custody at year's end.

The law specifies that, after an investigation has concluded, juveniles should not be detained without trial for longer than 3 months; however, in practice, the Government detained juveniles for longer periods of time. Michel Sighanou, a juvenile who was transferred from the Yabassi prison in 1996, has been awaiting trial for more than 7 years.

In recent years, there have been reports that some prisoners remained in prison after completing their sentences or having been released under a court ruling. In late August, the media reported that more than 100 prisoners in Douala were being held after the completion of their terms, and that many of them were being held because they had been unable to pay court fees. During the year, lawyers representing these individuals filed suit for their release and also filed a complaint at the European Court of Human Rights seeking the prisoners' immediate release. By year's end, there were no further developments.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary remained highly subject to executive influence, and corruption and inefficiency remained serious problems. The court system was subordinate to the Ministry of Justice, which was part of the Presidency. The Constitution specifies that the President is the guarantor of the legal system's independence. He also appoints all judges with the advice of the Supreme Council of the Magistrature. Some politically sensitive cases were never heard by the courts. However, the judiciary has shown some modest signs of growing independence. During the year, the courts found the Government liable for damages in a few human rights cases involving abuses by security officers.

The court system includes the Supreme Court, a Court of Appeals in each of the 10 provinces, and courts of first instance in each of the country's 58 divisions.

Customary courts served as a primary means for settling civil disputes in rural areas, primarily in family-related civil cases, such as in matters of succession, inheritance, and child custody. Divorce cases can be brought to customary courts only if the Government has not sanctioned the marriage through an official license. Customary courts may exercise jurisdiction in a civil case only with the consent of both parties. Either party has the right to have the case heard by a statutory court and to appeal an adverse decision in a customary court to the statutory courts. Most traditional courts also permitted appeal of their decisions to traditional authorities of higher rank.

The legal system includes both national law and customary law, and many criminal and civil cases can be tried using either one; however, criminal cases are generally tried in statutory courts, and customary court convictions involving witchcraft automatically are transferred to the statutory courts, which act as the court of first instance. Customary law, which is used most frequently in rural areas, is based upon the traditions of the ethnic group predominant in the region and is adjudicated by traditional authorities of that group. Customary law is deemed valid only when it is not "repugnant to natural justice, equity, and good conscience." However, many citizens in rural areas remained unaware of their rights under civil law and were taught that they must abide by customary laws. Customary law ostensibly provides for equal rights and status; however, men may limit women's right to inheritance and employment, and some traditional legal systems classify wives as the legal property of their husbands (see Section 5).

The legal structure is influenced strongly by the French legal system, although in the two Anglophone provinces certain aspects of the Anglo-Saxon tradition apply. In the past, this mixed legal tradition has led to conflicting court action in cases handled in both Francophone and Anglophone jurisdictions. In June 2003, the International Bar Association began to assess ways to harmonize the criminal legal system; however, by year's end, no reforms had been undertaken.

The Constitution provides for a fair public hearing in which the defendant is presumed innocent. Defendants generally were allowed to question witnesses and to present witnesses and evidence on their own behalf. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor. The Bar Association and some voluntary organizations, such as the Cameroonian Association of Female Jurists, offered free assistance in some cases. The Project for the Improvement of Conditions of Detention to engage lawyers to work on prison cases continued. Trials normally were public, except in cases with political overtones and cases judged disruptive to social peace.

On July 2, the Yaounde High Instance Court ruled in favor of Innocent Belinga, who had been held without formal charge since his arrest in 2000. The court ordered the state treasury to pay Belinga's legal fees.

Political bias often stopped trials or resulted in an extremely long process, with extended court recesses. Powerful political or business interests enjoyed virtual immunity from prosecution; some politically sensitive cases were settled with a payoff.

Military tribunals may exercise jurisdiction over civilians when the President declares martial law and in cases involving civil unrest or organized armed violence. Military tribunals also have jurisdiction over gang crimes, banditry, and highway robbery. The Government interpreted these guidelines broadly and sometimes used military courts to try matters concerning dissident groups and political opponents. Military trials often were subject to irregularities and political influence.

The Government held political prisoners, including SCNC activists and other Anglophones; however, there was no reliable estimate of the number being held at year's end. The Government permitted international humanitarian organizations to access political prisoners; during the year, the International Federation of Human Rights visited political prisoners in several prisons.

In October 2003, the Supreme Court upheld the 1999 ruling of a lower court that convicted Titus Edzoa, former Minister of Health and long-time presidential aide

who opposed President Biya in the 1997 election, on charges of embezzlement of public funds with Michel Thierry Atangana, his campaign manager, and sentenced Edzoa to a prison term. He was ordered to pay a substantial fine and incarcerated at the maximum-security Gendarmerie headquarters, with very limited access to visitors; Edzoa and Atangana were arrested prior to the 1997 election.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, these rights were subject to the “higher interests of the State,” and there were numerous, credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail. The Government continued to keep some opposition activists and dissidents under surveillance. Police sometimes punished family members and neighbors of criminal suspects.

The law permits a police officer to enter a private home during daylight hours without a warrant if he is pursuing an inquiry and has reason to suspect that a crime has been committed. The officer must have a warrant to make such a search after dark; however, a police officer may enter a private home at any time in pursuit of a criminal observed committing a crime.

An administrative authority may authorize police to conduct neighborhood sweeps without warrants, at times involving forced entry into homes in search of suspected criminals or stolen or illegal goods. Although there were fewer sweeps during the year than in the previous year, these sweeps continued to occur in Yaounde and Douala. Typically, security forces sealed off a neighborhood, systematically searched homes, arrested persons arbitrarily, and seized suspicious or illegal articles. There were credible reports that security forces used such sweeps as a pretext to loot homes and arbitrarily arrest persons for minor offenses, such as not possessing identity cards (see Section 1.c.). For example, on January 14, the Douala police conducted sweeps in the Douala neighborhoods of Nkomondo, Bata-Cogo, and Bonibong. During this operation, police reportedly arrested 50 individuals, including 6 undocumented foreigners; by year’s end, all those arrested were released after paying fines. Police also reportedly seized motorcycles and electronics during the sweeps. The Douala police conducted another series of sweeps in late September in Ndokoti, Akwa, Deido, and Bonaberi, all neighborhoods in and around Douala.

During the year, the Ministry of Towns indicated that the houses the Government destroyed prior to the 2001 France-Africa Summit were illegally built on state land and that their owners were not entitled to compensation. The Government continued to prevent persons from reoccupying the site from which they were removed.

There continued to be accusations, particularly in the North and Far North Provinces, that traditional chiefs arbitrarily evicted persons from their land.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government continued to restrict these rights in practice. The Government sometimes invoked strong libel laws to silence criticism of the Government and officials. Journalists, particularly broadcast journalists, often practiced self-censorship as a result of significant government intimidation and harassment.

The Government published one of the country’s few daily newspapers, the Cameroon Tribune. It did not report extensively on protests or political parties critical of the Government, overtly criticize the ruling party, or portray government programs in an unfavorable light.

During the year, approximately 200 privately owned newspapers were published; however, only an estimated 20, including Mutations, a privately owned daily newspaper, were published on a regular basis. Newspapers were distributed primarily in urban areas, and most continued to criticize the Government and report on controversial issues, including corruption, human rights abuses, and economic policies. However, the Government used criminal libel laws to inhibit the press, and during the year, laws concerning the propagation of false information were also criminalized.

The publication, distribution, and sale of La Tribune de l’Est, a private newspaper highly critical of the Government, was no longer banned. During the year, the newspaper faced no harassment by the Government.

Despite the large number of private newspapers in the country, the influence of print media was minimal. Distribution was problematic outside of major towns, and prices of independent newspapers were high, due largely to high government taxes on newsprint; however, during the year, the Government established a special fund to support the development of the press, particularly newspapers, and funds were dispersed to some private newspapers and radio stations during the year. According to media reports, funding was awarded very selectively, and some media outfits,

such as Mutations and Radio Reine, refused to apply for funds because of the lack of accountability measures for the disbursement of funds. In addition, government control of newspaper warehouses allowed the seizure of controversial editions of certain newspapers prior to distribution. For example, the Government seized two editions of Mutations and one edition of Insight magazine because of controversial articles.

The Government tightly controlled the broadcast media. Radio remained the most important medium reaching most citizens. There were approximately 20 privately owned radio stations operating in the country. The state-owned Cameroon Radio Television (CRTV) broadcast on both television and radio and was the only officially recognized and fully licensed broadcaster in the country. The Government levied taxes on all registered taxpaying citizens to finance CRTV programming, which allowed CRTV a distinct advantage over independent broadcasters.

Non-profit rural radio stations were required to submit an application to broadcast but were exempt from paying licensing fees. Potential commercial radio and television broadcasters must submit a licensing application and pay an application fee when the application is submitted. Once the license is issued, stations must then pay a licensing fee. The annual licensing fees potentially were prohibitive. Between 1999 and year's end, the Ministry of Communication received more than 100 applications from potential broadcasters; however, no licenses had been issued to any private radio or TV stations by year's end. In many cases, the Government allowed stations to operate while their licensing applications were pending, although the legal status of stations established before 2000 was not well defined and appeared to be illegal.

Although the Communications Ministry had not responded to station requests for licenses since 2000, the Government issued a December 2003 ultimatum to the many stations that were operating illegally, stating that they would have to submit the proper paperwork or close down by December 31, 2003. Between December 2003 and January, 12 stations stopped broadcasting during a 3-week period to bring their licensing applications up to date. Most of these stations, including some that were critical of the Government, resumed broadcasting in January and continued to broadcast at year's end. Although the Government did not forcibly close any stations, it refused to register several stations that did not submit what the Government deemed to be appropriate applications, and those stations closed on their own initiative.

There were several low-power, rural community radio stations with extremely limited broadcast range that were funded by the U.N. Educational, Scientific, and Cultural Organization (UNESCO) and foreign countries. These stations, which broadcast programs on education, health, the environment, and development to small audiences, were not allowed to discuss politics. The law permits broadcasting of foreign news services but requires the foreigners to partner with a national station. The British Broadcasting Company (BBC), Radio France International, and Voice of America broadcast in partnership with state-owned CRTV. During the year, the Government continued to allow the reception of international cable and satellite television broadcasts.

Television was less pervasive but more influential than print media. The five independent television stations largely avoided criticizing the Government and generally relayed government information to the public. Unlike in the previous year, there were no reports that the Government controlled private television stations Canal 2 or RTA by monitoring content to ensure compliance with an approved format; in addition, the stations were no longer under a suspension that had been imposed by the Center Province Government in 2003.

Like the Cameroon Tribune, CRTV provided broad reporting of CPDM activities, while giving relatively little attention to the political opposition. During the year, CRTV management continued to repeatedly instruct CRTV staff to ensure that government views prevailed at all times. Prior to and following the campaign period, CRTV television and radio programming included a weekly program, Direct Expression, which ostensibly fulfilled the Government's legal obligation to provide an opportunity for all political parties represented in the National Assembly to present their views. However, during the program, CRTV continued to restrict the freedom of speech of the opposition party, the SDF, by occasionally censoring and significantly shortening proposed SDF programming.

During the presidential campaign period, the Ministry of Communications made some efforts to provide equal airtime on CRTV for presidential candidates to discuss their positions. Most candidates took advantage of this offer; however, three candidates failed to submit material for broadcast. The evening news and other reports continued to focus on the incumbent and the ruling political party. As a result, the incumbent received considerably more coverage than any other candidate.

Security forces continued to restrict press freedom by arresting, detaining, physically abusing, threatening, and otherwise harassing print-media journalists. On May 18, the Mobile Intervention Unit of the Douala police prevented Jean Celestin Edjangué, a press photographer with *Le Messenger* newspaper, from shooting pictures of a protest near the French consulate. The police injured Edjangué's wrist as he resisted their attempts to seize his camera.

On July 11, police arrested a BBC journalist and a local journalist working temporarily for the BBC in the Bakassi peninsula for alleged espionage. The journalists were moved to the coastal town of Limbe where they were held for 6 days under police guard in a local hotel. They were subsequently released without charge.

On August 31, police arrested Richard Nde, a reporter of the *Guardian Post*, for libel in the town of Bamenda in Northwest Province after he wrote an article in which he claimed that the mayor of Kumbo in the Northwest Province had embezzled funds. However, many journalists said that he was arrested because his newspaper published a number of articles prior to the presidential election that were critical of the incumbent. By year's end, Nde had paid \$1060 (530 CFA francs) to be released from prison, and he continued to report for the *Guardian Post*.

There was no action against those responsible for the 2003 abuse of two employees of Mutations.

Unlike in the previous year, there were no reports that the Government forcibly shut down radio stations; however, during the year, the Government forcibly took control of one station and continued to refuse registration to another.

On January 26, the Douala Court of First Instance declared itself incompetent to rule on the case of Freedom FM, a Douala-based private radio station, which the Government had prohibited from going operational in May 2003 on the grounds that the owner had not submitted to the Ministry of Communication an application for operation, the name of the station, or the types of programs the station would broadcast. Freedom FM owner Pius Njawe, who has previously been jailed for criticizing the President, claimed he had submitted an application to the Ministry under a different station name in 2003 but had subsequently informed the Ministry of the name change. In October 2003, the Ministry of Communications filed a lawsuit against Njawe for having illegally created a radio station. In July, the Government rejected an application to broadcast submitted by Freedom FM, and seized the station's broadcasting equipment. According to the Ministry of Communications, the radio equipment had been donated by a foreign government to establish a community radio station, not a private one. By year's end, this case was pending in another court while the Government continued to prevent the station from broadcasting and refused to return the confiscated equipment. In addition, in April Njawe filed a case with the African Commission of Human Rights and Freedom, which was investigating the case at year's end.

Radio Oku, which was closed in December 2003 by a Divisional Officer (local government official), resumed broadcasting in February. In April, the Bui High Court found that the Divisional Officer had acted illegally when he closed Radio Oku, temporarily detained four members of Radio Oku's board of directors, and placed three other members under temporary house arrest. The court ordered the Divisional Officer to relinquish Radio Oku equipment and to pay the station manager approximately \$1,400 (750,000 CFA francs). The Divisional Officer appealed the judgment, and on April 16, he reportedly arrested the station manager and board chairman. The individuals said they were abused during their 2-day detention. On May 30, the Divisional Officer's agents reportedly took control of the station, stopped its normal programming, and began broadcasting. The Ministry of Communications refused to become involved in the case because it concerned ongoing litigation. At year's end, the Divisional Officer remained in control of the station, and the Divisional Officer's legal appeal remained pending.

During the year, the Government indirectly censored the media and candidates for political office by controlling campaign advertising. On August 25, in anticipation of the October presidential election, the Minister of Communication granted itself extensive control over the content and format of all campaign material. The restrictions on campaign material significantly impeded the amount of advertising and advertising revenues that the print media was able to obtain during the campaign. In addition, the ruling CPDM party used its influence in CRTV radio and television to broadcast special programs, which gave the party additional time to campaign. Requirements that all political advertising be directed to media authorized by the Ministry of Communication meant that most advertising and advertising revenues were obtained by CRTV, the only fully authorized TV or radio network in the country.

Unlike in the previous year, there were no reports that the Government seized print runs of private newspapers or interfered with private newspaper distribution.

The Government prosecuted its critics in the print media through criminal libel laws. These laws authorized the Government, at its discretion and the request of the plaintiff, to criminalize a civil libel suit or to initiate a criminal libel suit in cases of alleged libel against the President and other high government officials; such crimes are punishable by prison terms and heavy fines. Criminal penalties for speech-related offenses resulted in the practice of self-censorship by some journalists.

For example, in July, a court convicted Eric Wirkwa Tayu, the publisher of the small private newspaper *Nso Voice* based in Kumbo, of defaming Kumbo's mayor, Donatus Njong Fonyuy. The defamation charge reportedly resulted from articles in *Nso Voice* alleging that the mayor was guilty of corruption. The court sentenced Tayu to 5 months in prison and ordered him to pay a fine of \$600 (300,000 CFA francs). It was not known whether Tayu was able to pay the fine or if he had been released by year's end.

During the year, the Ministry of Communication established a number of new organizations related to the media. On April 30, the Minister of Communication created the Central Office for Press Relations (BCRP) to facilitate the press' access to certain government information (see Section 3).

On September 22, the President appointed members to the long-dormant National Communication Council, which was designed to serve as an advisory body on government regulation of the communications sector. The Council began operating during the year, and in its post-presidential election report, it criticized the imbalance of CRTV's coverage of the campaign, which it said discriminated against opposition parties.

During the year, there were reports that the Government attempted to monitor the Internet. In June, following rumors published on the Internet that President Biya had died, the Minister of Communication established an Internet regulatory taskforce to identify sources of information on the Internet. There were no reports that the taskforce was active during the year. There were no reports that the Government restricted access to the Internet.

Although there were no legal restrictions on academic freedom, state security informants operated on university campuses. Professors said that participation in opposition political parties could affect adversely their professional opportunities and advancement. During the year, free political discussion at Yaounde's universities was hindered by armed government security forces who harassed some students.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. The law requires organizers of public meetings, demonstrations, or processions to notify officials in advance but does not require prior government approval of public assemblies and does not authorize the Government to suppress public assemblies that it has not approved in advance. However, officials routinely have asserted that the law implicitly authorized the Government to grant or deny permission for public assembly. Consequently, the Government often did not grant permits for assemblies organized by persons or groups critical of the Government and repeatedly used force to suppress public assemblies for which it had not issued permits.

On numerous occasions throughout the year, authorities refused to grant permission to political groups seeking to hold rallies and meetings. For example, on October 22, the Prefect of the Wouri Division in Douala announced that he would not authorize any political rallies because he feared social unrest following the October 11 presidential election. He lifted the ban on October 25, shortly after President Biya was officially declared to have won the election.

Security forces forcibly disrupted the meetings and rallies of trade unions and opposition parties throughout the year; however, unlike in the previous year, no deaths resulted from the police's use of excessive force to disperse demonstrations. For example, on January 12, authorities prevented members of the Front of Alternative Forces (FFA), an opposition coalition, from holding a rally in the Douala neighborhood of Bonanjo and arrested and detained for 6 hours 11 FFA members. On April 2, a gendarmes detachment was deployed in Douala to prevent a political rally organized by the Movement for Democracy and Independence, an opposition political group, despite the fact that the group had received authorization to hold the rally.

On May 22, security forces prevented members of the National Coalition for Reconciliation and Reconstruction (CNRR), an opposition group, from entering the municipal stadium in Ebolowa in the South Province, where an opposition political rally had been scheduled to take place.

In July, members of the CNRR tried to hold weekly rallies in Yaounde to call for the computerization of the voter registration process. Although the Government re-

fused to provide permits for these rallies, the protestors continued to march. On July 6, gendarmes injured some protestors, including an SDF Parliamentarian, when they used excessive force to detain a group of protestors on the street for several hours. On August 3, a similar event occurred and lasted for more than 3 hours, although no injuries were reported.

On August 19, Douala security forces prevented Jean-Jacques Ekindi and members of the FFA from holding a rally in the Douala neighborhood, Akwa. Police arrested and briefly detained five members of the FFA.

On October 21, authorities in Yaounde prevented a press conference at the opposition SDF headquarters from taking place by denying journalists entry to the site.

A few days prior to October 1, a traditional day of protest for Anglophones, there were reports that police in Bamenda arrested four SCNC activists. The individuals were reportedly held for a few days and released without charge.

During the year, the Prefect of Mfoundi lifted a ban he had invoked in 2003 to prevent the National Alliance for Democracy, an opposition party, from holding meetings.

During the year, authorities released five protestors arrested during a protest in September 2003.

No action reportedly was taken against the members of the security forces who forcibly dispersed demonstrations in 2003 or 2002.

The law provides for freedom of association, and the Government limited this right in practice. The 2002 ban on the SCNC remained in effect. At year's end, the Prefect of Douala's Wouri Division continued to maintain a June 2003 ban on all activities of the FFA; the Prefect said that the group was disorderly and had not applied for legal status.

The conditions for government recognition of a political party, a prerequisite for many political activities, were not onerous. More than 180 political parties operated legally, together with a large and growing number of civic associations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were a few exceptions.

Religious groups must be approved and registered with the Ministry of Territorial Administration and Decentralization to function legally; there were no reports that the Government refused to register any group. The approval process usually took several years, due primarily to administrative delays. The Government did not register traditional religious groups on the grounds that the practice of traditional religion was a private concern observed by members of a particular ethnic or kinship group or the residents of a particular locality.

On January 7, the Judicial Police arrested Michel Atanga Effa and Gervais Balla as suspects in the 2003 killing of Brother Anton Probst, a German missionary working in the Center Province. The two men remained in custody awaiting formal charges at year's end.

In May, a traditional village ruler, or Fon, beat and fined Pastor Alombah Godlove for providing a Christian burial for a village elder in accordance with the deceased's will. The Fon said that the elder, who was also a member of a traditional religious secret society, should have been buried with traditional rites. At year's end, no legal action had been brought in this case; however, the case was being investigated by the NCHRF.

The practice of witchcraft is a criminal offense under the law; however, individuals generally were prosecuted for this offense only in conjunction with another offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of unknown cause.

Discrimination in the northern provinces, especially in rural areas, by Muslims against Christians and persons who practiced traditional indigenous religions remained strong and widespread.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, in practice security forces routinely impeded domestic travel.

Roadblocks and checkpoints manned by security forces proliferated in cities and most highways, making road travel both time-consuming and costly. Extortion of small bribes was commonplace at these checkpoints. Police frequently stopped travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. During the year, security forces killed at least one person they thought was evading a checkpoint (see Section 1.a.).

There were credible reports that police arrested and beat individuals who failed to carry their identification cards (see Sections 1.c. and 1.f.).

The law prohibits forced exile, and the Government did not use it; however, some human rights monitors or political opponents who considered themselves threatened by the Government left the country voluntarily and declared themselves to be in political exile. For example, on July 17, Anna Ndep Takem, an activist for the SCNC reportedly fled the country after learning that authorities were planning to arrest her for providing food and assistance to detained SCNC activists in the Yaounde Central Prison.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system of providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. At year's end, the UNHCR estimated that the country provided temporary protection to approximately 60,000 refugees, the majority of whom were Chadian and Nigerian, in addition to 6,000 asylum seekers.

The Government also provided protection to certain individuals who may not qualify as refugees under the 1951 Convention or its 1967 Protocol.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides that citizens have the right to change their government; however, dominance of the political process by the President and his party and electoral intimidation, manipulation, and fraud severely limited the ability of citizens to exercise this right.

On October 11, President Biya, who has controlled the Government since 1982, was re-elected with approximately 70 percent of the vote in an election widely viewed as freer and fairer than previous elections; however, the election was poorly managed and marred by irregularities. Some observers said progress had been made and called the election transparent; others, such as the Commonwealth Observer Group, stated that the election lacked credibility. One domestic group described the election as a masquerade.

Opposition candidates participated in the electoral process, and the election environment was largely calm and peaceful. However, domestic and international observers witnessed a number of electoral irregularities, particularly with regard to the registration process, methods of identifying voters, the distribution of sufficient ballot papers, and the poor quality of the ink used to identify persons who had already voted. Such irregularities appeared to have led to high levels of voter confusion and apathy. There were also widespread allegations of multiple voting by individuals close to President Biya's party. Following the election, opposition candidates accused the Government of massive vote rigging and appealed (unsuccessfully) to the Constitutional Council for the election to be annulled. The Council ruled against the opposition candidates, either because they had insufficient evidence to sustain their appeals, or because they had filed their complaints incorrectly.

During the year, the Government continued to gradually implement a revised constitution enacted in 1996; the 1972 Constitution remained in force in areas where the 1996 revisions had not yet been implemented. For example, the 1996 Constitution's provision extending the presidential term from 5 to 7 years and permitting President Biya to run for another term was in effect; however, the composition of the National Assembly, an elected body, still was being determined by the 1972 Constitution. Since 1991, only government bills proposed by the Presidency have been enacted by the National Assembly; however, in April, the National Assembly agreed to consider a bill submitted by the leading opposition party. Only parties with representatives in the National Assembly can submit bills for consideration.

The President's control over the country's administrative apparatus was extensive. The President appoints all Ministers, including the Prime Minister, and on December 8, the President appointed a new Cabinet. The President also directly appoints the governors of each of the 10 provinces. The governors, in turn, have considerable power in the electoral process to interpret and implement laws. The President also has the power to appoint important lower level members of the 58 provincial administrative structures, including the senior divisional officers, the divisional officers, and the district chiefs. The governors and senior divisional officers have considerable authority within the areas under their jurisdiction, including the authority to ban political meetings that they deem likely to threaten public order (see

Section 2.b.). They also may order the detention of persons for renewable periods of 15 days to combat banditry and other security threats (see Section 1.d.).

The right of citizens to choose their local governments remained circumscribed. The Government has increased greatly the number of municipalities run by presidentially appointed delegates, who have authority over elected mayors. Delegate-run cities included most of the provincial capitals and some division capitals in pro-opposition provinces; however, this practice was nonexistent in the southern provinces, which tended to support the CPDM. In municipalities with elected mayors, local autonomy was limited since elected local governments relied on the central Government for most of their revenue and administrative personnel.

In April, the National Assembly passed legislation that is expected to give popularly elected local councils control over many local government issues. The first election for these decentralized bodies is not scheduled to take place until 2007.

On April 21, the President signed a law establishing the Constitutional Council, which will rule on laws, ensure the fairness of elections, and proclaim the results of elections. The Supreme Court acted as the Constitutional Council during the October 11 presidential election, and by year's end, the members of the Council had not yet been appointed by the President.

On June 13, municipal by-elections were held in five of the six districts where the Supreme Court had annulled the 2002 election results. Observers reported that the election was free but not completely fair; limited improvements were made in comparison to the 2002 election, but many witnessed irregularities including multiple voting, candidates working at polling stations, and extensive campaigning on election day at polling stations. The CPDM won in five of the six districts and maintained its strong majority in the National Assembly. During the campaign, there were some hostile encounters between members of the ruling CPDM party and the opposition SDF party, and security forces took action to prevent violence.

The 2002 legislative and municipal elections, which were dominated by the CPDM, largely reflected the will of the people; however, there were widespread irregularities.

There were more than 180 registered political parties in the country; however, less than 10 were significant, and only 5 had seats in the National Assembly. The ruling CPDM held an absolute majority in the National Assembly; opposition parties included the SDF, based in the Anglophone provinces and the largest of the opposition parties, the National Union for Democracy and Progress, the Cameroon Democratic Union, and the Union of the Peoples of Cameroon.

Corruption remained a serious problem in all branches of Government. The public perception was that judicial and administrative officials were open to bribes in almost all situations. According to a corruption survey taken by Transparency International during the year, more than 50 percent of persons surveyed in the country reported that they or members in their household had paid a bribe in the past 12 months.

During the year, local and international activists continued to criticize the Government's lack of transparency in managing revenues from an international oil pipeline.

During the year, the Government took a few steps to fight corruption. For example, on September 24, President Biya established a code for awarding public contracts in a more transparent manner. The code specifies rules for the awarding, execution, and oversight of public contracts; by year's end, the code had taken effect and authorities reportedly were enforcing it. There was a National Corruption Observatory to combat corruption within the Government at all levels; however, it was severely under-funded, and there were no publicized prosecutions of corrupt government officials during the year. In addition, in December, the Government announced new rules intended to make civil servants more accountable, including a disciplinary process that allows for termination of corrupt employees.

There were no laws providing citizens with access to government information, and in practice, such access was difficult to obtain. Most government documents were not available to the public, including the media. However, on April 30, the Minister of Communication created the Central Office for Press Relations (BCRP), which is charged with indiscriminately providing all press organs with official government information; however, the Government selects the information that is disseminated, and the BCRP was not intended to handle requests for information from the general public. By year's end, the Office had begun operating administratively.

Women held 18 of 180 seats in the National Assembly, 6 of 61 cabinet posts, and a few of the higher offices within the major political parties, including the CPDM.

Many of the key members of the Government were drawn from the President's own Beti/Bulu ethnic group, as were disproportionately large numbers of military officers and CPDM officials.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing findings on human rights cases; however, government officials repeatedly impeded the effectiveness of local human rights NGOs during the year by limiting access to prisoners, refusing to share information, and threatening and using violence against personnel. Between mid-May and mid-November, police harassed Philip Njaru, a human rights activist and Executive Director of the Kumba-based Friends of the Press Network, a human rights organization in Southwest Province. Njaru had been investigating and disseminating information on the case of Bernard Afuh, whom the police burned to death (see Section 1.a.). Access by international NGOs to prisons reportedly improved during the year (see Section 1.c.). The activities of virtually all of these groups were limited by a shortage of funds and trained personnel. Observers have criticized the country's NGO laws for giving the Government the opportunity to deny authorization to operate or eliminate NGOs by decree.

Numerous domestic human rights NGOs operated in the country, including, among others, the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women Against Violence, and the Cameroonian Association of Female Jurists.

The Government harassed and arrested NGO members during the year. For example, on July 21, gendarmes arrested and detained Joseph Chongsi of the Center for Human Rights and Peace Advocacy under false pretenses; they alleged that he had not paid a debt. He was released on July 23 and received an official apology from the Prison Administrator in Bamenda.

There have been no further developments in the 2003 arrest of Abdoulaye Math, who was awaiting trial at year's end.

During its June/July session, the National Assembly greatly expanded the role and powers of the NCHRF. The Commission was granted the authority to summon witnesses and to publish their reports and the findings of their investigations. While the NCHRF remained hampered by a shortage of funds, it conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars aimed at judicial officials, security personnel, and other government officers. In July, the NCHRF organized a 2-day seminar for NGOs and government officials to develop a training curriculum on human rights for law enforcement, members of the judiciary, and other citizens. Although the Commission infrequently criticized the Government's human rights abuses publicly, its staff intervened with government officials in specific cases of human rights abuses by security forces, attempted to stop Friday arrests (see Section 1.d.), and sought to obtain medical attention for jailed suspects in specific cases.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution does not explicitly forbid discrimination based on race, language, or social status. The Constitution prohibits discrimination based on sex and mandates that "everyone has equal rights and obligations"; however, the Government did not enforce these provisions effectively.

*Women.*—The law does not specifically prohibit domestic violence, but assault is prohibited and was punishable by prison terms and fines; and in practice, domestic violence against women was common. While there were no reliable statistics on violence against women, a large number of newspaper reports indicated that the phenomenon was widespread. Women's rights advocates reported that the law does not impose effective penalties against men who commit acts of domestic violence. There were no gender-specific assault laws, despite the fact that women were the predominant victims of domestic violence. Spousal abuse was not a legal ground for divorce. In cases of sexual assault, a victim's family or village often imposed direct, summary punishment on the suspected perpetrator through extralegal means, ranging from destruction of property to beating.

The law prohibits rape, and although rape occurred, police and the courts investigated and prosecuted cases of rape, which resulted in some convictions during the year. Official and private media regularly covered rape cases handled by the courts during the year.

The law does not prohibit female genital mutilation (FGM), and FGM was not practiced widely; however, it continued to be practiced in isolated areas in 3 of the 10 provinces, including some areas of Far North, Eastern, and Southwest Provinces. Internal migration contributed to the spread of FGM to different parts of the country. The majority of FGM procedures were clitorectomies; however, the severest form of FGM, infibulation, was performed in the Kajifu region of the Southwest

Province. FGM usually was practiced on infants and pre-adolescent girls. During the year, the Government did not conduct programs to educate the population about the harmful consequences of FGM or prosecute any persons who allegedly performed FGM; however, the Association of Women Against Violence continued to conduct a program in Maroua to assist victims of FGM and their families and to educate local populations.

Despite constitutional provisions recognizing women's rights, women did not enjoy the same rights and privileges as men. Some points of civil law were prejudicial to women. The law allows a husband to oppose his wife's right to work in a separate profession if the protest is made in the interest of the household and the family; a husband also may end his wife's commercial activity by notifying the clerk of commerce tribunal of his opposition based upon the family's interest. Partly for this reason, some employers required a husband's permission before hiring female employees.

Customary law was far more discriminatory against women, since in many regions a woman customarily was regarded as the property of her husband. Because of the importance attached to customs and traditions, laws protecting women often were not respected. In the customary law of some ethnic groups, husbands not only maintained complete control over family property, but also could divorce their wives in a traditional court without being required to provide either verifiable justification or alimony. Polygyny was permitted by law and tradition. In cases of divorce, the husband's wishes determined the custody of children over the age of 6. While a man may be convicted of adultery only if the sexual act takes place in his home, a female may be convicted without respect to venue.

Traditional law normally governed the extent to which a woman may inherit from her husband in the absence of a will, and traditions varied from group to group. In many traditional societies, custom grants greater authority and benefit to male heirs than to female heirs. Women also faced the issue of forced marriage; in some regions, girls' parents could and did give girls away in marriage without the bride's consent. Often the husband, who could be many years older than his bride, paid his wife's parents a "bride price." Since a price had been paid, the girl was considered the property of the husband. When a married man died, his widow often was unable to collect any inheritance, since she herself was considered part of the man's property. Often the widow was forced to marry one of the deceased husband's brothers. If she refused, she had to repay the bride price in full and leave the family compound. In the Northern provinces, some Lamibe (traditional rulers) reportedly prevented their wives and concubines from leaving the palace. The lack of a national legal code covering such family issues often left women defenseless against these male-oriented customs.

On May 24, religious leaders, including Catholics, Protestants, and Muslims, launched a nation-wide program to fight violence against women.

*Children.*—During the year, the Government made some efforts to protect children's rights and welfare, including participation in seminars on children's rights. The Constitution provides for a child's right to education, and schooling was mandatory through the age of 14 years. Since parents had to pay uniform and book fees for primary school, and because tuition and other fees for secondary education remained costly, education largely was unaffordable for many children. The Government took measures during the year to improve access to schools. On April 19, the Minister of National Education launched "Education-For All Week" to prioritize education for girls.

According to statistics from the Ministry, 72.2 percent of girls between the ages of 6 and 14 were enrolled in school, compared with 81.3 percent for boys of the same age group. The low education rate continued to be attributed to socio-cultural prejudices, early marriage, sexual harassment, unwanted pregnancy, and domestic chores.

On October 29, the Minister of Education and the Minister of Youth and Sports presented the results of a study on the country's education system. The study revealed a large disparity between the number of potential students and the capacity of the schools. According to the report, pre-schools served only 16 percent of all possible students. Within the entire school system, the northern provinces were the most underprivileged, with only 5.7 percent of all teachers working in the Adamawa, North, and Extreme North Provinces combined. The capacity of the schools was also inadequate. The study showed that elementary schools only had enough seats for 1.8 million students, although 2.9 million attended school. Another government report indicated that of 560 high schools throughout the country, only 33 schools had at least 50 percent of their students pass the baccalaureate exam.

Although illegal, in practice, girls continued to suffer from discrimination with respect to education throughout the country. The gap in school attendance was 14 percent nationally and 34 percent in the two most northern provinces. This problem, which especially was acute in rural areas, resulted in higher levels of illiteracy among women than men.

The exact degree of familial child abuse was not known; however, children's rights organizations targeted the problem. Newspaper reports often cited children as victims of kidnapping, mutilation, and even infanticide. There were several credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets.

Despite the law that fixes a minimum age of 15 years for a bride, many families facilitated the marriage of young girls by the age of 12 years. Early marriage was prevalent in the northern provinces of Adamawa and the North, but it was especially characteristic of the remote Far North Province, where many young women faced severe health risks from pregnancies as early as 13 years of age.

FGM was performed primarily on young girls (see Section 5, Women).

There were reports of child prostitution and trafficking in children during the year (see Section 5, Trafficking).

Child labor remained a problem (see Section 6.d.).

Although exact numbers were unavailable, the country had a significant number of displaced or street children, most of whom resided in urban areas such as Yaounde and Douala.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, but the law does prohibit slavery, prostitution, forced labor, minimum age requirements for workers, and other crimes related to trafficking in persons, and trafficking remained a problem. Courts have prosecuted traffickers using various provisions of the Penal Code that address related crimes. The country was a source, transit, and destination point for internationally trafficked persons; trafficking also occurred within the country.

The law provides that any person who engages in crimes often associated with trafficking in persons shall be punished by 10 to 20 years of imprisonment. In May 2003, four individuals were arrested for their involvement in trafficking six children from the town of Obala to Yaounde. One of these individuals was convicted and sentenced to 8 years in prison. There was no information about the other three individuals who were arrested. In mid-2003, there were unconfirmed reports that police intervened to protect 12 victims of child trafficking in the North Province, but no traffickers were arrested in relation to that case. On April 21, President Biya ratified three anti-trafficking conventions, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.

The Ministry of Labor, Employment, and Social Insurance was primarily responsible for fighting trafficking; however, the Ministry was severely underfunded. It was believed that authorities prosecuted several trafficking cases during the year, but actual rates were difficult to determine since traffickers could be prosecuted under various sections of the penal code and there was no system for tracking outcomes. The Government continued to fight trafficking through the use of an inter-agency committee and a program to find and return trafficked children. In addition, the Government cooperated with Gabon, Nigeria, Togo and Benin in fighting trafficking, through the exchange of information and preparation of common legislation on trafficking.

Women and children traditionally have faced the greatest risk of trafficking and have been trafficked most often for the purposes of sexual exploitation and forced labor. Most trafficking in children occurred within the country's borders, while most trafficked women were transported out of the country. According to anecdotal evidence by the NCHRF, women often were "hired" into hubs of prostitution, often in Europe. The method for trafficking women usually involved a marriage proposition by a foreign businessman. The woman was inducted into servitude upon arrival at a foreign destination. Girls were internally trafficked from the Adamawa, North, the Far North provinces, and from the Northwest Province to Douala and Yaounde to work as domestic servants, street vendors, or prostitutes. Children were also internally trafficked to work on cocoa bean plantations. There have been credible reports of slavery, particularly in the Rey Bouba Division of North Province, inside the closely guarded compound of a local chieftain, where authorities were unable to assert control. Parents sometimes offered their young daughters to the Lamido of the North Province of the Rey Bouba as gifts.

During the year, human rights organizations in Bamenda in the Northwest Province reported the existence of radio ads offering to take adolescent girls between the

ages of 10 and 17 to Yaounde and Douala for domestic labor. The organization offered to pay transportation and a finder's fee to persons who recruited children for domestic labor.

A 2000 International Labor Organization (ILO) study conducted in Yaounde, Douala, and Bamenda, revealed that trafficking accounted for 84 percent of child laborers. In most cases, intermediaries presented themselves as businessmen, approaching parents with large families or custodians of orphans and promising to assist the child with education or professional training. The intermediary paid parents an average of \$12 (6,000 CFA francs) before transporting the child to a city where the intermediary would subject the child to forced labor with little remuneration. In 4 out of 10 cases, the child was a foreigner transported to the country for labor. The report also indicated that the country was a transit country for regional traffickers, who transported children between Nigeria, Benin, Niger, Chad, Togo, the Republic of the Congo, and the Central African Republic for indentured or domestic servitude, farm labor, and sexual exploitation. Citizens also were trafficked to South Africa.

The Institute for Socio-Anthropologic Research (IRSA) of the Yaounde-based Catholic University of Central Africa continued an ILO-sponsored Exploratory Study on Child Trafficking during the year.

During the year, the ILO and the Government continued to support an awareness campaign to eradicate child trafficking in airports. Special anti-trafficking embarkation/disembarkation cards continued to be designed and distributed. The cards described the dangers of trafficking and how to recognize the phenomenon.

The Government continued to work with local and international NGOs to provide temporary shelter and assistance to victims of trafficking. The Catholic Relief Service worked to combat corruption in local schools that led to child prostitution.

On June 10, the Cameroon Red Cross and an Austrian NGO, SOS Kinderdorf, signed a convention to protect impoverished children who were at the greatest risk of being trafficked or being involved in the worst forms of child labor. UNICEF was also actively engaged in combating girls' prostitution throughout the year.

*Persons with Disabilities.*—The law provides certain rights to persons with disabilities, including access to public institutions, medical treatment, and education, and the Government was obliged to bear part of the educational expense of persons with disabilities, to employ them where possible, and to provide them with public assistance when necessary; however, the Government rarely honored these obligations. There were few facilities for persons with disabilities and little public assistance; lack of facilities and care for persons with mental disabilities particularly was acute. Society largely tended to treat those with disabilities as outcasts, and many felt that providing assistance was the responsibility of churches or foreign NGOs. The law does not mandate special access provisions to private buildings and facilities for persons with disabilities.

#### National/Racial/Ethnic Minorities

The population was divided into more than 200 ethnic groups, among which there were frequent and credible allegations of discrimination. Ethnic groups commonly gave preferential treatment to fellow ethnic group members both in business and social practices.

Members of President Biya's Beti/Bulu ethnic group from southern parts of the country held key positions and were disproportionately represented in government, civil service, state-owned businesses, the security forces, and the ruling CPDM party.

The M'Bororo, a semi-nomadic Fulani people whose main economic activity is cattle raising, were given rights over pastoral land in the Northwest Province by the British colonial government; however, in 1986, Alhadji Baba Ahmadou Danpullo, a prominent businessman and member of the ruling party, established a commercial ranch in Ndawara, Northwest Province. During the year, the M'Bororo continued to claim that over 18 years, Danpullo has forcibly displaced them, seized their land, cattle, and women, and used his money and influence with the Government to order the beating and false imprisonment of members of the M'Bororo. On March 23, a Bamenda Court of Appeals ordered the release of three of the four M'Bororo youths arrested by Bamenda police in 2002, Adamu Issa, Yunussa Bagoji, and Haman Usmanu. The fourth individual had unsuccessfully attempted to escape prior to the Court's ruling and remained in detention at year's end. A special government commission of inquiry had reportedly finished hearing testimony and completed its research but had not released the results of its investigation by year's end.

Northern areas of the country suffered from ethnic tensions between the Fulani (or Peuhl) and the Kirdi. The Kirdi remained socially, educationally, and economically disadvantaged relative to the Fulani in the three northern provinces. Tradi-

tional Fulani rulers, called Lamibe, continued to wield great power over their subjects, often including Kirdi, sometimes subjecting them to tithing and forced labor. During the year, isolated cases of slavery were reported, largely Fulani enslavement of Kirdi.

Natives of the North West and South West Provinces have tended to support the opposition party SDF and have suffered disproportionately from human rights violations committed by the Government and its security forces. The Anglophone community has been underrepresented in the public sector. Anglophones generally believed that they had not received a fair share of public sector goods and services within their two provinces. Some residents of the Anglophone region sought greater freedom, equality of opportunity, and better government by regaining regional autonomy rather than through national political reform and have formed several quasi-political organizations in pursuit of their goals.

At least one Anglophone group, the SCNC, advocates secession from the country. During the year, security forces harassed and arrested the participants of SCNC meetings (see Section 1.d.). The Government also continued to hold some SCNC activists or suspected SCNC supporters in temporary detention without charge. The opposition SDF party, whose base of support resides in the Anglophone provinces, reiterated its commitment to pursue a nonviolent political struggle toward the restoration of a federal republic.

Some members of the country's large community of Nigerian immigrants complained of discrimination and abuse by government officials (see Section 1.c.). Government officials repeatedly have announced crackdowns on undocumented Nigerian immigrants, and illegal immigrants were subject to harassment on some occasions.

*Indigenous People.*—A population of approximately 50,000 to 100,000 Baka (Pygmies), a term that encompasses several different ethnic groups, primarily resided (and were the earliest known inhabitants) in the forested areas of the South and East provinces. While no legal discrimination exists, other groups often treated the Baka as inferior and sometimes subjected them to unfair and exploitative labor practices. Baka reportedly continued to complain that the forests they inhabit were being logged without fair compensation. Some observers believe that sustained logging was destroying the Baka's unique, forest-oriented belief system, forcing them to adapt their traditional social and economic systems to a more rigid modern society similar to their Bantu neighbors. Local Baka along the path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land. Others alleged that they had been cheated of their compensation by persons posing as Baka representatives.

An estimated 95 percent of Baka did not have national identity cards; most Baka could not afford to provide the necessary documentation to obtain national identity cards, which were required to vote in national elections. In early May, Plan International and another NGO launched a program to educate Bakas about their political rights, which included the construction of a communal radio in the region of Abong-Mbang (Upper Nyong Division, East Province). In July, the Association of Boumba and Ngoko Divisional Councils conducted a campaign through which they were able to issue hundreds of identification cards to Bakas in the East Province, thereby allowing these individuals to register and vote.

*Other Societal Abuses and Discrimination.*—Homosexuality is illegal under the penal code, with a possible prison sentence of between 6 months and 5 years and a possible fine ranging from approximately \$38 to \$380 (20,000 to 200,000 CFA francs). While prosecution under this law was rare, homosexuals suffered from harassment and extortion by law enforcement officials. During the year, there were organizations that advocated for the rights of homosexuals, including the Association of Justice and Rights for all.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join trade unions; however, the Government imposed numerous restrictions. The law does not permit the creation of a union that includes both public and private sector workers, or the creation of a union that includes different, even closely related sectors.

The law requires that unions register with the Government, permitting groups of at least 20 workers to organize a union by submitting a constitution, internal regulations, and non-conviction certifications for each founding member. The law provides for prison sentences and fines for workers who form a union and carry out union activities without registration. Government officials said that it remits certification within 1 month of union application; however, in practice, independent unions, especially in the public sector, have found it difficult to register. In addition, the requirement for union registration contradicts ILO Convention 87, which states

that unions have the right to exist through declaration and without government recognition or registration.

Registered unions were subject to government interference. The Government chose the unions with which it would bargain; some independent unions accused the Government of creating small non-representative unions amenable to government positions and with which it could “negotiate” more easily. Some sections of labor law have no force or effect because the presidency had not issued implementing decrees.

The law prohibits anti-union discrimination, and employers guilty of such discrimination were subject to fines up to approximately \$1,600 (1 million CFA francs). However, employers found guilty were not required to compensate the workers against whom they discriminated or to reinstate fired workers. The Ministry of Labor did not report any complaints of such discrimination during the year, although there have been credible press reports of union leader harassment.

Unlike in the previous year, the Government did not arrest union leaders. There were no new developments in the 2003 arrest of railroad union president Benoit Essiga and his six colleagues.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining between workers and management as well as between labor federations and business associations in each sector of the economy, and formal collective bargaining negotiations took place during the year. There are no export processing zones.

When labor disputes arose, the Government chose the labor union with which it would negotiate, selectively excluding some labor representatives. Once agreements were negotiated, there was no mechanism to enforce implementation; some agreements between the Government and labor unions were then ignored by the Government.

On August 25, the Minister of Employment, Labor, and Social Insurance signed a collective bargaining agreement with the building constructions and public works sector. This agreement was the result of consultations between the employers’ association, worker unions, and the Government.

The Labor Code explicitly recognizes workers’ right to strike but only after mandatory arbitration, and workers exercised this right during the year. Arbitration decisions were not enforceable by law and could be overturned or simply ignored by the Government or employers. The provision of the law allowing persons to strike does not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants were required to negotiate grievances directly with the minister of the appropriate department in addition to the Minister of Labor.

The law provides for the protection of workers engaged in legal strikes and prohibits retribution against them, and in practice, these elements of the law were respected.

Since May 2003, workers of the National Agency for Support to Forestry Development began a strike, demanding salary payments 7 months in arrears. In November 2003, the strike was suspended but resumed on March 17. The 650 workers occupied the compound of the company, and occasionally erected roadblocks on the road leading to their working place. On May 5, the Government paid the 7 months of salary arrears, and at the same time terminated the contracts of all workers. An ad hoc committee was put in place to study the modalities for the payment of workers’ severance dues. The question of which workers, if any, would be hired back remained unresolved at year’s end.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, it occurred in practice. Authorities continued to allow prison inmates to be contracted out to private employers or used as communal labor for municipal public works.

There were isolated reports that slavery continued to be practiced in northern parts of the country (see Section 5). In the South and East Provinces, some Baka (Pygmies), including children, continued to be subjected to unfair and exploitative labor practices by landowners, and worked on the landowners’ farms during harvest seasons without payment (see Section 5).

The Government does not expressly prohibit forced and compulsory labor by children, and there were reports that these practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law generally protects children in the fields of labor and education and specifies penalties ranging from fines to imprisonment for infringement; however, child labor remained a problem.

The law sets a minimum age of 14 for child employment, bans night work, and enumerates tasks that children under the age of 18 cannot legally perform. These

tasks included moving heavy objects, dangerous and unhealthy tasks, working in confined areas, and prostitution. The law also states that a child's workday cannot exceed 8 hours. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. The prohibition against night work was not enforced effectively.

Information on child labor was difficult to obtain; however, according to a 2000 study by the ILO and Ministry of Labor, child labor existed chiefly in urban areas and in the informal sector such as street vending, car washing, agricultural work, and domestic service. Many urban street vendors were less than 14 years of age. An increasing number of children worked as household help, and some children were involved in prostitution. In the north, there were credible reports that children from needy homes were placed with other families to do household work for pay. In the nation's major cities of Yaounde, Douala, and Bamenda, the ILO estimated in 2000 that 40 percent of employed children were girls, of whom 7 percent were less than 12 years of age, and 60 percent had dropped out of primary school.

Parents viewed child labor as both a tradition and a rite of passage. Relatives often employed rural youth, especially girls, as domestic helpers, and these jobs seldom allowed time for the children to attend school. In rural areas, many children began work at an early age on family farms. The cocoa industry also employed child laborers.

The Government does not specifically prohibit forced and compulsory labor by children, and there were reports that it occurred in practice (see Section 5).

The Ministry of Social Affairs and the Ministry of Labor were responsible for enforcing existing child labor laws through site inspections of registered businesses; however, the Government did not allocate sufficient resources to support an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances were beyond a child's capacity. During the year, the Government employed 58 general labor inspectors to investigate child labor cases.

The ILO/West Africa Cocoa/Agriculture Program to eliminate child labor was launched in the country in June 2003. The program's stated objective was to remove 1,000 children from hazardous work in the cocoa sector over 2 years. According to the project coordinator, by December, more than 850 children had been removed from forced labor situations.

On June 12, the Government, the ILO, and other partners organized numerous activities to mark the World Day Against Child Labor, which specifically highlighted child domestic labor. Among the activities organized were a national media campaign and a soccer match to raise awareness of child labor and trafficking.

On October 22, the Minister of Labor signed an agreement with the ILO to allow the ILO to work more effectively to eradicate child labor. The agreement established specific contact persons in various ministries and agencies involved in antitrafficking activities; it also gave the ILO the possibility to freely conduct nationwide investigations and cooperate with local organizations of its choice.

*e. Acceptable Conditions of Work.*—Under the law, the Ministry of Labor was responsible for setting a single minimum wage nationally, applicable in all sectors. The minimum wage was approximately \$40 (23,514 CFA francs) per month. The wage did not provide for a decent standard of living for an average worker and family.

The law establishes a standard workweek of 40 hours in public and private non-agricultural firms and 48 hours in agricultural and related activities. The law mandates at least 24 consecutive hours of weekly rest.

The Government sets health and safety standards. Ministry of Labor inspectors and occupational health physicians were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program. There was no specific legislation permitting workers to extricate themselves from dangerous work situations without jeopardizing continued employment. Illegal foreign workers were not able to claim legal protections.

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## CAPE VERDE

Cape Verde is a multiparty parliamentary democracy in which constitutional powers are shared among the elected head of state, President Pedro Verona Rodrigues Pires, former President of the African Party for the Independence of Cape Verde (PAICV); the head of government, Prime Minister Jose Maria Neves; and Neves' party, the PAICV. In 2001, Pires was elected by a margin of 12 votes over the country's former prime minister and Movement for Democracy (MPD) president, Carlos

Veiga, in what the National Electoral Commission and international media judged to be free and fair elections. Nationwide municipal elections held in March also were considered to be free and fair. The judiciary generally was independent, but understaffed and inefficient.

Police have primary responsibility for maintaining law and order. Civilian authorities maintained effective control of the security forces. Some members of the security forces committed isolated human rights abuses.

The country had a market-based economy but little industry and few exploitable natural resources. Per capita income during the year was estimated at \$1,495. The country had a long history of economically driven emigration, and remittances from citizens abroad remained an important source of income. During the year, locusts and severe drought reduced agricultural production, and the country, which generally relied heavily on international food aid, produced food for only 15 percent of its population of approximately 460,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were occasional reports of police abuse, and prison conditions were poor. The judicial system was overburdened, and lengthy delays in trials were common. Unlike during the previous year, the Government did not restrict press freedom; however, there continued to be allegations of media self-censorship. Violence and discrimination against women and mistreatment of children were serious problems. Child labor occurred.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that police continued to beat persons in custody and in detention, despite government efforts to stop such practices.

The Government investigated allegations of human rights abuses by police; however, these investigations did not result in any legal action against the perpetrators.

Prison conditions were poor, and facilities were severely overcrowded. Sanitation and medical assistance were poor; however, a doctor and a nurse were available, and prisoners were taken to the public hospitals for serious problems. Psychological problems among prisoners were common.

Although women and men were held separately, juveniles were not held separately from adults, and pretrial detainees were not held separately from convicted prisoners.

The Government permitted both formal visits by international human rights monitors to prisons and visits to individual prisoners; however, there were no such visits during the year. Local nongovernmental organizations (NGOs) and media representatives frequently visited the prisons and reported on prison conditions.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The country's police force is organized nationally under the Ministry of Justice and is made up of the Public Order Police, which are responsible for enforcement, and the Judicial Police, which are responsible for investigations. Corruption was not a significant problem, and police were subject to legal and disciplinary measures in cases of misconduct. Logistical constraints, including lack of vehicles, limited communications equipment, and poor forensic capacity, limited police effectiveness.

The law stipulates that a suspect must be charged before a judge within 48 hours of arrest. Police may not make arrests without a court order unless a person is caught in the act of committing a felony. The courts had jurisdiction over state security cases, and there was a functioning bail system.

Judicial backlogs resulted in lengthy pretrial detentions, and detainees often remained in jail without charge for more than a year. The dropping of charges without a court judgment was a frequent means for terminating criminal cases.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary was understaffed and inefficient.

The judicial system is composed of the Supreme Court and the regional courts. Of the five Supreme Court judges, one is appointed by the President, one by the National Assembly, and three by the Superior Judiciary Council, which is composed of the President of the Supreme Court, the Attorney General, eight private citizens,

two judges, two prosecutors, the senior legal inspector of the Attorney General's office, and a representative of the Ministry of Justice. Judges were independent and could not belong to a political party.

The Constitution provides for the right to a fair trial. Defendants are presumed to be innocent; they have the right to a public, nonjury trial; to counsel; to present witnesses; and to appeal verdicts. Free counsel is provided for the indigent. Regional courts adjudicate minor disputes on the local level in rural areas. The Ministry of Justice does not have judicial powers, which are held by the courts. Defendants can appeal regional court decisions to the Supreme Court.

The judiciary generally provided due process; however, the right to an expeditious trial was constrained by a seriously overburdened and understaffed judicial system. A backlog of cases routinely led to trial delays of 6 months or more; more than 12,055 cases were pending at the end of 2003.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected freedom of speech; unlike in the previous year, there were no reports that the Government restricted freedom of the press. There was a substantial and growing independent press; however, there continued to be reports of media self-censorship. The Government did not restrict academic freedom.

There were three independent newspapers and one state-owned newspaper; six independent radio stations and one state-owned radio station; and one state-owned television station and two foreign-owned stations. Foreign broadcasts were permitted. Journalists were independent of government control and were not required to reveal their sources; however, journalists—particularly those associated with the government-controlled media—practiced self-censorship.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast; however, there were no reports that licenses were denied or revoked or that the Government refused to authorize broadcasts during the year.

The 2002 case, filed against an attorney who had accused a former Chief Justice of rigging the 2001 presidential election, remained under investigation at year's end.

The 2002 defamation case filed by the Government against the newspaper *A Semana* remained pending before the Supreme Court at year's end; the newspaper had published an article that criticized the judiciary.

Freedom of expression may or may not be used as a defense in cases involving defamation or offense to personal honor. Despite the broadly interpreted criminal libel laws, no independent media outlets reported direct pressure in their daily operations or business activities.

The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Catholic majority enjoyed a privileged status in national life. For example, the Government provided the Catholic Church with free television broadcast time for religious services and observed its holy days as official holidays.

To be recognized as legal entities by the Government, religious groups must register with the Ministry of Justice; however, failure to do so did not result in any restriction on religious belief or practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted ref-

ugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In 2001, Pedro Verona Rodrigues Pires, former president of the PAICV, was elected by a margin of 12 votes over the country's former Prime Minister and MPD president, Carlos Veiga. The MPD, the principal opposition party, held power from 1991 until 2001 after defeating the PAICV, which held power in a one-party state from independence in 1975 until 1991. The PAICV won the legislative elections in 2000 and has an absolute majority in the National Assembly. In March 21 municipal elections, the MPD increased its number of mayors from 7 to 9 out of 17 mayoral districts. The National Electoral Commission and the international media judged the 2000 legislative elections, the 2001 presidential elections, and the March municipal elections to be free and fair.

The Constitution provides for the separation of powers. Constitutional powers were shared among President Pires, Prime Minister Jose Maria Neves, and the PAICV party. Cabinet ministers were subject to confirmation by the President. Collectively they must retain the support of a parliamentary majority. The President could dismiss the Government with the approval of the political parties represented in the National Assembly and the Council of the Republic; the Council consisted of the President of the National Assembly, the Prime Minister, the President of the Constitutional Court, the Attorney General, the Ombudsman, the President of the Economic and Social Council, the former presidents, and five private citizens appointed by the President. The MPD and the Party of Democratic Convergence were the main opposition parties.

The Constitution provides for freedom of access to information without limitation, provided that privacy rights are respected; however, there were no requests for such information during the year, in part because few persons were aware of this right.

There were 11 women among the elected deputies in the 72-seat National Assembly and 4 women in the 17-member Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

There were three private human rights groups: The National Commission of the Rights of Man, the Ze Moniz Association, and the Alcides Barros Association.

The powers of the independent Ombudsman, who serves a 5-year term, were defined in July 2003; however, no Ombudsman had been elected by year's end.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status; however, the Government did not enforce these provisions effectively, and not all elements of society, particularly women and children, enjoyed full protection against discrimination. During the year, the Government amended the Penal Code to include sexual crimes and verbal and mental abuse towards women and children as punishable acts; however, because existing penalties were viewed as too severe, the Government reduced the penalties associated with physical and sexual abuse.

*Women.*—Domestic violence against women, including wife beating, was common. The Government and civil society encouraged women to report criminal offenses such as spousal abuse and rape, which was punishable by 2 to 13 years' imprisonment; however, longstanding social and cultural values inhibited victims from doing so. While there were mechanisms to deal with spousal abuse, in practice, these mechanisms neither ensured the punishment of all those responsible nor effectively prevented future violence. Nevertheless, reporting of such crimes to police continued to increase during the year, and violence against women was the subject of extensive public service media coverage in both government- and opposition-controlled media.

Women's organizations, like the Women Jurists' Association, continued to seek legislation to establish a special family court to address crimes of domestic violence and abuse; however, there was no such legislation by year's end. The revised Penal

Code protects certain rights of the victims of sexual, mental, and verbal abuse; however, it did not ensure compensation.

Despite constitutional prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. Although they often were paid less than men for comparable work, women were making inroads in various professions, especially in the private sector.

The Constitution prohibits discrimination against women in inheritance, family, and custody matters; however, women often were reluctant to seek redress of domestic disputes in the courts. The Organization of Cape Verdean Women alleged that there was discriminatory treatment in inheritance matters, despite laws that called for equal rights. For example, some women were pressured to sign judicial agreements detrimental to their statutory inheritance rights.

The Women Jurists' Association provided free legal assistance to women throughout the country suffering from discrimination, violence, and spousal abuse.

*Children.*—The Government remained committed to children's rights and welfare. The Government provided free, mandatory education for 6 years of primary school for all children, which normally covered children aged 6 to 12. Education was compulsory until age 11; however, secondary education was free only for children whose families had an annual income below approximately \$1,951 (160,000 Cape Verdean escudos). According to UNICEF, primary school attendance from 1996 to 2003 was approximately 98 percent. Attendance rates by boys and girls differed by less than 1 percent.

Students may be suspended from classes during pregnancy or nursing, and individual schools were responsible for enforcing the rule; however, unlike in the previous year, there were no reports of such suspensions.

Child abuse and mistreatment, sexual violence against children, and juvenile prostitution were problems, exacerbated by chronic poverty, large unplanned families, and traditionally high levels of emigration of adult men. The media reported cases of sexual abuse against children and adolescents. The inefficiencies of the judicial system made it difficult for government institutions to address the problem.

*Trafficking in Persons.*—The law prohibits trafficking in minor persons, and there were no reports that persons were trafficked to, from, or within the country. Sentences for trafficking in children ranged from 2 to 13 years' imprisonment.

*Persons with Disabilities.*—Although the Constitution mandates "special protection" for the aged and persons with disabilities, the Government did not require access to public buildings or services for persons with disabilities; however, there was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Several NGOs, including an association for the blind, were active.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution allows workers to form and join unions without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 22 percent of workers were unionized.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize, to operate without hindrance, and to sign collective work contracts; however, there has been very little collective bargaining, and there were no signed collective bargaining agreements during the year. There are no special laws or exemptions from regular labor laws in export processing zones.

Workers and management in the small private sector, as well as in the public sector, normally reached agreement through negotiations. Although there were no collective labor contracts, workers succeeded in negotiating important issues such as salary increases; however, as the country's largest employer, the Government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector.

The Constitution provides union members with the right to strike, but the Government at times limited this right. In the past, when workers attempted to strike, the Government invoked a "civil request" under which it had the power, in an emergency or if a strike threatened coverage of basic needs, to name a list of minimum services that a union must continue to provide during any strike. The Government continued to requisition workers to curtail strikes and to interpret essential services in the broadest terms. The Government took measures during the year to amend its legislation so that if parties disagreed on the minimum services to be provided during strikes, an independent body could resolve the dispute; however, the Government had not created an independent body to resolve such differences by year's end.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under the age of 16 from working at night, more than 7 hours per day, or in establishments where toxic products were produced; however, the Government rarely enforced the law, and child labor occurred. The legal minimum age for employment was 16 years, which was inconsistent with the age for completing educational requirements (see Section 5). The Ministries of Justice and Labor were responsible for enforcing child labor laws; however, such laws were seldom enforced.

*e. Acceptable Conditions of Work.*—There were no established minimum wage rates in the private sector. Large urban private employers linked their minimum wages to those paid to civil servants. For an entry-level worker, this wage is approximately \$146 (12,000 Cape Verdean escudos) per month. The majority of jobs paid wages that did not provide a worker and family with a decent standard of living; most workers relied on second jobs and extended family support.

The law provides for a maximum workweek for adults of 44 hours, prohibits excessive compulsory overtime, and requires that a premium be paid for work above the standard workweek. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours.

The Director General of Labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law; however, the Government did not enforce labor laws systematically, and much of the labor force did not enjoy their protection.

The Government has not set occupational health and safety standards; however, there is a general provision in the law that requires employers to provide a healthy and safe work environment. Few industries employed heavy or dangerous equipment, and work-related accidents were rare. There is no legal provision for workers to remove themselves from unsafe working conditions without jeopardizing their continued employment.

There are no provisions to protect illegal foreign workers.

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## CENTRAL AFRICAN REPUBLIC<sup>1</sup>

Under a suspended Constitution, the Government of the Central African Republic (CAR) is comprised of a strong executive branch and weak legislative and judicial branches. In March 2003, a 6-month rebellion culminated in a military coup led by former Armed Forces Chief of Staff General Francois Bozize, with the assistance of demobilized Chadian soldiers and the tacit involvement of active Chadian soldiers. The coup deposed then-President Ange-Felix Patasse, who had been re-elected in 1999. General Bozize declared himself President, suspended the Constitution, and dissolved the National Assembly. In 2003, he appointed a Prime Minister; appointed a transitional cabinet composed of members of all political parties, including the party of deposed President Patasse, and civil society; and established a National Transitional Council (CNT), a legislative body comprised of 96 representatives from civil society and all political parties. During the year, the Government repeatedly affirmed its commitment to reinstate democratic governance, and took a series of actions in preparation for national elections in 2005. On December 5, citizens approved by national referendum a new Constitution, which took effect in late December. During the year, pockets of lawlessness persisted in parts of the country, and the Government was significantly affected by insecurity and the threat of conflict. In April, the Government deployed 200 soldiers to fight banditry in the northern and northwest provinces, including Kemo and Ouham-Pende. The judiciary was subject to executive interference.

The National Police are under the direction of the Ministry of Interior and Public Security, while the military forces and the National Gendarmerie are under the jurisdiction of the Ministry of Defense; all share responsibility for internal security. Civilian authorities did not maintain effective control of the security forces. By mid-January, the Government had disbanded the Security Investigation Division (SERD), a military intelligence unit that operated as part of presidential security services, due to accusations that the SERD committed serious human rights abuses

<sup>1</sup>The American Embassy in Bangui temporarily suspended operations on November 2, 2002 in response to security concerns following a military coup.

during 2003. In December 2003, President Bozize signed an order dismissing a number of soldiers from the army because of indiscipline; the soldiers named reportedly were removed from army lists and sent home. As part of its efforts to protect citizens and safeguard property, the Government continued to support joint security operations in the capital conducted by the Armed Forces, the Central African Economic and Monetary Community (CEMAC) force, and French forces. In addition, BONUCA, a U.N. peace-building mission in the country, operated during the year. Members of the security forces committed numerous serious human rights abuses.

The economy, already extremely weak because of repeated political-military troubles and a cycle of coup attempts, was in a state of collapse, with approximately 60 percent of the population living at or below the poverty line. The economy was partially market based and partially government directed, and was dominated by subsistence agriculture. Approximately 80 percent of its 3.8 million citizens were farmers. Some international donors continued to suspend financial assistance during the year. Large-scale looting and vandalism in the wake of the coup devastated not only the state infrastructure and facilities but also the remaining economic and industrial activity of the country. The salary arrears owed to civilian employees and the military continued to impair the functioning of the Government and the ability of the State to enforce the rule of law. Misappropriation of public funds and corruption in the Government remained widespread. In addition, the large number of displaced persons continued to adversely affect economic productivity, especially in the agricultural sector, during the year. An estimated 13.5 percent HIV/AIDS prevalence rate for adults between the ages of 15 and 49 continued to place an increasing burden on the country's resources through rising medical expenditures, absenteeism from work, labor shortages resulting from morbidity and mortality, and training of replacement labor.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Citizens did not have the right to change their government peacefully during the year; however, the Government took some steps toward restoring democratic institutions. Security forces continued to commit extrajudicial and other unlawful killings, including government-tolerated executions of suspected bandits, and impunity remained a problem. Security forces continued to torture, beat, and otherwise abuse suspects and prisoners. Other abuses included harsh prison conditions, arbitrary arrest, prolonged detention without trial, and infringements on privacy. The Government restricted freedom of the press, although there were some improvements in respect for freedom of the press, and at times the Government restricted the freedoms of assembly and association. The Government restricted freedom of movement. Corruption was a widespread problem. Violence and discrimination against women, female genital mutilation (FGM), prostitution, trafficking in persons, discrimination against indigenous people (Pygmies), and child labor, including instances of forced child labor, continued to be problems. Societal violence also remained a problem.

The Government took significant steps to improve human rights during the year. In April and May, President Bozize authorized the creation of the Joint Independent Electoral Commission (CEMI) and appointed members—including several representatives of political parties and civil society—to supervise presidential and legislative elections. The Government ordered the arrest of some members of the security forces, including the head of the presidential security forces, for killings. The permanent military tribunal, which had been defunct for 8 years until President Bozize convened it in December 2003, considered cases of human rights abuses by security forces during the year. During the year, the Government decriminalized the country's press laws concerning defamation, and journalists reportedly no longer practiced self-censorship. The judiciary convicted many high-level officials for corruption. Members of civil society served on the CNT and actively participated in the drafting of the new Constitution.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings; however, security forces continued to commit executions and other extrajudicial killings with impunity throughout the year.

During the year, the special police Squad for the Repression of Banditry (OCRB) continued to arbitrarily execute suspected bandits without respecting the basic due process rights of the accused, and were responsible for other extrajudicial killings and deaths resulting from torturing. The OCRB committed such abuses with tacit government support and popular approval, partly because the OCRB's actions were

seen as an effective means of reducing crime. The Government did not prosecute OCRB members responsible for killings or other abuses committed during the year.

The presidential security forces also arbitrarily executed citizens during the year. For example, on September 6, Lieutenant Celestin Dogo, the head of the presidential security forces, tortured and executed two men, Alfred Mamadou and Appolinaire Marzanne. Their bodies were found on September 16 in Mpoko River, near Bangui. After the case was reported by the local media, Lt. Dogo was arrested, and President Bozize signed a decree dismissing him from the security forces. Lt. Dogo had not been tried by year's end.

During the year, there were credible reports that security forces committed other unlawful killings, some allegedly in connection with personal disputes or rivalries.

The Government arrested some members of security forces who allegedly killed persons during the year; however, by year's end, none had been convicted. Most cases were still under investigation.

There were no developments in the following killings in 2003, reportedly by security forces: The August killing of a student; the September killing of retired Gendarmerie Captain Joseph Koyanao; the September killing of a Nigerian trader; or the December executions of three boys in Haute Kotto.

No action was taken against the pro-Bozize combatants, including Chadian combatants, or the members of the security forces of then-President Patasse who killed civilians during and after the March 2003 coup.

No action was taken against pro-Bozize combatants responsible for killing three CEMAC peacekeepers in March 2003.

Civilians continued to take vigilante action against presumed thieves, poachers, and some persons believed to be Chadian combatants.

Mobs reportedly continued to kill and injure suspected sorcerers or witches during the year.

No action was taken against vigilantes responsible for killings committed in 2003.

During the year, there were reports that Chadian combatants killed civilians. There were some arrests of combatants but no information on the number of prosecutions. No additional information was available at year's end.

On April 17, security forces reportedly killed eight "Liberators," Chadian combatants who had helped the President seize power in 2003. Prior to the killings, the Chadian combatants had staged violent demonstrations, looted approximately 75 homes in a Bangui suburb, and demanded payment from President Bozize for their support during the rebellion that allowed him to depose former President Patasse. By year's end, no action had been taken against the members of security forces allegedly responsible for the killings. During the year, the President reportedly paid each Liberator \$1,000 (504,000 CFA francs) before they ostensibly returned to Chad.

By year's end, no action had been taken against Movement for the Liberation of Congo (MLC) troops from the Democratic Republic of the Congo (DRC) who committed numerous killings of civilians prior to the March 2003 coup.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year. The Government did not conduct investigations into the reported disappearances that occurred in 2003.

Security forces succeeded in freeing some of the cattle herders' children kidnapped by cattle raiders in 2003. It was unknown how many were released.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—

The Penal Code prohibits torture and specifies sanctions for those found guilty of physical abuse; however, there was at least one instance of torture by the presidential security forces that resulted in death (see Section 1.a.), and police, including the OCRB, continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners. During the year, the Government did not take effective action to punish police who tortured suspects, and impunity remained a problem. Family members of victims and human rights groups, including the Human Rights League (HRL) Executive Committee, pursued court complaints filed in previous years with the prosecutor regarding the deaths of several prisoners due to police abuse; however, authorities did not take action on any of the cases by year's end. During the year, the HRL reported the abuse of civilians by the presidential security forces but did not file any court complaints of police abuse.

Police beat persons while forcibly dispersing demonstrators (see Section 2.b.).

On January 2, a member of the presidential guard fired into a crowd greeting Monique Bozize, the President's wife, and four persons were wounded.

Members of the armed forces often committed other abuses against civilians, including armed robbery and racketeering. During the year, although there was an increase in the number of prosecutions of security forces for human rights viola-

tions, no action generally was taken against soldiers involved in robbery or racketeering.

On July 30, two members of the presidential guard harassed the son of the CNT President. On August 3, the CNT issued a press release alleging that President Bozize's security forces had committed numerous human rights violations.

In January, the permanent military tribunal sentenced five former presidential guards to 5 years' imprisonment for the October 2003 gang-rape of a woman.

On August 31, a military tribunal sentenced Benime Elvis, a member of the security forces, to 5 years' imprisonment for raping a 16-year-old girl during the year.

There were no developments in the alleged August 2003 rape of a woman at Camp Beal in Bangui by a member of the military.

During the year, rebels and mercenaries from Chad continued to harass civilians, mostly in the countryside. There were reports that the rebels and mercenaries would block the road and steal everything from travelers; travelers without money were sometimes beaten.

During the year, no actions were taken against soldiers loyal to the former Patasse government or pro-Bozize fighters who committed serious violations of human rights and humanitarian law, including widespread looting; rape; abductions resulting in disappearances; inhumane, cruel, and degrading treatment; and the recruitment and use of children as soldiers prior to and during the March 2003 coup.

No actions were taken against pro-Patasse MLC troops who reportedly committed numerous abuses of civilians, including torture, rape, and harassment during 2003.

Prison conditions were extremely harsh. Prison cells were overcrowded, and basic necessities, including food, clothing, and medicine, were in short supply and often were confiscated by prison officials for their personal use. There were reports that guards tortured prisoners and that female inmates were raped. Prisoners depended on family members to supplement inadequate prison meals and were sometimes allowed to forage for food in areas near the prison. Prisoners frequently were forced to perform uncompensated labor at the residences of government officials and magistrates. Prison conditions outside of Bangui were generally worse, and most of these prisons were completely destroyed during the 2003 fighting.

Male and female prisoners were held in separate facilities in Bangui but housed together elsewhere. There were no separate detention facilities for juvenile prisoners, who routinely were housed with adults and often subjected to physical abuse. Pre-trial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by human rights observers. The International Committee for the Red Cross (ICRC) and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC had unrestricted access to prisoners. In January, the national anti-HIV/AIDS organization conducted HIV/AIDS awareness campaigns among prisoners in Bangui police jails.

*d. Arbitrary Arrest or Detention.*—The law provides protection against arbitrary arrest and detention and accords the right to a judicial determination of the legality of detention; however, the security forces frequently ignored such provisions, and arbitrary arrest and detention were problems.

Police were not effective, partly as a result of salary arrears owed by the Government and a lack of resources. Many citizens lacked faith in the police; consequently, mob violence against persons suspected of theft and other offences remained a problem (see Section 1.a.). The Government did not take effective action to punish abusers, and impunity remained a problem. During the year, the Central African Human Rights League (LCDH) sharply criticized the police and other security forces, and it accused the security forces of terrorizing the population, killing civilians, and committing armed robbery.

Judicial warrants are not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be brought before a magistrate within 96 hours. In practice, authorities often did not respect this deadline, in part due to inefficient judicial procedures. By law, national security detainees are defined as "those held for crimes against the security of the state" and may be held without charge for up to 2 months; however, in practice, persons were held without charge for long periods. The law allows detainees to have access to their family and to legal counsel; however, in cases involving state security, the Government prohibited detainees from consulting legal counsel, pending an investigation. Indigent detainees may request a lawyer provided by the Government. Detainees are allowed to post bail or have family members post bail for them. Lawyers and families generally had free access to detainees.

Security forces arbitrarily arrested and detained persons during the year. For example, on July 26, security forces arrested Dr. Joseph Kalite, a former Health Min-

ister under former President Patasse, on charges of illegal possession of war arms; at year's end, he remained in prison.

Security forces arrested journalists and demonstrators during the year (see Sections 2.a. and 2.b.).

During the year, a criminal court dropped all charges against Colonel Danzoumi Yalo for lack of evidence. Yalo, who was arrested in December 2003 for allegedly planning a coup, had resumed duty in the army by year's end.

In December, the Criminal Court discharged General Ferdinand Bomayeke, the former chief of the Presidential guard, of charges that he committed killings and other abuses in 2003; however, for unknown reasons, the prosecutor continued to keep Bomayeke in prison, reportedly for political reasons, and he had not been released by year's end.

Prolonged pretrial detention was a serious problem; however, the number of pretrial detainees was unknown at year's end. Detainees were usually informed of the charges levied against them; however, many waited in prison for several months before seeing a judge. Some detainees remained in prison for years because of lost files and bureaucratic obstacles.

On March 15, President Bozize pardoned all prisoners convicted of misdemeanor offenses. It was unclear how many prisoners benefited from the pardon.

*e. Denial of Fair Public Trial.*—The suspended Constitution provides for an independent judiciary; however, the judiciary remained subject to executive interference. Judges are appointed by the President. The courts barely functioned due to inefficient administration of the courts, a shortage of trained personnel, growing salary arrears, and a lack of material resources.

The judiciary consists of a tribunal of first instance, the court of appeal, the cassation court, the High Court of Justice, commercial and administrative courts, a military court, and the Constitutional Court. The highest court is the Constitutional Court, which determines whether laws passed by the National Assembly conform to the Constitution. The Constitutional Court also receives appeals challenging the constitutionality of a law. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. Military courts try only soldiers, not civilians.

In general trial procedures, if the prosecutor believes there is sufficient evidence that an offense has occurred and that the accused committed it, he places the accused under an arrest warrant. If there is insufficient evidence, the case is dropped. Trials are held publicly, and defendants have the right to be present and to consult a public defender. Defendants also have the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence relevant to their case. Defendants are presumed innocent until proven guilty, and if convicted, defendants have the right to appeal. The Government generally complied with these legal requirements; however, the judiciary did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. A number of persons were subjected to prolonged detention without trial or were killed summarily and extrajudicially (see Section 1.a.).

During the year, many cases remained pending before the Criminal Court.

On December 7, a Bangui court of appeals acquitted former Prime Minister Jean-Edouard Koyambounou of corruption. Koyambounou, who had served under former President Patasse, had been detained for 16 months at the Ngaragba Prison on charges of embezzling public funds.

Due to judicial inefficiency, citizens in a number of cities established their own courts to deal with cases through parallel justice, especially in cases of suspected witchcraft.

Bozize convened the permanent military tribunal in December 2003 following an 8-year suspension under former President Patasse. Throughout the year, the tribunal considered cases on a variety of alleged human rights abuses, including extrajudicial killings, rape, and armed robbery (see Section 1.c.).

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits invasion of homes without a warrant in civil and criminal cases; however, on occasion, police used provisions of the Penal Code governing certain political and security cases that allow them to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes. For example, on July 28, security forces searched the house of Jean-Michel Mandaba, Secretary General of former President Patasse's MLPC political party, for guns and ammunition. Security forces entered his home without a warrant and later arrested him. He was released 3 weeks later.

No actions were taken against security forces under former President Patasse or pro-Bozize combatants who illegally entered, searched, and looted homes during the March 2003 coup.

Unlike in the previous year, there were no reports that security forces carried out warrantless searches of entire neighborhoods and seized vehicles, electronic goods, and other items for which residents could not produce sales receipts.

The Government continued to engage in wiretapping without judicial authority.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and the Press.*—The suspended Constitution provides for freedom of speech and of the press; however, the Government continued to restrict the freedom of the press, particularly the freedom of the print media to criticize the Government. During the year, local media observers said there had been greater press freedom since President Bozize had taken power. The Government did not restrict academic freedom.

Individuals could criticize the Government publicly without reprisal; however, the Government reportedly attempted to discourage meetings by the political opposition during the year.

Throughout the year, more than a dozen private newspapers were published at varying intervals and often criticized the President, the Government's economic policies, and official corruption. President Bozize helped fund but did not control any newspapers.

Radio was the most important medium of mass communication because the literacy rate was low, and newspapers and television were relatively expensive and rarely found outside urban areas. The Government continued to dominate domestic broadcast media. The Government owned and operated a radio station and a television station. The activities of the President and other senior government officials dominated programming.

Africa Number One, a private radio station in Bangui, broadcast national news coverage. Radio Notre Dame, which was owned and operated by the Catholic Church, broadcast national news, debates, legal counseling, and human rights education. The private radio station Radio N'Deke Luka broadcast domestically produced national news and political commentary and rebroadcast international news throughout the country, with assistance from foreign governments and the U.N. Radio-France Internationale (RFI) also broadcast domestically; its programming included some national news coverage by a correspondent based in the country.

The Government continued to monopolize domestic television broadcasting. The state-owned Television Centrafricaine provided little coverage of the political opposition. The High Council of Communication was responsible for authorizing private television as well as radio stations but received no applications to establish a private television station.

During the year, security forces arrested, detained, threatened, or otherwise harassed some journalists. For example, on February 26, security forces arrested Jude Zosse, editor of the private newspaper *L'Hirondelle*. Zosse was charged with "insulting the head of state," after the newspaper reproduced an article that alleged that President Bozize was collecting public funds at his residence for personal use. Newspapers in Bangui suspended publication in protest of his detention. Zosse was later sentenced to 6 months in prison and ordered to pay a fine of approximately \$400 (202,200 CFA francs). He was released from N'Garagba prison on May 14 under a presidential pardon.

The law criminalizes offenses committed by members of the media, and some journalists and editors were imprisoned during the year. For example, on July 8, police arrested and detained Maka Gbossoko, editor of the private newspaper *Le Citoyen*, and charged him with libel for writing a series of articles alleging that Jean-Serge Wafio mismanaged the parastatal electric company ENERCA. The Prosecutor General subsequently threatened to take strict legal actions against any newspaper that did not "abide by the ethics of journalism." Colleagues tried to organize a sit-in to protest Gbossoko's arrest but were denied permission (see Section 2.b.). On August 9, a court reportedly sentenced Gbossoko to a 1-year suspended prison sentence and a \$1,000 (502,300 CFA francs) fine. An appeal was pending at year's end.

By year's end, Michel Ngokpele, publication director of the privately-owned newspaper *Le Quotidien de Bangui*, had been released after being imprisoned on charges of defamation.

In December, the CNT decriminalized the country's press laws. Under the revised law, no journalist can be imprisoned for defaming a third party in a published story; instead, a right of reply or compensation must be accorded to the plaintiff. However, the law still provides for terms of imprisonment for journalists who incite persons to hatred or violence through publication in a newspaper or a broadcast.

The Government did not limit access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The suspended Constitution provides for the right of assembly; however, the Government at times restricted this right. Organizers of demonstrations and public meetings were required to register with the Government 48 hours in advance, and political meetings in schools or churches were prohibited. The Government wanted any association to write a letter to the Ministry of Interior and get the Ministry's approval prior to holding any meeting. In many cases, when associations asked for such approval, the Ministry refused "for security reasons."

On August 2, Colonel Jules-Bernard Ouande, Deputy Minister for Territorial Administration, rejected a request from the Association of CAR Journalists to organize a sit-in to demand the release of detained journalist Maka Gbossoko (see Section 2.a.). The Deputy Minister claimed that the request had reached his office too late for consideration. On August 4, policemen equipped with riot gear were stationed where the sit-in was expected to take place.

Police beat demonstrators and forcibly dispersed several demonstrations during the year by university students and professors protesting the nonpayment of scholarships and salaries by the Government. Demonstrators generally were detained for a few hours or days; there were no demonstrators in detention at year's end. Security forces killed eight protestors in April (see Section 1.a.).

No action was taken against members of the security forces responsible for the use of excessive force to disperse demonstrations in 2003 or 2002.

The suspended Constitution provides for freedom of association; however, the Government generally respected this right in practice during the year. Several additional political parties and nongovernmental organizations (NGOs) were created during the year. All associations, including political parties, must register with the Ministry of Interior to enjoy legal status. The Government usually granted registration expeditiously. A variety of associations registered with the Government following a 3-month background investigation; there were 43 registered political parties and a variety of nonpolitical associations. The Government normally allowed them to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism.

The law prohibiting nonpolitical organizations from coalescing for political purposes remained in place; however, there were no reports that this law was enforced during the year.

*c. Freedom of Religion.*—The suspended Constitution provides for freedom of religion but establishes fixed legal conditions and prohibits what the Government considers religious fundamentalism or intolerance; at times, the Government limited this right in practice. Unlike in the previous year, the Government did not close any churches during the year, and by year's end, each of the 34 churches closed by the Government in 2003 had reopened. The constitutional provision prohibiting religious fundamentalism was understood widely to be aimed at Muslims, who make up approximately 15 percent of the population.

Religious groups (except for traditional indigenous religious groups) were required by law to register with the Ministry of Interior. The Ministry's administrative police kept track of groups that failed to register; however, the police did not attempt to impose any penalty on such groups. The Ministry could decline to register, suspend the operations of, or ban any organization that it deemed offensive to public morals or likely to disturb the peace. Any religious or nonreligious group that the Government considered subversive was subject to sanctions. The Ministry of Interior also could intervene to resolve internal conflicts about property, finances, or leadership within religious groups. However, the Government imposed no new sanctions on any religious group during the year.

According to the Ministry of Territorial Administration, several of the churches whose activities were suspended by the Government in September 2003 had fulfilled government requirements and reopened; however, some remained closed at year's end. To resume their activities, religious institutions must prove that they have a minimum of 1,000 members; the reverends must bring evidence that they graduated from the highest religious schools and fulfilled official requirements on church creation. This decree was reportedly intended to regulate the proliferation of places of worship.

In general, there was religious tolerance among members of different religious groups during the year; however, there were occasional reports that some villagers who were believed to be witches were harassed, beaten, or sometimes killed by neighbors.

No action was taken against rebels who looted churches and killed two priests, or bandits and rebels who attacked, robbed, and injured missionaries and Muslims during 2003.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The suspended Constitution provides for the right to move freely throughout the country; however, the Government restricted this right during the year. Police, security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or “taxes” at checkpoints along major intercity roads and at major intersections in Bangui. On July 12, taxi and bus drivers went on strike to protest against harassment they experienced at police and military checkpoints. Attacks by bandits on major routes to the north and east sometimes occurred and impeded freedom of movement during the year.

By year’s end, the country’s border with the DRC was partially re-opened at the crossing to Zongo, in the DRC. Although Bozize ordered the border closed in September 2003, some unofficial trade continued at various points along the border during the year.

With the exception of diplomats, the Government required that all foreigners obtain an exit visa from the headquarters of the National Police. Travelers intending to exit the country could be required to obtain affidavits to prove that they owed no money to the Government or to parastatal companies.

The suspended Constitution does not permit the use of exile, and the Government did not employ it in practice. Former President Patasse remained in self-imposed exile during the year.

During the year, the Government facilitated the repatriation of some CAR refugees from neighboring countries. At year’s end, there were an estimated 27,000 CAR refugees in Chad. According to a U.N. High Commission for Refugees (UNHCR) official, on March 20, approximately 200 CAR refugees, who had been living in the Republic of Congo (ROC) since 2001, voluntarily returned home. The returnees were reportedly the last of the CAR refugees who had been living in the ROC.

During the year, there continued to be large numbers of persons who were internally displaced by the 2003 coup and the continuing instability. By June, between 230,000 and 300,000 internally displaced persons (IDPs) remained in the country, although there were reports that many IDPs were returning to their homes in the second half of the year.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to countries where they feared persecution, and granted refugee and asylum status. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. The Government continued to cooperate with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Applicants for asylum often were accepted.

Almost all refugees were registered with the National Commission for Refugees. According to the UNHCR, by year’s end, the country was hosting approximately 30,000 refugees from Sudan and 10,000 from the DRC. Approximately 2,200 refugees from the DRC had repatriated from CAR by year’s end in a UNHCR-sponsored facilitated return effort that began in October. Other refugees in the country were from Angola, Burundi, Liberia, and Uganda.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

The suspended Constitution provides citizens with the right to change their government; however, in practice, citizens did not have this right following the March 2003 coup. Presidential and legislative elections were scheduled to take place in February 2005, and by year’s end, several candidates had declared their intention to run for the presidency.

President Patasse’s MLPC won both the Presidency and half of the seats in the National Assembly in the 1998 and 1999 elections. International observers deemed both elections generally free; however, the presidential elections were marred by irregularities in voter registration and distribution of electoral materials. The Government strongly influenced the electoral process.

After seizing power in March 2003, General Bozize declared himself President, suspended the Constitution, and dissolved the National Assembly. After ruling by decree for a short period, President Bozize established new government institutions

and governed by two constitutional acts. In December 2003, President Bozize dismissed Prime Minister Abel Goumba and the transitional government and subsequently appointed Celestin Leroy Gaombalet, a civilian, as Prime Minister and head of a new transitional Government.

In April and May, President Bozize created the CEMI and appointed its members, who were charged with supervising preparations for presidential and parliamentary elections. The members included 10 representatives of political parties, 10 from civil society, and 10 from the administration. On June 28, the CNT adopted a draft constitution, and it revised the electoral code in anticipation of presidential and legislative elections in 2005.

On September 3 and 4, President Bozize dismissed his Cabinet and named a new team of ministers. Bozize retained most ministers from the previous Cabinet, including Prime Minister Celestin Leroy Gaombalet, and reduced the number of cabinet ministers from 28 to 24, reportedly for budgetary reasons. The U.N. Special Representative said the change was a technical adjustment that would streamline the Government and noted that political parties were still represented in the Government.

In October, the Government completed a national electoral census and voter registration drive, which reportedly included special efforts to involve minority populations, including the Batwa, or Pygmies. On December 5, citizens approved by national referendum a new Constitution, which went into effect in late December. Approximately 77 percent of eligible voters reportedly participated in the referendum, which experienced some organizational problems, including polling centers that did not open on time, omission of names from voters' lists, and confusion over the duration of the voting. The Constitution, which was reportedly approved by 90 percent of referendum participants, is similar to the previous one that President Bozize suspended upon seizing power in 2003. It provides for a multi-party state, a presidential term that is renewable only once, and the appointment of the Prime Minister from the political party with a parliamentary majority; however, in contrast to the previous constitution, it grants the Prime Minister greater powers and shortens the presidential term from 6 years to 5.

There were no reports that the Government prevented parties from operating freely during the year. However, on December 30, the Constitutional Court in Bangui cleared only 5 of 15 candidates to contest the Presidency. Among the candidates approved to run in 2005 were President Bozize (running as an independent candidate), former President Andre Kolngba, and Vice-President Abel Goumba. Among those whom the Court did not approve as candidates for President were former President Patasse, his former Prime Minister Martin Ziguéle, and former Prime Minister Charles Massi. The Court, which disqualified all candidates from the former ruling party, indicated that some candidates had been blocked from running for failing to deposit the required \$10,000 (5 million CFA francs), for not owning land or homes in the towns in which they resided, or for discrepancies in the documents they presented the electoral commission. Former President Patasse was banned from running on the grounds that he remained under criminal investigation. Several parties and local and international groups had widely criticized the Court's decision, and one member of the CNT called for the Court to be dissolved.

The state remained highly centralized. The President appointed all subnational government officials—which ran the country's 16 prefectures and 60 subprefectures—and subnational government entities had no significant fiscal autonomy. Provisions in the suspended Constitution provide for municipal elections; however, by year's end, they had not been held. The country's towns continued to be led by mayors appointed by the President.

During the year, misappropriation of public funds and corruption in the Government remained widespread. The Government took a few steps to combat corruption. The Criminal Court convicted some high-level officials during the year. For example, the Bangui criminal court indicted former President Patasse in absentia on charges of corruption, treason, and rape; the trial had not started by year's end. The Bozize Government said corruption and embezzlement under the Patasse administration had resulted in the former government's failure to pay salaries for at least 30 months.

In January, the Government established an armed protection unit, the Mixed Brigade of Intervention and Verification, to prevent the exploitation of forests and fiscal fraud in the country.

The law does not provide for public access to government information, and the Government was often unable or unwilling to provide information.

During the year, there were 6 women serving in the 96-member CNT. One woman, appointed by the President, served as governor of Ombella M'poko Province, in which Bangui is located.

Members of northern ethnic groups, especially President Bozize's Baya ethnic group, continued to predominate among the National Army. There were Muslims in the Cabinet and in the CNT. Pygmies (Batwa or Ba'Aka), the indigenous inhabitants of the southern part of the country, represented between 1 and 2 percent of the population; they were not represented in the Government and continued to have little political power or influence (see Section 5).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat responsive to their views. Several NGOs, including the Movement for the Defense of Human Rights and Humanitarian Action, the Human Rights Observatory, and some religious groups actively monitored human rights problems. The LCDH publicized human rights violations, including those allegedly committed by the army, and pleaded individual cases of human rights abuses before the courts.

Several members of NGOs served on the CNT, and Nicholas Tiangaye, the former president of the Central African Human Rights League, served as the CNT's president. In addition, the Government consulted NGOs during the drafting of the new Constitution, to which NGOs actively contributed.

During the year, approximately 200 NGOs established a team to coordinate all activities undertaken by their organizations.

During the year, human rights organizations and some political parties called for the repatriation of the armed Chadian forces and for the trial of those accused of crimes. In May, approximately 300 Chadian soldiers, who assisted Bozize in the March 2003 coup, reportedly were repatriated.

International human rights NGOs and international organizations operated in the country during the year without interference. In November, Amnesty International released a report documenting systematic and widespread rape, mostly in and around Bangui, committed with impunity by pro-Bozize combatants, government forces, and pro-Patasse rebels from the DRC during the 5-month rebellion that culminated in the 2003 coup. Girls and women between the ages of 8 and 60 were raped, some died as a result, and in some cases children were forced to have sex with their mothers or other relatives. According to the report, the MLC rebels from the DRC used rape to punish women for allegedly assisting the Bozize-led combatants. The report recommended that the Government institute an independent investigation into the abuses and seek the assistance of the Government of the DRC.

In December, a report by U.N. Secretary General Kofi Annan to the U.N. Security Council noted that in the second half of the year, the country's situation was "gradually improving in spite of well known shortcomings in the areas of governance and human rights." The report, which drew on information gathered by BONUCA, also noted that during the second half of the year, there were several registered cases of human rights abuses, including summary executions, highway robberies of civilians, abusive arrests, threats, and acts of harassment. The report stated that most abuses were committed by members of the security forces and that when perpetrators were identified, they were punished by the military hierarchy or "brought to justice."

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The suspended Constitution stipulates that all persons are equal before the law without regard to wealth, race, or sex; however, the Government did not enforce these provisions effectively, and significant discrimination existed.

*Women.*—Domestic violence against women, including wife beating, reportedly was common; however, inadequate data made it impossible to quantify. Spousal abuse was considered a civil matter unless the injury was severe. Victims seldom reported incidents. The courts tried very few cases of spousal abuse, although litigants cited these abuses during divorce trials and civil suits. Some women reportedly tolerated abuse to retain a measure of financial security for themselves and their children. The Government did not address this problem during the year.

The law prohibits rape; however, it does not specifically prohibit spousal rape. Police sometimes arrested men on charges of rape; however, the social stigma induced many families to avoid formal court action. During the year, there were fewer reports that security forces and rebels raped women (see Sections 1.c. and 4).

The law prohibits FGM; however, girls continued to be subjected to this traditional practice in certain rural areas, and to a lesser degree in Bangui. According to the World Health Organization, FGM affected more than 40 percent of girls. In

addition, according to a study published jointly by UNICEF and the Government in 2001, approximately 36 percent of adult females had undergone FGM.

The law prohibits prostitution; however, prostitution existed, and some young girls engaged in it for economic reasons.

Trafficking in persons was a problem (see Section 5, Trafficking).

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, including those with children, were not considered to be heads of households. Only men were entitled to family subsidies from the Government. Women in rural areas generally suffered more discrimination than women in urban areas. There were no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at higher levels in their professions or in government service, was limited.

Polygyny is legal, although this practice faced growing resistance among educated women. The law authorizes a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives. In practice, many couples never married formally because men could not afford the traditional bride payment. Women who were educated and financially independent tended to seek monogamous marriages. Divorce is legal and can be initiated by either partner.

The law does not discriminate against women in inheritance and property rights, but a number of discriminatory customary laws often prevailed. A family code further strengthened women's rights, particularly in the courts.

The Association of Central African Women Lawyers advised women of their legal rights. The organization also published pamphlets in conjunction with the Ministry of Social Affairs on the dangers of FGM. During the year, several active women's groups organized workshops and seminars to promote women's and children's rights and to participate fully in the political process. On March 8, a coalition of women presented President Bozize with a memorandum calling for more concrete actions to enhance women's rights. The petitioners called for more political representation, equal justice, enhanced work and educational opportunities, and eradication of violence and discrimination targeting women.

*Children.*—The Government spent little money on programs for children. Churches and NGOs had relatively few programs for youths. The failure of the education system, caused by a meager budget and salary arrears, resulted in a shortage of teachers and an increase in the number of street children. Education is compulsory from ages 6 to 14; however, parents rarely were prosecuted for their children's non-attendance. In practice, the age that a child started school often varied by 2 to 3 years in rural areas. At the primary level, girls and boys enjoyed equal access to education; however, the majority of young women dropped out at age 14 or 15 due to societal pressure to marry and bear children. According to UNICEF, 39 percent of girls of primary school age were enrolled in school, compared with 47 percent of boys. In addition, 35 percent of the country's women were literate compared with 60 percent of men. School enrollment in urban areas generally was significantly higher than in rural areas.

On April 26, the Government endorsed an "Education for All" national action plan, aimed at providing qualitative education for all citizens. The action plan aimed to provide a qualitative primary education for all boys and girls, enhance access to basic education for adults, and expand education on citizenship, peace, and the fight against HIV/AIDS and other sexually transmitted diseases.

During the year, following a strike by students at the University of Bangui, the Government partially paid the students' scholarship arrears.

The Government did not provide medical coverage for uninsured children. However, during the year, the Government continued to conduct a national antipolio immunization campaign intended to reach at least 650,000 children under 5 years of age. According to government statistics, infant mortality rose from 97 deaths per 1,000 births in 1995 to 130 deaths per 1,000 births in 2000. In July, in response to the deteriorating healthcare situation, the Government began working with U.N. agencies to implement a plan to reduce maternal and infant mortality by 2015.

According to numerous credible reports, male teachers in primary and secondary schools as well as at the university level routinely pressured their female students into having sexual relationships in exchange for passing grades; the spread of HIV/AIDS was extremely prevalent between teachers and their female students.

The Penal Code forbids parental abuse of children under the age of 15 years. In addition, illegitimate children had the same rights as those born in wedlock. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year.

FGM was performed primarily on young girls (see Section 5, Women).

Trafficking of children and child prostitution were problems (see Section 5, Trafficking).

There were no reports of child soldiers in the ranks of the armed forces. Those recruited by persons loyal to former President Patasse in 2003 were limited in number, and there were no further reports that children were in the military.

Child labor was a problem (see Section 6.d.).

There were approximately 5,000 street children between the ages of 5 and 18 residing in Bangui. Many children begged and stole; several charitable organizations provided them with humanitarian assistance.

There were several NGOs specifically promoting children's rights, including some which dealt with street children.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that persons, particularly children, were trafficked. Child prostitution remained a problem. The Government has recognized that trafficking in persons occurred; however, statistics and specific examples of trafficking were not available.

Traffickers can be prosecuted under laws against slavery, Labor Code violations, mandatory school age laws, and laws against the exploitation of prostitution by means of coercion or fraud. Specific laws that address the crime of prostitution have been used to punish those who trafficked women for the purposes of prostitution.

During the year, the Government did not actively investigate cases of trafficking, nor did it use or have access to special investigative techniques in trafficking investigations. A government-established commission continued to study the extent of the trafficking problem, identified those responsible, and devised a plan to combat the problem; however, few resources have been devoted to the problem. The Ministries of Social Affairs, Interior, Labor, Rural Development, Justice, and Defense were involved in antitrafficking efforts and were part of the commission.

Trafficking was confined primarily to children who were brought in by the foreign Muslim community from Nigeria, Sudan, and Chad to be used as domestic servants, shop helpers, and agricultural workers. Merchants, herders, and other foreigners doing business in and transiting the country also brought girls and boys into the country. Such children, who may or may not be related to their caretakers, were not afforded the benefit of a formal education, despite the mandatory school age, and worked without remuneration for their labor. There were a few anecdotal reports of children being trafficked to Nigeria and several other nearby countries for use as agricultural workers. There was no evidence of sexual exploitation, but there were reports that children were publicly beaten.

Some girls entered prostitution to earn money for their families.

There were no known NGOs specifically working to combat trafficking.

*Persons with Disabilities.*—There was no codified or societal discrimination against persons with disabilities; however, there were no legislated or mandated accessibility provisions for persons with disabilities. Approximately 10 percent of the country's population had disabilities, mostly due to polio. There were several government- and NGO-initiated programs designed to assist persons with disabilities, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Social Services.

The Ministry of Social Affairs worked with Handicap International during the year to provide treatment, surgeons, and prostheses to persons with disabilities. For example, in February, a \$24,660 (12.7 million CFA francs) physiotherapy center for persons with disabilities was inaugurated in Dekoa, 160 miles northeast of Bangui.

*National/Racial/Ethnic Minorities.*—The population included approximately eight ethnic groups; many of these groups spoke distinct primary languages and were concentrated regionally outside urban areas. The largest ethnic groups were the Baya (33 percent), the Banda (27 percent), the Mandja (13 percent), and the Sara (10 percent). The Mbororo comprised approximately 7 percent of the population but played a preponderant role in the economy; they were involved in mining development and remained the most important cattle breeders in the country.

Major political parties tended to have readily identifiable ethnic or ethnic-regional bases.

Thousands of Chadians have been residing in the country for generations, and many have acquired citizenship. Since a failed coup attempt in 2001, when General Bozize fled to Chad with part of the national army, tensions have remained between the Chadian community and those who considered themselves to be native to the country.

*Indigenous People.*—Despite constitutional protection, there was societal discrimination against Pygmies (Batwa or Ba'Aka), the earliest known inhabitants of the

rain forest in the southern part of the country. Pygmies comprised approximately 1 to 2 percent of the country's population. In general, Pygmies had little input in decisions affecting their lands, culture, traditions, and the allocation of natural resources. Indigenous forest-dwelling Pygmies, in particular, were subject to social and economic discrimination and exploitation, which the Government has done little to prevent. However, the Government continued to issue birth certificates to Pygmies, thereby effectively recognizing them as citizens and allowing them access to greater civil rights.

Pygmies, including children, often were coerced into agricultural, domestic, and other types of labor within the country. Pygmies often were considered to be the slaves of other local ethnic groups, and they were subjected to wages far below those prescribed by the labor code, and lower than those paid to members of other groups.

During the year, international NGO International Cooperation began work on a project to promote the rights of Pygmies, monitor discrimination, and gain access to public services through the obtainment of birth certificates. Refugees International released a report in 2003 on Pygmies, stating that Pygmies occupied the role of "second-class citizens." The report noted that the popular perception of Pygmies as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

*Other Societal Abuses and Discrimination.*—The penal code criminalizes homosexual behavior; however, there were no reports that police arrested or detained persons they believed to be homosexual. Societal discrimination against homosexuals existed during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the Labor Code, all workers are free to form or join unions without prior authorization, and a relatively small part of the workforce, primarily wage earners such as civil servants, exercised this right. Police forces and judges are allowed to form unions; however, security forces, including the military and gendarmes, are prohibited from forming unions and striking.

A person who loses the status of worker, either through unemployed or retirement, cannot in principle belong to a trade union or participate in its administration. The Labor Code requires that union officials be full-time wage-earning employees in their occupation, and that they may conduct union business during working hours provided the employer is informed 48 hours in advance and provides authorization.

The law expressly forbids discrimination against employees on the basis of union membership or union activity; however, there were reports of anti-union discrimination during the year. Employees can have their cases heard in the Labor Court. The Labor Code does not state whether employers found guilty of anti-union discrimination were required to reinstate workers fired for union activities; however, employers legally were required to pay damages, including back pay and lost wages.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code provides for the right of workers to organize and administer trade unions without employer interference and grants trade unions full legal status, including the right to file lawsuits, and the Government generally respected these rights in practice. The Code does not specifically provide that unions may bargain collectively; however, in practice, collective bargaining occurred in the private sector during the year. The Government generally was not involved if the two parties were able to reach an agreement. There are no export processing zones.

In the civil service, wages are set by the Government after consultation with the unions. In the private sector, collective bargaining has played a role in setting wages. Salary arrears continued to be a problem during the year for both civilian and military personnel. The Government owed both groups approximately 40 months of salary arrears, and the arrears continued to be a major complaint of the unions. On March 11, in an effort to decrease the budget shortfall, the Government declared a 30-percent salary reduction for senior civil servants, including the President and cabinet-level officials. On April 13, the Government negotiated a salary reduction agreement with six labor unions to ensure regular payment of salaries.

Unions had the right to strike in both the public and private sectors, and workers exercised this right during the year. To be legal, strikes had to be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union also was required to provide 8 days' advance written notification of a planned strike. The Labor Code states that if employers initiate a lockout that is not in accordance with the Code, the employer is required to pay workers for all days of the

lockout. However, the Government has the authority to end strikes because of public interest. The Code makes no other provisions regarding sanctions on employers for acting against strikers. During the year, there were no reports of employer actions against strikers.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code specifically prohibits forced or compulsory labor; however, there were reports that such practices occurred (see Sections 5 and 6.d.). Prisoners were forced to work without compensation for government officials or magistrates. Pygmies, including children, often were coerced into labor within the country and often treated as slaves (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code forbids the employment of children under 14 years of age; however, the Ministry of Labor and Civil Service enforced the provision only loosely, and child labor was common in many sectors of the economy, especially in rural areas. In some cases, the Labor Code provides that the minimum age for employment could be reduced to 12 years for some types of light work in traditional agricultural activities or home services. The Labor Code defined the worst forms of child labor as dangerous work or tasks involving serious risks to the child's health, security, or morality. Children frequently worked on farms at rural schools.

In some rural areas, teachers or principals used school children as labor on farms, ostensibly to teach them how to work the land since many students did not further their education beyond primary school (see Section 5). The schools used the proceeds from the sale of farm produce to purchase school supplies and equipment and to fund school-related activities. In addition, an international agency reported that children worked in the diamond fields alongside adult relatives.

The Labor Code prohibition of forced or compulsory labor applies to children, although they are not mentioned specifically; however, forced child labor occurred (see Section 5).

The Government did not have sufficient human or material resources to enforce the prohibition against forced labor effectively.

*e. Acceptable Conditions of Work.*—The Labor Code states that the Minister of Labor must set minimum wages by decree. The minimum wage varies by sector and by kind of work. For example, the monthly minimum wage was equivalent to approximately \$12 (7,800 CFA francs) for agricultural workers but approximately \$28 (18,000 CFA francs) for office workers. The minimum wage did not provide a decent standard of living for a worker and family. Most labor was performed outside the wage and social security system, especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 55 hours per week. The law also requires a minimum rest period of 48 hours per week.

There are general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defined nor actively enforced them, a matter about which the ILO has expressed concern to the Government for many years. The Labor Code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment.

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## CHAD

Chad is a centralized republic dominated by a strong presidency. Despite the country's multiparty system of government, power remains concentrated in the hands of a northern oligarchy composed of the President's Zaghawa ethnic group and its allies, resulting in a culture of impunity for a ruling minority. President Idriss Deby, leader of the Patriotic Salvation Movement (MPS), has ruled since taking power in a 1990 rebellion. He was re-elected President in 2001; however, fraud, widespread vote rigging, and local irregularities marred that election and the 2002 legislative elections. On May 16, members of the Republican Guard and Nomadic Guard—both of which are components of the government security forces—led a failed coup attempt against President Deby. During the year, the security situation in the east grew increasingly tenuous due to a conflict in the Darfur region in Sudan near the country's border, and the Government expressed its concerns over the bandits, Sudanese militias, and growing numbers of rebels that were operating in the east. However, by year's end, the Government and the rebel group Movement for

Democracy and Justice in Chad (MDJT) were negotiating an end to the rebellion in the northwest Tibesti region. The Constitution mandates an independent judiciary; however, the judiciary remained ineffective, underfunded, overburdened, vulnerable to acts of violence, and subject to executive interference.

The National Army (ANT), Gendarmerie (a military police force), National Police, Nomadic National Guard (GNNT), and National Security Agency (ANS) are responsible for internal security. The ANT, Gendarmerie, and GNNT report to the Ministry of Defense; the National Police reports to the Ministry of Public Security and Immigration, and the ANS reports to the President. Officers from President Deby's ethnic group and closely allied ethnic groups dominated the ANS and Republican Guard. On September 14, in accordance with a presidential decree, the Republican Guard began reporting to the National Army; previously, it had reported directly to the Presidency. During the year, the ANT and Gendarmerie were deployed to the north to fight MDJT rebels and the international terrorist organization Salafist Group for Call and Combat (GSPC), to the east to maintain security along the border with Sudan, and to the south following the arrival of refugees from the Central African Republic (CAR) in 2003. Civilian authorities did not maintain effective control of the security forces, and there were frequent instances in which elements of the security forces acted independently of government authority. Security forces committed serious human rights abuses.

The economy was based on subsistence agriculture, herding, and fishing, and more than 80 percent of the workforce was involved in these activities, much of which exists outside the formal sector. The country's population was estimated to be 8.9 million. The gross domestic product per capita for the year was \$536, rising in part due to oil revenues and exchange rates. Impediments to sustainable economic growth were corruption, prohibitive electricity costs, and geographic and cultural barriers. The country began exporting oil in July 2003, and the first revenues from oil production were repatriated into bank accounts in the country in June. Most of the revenues were earmarked for priority sectors of the economy, including health, education, agriculture, environment, and infrastructure. The College of Control and Surveillance of Petroleum Resources, composed of members of the Government and civil society, managed oil revenue expenditures. The Government remained heavily dependent on assistance from external donors and international financial institutions for budgetary assistance.

The Government's human rights record remained poor, and the Government continued to commit serious human rights abuses. The Government limited citizens' right to change their government. Security forces committed extrajudicial killings and continued to torture, beat, and rape persons. Prison conditions remained harsh and life threatening. Security forces continued to use arbitrary arrest and detention. The Government rarely prosecuted or punished members of the security forces who committed human rights abuses. Lengthy pretrial detention remained a problem. The Government infringed on privacy rights and limited freedoms of the press and assembly. The Government at times limited freedoms of religion and movement. Corruption was a problem. The Government arrested, detained, and intimidated members of human rights organizations. Violence and societal discrimination against women were common. Despite official governmental opposition to the practice, female genital mutilation (FGM) was widespread. Trafficking in persons was a problem. Both official and societal ethnic and regional discrimination remained widespread. Interethnic conflict resulted in numerous deaths. There also were reports of forced labor, including forced child labor. Child labor was a serious problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year, there were reports of killings that may have been politically motivated, and officially sanctioned extrajudicial killings of suspected criminals by security forces continued. Local human rights organizations estimated that nearly half of human rights abuses committed in the country involved arbitrary or unlawful deprivation of life by security forces. Extrajudicial killings rarely were directed centrally, and they most often occurred outside the capital, where there was less control over security forces. The Government rarely prosecuted or punished members of the security forces who committed killings.

The Government said there were no political killings during the year; however, the Federation of Chadian Unions issued a May 17 communiqué indicating that security forces killed five union members during the May 16 coup attempt. No additional information was available by year's end.

During the year, security forces committed numerous killings during apprehension or in custody. For example, in May, in the northern town of Oum-Hadger, Abdelhamit Mahamat died from injuries received while being tortured in custody at a police camp.

In January, gendarmes killed a prisoner while they escorted him to a hospital in Mayo-Benoie. During the year, gendarmes killed two other prisoners while the prisoners reportedly tried to escape in Chokoyan. By year's end, no one had been held accountable for the deaths of the inmates.

Unlike in the previous year, there were no reports that security forces killed demonstrators.

During the year, the use of excessive force by security forces resulted in numerous killings. For example, in February, the GNNT killed a customs agent on duty at the Cameroon border and threw his body into the Chari river near N'Djamena. No investigation was undertaken during the year.

In February, men in military uniforms attacked a group of traders near Oum-Hadger, located in the east, and reportedly killed an undetermined number of them. Human rights groups alleged that similar attacks regularly occurred near the village of Bassa. By year's end, no investigation had been undertaken.

In March, a police commandant in Guera Batha killed his neighbor during a personal dispute. He was sentenced to 4 years in prison and required to pay the victim's family \$9,200 (4.5 million FCFA francs).

In May, gendarmes killed 2 persons and injured 13 others in Tandjile West after local residents—who reportedly did not believe police efforts to protect them from herders were sufficient—attacked a police station. By year's end, no judicial action had been taken against the gendarmes.

Security forces killed refugees during the year (see Section 2.d.).

Chadian soldiers in CAR reportedly killed CAR citizens during the year.

There were no reports of any action taken against members of the security forces responsible for the following killings in 2003: the March rape and killing of a 13-year-old girl; the July shooting of Hassan Yacine in front of the Presidential Palace; and the August killing of Djimtebaye Osee in Chagoua.

There were no developments in 2002 killings by security forces.

Unlike in the previous year, there were no reports that deaths from military hazing occurred during the year.

Unlike in the previous year, there were no reports that security forces killed suspected rebels or civilians in the northwestern Tibesti region during the year.

Landmines laid by government, foreign, and rebel forces in previous years have caused numerous deaths and injuries during past 2 years. In June, a car hit a landmine near Yarda, near Faya Largeau. Three persons were killed and six wounded.

Three men arrested in connection with the 2002 killing of Dr. Mahamat Guetti, president of the African Democratic Party and former parliamentarian candidate, remained in prison without trial at year's end.

No action was taken in 2002 killings by unknown assailants, and no action was likely to be taken.

Armed bandits continued to operate on many roads, assaulting, robbing, and killing travelers; some bandits were identified as active duty soldiers or deserters.

For example, on May 7, armed bandits, believed to be soldiers, attacked the home of a prominent cattle herder in Diguel, killing two persons and wounding two others. No investigation was undertaken during the year.

During the year, human rights groups accused regional gendarmes of perpetuating disputes between herders and local residents, one of which resulted in eight killings, eight injured, and eight children missing.

Interethnic fighting resulted in numerous deaths (see Section 5).

Air raids in January and periodic militia attacks throughout the year by the Sudanese Government in western Sudan's Darfur region resulted in several civilian deaths in towns along the country's border with Sudan. For example, on January 29, Sudanese Antonov aircraft reportedly dropped bombs on the border town of Tine in Chad and killed 3 civilians, including a 2-year-old child, and wounded 15 others. In June, a clash between militia (jinjaweed) supported by the Sudanese government and an army patrol near Birak resulted in the deaths of 69 persons, some of whom were unarmed civilians.

*b. Disappearances.*—There were reports of politically motivated disappearances during the year. Reports of the disappearances or deaths of participants in the failed coup attempt in May could not be corroborated, and no additional information was available at year's end.

Reports that Ngardibaye Miretanga, an army sergeant and former member of a rebel group, disappeared in April 2003 were false.

Lieutenant Nekemde Daoud, who had disappeared after the ANS arrested him in April 2003, was released during 2003.

*c. Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits such practices; however, members of the security forces tortured, beat, abused, and raped citizens. Impunity for those who committed human rights abuses remained widespread.

In February, soldiers from the 7th Regiment burned the arms and genitals of two persons accused of being jinjaweed militia members. The accused persons were released after paying the equivalent of \$330 (164,000 FCFA) to the regiment's commanding officer.

Unlike in the previous year, there were no reports that soldiers in the Chagoua district of N'Djamena beat or raped local residents; however, soldiers and other members of the security forces continued to harass Chagoua residents. By year's end, no action had been taken against the soldiers for committing such abuses in 2003.

During the year, the local press reported that members of the security forces regularly threatened and beat officials of the local power and water utility when their services were cut or reduced during shortages.

Security forces beat a journalist and a member of a nongovernmental organization (NGO) during the year (see Sections 2.a. and 4).

There were no developments in the following 2003 cases of torture and beatings: The January torture of Kirben Amon and rape of his wife by soldiers; the April beatings of a civilian by a regional military commander; the May torture of a man in N'Djamena; or the torture of electrical company workers by soldiers.

In June, soldiers fired on herders in Kanem and seriously injured two persons; the soldiers, who encountered the herders during a regular patrol, reportedly believed the herders were criminals. By year's end, no action had been taken against the perpetrators.

During the year, police continued to rape women in custody.

There were no developments in the March 2003 rapes of two girls by soldiers. The trial of the local gendarmerie brigade commander charged with committing rape in 2002 was ongoing at year's end.

Unlike in the previous year, there were no reports of military hazing incidents during the year.

FGM continued to be a problem (see Section 5).

Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded and had poor sanitation, as well as inadequate food, shelter, and medical facilities. After spending 2 months in prison in 2003, the chief editor of the independent newspaper *Notre Temps* reported that there were only 40 cells for approximately 1,200 prisoners at N'Djamena's central prison, which was built during the colonial period to hold only 300 prisoners. In May, human rights groups visited the prison at Barh Sara and reported that 36 adults in detention lacked food.

Local human rights organizations continued to report on the unconfirmed existence of military prisons and prisons run by the immigration service, to which access was prohibited. It was unknown who was detained in these prisons and for what reasons they were held. In Kerfi, gendarmes created a prison and jailed herders without charge.

The law provides that a doctor must visit each prison three times a week; however, there were credible reports that this provision was not respected. The chief editor of *Notre Temps* reported in 2003 that the central prison had no health care facilities and that only one drug was used to treat all medical problems. During his imprisonment in 2003, he witnessed the death of a sick prisoner after authorities refused to send the prisoner to a hospital.

Although the law authorized forced labor in prison, human rights organizations reported that it did not generally occur in practice.

Female prisoners usually were separated from adult males. Following a successful campaign by UNICEF to have juvenile males separated from adult male prisoners, juvenile males were held with female prisoners. Pretrial detainees were held with the general prison population.

The Government permitted the International Committee of the Red Cross (ICRC) to visit most civil prisons, although the Government insisted on advance notice; the ICRC conducted such visits during the year. In June 2003, the Government provided the Chadian Association for the Promotion of Human Rights (ATPDH) with a permanent authorization notice to visit civil prisons at any time, without advance notice. Other NGOs, including human rights groups, were required to obtain their own authorization from a court or from the Director of Prisons; such authorizations

depended largely on the personal inclinations of those granting permission. Organizations were not allowed access to military prisons.

*d. Arbitrary Arrest or Detention.*—The Constitution and the Penal Code prohibit arbitrary arrest; however, security forces continued to use arbitrary arrest and detention.

The police force was centrally controlled, but exercising oversight, particularly outside of N'Djamena, was difficult. There was general impunity for police officials who committed human rights abuses. In June, government officials publicly acknowledged the country's growing security problems, which resulted in part from the inability of the national and local police to counter widespread banditry, particularly outside of N'Djamena, and the proliferation of arms resulting from a succession of civil wars. The Government often allowed months to pass before it paid members of police, and corruption was widespread. In July, armed bandits with inside information about the payment of civil servant salaries killed two officials of the Ministry of Territorial Administration escorting the payroll for ministry employees in N'Djamena. By year's end, the perpetrators had been arrested and were awaiting trial.

A judicial official is required to sign arrest warrants; however, the Government often did not respect this requirement. The law requires both a bail system and access to counsel, but neither provision was regularly enforced. Few detainees had the means to pay for private counsel, and incommunicado detention was a problem.

Arbitrary arrest and detention was a problem. In Kerfi, there were reports that gendarmes arbitrarily arrested herders and placed them in unauthorized prisons.

In May, a gendarme arrested and beat a man in Mayo Dalla after the wife of the gendarme reportedly told her husband she had dreamed about the man. The gendarme and his colleagues also robbed the man of \$110 (55,600 FCFA). By year's end, there were no reports that action had been taken against the gendarmes.

During the year, gendarmes in the northern town of Kerfi reportedly arrested herders and arbitrarily detained them without formal charges in a private prison they had created. At least two of the herders were accused of illegally possessing weapons. At year's end, it was not known if the herders had been released, and no additional information was available.

Security forces continued to conduct searches, most notably in the Kelo region, following the 2003 robbery of the CotonTchad plant in Pala. Security forces increased security operations along the eastern border with Sudan. In addition, security forces in N'Djamena conducted weapons searches throughout the year.

Police at times arrested journalists and NGO officials who criticized the Government (see Sections 2.a. and 4).

Lengthy pretrial detention remained a problem. Persons accused of crimes could be imprisoned for several years before being charged or tried, especially those arrested for felonies in the provinces, who then were transferred to the overcrowded prison in N'Djamena. Human rights groups reported that over 800 prisoners in the Central Prison were still awaiting judgment by year's end.

*e. Denial of a Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, vulnerable to acts of violence, and subject to executive interference. In practice, government officials and other influential persons often enjoyed immunity from judicial sanction. According to credible reports, many citizens believed that members of the military, in which the President's Zaghawa ethnic group figured prominently, continued to enjoy a particularly high degree of immunity from prosecution.

During the year, members of the judiciary regularly received death threats. On October 5, Daynguirim Etienne, a magistrate in Abeche, was killed in his office at the Palace of Justice. By year's end, the assailant was in custody and the motive was unknown. Three other judges have been killed over the past 3 years.

At the national level, a Supreme Court, Constitutional Court, and Court of Appeals exist; however, some of their members were appointed by the Government and not elected by citizens as required by the law, which weakened the independence of the courts. The constitutionally mandated High Court of Justice could try high-ranking government officials; only the National Assembly, which had taken no action on cases by year's end, could forward cases to this court.

The remainder of the judicial system operated through courts located in provincial capitals. The N'Djamena Court of Appeals was supposed to conduct regular sessions in the provinces, but funding limitations did not permit the court to make circuit visits.

The Constitution mandates a Superior Council of Magistrates to recommend judicial nominations and sanction judges who commit improprieties. The Superior Council handled several cases in the past few years. For example, in July 2003, after re-

ceiving a complaint by a human rights NGO about a warrant being issued for the wrong person, the Superior Council suspended for 6 months the Attorney General of Moundou. During the year, the Superior Council dismissed Attorney General of Mongo after counterfeit money, which was evidence in a case, disappeared while in his office's custody.

Similar in function to the Superior Council, a new five-judge Judicial Oversight Commission began conducting investigations of judicial decisions and addressing suspected infractions during the year. However, in contrast to the Superior Council, the President appointed members of the Commission, which increased executive control over the judiciary and decreased the authority of the Superior Council. Parties to judicial cases could appeal to the Commission.

Applicable law was sometimes confusing, as courts often tended to blend the formal French-derived legal code with traditional practices, and customary law continued to overrule Napoleonic law in practice. Residents of rural areas often lacked effective access to formal judicial institutions, and legal reference texts were not available outside the capital. In most civil cases, the population relied on traditional courts presided over by village chiefs, canton chiefs, or sultans. Decisions could be appealed to a formal court.

Under the law, defendants are presumed innocent until proven guilty, but in practice many judges assumed guilt, particularly in crimes involving rape or theft. Cases are heard as public trials, and defendants have the right to appeal any decision. Defendants, their lawyers, and judges are permitted by law to question witnesses.

The Muslim concept of *dia*, which involves a payment to the family of a murder victim or victim of a crime based on the decision of local leaders, was widely practiced in the northern Muslim areas of the country. Non-Muslim groups, who supported implementation of a civil code, challenged the use of the *dia* system, arguing that it was incompatible with the Constitution. Such groups further accused the Government of supporting *dia* practices by permitting the existence of local tribunals. No resolution was reached by year's end.

The Government and human rights organizations reported that there were no political prisoners during the year. However, the whereabouts of some individuals arrested on suspicion of subversive activities against the Government were unknown at year's end. There were reports of several military and immigration prisons, but human rights or other organizations were denied access.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, authorities used illegal searches and wiretaps and monitored the contents of private mail. The Penal Code requires authorities to conduct searches of homes only during daylight hours and with a legal warrant; however, in practice, security forces ignored these provisions and conducted unlawful searches at any time. Security forces also stopped citizens regularly, extorting money or confiscating belongings.

The Government engaged in wiretapping without judicial authorization, monitored the contents of private mail through the postal service, and monitored private e-mail through the main post office server.

During the May coup attempt and in September, the Government ordered cellular phone networks to cease operations while government forces searched private homes for weapons. The ANS requested that cellular operators provide information on the cellular lines of suspected coup plotters. International organizations and human rights groups protested government interference with telephone communications; however, the Government argued that the interference was necessary for reasons of "national security."

In November, military and police officials began searching for and confiscating Thuraya satellite telephones, including those from NGOs, humanitarian agencies, and diplomatic vehicles.

There were occasions that police officers arrested family members of suspects. In February, police officers attacked Koulamadji Koutouloum, arrested him, and stole his proceeds from selling cotton. His children were also arrested; they were forced to pay \$100 (49,700 FCFA) to the gendarmes to be released.

During the year, particularly between October and December, there were reports that members of the gendarmes, police, and army engaged in banditry or robbery. For example, on October 22, the Ministry of Defense's bodyguards arrested armed bandits who were members of the army. At year's end, they were awaiting trial.

There were no new developments in the 2003 or 2002 cases of arbitrary interference with privacy, families, or homes by government agents.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and in practice, the Government generally respected freedom of

speech; however, it limited freedom of the press. The Government did not restrict academic freedom.

During the year, individuals could criticize the Government publicly without reprisal; however, there were reports that the Government attempted to impede criticism by monitoring meetings of the political opposition, and there were a few reports that the Government attempted to intimidate its critics.

The Government owned the newspaper *Info Tchad* and influenced another, *Le Progres*, but it did not dominate the press. A number of private newspapers, many of which were extremely critical of government policies and leaders, were published and circulated freely in the capital.

Due to widespread illiteracy and the relatively high cost of newspapers and television, radio remained the most important medium of mass communication and information. The Government-owned Radiodiffusion Nationale Tchadienne had branches in N'Djamena, Abeche, Moundou, Sahr, and Taya. There were numerous private radio stations, including several owned by religious organizations, that broadcast throughout the country.

The licensing fee set by the High Council on Communication (HCC) for a commercial radio station remained prohibitively high at approximately \$10,000 (4,972,000 FCFA) per year, 10 times the fee for radio stations owned by nonprofit NGOs. Stations run by nonprofit groups were subject to close official scrutiny.

The Government owned and operated the only domestic television station, *Teletchad*. Demand for private television was limited by poor electrical service and economic conditions, such as the lack of a sizeable audience with the required purchasing power. There was one privately owned satellite television company that distributed a package of French-language and English-language channels. Arabic programming was also available via satellite. The Government did not interfere with these channels.

The Government harassed and detained journalists during the year. For example, on February 9, the gendarmerie arrested and beat Tchanguis Vatankhah, the managing director of private radio station *Brakos Moissala*, and shut down the station after it broadcast an interview with an opposition politician. Vatankhah was released after 48 hours, and *Brakos Moissala* reopened on February 10. Under the law, only the HCC has the authority to close a radio station. The HCC advocated on behalf of Vatankhah and the radio station.

In July, three reporters—Mbainaye Betoubam, Abdelkerim Nassour, and Hassan Boukar—from *IYAL TCHAD* newspaper, a foreign-owned internet news service, alleged that security forces abused them while they were detained for 3 days for illegally selling an unregistered newspaper. The Government reported that it only detained one journalist, which it held for 1 day, and denied allegations of abuse.

In October, the Government arrested and questioned Michael Didama, the chief editor of *Le Temps*, an opposition newspaper, over an article that criticized the President. The case had not been heard by year's end.

Some journalists in the rural provinces reported that government officials warned them that democracy was for N'Djamena, not the regions, meaning that journalists should temper any contentious political reporting. In addition, some domestic journalists claimed that the Government restricted their ability to cover some events or visit certain locations and limited their access to high-ranking officials, restrictions that the Government did not impose on foreign journalists.

In May, security forces sought Oulatar Begoto, director of publication for a bi-weekly newspaper, *N'Djamena Hebdo*, after he reported that the alleged coup plotters included allies of President Deby. By year's end, he had not been arrested or detained and had not gone into hiding.

The Government placed limits on radio broadcasting. In May, the HCC warned *Radio FM Liberte*, which was run by human rights organizations, that their repeated broadcasts of communiqués calling for a general strike to protest the revision of the Constitution constituted “political advertising.”

In July, the HCC warned *Radio FM Liberte* after it broadcast an interview with a musician and artist who criticized African regimes for attempting to remain in power. Unknown persons calling themselves the “squad of death” threatened *FM Liberte* employees, and as a result, one *FM Liberte* journalist went into self-exile after this incident.

Government-owned and controlled media were headed by government-selected news directors and subject to government pressure that resulted in informal censorship; however, at times they were critical of the Government.

During the year, there was an increase in the number of reports that the Government threatened journalists with legal retaliation for publishing unfavorable material, such as accusations of corruption committed by government officials. Libel law was used to suppress criticism of political leaders, and during the year, the Govern-

ment arrested several journalists for libel. If compensation was provided to the plaintiff, violators could face 1 year's imprisonment or a suspended sentence of 1 year with a fine.

The Government did not restrict access to the Internet.

In November, a private high school closed for a week following a confrontation between a teacher and three of President Deby's children, which escalated when the children were taken to the principal's office and expelled. The children called the Presidency, and members of the ANS and the Republican Guard arrived at the school to take the teacher into custody. The teacher fled into hiding. The school's leadership temporarily closed the school for fear of retaliation against the teacher and others; however, by year's end, there were no reports that the teacher had been arrested or detained.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. The law requires organizers of public demonstrations to notify local authorities 5 days in advance of the demonstration. Authorities banned demonstrations critical of the Government despite being notified in advance as required by law; however, they permitted demonstrations in support of the Government and its policies.

In May, police attacked students demonstrating peacefully in front of the administrative building at the University of N'Djamena. The students were protesting the Government's attempt to annul the election of student union leaders. Excessive force and tear gas were used to disperse the students. Subsequently, the Minister of Territorial Administration issued an order banning all activities of the Union of Chad-ian Students. Throughout the year, the police regularly disrupted non-union student gatherings.

In May, the Government disrupted a peaceful demonstration by human rights groups to protest the revision of the Constitution. In November, the Government denied a request by political parties to demonstrate in N'Djamena against a public referendum proposing the elimination of presidential term limits.

There were no developments in the 2003 cases of abuse resulting from the use of excessive force by security forces.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for religious freedom; however, at times, the Government limited this right. The Constitution also provides for a secular state; however, senior government officials were predominantly Muslim, and some policies favored Islam in practice. For example, the Government sponsored annual Hajj trips to Mecca for certain government officials.

The Government required religious groups to register; however, there were no specific legal penalties for failure to register, and there were no reports that any group had failed to apply for registration or that the registration process was unduly burdensome.

The Islamic religious group Faïd al-Djaria remained banned at year's end on the grounds that its religious customs, including the singing and dancing of men and women together in religious ceremonies, were un-Islamic.

Although the different religious communities generally coexisted without problems, there were reports of occasional tension between Christians and Muslims. In November, a market dispute in Bebedja erupted between Muslims and Christians and resulted in 12 deaths, 21 persons injured, and a significant proportion of the town burned. Police arrested 18 persons. By year's end, some of those arrested were released, and those who were charged remained in detention awaiting trial. Several local officials, including the mayor of Bebedja, were dismissed for their role in the incident.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government imposed some limits in practice. The Government did not require special permission for travel in areas that it effectively controlled; however, in July, the Ministry of Territorial Administration began requiring an "authorization for circulation" for foreign travelers intending to visit the east, including humanitarian agency personnel, due to growing insecurity in the region. The travel permits were not restrictive but did require travelers to allow between 3 and 5 days to obtain the permit. Authorities also required foreigners to register with immigration upon arrival to Abeche. Elements of the security forces, rebels, and bandits continued to maintain roadblocks throughout the country, extorting money from travelers and often beating them. The Government did not officially condone such behavior by its security forces; however,

it did not effectively discourage the practice. In addition, armed bandits operated on many roads, assaulting, robbing, and killing travelers; some bandits were identified as active duty soldiers or deserters.

Security forces regularly harassed travelers on roadways. In October, security forces stopped and harassed the President of the National Assembly at a checkpoint as he traveled east of N'Djamena, despite the fact that his car had official government plates.

By year's end, there was no investigation or disciplinary action regarding the May 2003 assault by security forces of an expatriate businessman.

Tension along the border with CAR continued to hinder free movement in the region. Bandits from CAR continued to enter the country and commit attacks on citizens during the year, despite an agreement by government officials of both countries to stem insecurity along the border and seize weapons held illegally by individuals, militias, and herders.

The law prohibits forced exile, and the Government did not use it.

The Constitution does not provide for the granting of asylum or refugee status and consequently is not in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government also provided protection to certain individuals who may not qualify as refugees under the 1951 U.N. Convention or its 1967 Protocol. An official national structure, the National Committee for Welcoming and Reinsertion of Refugees, handled domestic and foreign refugee affairs.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. By year's end, the UNHCR and the Government were working together to identify new sites for refugee camps located in close proximity to the Sudanese border and the conflict in the Darfur region of western Sudan. At year's end, according to the UNHCR, the country hosted approximately 200,000 Sudanese refugees from Darfur, who were located in 11 camps along the eastern border with Sudan. There were also approximately 30,000 refugees from CAR and small numbers of refugees from the Democratic Republic of the Congo. During the year, the Government informally granted refugee and asylum status to persons from Sudan, CAR, and the Republic of the Congo and allowed them to remain in the country for resettlement.

In July, gendarmes killed two refugees in an attempt to restore order and searched for weapons at Farchana and Bredjing refugee camps, where refugees had attacked humanitarian workers. The Government also arrested 16 refugees whom it said were fomenting dissent among the other refugees. By year's end, all 16 had been released.

By year's end, there was no additional information on 2003 reports that soldiers in the southern border town of Gore harassed, beat, and stole from refugees fleeing CAR.

There was no reported action in the 2002 case of gendarmes who kidnapped and detained refugee Bienvenu Ngala Mambweni and approximately 100 other persons, all of whom were either voluntarily repatriated or otherwise resettled.

There were no reports of abuses committed against refugees by rebels or jinjaweed from Sudan; however, in a bombing raid by the government of Sudan on Tine, Sudan, residents of Tine, Chad were killed.

Anti-refugee sentiment among the citizens living in refugee-affected areas of the country was high due to pressure on local resources—such wood, water, and grazing land for animals—and the provision of goods and services for refugees that were not available to the local population. During the year, there were reports that citizens attacked refugees and destroyed their wells out of frustration and fear of resource shortages. During the year, the UNHCR and its partner organizations expressed concern about the possibility of the militarization of the refugee camps, particularly one located on the border. As a result, between August and year's end, gendarmes were deployed at the camps to protect the refugees from outside influences.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, the Government continued to limit this right in practice. A prime minister, who was nominated by the President and confirmed by the National Assembly, headed the Government. In June 2003, President Deby nominated his nephew, Moussa Faki Mahamat, as Prime Minister. Despite protests from southern

opposition leaders, Mahamat's nomination was approved by the National Assembly and reversed a 25-year trend of naming a southern Christian as Prime Minister. A new cabinet of 30 members, including the Prime Minister, was appointed by the President on July 28. The executive branch dominated all other branches.

The 2002 legislative election, in which President Deby's MPS party won a majority of National Assembly seats, was largely determined in advance and resulted in inaccurate registered voter lists, due primarily to a faulty electoral census that the Government refused to revise. In addition, the MPS, running allied with another party in some districts, was the only political party to have a candidate in every district. Local NGOs reported numerous voting irregularities.

According to several observers, President Deby's first-round victory in the 2001 presidential election was marred by irregularities. While monitoring the voting process, unofficial observers from local human rights and civil society groups were assaulted in polling stations. In addition, prior to and following the presidential election, several cases of abuses against opposition supporters and candidates took place, and the Government restricted media coverage.

There were an estimated 70 political parties in the country. Parties allied with the regime generally received favorable treatment. Opposition political leaders have accused the Government of co-opting their most popular local politicians to run as MPS members in local elections and also alleged intimidation by the military against those party members who refused. In May, a former Deby ally alleged that the Government attempted to remove him from an opposition party's leadership. Northerners, particularly members of the Zaghawa ethnic group, including the Bideyat subclan to which the President belongs, continued to dominate the public sector and were over-represented in key posts of key institutions of state power, including the military officer corps, elite military units, and the presidential staff.

On May 16, members of the Republican and Nomadic Guards failed in their attempt to assassinate President Deby. In the days following the attempt, the Government set up checkpoints, conducted search operations, and disrupted the cellular telephone networks as suspected coup plotters were rounded up (see Section 1. f.). There were unconfirmed reports of casualties, although the number of casualties was unknown. After the coup attempt, several top military and security officials were replaced. No information was available on any prosecution or punitive actions that may have been taken against the alleged coup plotters.

On May 26, the National Assembly voted to recommend for national referendum several constitutional amendments, which included the removal of term limits for the office of President and the abolishment of the (nonexistent) Senate. Opposition members said the National Assembly President did not give them an opportunity to discuss the issues prior to the National Assembly's vote, and 17 opposition parties organized a national strike in protest of the vote. By year's end, the date of the referendum had not been set.

In August, the Government announced the composition of the National Independent Electoral Commission (CENI) and the National Elections Monitoring Commission (CNRE). On October 27, the National Assembly passed a law modifying CENI's composition, despite a boycott of the vote by opposition parties, which alleged a lack of transparency in arranging a national referendum in 2005 on constitutional amendments. Members of the Government, members of the political parties holding seats in the National Assembly, and parties without seats in the legislature composed the 31-member CENI. By year's end, the Government and ruling party controlled 24 seats in the CENI, and the most prominent opposition parties were not represented on the CENI or the CNRE. Some political parties refused to participate in the CENI in an effort to protest the referendum, scheduled for 2005, on constitutional amendments.

The Government remained highly centralized. The national Government appointed all subnational government officials, who often relied on the central Government for funds and for administrative personnel.

During the year, the Government continued its constitutionally mandated decentralization process. Many opposition political parties objected to the Government's decentralization plan, which resulted in the redesignation of 14 prefectures as 18 regions, all headed by presidentially appointed governors, instead of prefects. Prefects retained their titles but administered smaller departments within the regions.

Corruption continued to be a serious problem. At the beginning of the year, some officers in the security forces continued to collect government payments for several thousand "phantom soldiers," or nonexistent subordinates. During the first half of the year, the President attempted to curb pay fraud in the security forces and accurately determine the size of the security forces.

In May, a senior member of a committee established under a World Bank plan to prevent corruption in the country's oil revenue management criticized the Gov-

ernment and a foreign oil company for depriving the committee of information from the Ministry of Finance and the necessary resources to be effective in fostering transparency. Beginning in June, the Ministry of Finance, the World Bank, and the foreign oil company launched several public awareness campaigns and educational efforts for the members of the College, the National Assembly, and the public to explain how the revenue management system worked.

In July, the President created a new ministry and named a new minister to fight corruption in the Government. The Government also took steps to reduce corruption concerning customs and tax fraud.

In July, the Government created a new ministerial post to uphold government ethics. The newly created ministry is tasked with identifying and eliminating corruption within the Government. By year's end, the ministry had drafted government policy on fighting corruption and had begun training the ministry's staff.

The law does not provide for public access to government information; in practice, the Government provided access to government-employed journalists, but independent media journalists complained that they did not have sufficient access to government information during the year. The Government's low capacity to retrieve and store information was a problem; however, the Government mandates that the proceedings of some ministerial meetings be broadcast on the radio or published in *Info Tchad*, a government newspaper.

Few women held senior leadership positions: There were 10 women in the 125-seat National Assembly and 3 women of cabinet rank. One member of the CENI was a woman.

The Government was dominated by the Zaghawa, a minority ethnic group.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government obstructed the work of human rights organizations during the year through arrest, detention, and intimidation; however, such groups were able to investigate and publish their findings on human rights cases. Government officials generally were accessible to human rights advocates but unresponsive or hostile to their findings.

There were three primary local human rights organizations: The ATPDH, The Association for the Promotion of Fundamental Liberties in Chad, and the Chadian League for Human Rights (LTDH). These and smaller human rights organizations worked closely together through an umbrella organization, the Association of Human Rights, and their work included observing government detention practices, assisting individuals who have suffered human rights abuses, and holding public conferences and seminars.

Despite pressure from the Government, human rights groups were outspoken and often partisan in publicizing the abuses through reports, press releases, and the print media, but only occasionally were they able to intervene successfully with authorities. Most local human rights groups were composed of political opponents of the Government, which weakened their credibility with the Government and some international organizations.

In February, police arrested Bandala Tchatcho Pierre, president of the Kelo branch of the LTDH, and detained him for 24 hours after he had reported on the alleged use of police brutality during tax collection.

In April, the Chief Commandant of the Gendarmarie arrested and beat Mahamat Fadoul Aljazouli, who worked in the Ministry of Education and was in charge of the LTDH in Batha/Guera. By year's end, Aljazouli had been released and no action had been taken against the commander.

In April, a traditional leader in Lere ordered the arrest of Daniel Deuzoumbe Passalet, the president of Human Rights without Borders, a local NGO, for publishing a communiqué protesting the abuse of human rights in the region. By year's end, Passalet had been released.

During the year, the Government restricted international human rights organizations, although the Government began to permit more investigative activity. In 2003, after several years of being prohibited from working in the country, Amnesty International assigned a representative to N'Djamena to examine human rights abuses in the country and work with human rights organizations. In addition, personnel from international human rights organizations traveled regularly through the country to investigate atrocities in Sudan.

The Government allowed unhindered access to a joint team composed of foreign government officials and NGO personnel to conduct interviews of Sudanese refugees in the country to determine whether genocide was being committed in Darfur, Sudan.

Belgian courts continued their investigation of crimes against humanity committed by Habre during his rule from 1982 until 1990. At year's end, Habre was living abroad, and Belgian courts, along with human rights organizations, were trying to extradite him for trial in Belgium. No additional legal action was taken against Habre during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equal rights for all citizens, regardless of origin, race, religion, political opinion, or social status; however, these rights were not always enforced. In practice, cultural traditions maintained women in a status subordinate to men, and the Government favored its ethnic supporters and allies. Societal discrimination continued to be practiced against homosexuals, those afflicted with HIV/AIDS, and members of ethnic groups.

*Women.*—Domestic violence against women was common, although statistics were unavailable. By tradition, wives were subject to the authority of their husbands, and they had limited legal recourse against abuse. Family or traditional authorities could act in such cases; however, police rarely intervened. The law prohibited rape, prostitution, and spousal abuse, but not sexual harassment; however, all were problems.

There were reports that family members killed women for breaking social customs.

The law prohibits violence against women, including the practice of FGM; however, in practice FGM was widespread and deeply rooted in tradition. A 2002 U.N.-NGO study estimated that approximately 60 percent of all women in the country had undergone FGM. The practice was especially prevalent among ethnic groups in the east and south, where it was introduced from Sudan. All three types of FGM were practiced. The least common but most dangerous and severe form of FGM, infibulation, was confined largely to the region on the eastern border with Sudan. FGM usually was performed prior to puberty as a rite of passage.

Under the law, FGM is prosecutable as a form of assault, and charges can be brought against the parents of FGM victims, medical practitioners, or others involved in the action; however, no such suits were brought during the year. The Ministry of Social Action and the Family was responsible for coordinating activities to combat FGM.

The law prohibits prostitution, pimping, and owning a brothel, and prostitution was a problem, particularly in the southern oil-producing region. During the year, the Penal Code was revised to establish new punishments for the prostitution of a minor; the revised code provides for prison terms of between 2 months and 2 years and a fine of between \$99 and \$985 (50,000 FCFA and 500,000 FCFA).

Discrimination against women remained widespread. In practice, women did not have equal opportunities for education and training, making it difficult for them to compete for the few formal sector jobs. Property and inheritance laws based on the French code do not discriminate against women; however, most inheritance cases were adjudicated by local leaders, with traditional practice favoring men. The exploitation of women was pervasive, especially in rural areas, where women did most of the agricultural labor and were discouraged from formal schooling. Illiteracy was estimated at 66 percent for women, compared with 48 percent for men.

There is no law on polygyny; however, spouses may opt to declare a marriage monogamous. If a monogamous relationship is violated, the wife has the right to request that the marriage be dissolved; however, she must repay the bride price and other expenses related to the marriage. Polygyny has become a controversial issue between Muslim and Christian communities during the revision of the Family Code. The Code's revision was awaiting a determination from the Government.

*Children.*—The Government generally supported the activities of NGOs and international donors to improve children's rights and welfare, but the Government had few resources to organize its own activities. Although the Government continued to modestly increase its assistance to the education sector, it was unable to adequately fund public education and medical care. Government education policy for children and youth focused on increasing classroom facilities and infrastructure.

Although the Constitution does not specify until which age, it does provide for compulsory education; however, the Government did not enforce this provision. The Constitution also provides for free education; however, parents complained that they must pay tuition to public schools. Approximately half of the teachers in the country were hired and paid by parent-teacher associations without government reimbursement.

According to UNICEF, 46 percent of boys and 33 percent of girls attended primary school. Educational opportunities for girls were limited, mainly because of the tradi-

tional role of young girls in household tasks such as the search for water and wood. The percentage of girls enrolled in secondary school was extremely low compared with that of boys, primarily because of early marriage.

Child abuse, including abuse of child herders, remained a problem.

The law considers any citizen under the age of 18 years a minor. Sexual relations before the age of 13 years, even with consent, are considered to be rape, and the prescribed sentence is hard labor for life. The legal age of consent is 14. Although the law prohibits sexual relations with a girl under the age of 14, even if married, this law rarely was enforced. Families arranged marriages for girls as young as 12 or 13 years of age; the minimum legal age for engagements was 11 years of age. During the year, the Penal Code was revised to outlaw forced marriages of minors and provides for penalties of 6 months to 2 years of imprisonment and a fine of between \$99 and \$985 (50,000 FCFA and 500,000 FCFA). There were some forced marriages, and the custom of buying and selling child brides continued to be a problem. Many young wives were forced to work long hours of physical labor for their husbands in fields or homes.

FGM was commonly practiced on young girls (see Section 5).

Several human rights organizations reported on the problem of the “mahadjir” children. These children, who attended certain Islamic schools, were forced by their teachers to beg for food and money. There were no reliable estimates as to the number of mahadjir children. In May, the Ministry of Social Action and Family, an NGO, and international organizations held a conference to raise public awareness of mahadjir children and discuss appropriate interventions to help them.

Trafficking in children was a problem (see Section 5, Trafficking).

The use of child soldiers is prohibited by law, and according to UNICEF protection officers, the use of child soldiers was not widespread. Although reliable information about the use of child soldiers was difficult to obtain, UNICEF estimated in 2003 that there were approximately 600 child soldiers reportedly serving in government security forces and armed groups in the country; however, the number of child soldiers was believed to have decreased during the year, and no further recruitment of children for use as soldiers was reported.

Child labor remained a serious problem (see Section 6.d.).

In 2002, UNICEF estimated that there were approximately 10,000 street children, and in April 2003, the newspaper *Le Temps* reported that the number was increasing. Children were on the streets because either one or both parents had died, or because parents simply did not take care of them.

In collaboration with UNICEF, the Ministry of Social Affairs conducted several surveys during the year to identify vulnerable children. As a result, the Government and NGOs were developing protection measures—such as temporary shelters to assist victims of exploitation—for street children; minors in detention; HIV/AIDS orphans; sexually abused, sexually exploited, and trafficked children; and children in armed conflict.

During the year, there were several programs to help children, including efforts to curb the widespread use of child herders in the south of the country. In urban areas, UNICEF and other NGOs worked to educate homeless children and reintegrate them into their families or other social support networks. The Government established a Children’s Parliament during the year to advocate children’s rights and carry out public awareness campaigns.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports of trafficking within the country. Children were trafficked for forced labor, primarily as herders or domestic workers (see Section 6.d.). During the year, an NGO survey of 500 child herders who had been returned to their parents indicated that there may have been between 1,500 and 2,000 children between 6 and 17 years of age who had been trafficked as child herders. There were also reports of child prostitution, primarily in the southern oil-producing region.

The Penal Code makes trafficking in persons a crime punishable by between 10 months’ imprisonment and life-long prison sentences involving hard labor. During the year, the Penal Code was revised to provide for punishments of between 10 and 20 years of forced labor in prison for the trafficking of children. No economic or financial aid was available unless a victim sought damages in court. According to the most recent statistics available, the Ministry of Justice’s Child Protection Department and the Juvenile Division of the High Court handled 29 of 100 complaints relating to sexual exploitation of children in 2002. The LTDH also assisted in prosecuting trafficking cases on an individual basis throughout the year.

The Government prosecuted traffickers during the year. Three accused traffickers were sentenced to hard labor for life by an appeals court. By year’s end, the case was on appeal and was being heard by the Supreme Court. Another case involving

a 10-year-old girl allegedly sold by her parents to herders was ongoing at year's end. In October 2003, several parents, including a village chief, were sentenced to 6 months in prison and fined \$400 (200,000 FCFA) for selling their children as child herders.

The Ministry of Justice's Child Protection Department continued to cooperate with UNICEF and a few NGOs to combat trafficking. During the year, the Government held a seminar with members of the National Assembly to raise awareness of the new law on trafficking, and UNICEF sponsored educational campaigns through the media to advise parents to instruct children about the danger of trusting strangers. The Government, working with UNICEF and NGOs, identified cases of trafficking. During the year, the Ministry of Justice requested funding for its anti-trafficking efforts, but it did not have the financial resources to support NGOs. Victim support was provided at the local level, often through the intervention of local government authorities who transferred victims to religious groups.

The Government focused most of its antitrafficking efforts on prevention, particularly by raising citizens' awareness of trafficking. For example, during the year, the Governor of Moyen Chari, an area that served as the source for the majority of children used as cattle herders, continued to increase efforts to prosecute those complicit in trafficking, which resulted in an increase in cases being prosecuted. He also worked through the prefects and sous-prefets to recover children who had been trafficked. The Ministry of Social Action and Family, the Ministry of Labor, and UNICEF conducted meetings with village elders in Moyen Chari. An antitrafficking NGO composed of families and a former intermediary arrested for trafficking in October 2003 also participated in the sensitization campaign. During the year, the group raised awareness of the dangers of child trafficking by speaking to villages in a trafficking-prone district.

*Persons with Disabilities.*—There was no official discrimination against persons with disabilities; however, the Government operated only a few therapy, education, or employment programs for persons with disabilities, and no laws mandate that buildings be accessible to persons with disabilities. Several local NGOs provided skills training to the hearing-impaired and visually-impaired. During the year, the Government, in conjunction with NGOs, continued to sponsor an annual day of activities to raise awareness of persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were approximately 200 ethnic groups, many of which were concentrated regionally and spoke 128 distinct primary languages. Although most ethnic groups were affiliated with one of two regional and cultural traditions—Arab and Saharan/Sahelian-zone Muslims in the north, center, and east; and Sudanian-zone Christian or animist groups in the south—migrations in response to urbanization and desertification resulted in the integration of these groups in some areas of the country.

Societal discrimination continued to be practiced routinely by members of virtually all ethnic groups and was evident in patterns of employment, especially across the north-south divide. The law prohibits state discrimination on the basis of ethnicity, although in practice, ethnicity continued to influence government appointments and political alliances (see Section 3). Political parties and groups generally had readily identifiable regional or ethnic bases.

The rebellion by ethnic Toubous of the MDJT in the northern Tibesti region lost much of its strength during the past 2 years, and at year's end, the Government and the MDJT continued efforts to negotiate an end to the rebellion. Unlike in the previous year, there were no reports of fighting between the MDJT and the Government.

Clashes between herders and sedentary populations and other interethnic violence, often concerning land use, continued to be a serious problem.

In March, 21 persons died and 13 were injured in fighting between herders and local residents in Yomi. Also in March, police were deployed to Chagoua, a suburb of N'Djamena, to halt clashes between the Kim and Ere communities.

In May, interethnic conflict in southern Chari Baguirmi between Moabits and Tidjanias resulted in 9 deaths and 15 persons injured. In June, an interethnic conflict in the region of Mayo-Kebbi erupted between two communities and resulted in 14 deaths and 50 injured persons.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution recognizes freedom of association and union membership, and the Government generally respected the right to organize in practice. All employees, except members of the armed forces, were free to join or form unions, but only with the authorization of the Ministry of the Interior.

In the formal sector, more than 90 percent of employees belonged to unions; however, the majority of workers were nonunionized, unpaid subsistence cultivators or herders. The Government, which owned businesses that dominated many sectors of the formal economy, remained the largest employer.

An ordinance that requires prior authorization from the Ministry of the Interior before an association can be formed remained in force; however, there were no reports that the ordinance was used. The ordinance also allows for the immediate administrative dissolution of an association and permitted the authorities to oversee associations' funds.

The Labor Code prohibits antiunion discrimination by employers against unions, and there were no reports of such antiunion discrimination during the year. A High Committee for Work and Social Security is the formal mechanism for addressing complaints, but it was overburdened and underfunded.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to organize and bargain collectively; in practice the Government protect these rights. There were no export processing zones.

There were no restrictions on collective bargaining. The law authorizes the Government to intervene in the bargaining process under certain circumstances.

The Constitution recognizes the right to strike, and workers exercised this right in practice. The right to strike is limited in the public sector by a decree requiring a minimum service to be maintained. The law permits imprisonment with forced labor as punishment for participation in illegal strikes; however, no such punishment was imposed during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, during the year, there continued to be reports of forced labor practices in the formal economy and isolated instances of forced labor by local authorities of both children and adults in the rural sector (see Section 6.d.). There were also reports that prisoners were required to work to pay their back taxes.

The law permits imprisonment with forced labor for participation in illegal strikes only.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor law provides that anyone under the age of 18 is a child and prohibits children from undertaking “any work which, by its nature or the circumstances in which it was carried out, was likely to harm the health, safety, or morals of children”; however, in practice, child labor, including forced child labor, was a serious problem. The Government generally lacked the means to ensure enforcement of the law. By year's end, the National Assembly passed amendments to harmonize labor laws with international conventions concerning labor rights.

The Labor Code stipulates that the minimum age for employment in the formal sector is 14 years; however, the Government did not enforce the law in practice. According to a 2000 UNICEF study, 65.5 percent of minors worked, including those performing domestic chores for more than 4 hours per day, those working within the family (herding, microcommerce, etc.), and those who worked for someone outside the family but who were underage. Approximately one out of every five children between the ages of 6 and 18 years of age worked in the urban informal sector. Children worked in agriculture and herding throughout the country. Children were also employed in the commercial sector, particularly in the capital, as street vendors, manual laborers, and helpers in small shops. Young girls worked as domestic servants, mainly in N'Djamena.

By some estimates, abusive and exploitative child labor affected 20 percent of children between the ages of 6 and 18. There were cases in which families sold their children in some southern regions. In some areas, local authorities fined parents caught selling their children into forced labor. In response, some families worked with intermediaries to pass children from families directly to the farm owners.

During the year, there were reports that in the southern part of the country, families contracted out their children to Arab nomadic herders to help care for their animals, and the children often were abused and returned with little financial compensation for their work. There were also credible reports that children were forced into slavery. According to a U.N. news service, during the year, aid workers in the country estimated that families have sold as many as 2,000 children—some as young as 8—into a system of slavery in which they worked as “child cattle herders.”

Some children worked as domestic servants in the households of relatives for little compensation. Some young girls were forced into marriages by their families and then forced to work in their husbands' fields or homes and to bear children while they were still too young to do so safely (see Section 5).

The use of child soldiers is prohibited by law, and according to UNICEF protection officers, the use of child soldiers was not widespread (see Section 5).

There were only 30 labor inspectors for the entire country. Approximately 10 to 15 child labor cases reportedly were investigated by the Government each year.

The Government worked with UNICEF to increase public awareness of child labor. During the year, UNICEF organized workshops in regional towns to share information on the dangers of forced child labor and the benefits of education. The training left each town equipped with one individual charged with overseeing the continuing public relations campaign. UNICEF developed a program with government funding to reduce the prevalence of young girls serving as household domestics. In addition, the campaign to educate parents and civil society on the dangers of child labor, particularly for child herders, was ongoing.

*e. Acceptable Conditions of Work.*—The Labor Code requires the Government to set minimum wages. The minimum wage at year's end was \$45 (25,480 FCFA) per month. Most wages, including the minimum wage, did not provide a decent standard of living for a worker and family. Nearly all private sector and state-owned firms paid at least the minimum wage, but it was largely ignored in the vast informal sector. During the year, the Government began to pay all employees at least the minimum wage for the first time, and government salaries increased overall by 5 percent. In some parts of the country, there were long delays in the payment of government salaries. Salary arrears remained a problem, although less so than in previous years. Low wages among customs, police, and military officials contributed to almost daily extortion of the civilian population along all major roads (see Section 2.d.).

The law limits most employment to 39 hours per week, with overtime paid for supplementary hours. Agricultural work was limited to 2,400 hours per year, which was an average of 46 hours per week. All workers were entitled to an unbroken period of 48 hours of rest per week; however, in practice these rights rarely were enforced.

The Labor Code mandates occupational health and safety standards and inspectors with the authority to enforce them; however, these standards rarely were respected in practice in the private sector and were nonexistent in the civil service.

Workers had the right to remove themselves from dangerous working conditions; however, in practice they could not leave without jeopardizing their employment.

The Labor Code explicitly protects all workers, including foreign and illegal workers, but the protections provided were not always respected in practice.

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## COMOROS

The Union of Comoros is an emerging democracy ruled by President Azali Assoumani, who took power in a coup in 1999 and subsequently was elected in 2002 presidential elections described by international observers as free and fair. The country consists of three islands (Grande Comore, Anjouan, and Moheli) and claims a fourth, Mayotte, which is governed by France. There were several active political parties, which were divided roughly into two groups: Those affiliated with the Union Government, and those affiliated with the governments of the individual islands. Legislative elections took place in March to elect island government assemblies on each of the three islands and, in April, to elect members of the National Assembly. International observers considered these elections to be free and fair. Work on the law to determine the power sharing structure between the island governments and Union Government had not been completed by year's end. The judiciary was independent.

There are four separate security forces that reported to three different authorities: The Gendarmerie and Comorian Defense Force, which reported directly to Union President Azali and had responsibility for internal and external security on the islands of Grande Comore and Moheli; a police force in and around the capital Moroni that reported to Union President Azali and was responsible for law enforcement and immigration; a local police force on Grande Comore that reported to Grande Comore President Abdou Soule Elbak; and a combined Gendarmerie and police force on the island of Anjouan that reported to Anjouan island president Colonel Mohamed Bacar. The Union Government does not have a police or military presence on Anjouan. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The economy was market-based. The country's population was approximately 600,000. The economy was primarily agricultural, dominated by subsistence farming

and the production of vanilla, ylang-ylang (a precursor to perfume), and cloves. The rate of economic growth was estimated to be 2.3 percent in 2003. Wages have kept pace with inflation, but the price of vanilla, the main export, has fallen dramatically in recent years, seriously impacting economic growth. The country depended heavily on remittances and foreign assistance.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Prison conditions remained poor. The Government restricted freedom of religion. Societal discrimination against women and Christians continued to be serious problems. There were some instances of forced child labor.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Unlike in the previous year, there were no reports that security forces forcibly dispersed demonstrations.

Prison conditions remained poor. A lack of proper sanitation, overcrowding, inadequate medical facilities, and poor diet were common problems. The Government has not taken action to remedy these problems.

Female prisoners were held separately from male prisoners. Juveniles were not imprisoned; they were returned to the custody of their parents. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by independent observers; the International Committee of the Red Cross, United Nations Development Program, the World Health Organization, and UNICEF made prison visits during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, there was one case of alleged arbitrary detention of the editor of an independent newspaper. Authorities reportedly detained the editor for 48 hours after he printed an article critical of the Government. He was released with no charges brought against him (see Section 2.a.). Unlike in the previous year, there were no reports that police brought persons who were detained to military camps instead of jails and held them without charge for more than 24 hours.

There were four separate security forces, which reported to three different authorities. On the island of Grand Comore, there were three forces with responsibility for local policing: Two that reported to Union President Azali (a local police force and the Gendarmerie) and one that reported to island President Elbak. The Union police force had responsibility for local policing and handled immigration. The Gendarmerie handled some local policing on Grande Comore and all local policing on the island of Moheli and was responsible for internal and external defense. The island of Anjouan maintained its own military and police force that it called its Gendarmerie. This arrangement complicated effective policing in the country. The Union Government and island governments separately reported the need for more training and equipment to provide more effective security.

During the year, the Government did not take any actions to reform the police; however, the National Assembly debated how to clarify security responsibilities between the Union Government and the island governments.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The head of state appoints magistrates by decree.

In October, the Government established the 7-member Constitutional Court. The President of the Union assigns one member, one member is assigned by each of the two Union Vice Presidents, one member is assigned by each of the three island government presidents, and the President of the National Assembly assigns one member.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials were open to the public except for limited exceptions defined by law. The legal system incorporates Islamic law as well as French legal codes. There were approximately five lawyers in the country, making it difficult to obtain legal representation. Most disputes were presented to village elders for possible resolution before being taken to court.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice, although there were problems in some areas. The Government did not restrict academic freedom.

There was one government-supported newspaper, Al-Watwan, that published regularly and one independent newspaper that published irregularly.

Authorities allegedly detained for 48 hours the editor of an independent newspaper after he printed an article strongly criticizing the Government. No charges were brought against the editor, and he was released.

There was a government radio station, which operated on a regular schedule. In addition, there were local community radio stations, which operated in very narrow transmission areas. Citizens who lived overseas primarily funded these stations, which were staffed by volunteers and were allowed to operate without government interference or regulation. Residents also received broadcasts from Mayotte Radio, as well as from French television, without government interference. In April, one pro-Union government radio station was ransacked during the national elections.

There were several small, community-based television stations that operated without government interference. Funds for their operation were raised among local residents and from relatives overseas.

Foreign newspapers and books were available.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

In September, the island government of Anjouan dispersed a gathering of several hundred followers of the Djawula faith because the group had not received the required prior authorization from the island government. The authorities also were concerned that the organizers would upset the religious public order. Several participants were briefly arrested and had their beards shaved before being released.

The Constitution does not provide specifically for the freedom of association; however, the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government restricted this right in practice.

The Constitution declares that the laws must draw inspiration from Islam, but the Constitution does not declare Islam the official religion. An overwhelming majority of the population was Sunni Muslim. Proselytizing was illegal, and Christians faced intense societal pressures. Unlike in previous years, there were no reports that police threatened or detained Christians.

On the island of Anjouan, a ban on dress that appeared Arabic and that did not match traditional Comorian dress was sporadically enforced. There were some reports that some men's beards were shaved in an attempt to prevent radical forms of Islam from taking root on the island (see Section 2.b.).

There were two Roman Catholic churches and one Protestant church; however, social pressures restricted the use of these Christian churches to noncitizens. Unlike in previous years, there were no reports the Government restricted access to churches. The Government permitted Christian missionaries to work in local hospitals and schools but did not permit them to proselytize.

Unlike in the previous year, there were no reports that community authorities on Anjouan banned Christians from attending any community events or banned Christian burials in a local cemetery.

There was widespread societal discrimination against Christians, who faced insults and threats of violence from the larger community. Unlike in previous years, there were no reports of mobs harassing Christians or forcing them to attend services at mosques.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

There continued to be reports that persons fled Grande Comore and Anjouan for Mayotte; many of these persons reportedly drowned attempting to reach Mayotte on rafts or by swimming.

The Constitution does not prohibit forced exile, but the Government did not use forced exile in practice.

The Constitution does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but the Government did not routinely grant refugee or asylum status. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it to approximately 10 persons from Burundi and Rwanda during the year. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations assisting refugees and asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens could freely choose and change the laws and officials that govern them.

National legislative assembly elections were held in April in a manner that international observers from the African Union, Arab League, Francophonie, and European Union described as free and fair. Of the 33 members of the National Assembly, citizens directly elected 18, and the island assemblies appointed the remaining 15. The new National Assembly had 26 members from parties aligned with the island governments, 6 members aligned with the Union Government, and 1 from an independent party.

The country has been prone to coups and political insurrection since its independence in 1975, including an attempted coup in February 2003 that resulted in the arrest of 12 soldiers and 2 government ministers, all of whom were released.

In 2001, the Constitution, which calls for the reincorporation of Anjouan, Grande Comore, and Moheli into a new federation that grants the islands greater autonomy, was approved overwhelmingly in a referendum described by international observers as free and fair. Each of the three islands that constituted the Union has a separate elected President. In October, the newly formed National Assembly began work on laws that would finalize power-sharing arrangements between the island and Union Governments.

There were no bans in effect on political parties, which continued to criticize the Government openly. There were several political parties allied either with the Union government or the island governments.

Unlike in previous years, village chiefs and Muslim religious leaders no longer dominated local politics. Traditional social, religious, and economic institutions significantly affected political life.

During the year, a Malagasy auditing firm examining the country's budget found that receipts worth \$5 million (approximately 2 billion Comorian Francs) by-passed the mechanisms established by the Central Bank to share receipts between the island and Union Governments. In addition, the auditing firm found major military expenses that did not comply with official procedures. No action was taken on either of these issues.

There are no laws providing for public access to government information.

There was one woman in the 33-member National Assembly, and a woman was a delegate responsible for human rights matters in the office of one of the vice presidents.

There were no Christians in the Government.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

One domestic and some international nongovernmental organizations operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views, and there was no evidence that the Government suppressed criticism of its human rights policies.

During the year, one domestic human rights group was active and independent of government control, interference, or influence. In August, the group organized a colloquium on human rights and worked with UNICEF on child protection programs.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, disability, language, or social status; however, there was discrimination against women.

*Women.*—During the year, the Government did not take any action to combat domestic violence against women, and police and human rights groups believed such violence to be rare, although these groups did not keep statistics. A woman could seek protection through the courts in the case of violence, but the extended family or village elders more often addressed such problems.

Rape is illegal and carries a penalty of between 5 and 10 years' imprisonment. The Government did not enforce effectively laws on rape. Spousal rape is not addressed specifically in law.

Prostitution is illegal, and most citizens did not consider it to be a problem.

While a matriarchal tradition afforded women some rights, especially in terms of landholding, men retained the dominant role in society. Societal discrimination against women was most apparent in rural areas where women had farming and childrearing duties and fewer opportunities for education and wage employment. The status of women improved in the major towns, where growing numbers of women were in the labor force and generally earned wages comparable to those of men engaged in similar work; however, few women held positions of responsibility in business. The Constitution provides for equality of persons, and, in general, inheritance and property rights do not discriminate against women. For example, the house that the father of the bride traditionally must provide to the couple at the time of their marriage remained the wife's property in the event of divorce.

*Children.*—The Government has not taken any specific action to protect or promote children's welfare. Legal provisions that address the rights and welfare of children were not enforced because of a lack of inspectors.

Education is compulsory to age 16; however, this requirement was not enforced, and priority often was given to boys. According to the National Directorate of Education Planning, 73 percent of children aged 6-11 attended school—66.4 percent of girls and 79.6 percent of boys. Among children aged 12-15, 41.9 percent of children attended school—41.9 percent of girls and 45.1 percent of boys. Among 16 to 18-year-olds, 28.7 percent of children—25.7 percent of girls and 31.6 percent of boys—attended school.

The Government provided basic medical care free of charge to boys and girls equally.

Child abuse was rare but occurred. There was a judge for children's affairs in the Ministry of Justice.

Child prostitution and child pornography are illegal. The law considered unmarried children under the age of 18 as minors, and they were protected legally from sexual exploitation, prostitution, and pornography.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons with Disabilities.*—There were no laws that mandate access to buildings for persons with disabilities, and there generally was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and they did so in practice. Approximately 80 percent of the population was engaged in farming on small land holdings, subsistence fishing, and petty commerce. The wage labor force was less than 7,000, including government employees, and less than 2,000 excluding them. Teachers, civil servants, taxi drivers, and dockworkers were unionized. Unions were independent of the Government.

The Labor Code, which was rarely enforced, does not include a system for resolving labor disputes, and it does not prohibit antiunion discrimination by employers.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer their unions. Unions have the right to bargain collectively; however, employers set wages in the small private sector, and the Government, especially the Ministries of Finance and Labor, set them in the larger public sector.

The law provides for the right to strike, and workers exercised this right in practice. There were no laws protecting strikers from retribution, but there were no known instances of retribution.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor by adults; however, the Government did not prohibit forced or compulsory labor by children, and there were reports that such practices occurred (see Section 6.d.).

Starting in January, the Government did not pay low-level government workers for a period of 4 months. Salaries were resumed in April, but 4 months' back pay was still owed at year's end. Teachers went on strike in October as a result of the owed salaries, but they resumed work after 1 week.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code defines the minimum age for employment as 15, and child labor generally was not a problem due to the lack of wage employment opportunities. Children usually worked for their families in subsistence farming and fishing.

Some families placed their children in the homes of others where they worked long hours in exchange for food or shelter. A 2000 UNICEF study found that approximately 15 percent of children were not paid for their work.

*e. Acceptable Conditions of Work.*—There was no minimum wage. During the year, the Government was unable to pay on a regular basis many low-level government worker salaries (see Section 6.c.).

The Labor Code specifies a workweek of 37½ hours with 1 day off per week plus 1 month of paid vacation per year.

There were no safety or health standards for the very small manufacturing sector.

## DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of Congo (DRC) is nominally a highly centralized republic with extensive powers vested in President Joseph Kabila, head of a national Transitional Government, which was formed in June 2003 and is composed of former belligerent factions, including representatives from the former government, former rebel groups, civil society, and the political opposition. President Kabila came to power in 2001 after the assassination of his father, Laurent Desire Kabila. There have not been free elections since independence in 1960; however, the Transitional Constitution, which resulted from political negotiations that ended 4 years of war in the country, provides for national general elections in 2005. Elections may be delayed for two 6-month periods with Parliament's approval. Although the law provides for a unified, strong central government, in practice the Government remained divided and weak. The country remained effectively divided into territory under the control of the Government (areas that remained under the nominal control of the Kinshasa-based government throughout the conflict) and territory under marginal government control (areas controlled by various rebel groups during the conflict). The former belligerents made some progress integrating key institutions such as the army, police, and local administrations; however, different components of the Government often acted independently of, or contrary to, the interests of other components, which contributed to the Government's inability to control many government authorities, even in areas under its supposed control. The judiciary was ineffective and subject to corruption.

In areas under government control, security forces consisted of a national police force and an immigration service, both under the Ministry of Interior; the National Intelligence Agency (ANR) and the Special Presidential Security Guard (GSSP), both reporting directly to the President; and the Congolese Armed Forces (FARDC), which were integrated only at the regional headquarters level by year's end. The military's intelligence service, which reports to the President, continued to operate. The ANR was responsible for internal and external security. The FARDC was responsible for external security, but also had domestic security responsibilities. Civilian authorities did not maintain effective control of the security forces, and there were frequent instances in which elements of the security forces acted independently of government authority. In addition, different individuals of the same security service effectively had different chains of command and often responded to orders from different individuals, including former commanders and political leaders whom they had followed before the Government was established. Members of the security forces were poorly trained, poorly paid, and undisciplined, and they committed numerous serious human rights abuses with impunity.

The economy was dominated by subsistence agriculture, a large informal sector, and widespread barter; most sectors of the economy remained moribund. The population was estimated to be approximately 60 million. Although gross domestic product grew by an estimated 8 percent and inflation remained below 10 percent, the

World Bank estimated that 80 percent of the population lived on less than a dollar a day. Infrastructure was in serious disrepair, financial institutions remained weak, and public education and health services continued to deteriorate. Widespread corruption had significant adverse effects on economic conditions. Although former rebel-controlled areas in the east remained largely autonomous and were not completely integrated economically with the west, increased cross-country commercial air traffic, national cellular phone service, and road and rail rehabilitation funded by the international community improved economic integration during the year. The prevalence of HIV/AIDS continued to place an increasing burden on the country's resources through rising healthcare expenditures, absenteeism from work, labor shortages resulting from morbidity and mortality, and training of replacement labor.

In areas under government control, the human rights record remained poor, and numerous serious abuses occurred. Citizens did not have the right to change their government peacefully. Government security forces committed unlawful killings, torture, beatings, acts of rape, extortion, and other abuses, such as lootings and interference with citizens' right to privacy. In general, security forces operated with impunity. Conditions in hundreds of prisons and detention facilities remained harsh and life threatening. Arbitrary arrest and prolonged pretrial detention remained problems. The Government restricted the freedom of assembly; it sometimes restricted the freedoms of speech, the press, association, and movement. Violence and discrimination against women were problems. Female genital mutilation (FGM) persisted among isolated populations in the north. Child labor and child prostitution remained serious problems. The Government continued to have child soldiers in its ranks—although it demobilized children during the year—and trafficking in persons remained a problem. Discrimination against indigenous Pygmies and certain Tutsis continued. The Government did not effectively protect some worker rights.

In areas under marginal government control, numerous armed groups, including some reportedly supported by the governments of Rwanda and Uganda, continued to function. With the exception of Ituri-based armed groups, which remained effectively outside the FARDC chain of command, former belligerents were nominally integrated into the FARDC at the national and regional headquarters level. Although the FARDC deployed an integrated brigade to Ituri, military integration at the field level had not begun by year's end. In particular, a large number of reportedly Rwandan-backed Congolese Rally for Democracy-Goma (RCD/G) and Mai Mai units did not regularly follow orders from their new Kinshasa-appointed commanders. Even in the case of troops who were supposedly integrated into the FARDC, many elements retained their former loyalties and took orders from the commanders who led them prior to the creation of the Government. There continued to be unconfirmed reports from multiple credible sources that Rwanda Defense Forces (RDF) soldiers were present in the Kivus, and that RDF military advisors remained integrated with former RCD/G and Union of Congolese Patriots (UPC) forces. However, the Rwandan Government publicly denied allegations that RDF troops were operating in the DRC.

In the Kivus, Maniema, Katanga, and southeastern Orientale, armed groups continued to severely harass civilians, and to fight the FARDC and each other. Local militia units known as Mai Mai, which operated in many rural areas, were generally allied to the FARDC, but FARDC commanders did not always maintain control of them. In North Kivu, Congolese Hutu and Tutsi local defense forces, some of which were under the control of Governor Eugene Serufuli, operated. During the first part of the year, there were reports of incursions by two Burundian Hutu rebel groups. Rwandan Hutu militia groups, including former Armed Forces of Rwanda, Interahamwe, and Democratic Forces for the Liberation of Rwanda (FDLR) elements continued to operate in the Kivus and northern Katanga. In addition, some ex-RCD/G officers in North and South Kivu, led by General Laurent Nkunda, Colonel Jules Mutebusi, and other former rebel commanders, attacked FARDC forces and briefly took control of Bukavu for several days in June; a U.N. panel of experts concluded that the Government of Rwanda supported this revolt. Also in June, the U.N. Observer Mission in Congo (MONUC), a U.N. peacekeeping force with 16,700 soldiers, deployed the Kivus Brigade.

In Ituri District of Orientale Province, numerous tribally-based armed groups continued to operate: The Lendu and Ngiti-dominated Front for the National Integration/Patriotic Force of Resistance in Ituri (FNI/FRPI), led by Floribert Njabu; the Hema-dominated UPC, led by Thomas Lubanga; the Hema-dominated Party for the Safeguarding of the Congo (PUSIC), led by Chief Kawa Mandra; the mixed People's Army of Congo (FAPC), led by Jerome Kakwavu; and the Alur and Lugbara-dominated Popular Force for Democracy in Congo, led by Thomas Unen Chen. In addition, there were numerous loosely affiliated Lendu militia groups. In May, representatives of seven armed militia groups from Ituri District signed an agreement

with the Government to disarm and participate in the transitional process toward democracy; however, the signatories did not respect the agreement. Unlike previous years, the FAPC and Lendu and Hema groups appeared to work together to coordinate illegal economic activities and arms trafficking. MONUC's Ituri Brigade continued to operate during the year.

In areas under marginal government control, where there were many armed groups, those with weapons controlled the population and extorted money, goods, and services. Civilian authorities did not maintain effective control over armed groups, which received orders from many sources, including local warlords, former commanding officers, civilian authorities, and foreign governments. These groups often acted independently, were poorly trained, and undisciplined and committed numerous, serious human rights abuses with impunity.

The human rights record in areas under marginal government control remained extremely poor, and armed groups continued to commit numerous, serious abuses, particularly in North and South Kivu, Maniema, northern Katanga, and Ituri District in Orientale Province. Political freedom increased slightly during the year. Armed groups committed numerous, serious abuses with impunity against civilians, including deliberate large-scale killings, the burning of villages, kidnappings, torture, rape, cannibalism, mutilation, looting, and extortion. Prison conditions, particularly in the Kivus and Ituri District of Orientale Province continued to result in large numbers of internally displaced persons (IDPs). Armed groups attacked local and international nongovernmental organizations (NGOs) and killed MONUC peacekeepers. Rape, violence against women and girls, and forced labor, including sexual slavery, were severe problems. Child labor, including the forced recruitment and use of child soldiers, was a serious problem. Trafficking remained a problem. Discrimination continued against indigenous Pygmies and Congolese Tutsis from South Kivu, known as Banyamulenge.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—In areas under government control, there were unconfirmed reports of a politically motivated killing by a member of the security forces, and security forces committed other unlawful killings with impunity. There were unconfirmed reports that security forces killed individuals in their custody.

On October 29, a GSSP soldier in Lubumbashi shot and killed the driver of Rashidi Akida, the president of the League Against Corruption and Fraud. Local sources reported that the driver was killed because the soldier thought he was Akida.

There was one report that a person died as a result of torture by security forces. On June 29, a Congolese deserter belonging to the Banyamulenge ethnic group turned himself in to the FARDC military headquarters in Bukavu. He was reportedly tortured to death during questioning. There were no actions taken against those reportedly responsible for the killing.

In late August, the Rapid Intervention Police in Buta, north of Kisangani in Orientale Province, severely beat a man while arresting him in connection with a marital dispute. He died the next day of his injuries. By year's end, there was no known action taken against the perpetrators.

The use of excessive force by security forces while dispersing demonstrations resulted in deaths (*see* Section 2.b.).

During the year, there were many reports that soldiers killed civilians while attempting to steal from them. For example, in April, 19 FARDC soldiers reportedly killed a woman in Kananga after breaking into her house and demanding money.

On October 5, the High Military Court convicted Col. Charles Alamba and several others of murder, mutilation, and extortion and sentenced them to death in connection with the September 2003 murder of Steve Nyembo, a senior official in the Department of Taxation. Alamba, former prosecutor of the disbanded Military Order Court (COM), was widely believed to be behind numerous political killings over the past several years. With the exception of the Nyembo case, there reportedly was no action taken against members of the security forces responsible for numerous killings in 2003 or 2002.

Local sources reported that on February 11, guards working for MIBA-PN, a parastatal mining company, killed six artisanal diamond miners and seriously injured two others in Eastern Kasai. By year's end, there were no reports that any

action had been taken against those reportedly responsible for the killings. In addition, between October and the end of the year, at least 10 persons died from mine collapses after police and military personnel forced them to dig for diamonds in dangerous mining shafts near Tshikapa, Western Kasai.

No action was taken against local security guards who reportedly blocked miners from escaping from a collapsed mine in 2003.

During the first half of the year, unidentified armed men in uniform attacked vehicles traveling at night on the Kinshasa-Matadi road and killed and injured several persons. There were also reports that unidentified armed men in uniform attacked vehicles traveling at night in certain parts of Lubumbashi.

There were weekly reports of unidentified armed men in uniform forcibly entering personal residences in Kinshasa at night to harass civilians, loot personal belongings, and kill persons involved in personal feuds. There were no reports of any action taken against these men.

No action was taken against uniformed men who killed Reverend Don Kavenadiambuku in Kavuaya, Bas Congo, in 2003.

In late September, mobs killed at least 20 street children in Mbuji Mayi, with the complicity of security forces (*see* Section 5).

U.N. peacekeepers killed demonstrators during the year (*see* Section 2.b.).

In areas under marginal government control, there were credible reports that between July 2003 and March, the local head of the national police and the local UPC commander in Boga, Ituri District killed nine persons, some by summary execution and some by torture.

In January, authorities placed two civilians in front of freshly dug graves and bludgeoned them to death with hammers at a military prison in Beni, North Kivu. No additional information was available.

No action was taken against members of armed groups who executed persons in 2003.

Police that operated in RCD/G-controlled territory, as well as ex-RCD/G soldiers, used excessive force against demonstrators, which resulted in deaths (*see* Section 2.b.).

During the year, FARDC forces killed an unknown number of civilians in the east while fighting armed groups (*see* Section 1.g.).

Government forces and armed groups targeted civilians on the basis of ethnicity for extra-judicial killings, rape, looting, and arrest. For example, during the seizure of Bukavu by ex(RCD/G combatants in late May and early June, the ex(RCD/G forces targeted non-Tutsis for attack, and the FARDC in turn targeted Congolese Tutsis when it reoccupied the city in June (*see* Section 1.g.).

During the year, the Government supported Mai Mai groups, who sometimes worked with Rwandan Hutu militia groups believed to be responsible for killing civilians (*see* Section 1.g.).

Armed groups committed numerous abuses, including summary executions, civilian massacres, acts of cannibalism, torture, looting and burning of houses, attacks on civilian areas, the forcible recruitment and use of child soldiers, and rape. Fighting between armed groups displaced thousands of civilians and resulted in hundreds of civilian deaths (*see* Section 1.g.).

During October and November, unidentified gunmen killed at least 15 persons, including a senior military intelligence officer, in Goma.

In December, MONUC peacekeepers found a grave containing numerous bodies in Ndrele, 12 miles from the Ugandan border. The FAPC, a tribally based armed group, allegedly killed these individuals. Peacekeepers also found an underground jail in a Ndrele torture camp. According to the British Broadcasting Corporation, MONUC peacekeepers launched an attack to gain access to Ndrele after the FAPC denied them access. Although the FAPC denied it, a MONUC spokesperson said Ndrele FAPC members committed serious human rights abuses, including killings, during the year.

There were numerous high profile killings by unknown actors in Ituri District and Goma, North Kivu, and no known action was taken against those responsible. For example, in November, unidentified gunmen shot and killed the Lendu director of the national electric company in Bunia, Vincent Bemba. Bemba was the first name on a list of respected Lendus selected to be killed that started to circulate in Bunia the day after he was killed. Numerous Lendus left Bunia, and the prosecutor investigating the case received anonymous death threats. There were numerous credible reports that UPC militia members shot Bemba and circulated the list.

There were unconfirmed reports that civilians killed and beat men in uniform for committing serious human rights abuses in North and South Kivu, Orientale, and Equateur Provinces.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances; however, by year's end, the whereabouts of an unknown number of civilians and soldiers who were detained early in the year in connection with alleged coup plots remained unknown. Fourteen prisoners who disappeared from a military intelligence detention center in February 2003 were still unaccounted for.

In areas under marginal government control, there were numerous cases of disappearances and kidnappings (*see* Section 1.g.).

Various armed groups abducted women and children from the villages they raided to perform labor, military services, and sexual services (*see* Sections 1.g. and 6.c.). Many of the victims have since disappeared.

There were no developments in any of the numerous cases of disappearance in 2003 and 2002, and no action had been taken against the perpetrators.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, in areas under government control, security forces and prison officials often beat and tortured detainees and prisoners. There were also unconfirmed reports that members of the security services tortured or abused civilians to settle personal disputes for themselves or other government officials.

During the year, security officials at the Lubumbashi central prison tied detainees to train tracks and whipped them in order to secure confessions.

Unlike in the previous year, there were no confirmed reports that security forces beat journalists.

There was no known action taken against members of the security forces responsible for torture or abuse in 2003 and 2002.

Members of the security services employed cruel, inhuman, and degrading punishment. For example, on the night of August 3, security agents arrested seven church members in Dekese, Eastern Kasai. The men were taken from their homes with their hands tied tightly behind their backs, beaten, and paraded in the center of the village. At least one man was forced to discard his own waste while his hands were still tied. On August 4, the men were freed after family members borrowed money to pay for their release and goods confiscated by agents during the arrest.

During the year, security forces used excessive force to disperse demonstrations (*see* Section 2.b.).

Members of the security forces raped civilians (*see* Section 1.g.).

Soldiers and police harassed and killed street children in Kinshasa, and mobs killed street children in Mbuji Mayi (*see* Sections 1.a. and 5).

In areas under marginal government control, armed groups tortured, raped, and otherwise physically abused numerous persons during the year; armed groups beat and abused journalists, community leaders, and human rights advocates while arresting or detaining them (*see* Sections 1.g., 2.a., and 4).

Armed groups kidnapped, raped, and tortured numerous women (*see* Sections 1.g. and 5).

Former RCD/G officers violently dispersed demonstrations (*see* Section 2.b.).

No known action was taken against members of the RCD/G responsible for torture, beatings, or cruel, inhumane, or degrading treatment or punishment in 2003 or 2002, or members of the RDF responsible for cases of torture, beatings, and rape in 2002.

Conditions in most large, central prisons were harsh and life threatening. The penal system continued to suffer from severe shortages of funds and trained personnel. Most prisons were in a poor state of repair, lacked sanitation facilities, or were not designed to detain persons. Makala remained overcrowded. Health care and medical attention remained inadequate, and infectious diseases, including tuberculosis, were a problem. In some cases, prison doctors were available; however, they lacked medicines and supplies. MONUC's April prison report found that "grave deficiencies in terms of food, hygiene, and medical care make certain prisons virtual deathtraps. It is not an exaggeration to say that in certain places, being condemned by a court for a minor infraction for 12 months to 5 years is almost a death sentence."

Government-provided food remained inadequate, malnutrition was widespread, and MONUC reported in a Special Report on Malnutrition in Prisons that from March to early December, 34 detainees starved to death at the Mbuji Mayi prison, including 11 in November. In several areas, the Government has not provided food for years, and prisoners continued to receive an estimated two meals a week from NGOs, religious groups, and families. In general, prisoners' family and friends were able to provide food and other necessities; however, local NGOs reported that authorities sometimes moved prisoners without telling the families where they were sent. Family members were often forced to pay bribes to bring food to prisoners.

Unlike in the previous year, there were no confirmed reports of hunger strikes. Conditions in smaller legal and illegal detention facilities were harsher than in larger prisons, and an unknown number of persons died. These facilities were overcrowded and generally intended for short-term pretrial detentions; however, in practice they were often used for lengthy detentions. Authorities often arbitrarily beat or tortured detainees. There usually were no toilets, mattresses, or medical care, and inmates often received insufficient amounts of light, air, and water. Such detention centers generally operated without a budget and with minimal regulation or oversight. Local prison authorities or influential individuals frequently barred visitors or severely mistreated particular detainees. Prison guards frequently required bribes from family members and NGOs to visit or provide detainees with food and other necessities.

The security services, particularly the ANR, military intelligence, and the GSSP, continued to operate numerous illegal detention facilities. Conditions in these facilities were extremely harsh and life threatening. Detainees were regularly abused, beaten, and tortured. Facilities lacked adequate food and water, toilets, mattresses, and medical care, and authorities routinely denied access to family members, friends, and lawyers.

MONUC's April prison report cited the excessive use and abuse of preventive detention, the regular detention of military personnel in civilian facilities, disorganization (there were no prison registers), lack of detention centers, and unusually long sentences as major contributing factors to extreme overcrowding.

An unknown number of persons died in prison due to mistreatment and neglect during the year (*see* Section 1.a.).

Women and juveniles sometimes were detained separately from men in larger prisons but were not separated in other detention facilities. There were numerous credible reports that male prisoners raped other prisoners, including men, women and children. For example, the U.N. Special Rapporteur for Human Rights reported that two men raped a 14-year-old girl detained in the same cell in Bafwasende, Orientale. Pretrial detainees were not separated from convicted prisoners, and they were often treated the same. Prisoners detained for state security reasons were generally held by the security services or in special sections of prisons. Soldiers and civilians were both detained in civilian and military prisons and detention facilities. There continued to be sections of prisons and detention facilities where wealthy prisoners paid for special privileges and received better treatment.

The Government allowed the International Committee of the Red Cross (ICRC) and many NGOs access to all official detention facilities; however, the ICRC and other NGOs did not have access to illegal detention facilities maintained by security forces.

Prison conditions in areas under marginal government control were extremely harsh and life-threatening. Most detention facilities were not designed as jails. Detainees often were kept in overcrowded rooms with little or no light or ventilation and sometimes were detained in small pits dug by various armed groups. Detainees typically slept in small, overcrowded cells on cement or dirt floors without bedding and had no access to sanitation, potable water, toilets, or adequate medical care. Infectious diseases were widespread. Detainees were provided very little food, and guards demanded bribes to allow family members or friends to bring food to prisoners. Prisoners frequently were subjected to torture, beatings, and other abuse with no medical attention.

On December 7, a man who had been in preventive detention since March at the Goma central prison died after not receiving food for 14 days.

Armed groups detained persons in underground prisons at military installations in Orientale (including Ituri), the Kivus, Maniema, and Equateur. MONUC's prison report stated that, in 2003, the worst prison conditions were found in prisons run by RCD/G soldiers (former members of the armed group National Army of Congo, or ANC), Mai Mai, UPC, Party for the Safeguarding of the Congo (PUSIC), and the Movement for the Liberation of Congo (MLC). There were reports that in 2003, several camps in North Kivu belonging to the Beni-Butembo-based Congolese Rally for Democracy (RCD/ML) operated illegal detention centers where prisoners were summarily executed and tortured.

In areas under marginal government control, there continued to be reports that armed groups and the FARDC detained persons in metal freight containers or in the private residences of military commanders. For example, in June, the FARDC detained Banyamulenge students in a freight container in Bukavu (*see* Section 1.g.).

MONUC human rights and child protection officers, accompanied by MONUC military escorts, sometimes were allowed access to prisons in areas under marginal government control.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, in areas under government control, security forces arbitrarily arrested and detained persons, including journalists (*see* Section 2.a.).

By year's end, the national police force remained only partially integrated into the national command structure. National police handled basic criminal cases and traffic patrol. The Rapid Intervention Police was generally responsible for crowd control. Although the Government worked with MONUC and members of the international community to train police, police forces generally remained ineffective and corrupt. During the year, members of the police, military, and security forces attacked, detained, robbed, and extorted money from civilians. For example, a police officer stole money and a cellular phone from a foreign journalist riding in a taxibus and then forced the journalist out of the vehicle several miles from his intended destination in Kinshasa. In October, soldiers forced a family in Kinshasa to pay them \$25 to release an 8-year-old girl who was detained for several hours for wearing pants with "illegal" military-style pockets that had been banned by authorities. Police failed to respond to domestic and societal violence, regularly detained street children, and in October detained and harassed women for wearing tight jeans (*see* Section 5). The Government prosecuted and disciplined some abusers; however, the vast majority acted with impunity.

Under the law, certain police officers and senior officers of the security forces are empowered to authorize arrests, and detainees must be brought within 48 hours before a magistrate. Warrants are required only for offenses punishable by less than 6 months' imprisonment. In practice, these provisions were violated routinely. For example, in April, the U.N. High Commission for Human Rights found that one-third of prisoners in detention centers were illegally detained, and that a large number of judicial police ignored detention procedures.

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. When authorities did press charges, the claims were rarely filed in a timely manner and were often contrived or overly vague. Security forces regularly held alleged suspects for varying periods of time before acknowledging that they were in custody or allowing the detainees to have contact with family or legal counsel.

Police arrested persons during the year for criticizing the Government (*see* Section 2.a.).

Security forces used the pretext of state security to arbitrarily arrest individuals. Individuals arrested and detained in the name of state security frequently were held without legal charge, presentation of evidence, access to a lawyer, or due process. For example, during the year, local NGOs reported that an unknown number of individuals were detained in connection with alleged coup plots.

In late October, government agents arrested and detained for 9 days Christian Mwando, chairman of a Katangan opposition political party, for "possible involvement" in the capture of Kilwa by unidentified rebel forces (*see* Section 1.g.).

On June 15, journalist Bamporiki Chamira and members of his family were released from prison after a 15-month detention for "direct or indirect involvement in a plot aimed at eliminating President Joseph Kabila."

Justin Nindaga, who was arrested in 2002, was released in 2003.

Pretrial detention was very frequently prolonged. Human rights NGOs reported that fewer than 20 percent of the inmates at the Kinshasa Penitentiary and Reeducation Center (CPRK) had been charged or sentenced. According to MONUC's April prison report, only approximately 20 percent of the country's total prison population had been brought to trial and convicted of committing a crime.

Prisoners were often held in detention after their sentences had expired; these extended detentions were due to disorganization, judicial inefficiency, and corruption. In a few instances, when such cases were brought to the attention of the Government, prisoners were released.

There were some political detainees during the year.

In areas under marginal government control, armed groups were responsible for a regular pattern of arbitrary arrest and detention. Although armed groups frequently arrested, charged, detained, and tried persons, they operated outside of the Government's criminal justice system.

From October to December, government forces in South Kivu arbitrarily detained Congolese Tutsis attempting to return from Rwanda, where they had sought refuge in early June. They were released the next day.

There were no reported developments in any of the 2003 or 2002 cases of arbitrary arrest and detention by armed groups.

There reportedly were some political detainees; however, no reliable information was available.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, in practice, the judiciary continued to be ineffective, subject to government influence, and corrupt. The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional, and the rule of law was not generally respected. Although courts are required to file charges within 48 hours of arrest, they generally did not, and long delays occurred. Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently and there were credible reports that judges regularly prolonged trials unduly as a form of blackmail and a means of soliciting bribes. The system remained hobbled by a strike by magistrates and judges that lasted several months, major shortages of personnel and supplies (including copies of the legal code), and poor infrastructure.

Civil and criminal codes are based on Belgian and customary law. The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel; however, these rights were not respected in practice. Defendants have the right to appeal in most cases; however, defendants do not have the right to appeal those cases involving national security, armed robbery, and smuggling, which generally are adjudicated by the Court of State Security, except those cases adjudicated by the special military tribunals, whose jurisdiction is ill-defined. The law provides for court-appointed counsel at state expense in capital cases in all proceedings before the Supreme Court, and in other cases when requested by the defendant. In practice, the Government did not respect these provisions.

Military courts, headed by a military judge, tried military and civilian defendants. The military courts have no appeal process. The Government permitted, and in some cases provided, legal counsel; however, lawyers sometimes were not granted free access to defendants. In practice, military courts had broad discretion in terms of sentencing. In many cases, trials were open to the public at the discretion of the military judge.

On April 20, 71 persons condemned by military courts were conditionally released from the CPRK.

There were no reports of political prisoners.

In areas under marginal government control, corruption remained rampant, and judges and other public servants were paid poorly and intermittently; however, the justice system in these areas improved from previous years. In January, the Government sent magistrates and judges to Bunia, and courts began to operate there for the first time since 1998.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, in areas under government control, members of the security forces routinely ignored these provisions in practice. Members of security forces and deserters from the army and police continued to harass and rob citizens. Security forces routinely ignored legal requirements for search warrants and entered and searched homes or vehicles at will. During the year, soldiers regularly occupied civilians' residences. In general, those responsible for these acts remained unidentified and unpunished.

Police often looted the homes and vehicles of the persons they arrested; occupants frequently were beaten and abused.

ANR security agents monitored mail passing through private express delivery companies and the very limited state mail service. The Government was believed to monitor some telephone communications.

Throughout the country, there were credible reports that, when unable to locate a specific individual, authorities sometimes arrested or beat the closest family member. For example, in early January a man was arrested in Kindu, Maniema Province in the place of his brother, who was wanted for personal debts, to collect a "commission" on the recovered debt.

In areas under marginal government control, armed groups routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (*see* Section 1.g.). In late May, dissident RCD/G soldiers in Bukavu conducted house-to-house searches of non-Tutsi residents and looted them, raped women, and beat those who resisted. All armed groups and government forces looted homes, seized livestock, and extorted money by charging irregular fees, such as bicycle transit taxes in North Kivu, river tolls in Orientale Province, and protection surcharges in South Kivu.

During the year, there were numerous credible reports, including one by the U.N. Group of Experts, that ex-RCD/G combatants from the DRC, with the aid of local Congolese and Rwandan officials recruited for military training, sometimes forcibly, demobilized Rwandan and DRC soldiers and refugees from the DRC (*see* Section 2.d.).

Armed groups continued to recruit children from the areas in which they operated (see Section 5).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—The Transitional Government was officially established in July 2003, following political negotiations in 2002 that ended the 4-year civil war. By mid-2003, all foreign troops had formally withdrawn from the country. However, the Governments of Rwanda and Uganda reportedly continued to support armed groups operating in the country, and there continued to be unconfirmed reports from multiple credible sources that Rwandan soldiers and officers were at times present in the country.

In areas under government control, there was limited fighting between government forces and armed groups. There were a few reports that government forces violated humanitarian law in areas under government control. For example, in mid-October, the FARDC looted the town of Kilwa, near the country's Zambian border, and killed more than 70 civilians, of whom almost 30 may have been summarily executed. The FARDC killed an unknown number of civilians for allegedly collaborating with rebels who had seized the town days before. After the FARDC's reentry into Kilwa, dozens of persons were arrested. By year's end, 10 persons were still being detained without charge at the Kasapa prison in Lubumbashi. No action was taken against the soldiers responsible for the reported killings.

No known action was taken against government troops or government-supported Mai Mai troops who committed abuses against civilians in 2003 or 2002.

In areas under marginal government control, armed groups committed numerous abuses, including civilian massacres, the looting and burning of houses, the forcible recruitment of child soldiers, and the rape of women and girls (see Section 5). FARDC forces were also responsible for serious abuses. At times, verification of these reports was difficult, due to geographical remoteness, hazardous security conditions, and impediments imposed by local authorities (see Section 2.d.); however, MONUC's presence allowed observers to gather more information than would have otherwise been possible, and, according to local NGOs, helped decrease human rights violations by armed groups during the year.

There were numerous credible reports, including one by the U.N. Group of Experts, that the Government of Rwanda continued to provide material support, including weapons and military advisors, to ex-RCD/G combatants following former commanders such as General Nkunda and Colonel Mutebusi in the Kivus and UPC forces in Ituri. There were credible reports that the Government of Uganda provided material support to armed groups operating in Ituri.

There were numerous credible reports that armed groups burned and destroyed entire villages, frequently killing, abducting, torturing, or raping some of the inhabitants, especially in rural areas of North and South Kivu Provinces, Maniema Province, northern Katanga Province, and Ituri District of Orientale Province. Large numbers of civilians were displaced (see Section 2.d.). Disputes between FARDC, ex-RCD/G combatants following former commanders such as General Nkunda and Colonel Mutebusi, and various armed groups had dire consequences for civilian populations, who continued to be subject to abuse due to shifting alliances. They were regularly punished for allegedly supporting the other group, and they were killed, raped, displaced, looted, forced to pay "security premiums," and at risk of abduction. In Ituri, MONUC reported that other ethnic groups besides the Hema and Lendu were "forced to take sides and/or were attacked by both parties who accused them of sheltering the enemy."

There have been no known credible attempts by armed groups to investigate incidents that occurred since 2002 in which their troops allegedly committed numerous human rights violations, including killings, rapes, looting, and other abuses in areas under their control. However, between late August and year's end, courts tried 28 FARDC soldiers for serious human rights violations, including crimes against humanity in connection with the 2002 Ankoro massacre in northern Katanga. The accused were acquitted or lightly punished. However, the judge awarded significant damages to the victims.

In February, credible sources reported that FARDC elements executed three civilians in Kitenge for supporting Chinja Chinja's Mai Mai, who had reportedly killed and mutilated seven FARDC soldiers on February 7. In addition, in June, local sources reported that FARDC soldiers burned alive eight individuals accused of being Mai Mai supporters.

MONUC documented that between March and May, FARDC forces, Mai Mai, and the Popular Self-Defense Forces, a local defense force, killed approximately 80 persons and committed widespread rape, looting, and abduction in northwestern Katanga.

In late May and early June, ex-RCD/G combatants, led by former commanders such as General Nkunda and Colonel Mutebusi, and FARDC forces under South Kivu Military Commander General Mbuza Mabe committed numerous serious human rights violations in and around Bukavu. On May 26, fighting broke out between South Kivu Military Commander General Mabe and his suspended deputy commander, Mutebusi. Over the next 2 days, Mabe's troops targeted and killed Banyamulenge (Tutsis from South Kivu), in apparent reprisal for the killing of one of Mabe's soldiers. Ex-RCD/G forces under General Nkunda took control of Bukavu, ostensibly to prevent what Nkunda said was a genocide, although MONUC and numerous other national and international observers—in addition to Nkunda himself—acknowledged afterward that no genocide had taken place. More than 100 civilians were killed and many rapes were committed.

According to Human Rights Watch (HRW), between May 26 and May 28, FARDC soldiers under Mabe killed at least 15 civilians, mostly Banyamulenge in and around Bukavu. Although some witnesses reported that most of the victims were suspected soldiers, including several small groups of young men who were captured and executed; among the victims were also many women and children. On May 27, FARDC soldiers loyal to Mabe reportedly beat 6 Banyamulenge students to death and threw their bodies into a shallow grave, shot and killed 2 boys at a public intersection, and opened fire on 50 Banyamulenge who had been forced out of hiding and brought to the center of town allegedly for their safety. Mabe's soldiers also detained an unknown number of persons in a container located at a central intersection and raped an unknown number of women. There were reports that non-Banyamulenge civilians protected Banyamulenge. Almost 3,000 civilians, most of them Banyamulenge, fled to Rwanda. Some refugees were injured when they crossed into Rwanda, but there were conflicting reports as to the types of injuries.

Between late May and June 2, while en route from Goma to Bukavu, ex-RCD/G combatants led by former commanders such as General Nkunda and Colonel Mutebusi killed one unarmed MONUC military observer and injured another; displaced several thousand persons; attacked and looted villages; and killed and raped an unknown number of civilians. MONUC reported that Nkunda's and Mutebusi's troops deliberately killed at least nine civilians while they controlled Bukavu between June 2 and June 5. In Bukavu, ex-RCD/G combatants went from house to house and systematically raped non-Banyamulenge inhabitants and looted their homes (see Section 5). Nkunda's and Mutebusi's troops also burned down the central market, stole an unknown amount of money from the central bank, closed local radio stations, and threatened to kill local journalists (see Section 2.a.).

Local NGOs reported that in 2003 and during the early part of the year, Mai Mai groups led by Chinja Chinja "Throat Cutter" Gedeon, and Chief Makabe operating in Katanga killed large numbers of civilians, committed acts of cannibalism and dismemberment, burned villages, forcibly recruited child soldiers, and abducted women for use as sexual slaves.

In early February, Chinja Chinja's Mai Mai group killed at least 30 civilians in the area of Kitenge, Katanga, 435 miles north of Lubumbashi. These Mai Mai regularly took parts of victims' bodies—including genitalia, lungs, fingers, and tongues—to either eat or use as amulets to reinforce magical powers.

During the year, there were reports that the FNI and other Lendu groups in Ituri District used cannibalism, fetishes, and mutilation to intimidate their opponents and in accordance with a belief that they would improve their fighting capabilities. These groups were responsible for numerous abuses.

On January 15, the FNI attacked a convoy of 5 boats on Lake Albert and killed approximately 100 persons. The boats were diverted to Gobu, Djugu territory, where the attackers separated out the men and shot and killed all of them. They also raped at least two women and forced the women and children to carry the passengers' belongings into the forest for the attackers. The same group allegedly abducted civilians on two other occasions in January.

During the year, the FNI and FRPI abducted more than 100 civilians, mostly fishermen, in the area of Lake Albert and held them in forced labor camps. In June and July, credible sources reported that the FNI and FRPI killed 48 Hema/Gegere abductees in 6 separate incidents, often after mutilating them. During mid-year, the Bunia Prosecutor interviewed several persons in connection with the case.

During the year, MONUC reportedly dismantled UPC forced labor camps near the Lake Albert region of Ituri, freeing as many as 1500 persons. In addition, at the end of the year, MONUC closed a labor camp in Djugu territory. At year's end, no additional information was available.

On October 12, HRW reported that FAPC combatants arrested 30 civilians from Kaliko, Ituri in October, in connection with the death of 2 FAPC soldiers. The civilians were taken to Ariwara and detained in an underground prison where they were

beaten with large wooden sticks. Two were executed, 4 died from injuries, and the others were released on October 14 after a local chief paid their ransom.

During the year, ex-ANC groups also committed serious abuses. In mid-March, ex-ANC combatants killed approximately 40 civilians, raped at least 2 women, and burned 150 houses in Lukweti, 80 miles north of Goma, North Kivu). Villagers reported they were attacked for allowing Rwandan Hutu militia members to cross the Lukweti bridge to attack villages under the ex-ANC's control.

On December 17, ex-ANC combatants killed at least 30 civilians, including women and children, in the town of Buramba, north of Goma. The combatants, who effectively mutinied against government authority and fought against FARDC forces loyal to the government, reportedly committed the killings as retribution against persons they perceived to be Mai Mai supporters. Earlier that same day, FARDC soldiers formerly belonging to Mai Mai militias had killed three ex-ANC soldiers.

On December 18 and 19, ex-ANC combatants killed more than 50 civilians with machetes and bayonets in and around Nyabiondo, northeast of Goma.

During the year, MONUC and the Government arrested members of Ituri armed groups accused of committing grave human rights violations over the past several years. By October, more than 50 were in government custody awaiting trial. However, in November, Hema prison guards helped 31 prisoners (Hema UPC members) to escape.

Based on investigations conducted in 2003 by MONUC and other human rights organizations in Ituri, during 2002 and 2003, it was estimated that all armed groups based in Ituri and several non-Ituri-based groups, including the MLC, RCD, RCD-ML, and RCD-N, killed at least 8,000 civilians, sometimes deliberately and sometimes through the indiscriminate use of excessive force, and more than 600,000 civilians were forced to flee their homes. These abuses were carried out with total impunity.

In July, MONUC reported that various groups had committed several massacres in mid-2003. The FNI killed at least 136 civilians, mostly Hema, in Katoto, 15 miles north of Bunia. Ngiti combatants killed at least 96 civilians and abducted at least 34 in Kasenyi, on Lake Albert. One of the abductees reported that six abducted persons were executed by machete when they could not continue to walk. Lendu militias killed at least 55 civilians and abducted 60, mostly Alur, from Nioka in Mahagi territory in Ituri District. According to Floribert Ndjabu, the FNI leader at the time, an FNI combatant named Lego and 20 of his men attacked Nioka without the FNI's permission and were subsequently executed.

In early December, civilians in Luma, near Lake Albert in Ituri District, killed 2 FNI militia members attempting to rob a house. In retaliation, the FNI killed 3 civilians and abducted 7 women. By year's end, one 14-year-old girl was still being held as a sexual slave.

Unknown persons were also responsible for numerous abuses. For example, on September 19, at least 300 persons—including civilians from the Ngiti village of Medu—attacked the Bira village of Lengabo with machetes and submachine guns. They killed approximately 15 persons, mostly women and children, including a baby, and burned 90 houses. MONUC immediately sent 150 peacekeepers to secure the area and helped the national police arrest approximately 20 persons suspected of involvement. At year's end, none of the suspects had been tried.

During the year, there were credible reports that foreign rebels killed civilians. For example, in January, Burundian National Liberation Force (FNL) soldiers killed seven persons and injured nine when they attacked a truck near Uvira.

In January, there were reports that FDLR units killed 10 persons, including 2 pregnant women whose bellies were slashed open. The units also abducted an unknown number of persons in villages between Hombo and Bunyakiri. In early March, hard-line FDLR members known as "Rastas" killed 14 persons while raiding Mushwere in Walungu, south of Bukavu.

On August 13, the FNL, likely working with other unidentified elements, massacred at least 152 Congolese Tutsi refugees from South Kivu, known as Banyamulenge, and injured more than 100 at a UNCHR transit camp in Gatumba, Burundi. The refugees were targeted because of their ethnicity. According to preliminary findings of a U.N. investigation, evidence suggested that some of the attackers spoke Congolese languages and may have come from the DRC.

In late November, there were unconfirmed but persistent reports that RDF troops killed 13 civilians, destroyed 4 villages, and kidnapped 30 civilians in Walikale, North Kivu.

The use of mass rape and sexual violence as weapons of war continued, and armed groups and the FARDC raped women with impunity (*see* Section 5). In areas under government control, there were reports that security forces raped women during the year. In April, MONUC reported that in December 2003, MLC troops be-

longing to the FARDC battalion in Nsongo Mboyo and Bogandanga, central Equateur, gang-raped approximately 120 women and girls and looted every household in the 2 towns. In May, the Human Rights Ministry and a military prosecutor visited the towns. The prosecutor subsequently opened an inquiry and recorded 119 accusations of rape and 86 accusations of looting. At year's end, no further action had been taken.

According to Amnesty International (AI), over the course of the war "tens of thousands of girls have been victims of systematic rape and sexual assault committed by combatant forces. Women and girls have been attacked in their homes, in the fields, or as they go about their daily activities. Many have been raped more than once or have suffered gang rapes." Victims ranged in age from under 1 year, including a 4-month-old girl who was raped in Ituri during the first half of the year, to over 80. MONUC reported that in Ituri, the exact number of female victims of rape or sexual slavery was impossible to estimate.

Armed groups used rape to humiliate and punish victims, families, and communities. In Ituri, women were often targets of sexual violence because of their ethnicity. In June, ex-RCD/G elements, led by former commanders such as General Nkunda and Colonel Mutebusi, reportedly told women from the Bashi and other ethnic groups in Bukavu that they were being raped to avenge abuses committed against Tutsi civilians. Government forces reportedly targeted Tutsi women for rape when they retook the city. On June 3, six ex-RCD/G elements following former commanders such as General Nkunda and Colonel Mutebusi reportedly gang-raped a mother; another soldier raped her 3-year-old daughter in the presence of her husband and her other children. There were also reports that non-Banyamulenge women were raped in reprisal for attacks against Banyamulenge.

Rapes were often extremely violent, were generally accompanied by threats and beatings, and sometimes involved props such as tree branches, rifles, sharpened sticks, glass, nails, stones, sand, or hot pepper. Sometimes women were shot during or after rape, sometimes in their genitals. There were also reports of anal rapes using sticks. These and other rapes sometimes resulted in vaginal fistula, a rupture of vaginal tissue that left women unable to control bodily functions and vulnerable to ostracism.

Violent gang rapes by members of armed groups were common, and they were often committed in front of victims' families. For example, on June 2, AI reported that up to 20 ex-RCD/G combatants, led by former commanders such as General Nkunda and Colonel Mutebusi, raped 3 sisters between the ages of 16 and 22 at their home in Bukavu. The soldiers forced family members to watch and stole everything from their house and shop.

In addition, armed groups forcibly abducted women and girls and used them as sex slaves (see Sections 5 and 6.c.). AI reported that FDLR soldiers held a woman from 2001 until this year and regularly beat and raped her, including the same day she gave birth to a baby. AI also reported that in September 2003, the FDLR stopped a minibus traveling in South Kivu and abducted six women for their commander. The commander chose one woman and gave the rest to the other officers. When the officers tired of them, they were given to the prison guards. One woman was released after 2 months when her family paid for her.

In some cases, sexual abuse was of a limited duration or was carried out in a sporadic manner, many times with different victimizers. There were numerous reports that girls as young as 14 were abducted. Other girls and women were subjected to repeated rape over longer periods with one victimizer. These girls and women were commonly referred to as "war wives," who often served both as fighting elements in active combat and sexual slaves for their commanders. Many traditional beliefs dictated that once a girl or woman was sexually "taken" by a man, she was his property, and they were seen to be married. Experts believed that most girls and women associated with armed groups would never be identified.

On May 27, unidentified soldiers entered the compound of an international NGO in Bukavu. One soldier raped a female aid worker and shot another before fleeing with money and phones.

During the year, there were numerous allegations of sexual abuse by MONUC civilian and military personnel. One MONUC civilian was sent home and arrested, and at least three other civilians were suspended and repatriated. At least two MONUC military personnel were sent home. At year's end, MONUC was conducting investigations into 150 allegations of sexual misconduct.

During the year, violations of humanitarian law were commonplace, and peacekeepers and humanitarian workers were threatened, harassed, and killed. Armed groups killed at least two unarmed U.N. military observers. On February 12, UPC militia members killed a Kenyan peacekeeper during an ambush on a MONUC convoy returning to Bunia after investigating alleged human rights violations. On June

6, unidentified men on the Goma-Rutshuru road shot at two South African peacekeepers, who died in an automobile accident following the shooting.

Ituri armed groups—particularly the UPC, FNI, and FAPC—became increasingly aggressive towards MONUC and civilians. For example, on January 16, the FNI attacked a MONUC helicopter attempting to investigate an FNI attack on a PUSIC camp outside Kasenyi. On February 4, unidentified gunmen operating in an area controlled by the UPC-Bosco attacked MONUC peacekeepers attempting to investigate the January 15 massacre of civilians at Gobu. On September 2, the UPC kidnapped a Moroccan peacekeeper just outside Bunia. He was released 5 days later. The Government condemned the kidnapping.

In May and June, fighting in and around Bukavu significantly impeded humanitarian access throughout the country. The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) reported that 90 percent of the humanitarian organizations operating in most major cities were affected by either looting, suspension of activities, or lack of access to vulnerable groups.

In June, military authorities in Maniema, with the complicity of local authorities, severely harassed humanitarian organizations, disrupted humanitarian flights, threatened CARE and AirServ staff, attempted to force AirServ pilots to carry military personnel and goods, and commandeered CARE vehicles and equipment. On June 18, a police commander in Kasongo severely beat a local CARE employee and detained him for several hours.

On November 15, unidentified gunmen attacked four workers from *Premiere Urgence*, a French NGO, south of Bunia, in an area controlled by the FPRI Ngiti militia. During the year, there were reports that Ituri armed groups attacked other NGOs, threatened to kill local staff, and stole money, equipment, and telephones.

No known action was taken against UPC militiamen who looted the Bunia hospital and the World Health Organization depot in May 2003.

During the year, there were reports of deaths or injury from landmines. For example, in April, up to 123 persons were victims of antipersonnel landmine explosions in Virunga National Park, in the east, according to a U.N. news source.

Armed groups and the FARDC continued to harass, rape, arrest, loot, extort, and illegally tax civilians in areas they occupied. For example, in certain parts of Bunia, UPC militiamen extorted money from civilians by threatening to either steal their belongings or kill them during the night. On June 9, a UPC/L member reportedly killed a local chief in Fataki, Ituri District because he had refused to collect illegal taxes from local civilians. In South Kivu, armed groups in a number of areas—including Kalehe, Walungu, and Kabare—committed numerous abuses, including extortion, theft, and the illegal occupation of civilian residences.

In September, Mai Mai waiting to be demobilized outside Beni caused civilians to flee the area. Locals reported that they committed rapes; widescale looting of food, livestock, and metal roof sheeting from houses; and charged tolls for women to work in the fields.

In October, there were clashes between Mai Mai and ex-ANC soldiers allied with youths who had recently been armed by local officials in Masisi territory, North Kivu. The youths, who were mostly from Rwandophone villages, reportedly burned 107 houses and looted livestock and household goods in predominantly Hunde and Tembo villages.

In many cases, armed groups did not make a distinction between military and civilian targets. For example, the MONUC Ituri report found that UPC forces shelled “Lendu villages without making any distinction between armed combatants and civilians.”

Armed groups and the FARDC continued to have children in their ranks (*see* Section 5).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government sometimes restricted these rights in practice. During the year, there were approximately 30 reported instances where government agents arrested, detained, threatened, or abused members of the media. During the year, journalists practiced self-censorship.

Individuals could privately criticize the Government, government officials, and private citizens without being subject to reprisal, and during the year, individuals often publicly criticized them in the media; however, security forces arrested, detained, and harassed opposition politicians and other high-profile figures for criticizing the Government. For example, on June 16, political opposition member Atundu Liongo was arrested after a speech for offending the Government, inciting persons to be disobedient, and attacking State security. He was released on October 1.

On June 30, Pastor Albert Lukusa gave a sermon in Lubumbashi criticizing President Kabila and the Government. On August 3, the ANR arrested and detained him. He was released on October 18.

The Government required each newspaper to pay a \$500 licensing fee and complete several administrative steps before it could publish legally. There was an active private press, and a large number of daily newspapers, mainly in urban areas, were licensed to publish. In general, journalists were poorly paid, lacked professional training, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who paid or provided other benefits to journalists to encourage them to write certain types of articles. However, many newspapers were highly critical of the Government. Although there was no official newspaper, the Government published the Daily Bulletin, which included decrees and official statements.

Due to limited literacy and the high cost of newspapers and television, radio remained the most important medium of public information. Numerous privately owned radio stations and privately owned television stations operated, as well as two state-owned radio stations and a state-owned television station. Major political parties represented in the Government were generally able to gain access to state radio and television, which covered activities of ex-rebels and opposition figures participating in the Government.

Foreign journalists were able to operate in the country. For example, Radio Okapi, an independent nationwide radio station closely affiliated with MONUC, continued to broadcast national and local news and provide information on MONUC's mandate, activities, and demobilization and disarmament programs.

During the year, government officials arrested, intimidated, harassed, and detained journalists, often without filing formal charges. For example, on April 1, military intelligence and ANR agents raided Radio Kilimandjaro in Tshikapa, West Kasai. According to a local press organization, they were looking for Radio Kilimandjaro journalist Sami Mbeto, who had allegedly reported that military intelligence officers had mistreated or humiliated DRC citizens expelled from Angola.

On July 19, local press freedom watchdog Journaliste en danger (JED) reported that ANR agents detained and questioned RTKM television director Lumbana Kapassa for 3 hours about an interview with a former security advisor to former President Mobutu.

On August 4, ANR agents shut down religious station Radio Hosanna in Lubumbashi, Katanga, and authorities arrested seven station employees for broadcasting a sermon by Pastor Albert Lukusa, who criticized the Government by noting the presence of "Rwandans and Senegalese" in the Government and accusing authorities of being "incapable of responding to the basic needs of the population." On August 7, the seven employees were released without charge, and Radio Hosanna resumed broadcasting on October 28.

On December 18, police arrested, interrogated, and detained for 6 days Feu D'or Bonsange Ifonge, director general of the Kinshasa-based newspaper Tapis Rouge. Police reportedly wanted to obtain information on the author of a December 16 article alleging that the government taxation department had mismanaged and misappropriated public funds. Ifonge posted a bail of \$340.

No action was taken against security forces that beat and harassed journalists in 2003 or 2002.

Unlike in the previous year, there were no reports that police in Kinshasa seized newspapers.

In June, JED criticized what it considered repeated attempts to muzzle the press by then-Minister of Press and Communication Vital Kamerhe. In late May, Kamerhe issued an order forbidding television and radio stations from broadcasting messages that he considered likely to aggravate the situation in Bukavu following its seizure by ex-RCD/G combatants operating under former commanders such as General Nkunda and Colonel Mutebusi (*see* Section 1.g.).

During the year, JED continued to call for the decriminalization of certain press offenses included in the out-of-date Press Law. The Committee to Protect Journalists (CPJ) reported that journalists were most frequently charged with defamation, or "attributing maliciously and publicly to a person a precise fact which is of a nature to damage the honor or standing of that person or expose him to public humiliation. [The law] does not specifically say the precise fact must be untrue." Defamation charges were used to suppress criticism of government officials and wealthy businessmen, especially in cases of corruption.

For example, on January 5, a court sentenced nine Radio-Television Nationale Congolaise (RTNC) reporters to 1 year in prison and ordered each of them to pay a \$2,500 fine for defamation. In a February 2003 open letter to the President, they had accused the former Minister of Press and Communication, Kikaya bin Karubi,

of embezzlement and called for his resignation. By year's end, the journalists were not made to pay the fine and had not been imprisoned.

On March 19, authorities arrested and detained Jean-Louis Lompoto, director of the weekly publication Pili-Pili for defamation. Lompoto had published an article on March 3 alleging that the then-Minister of Mines Eugene Diomi, who was later suspended for corruption in November, had embezzled public funds. According to the CPJ, after the March issuance of a warrant for their arrest, two of Lompoto's Pili-Pili colleagues went into hiding. Lompoto was released on bail after 8 days in prison. At year's end, no trial date had been set.

The Ministry of Human Rights and the Ministry of Communication and Press continued to intervene on behalf of journalists facing prosecution and held occasional workshops.

Unlike in the previous year, there were no reports of perceived threat of government harassment or intimidation resulting in self-censorship or the modification of lectures by professors, and academic freedom improved.

In areas under marginal government control, armed groups and local authorities continued to severely restrict freedom of speech and of the press.

Armed groups continued to harass, intimidate, beat, and arrest local journalists. For example, on March 2, a court sentenced Nicaise Kibel'Bel Oka, director of Behind the Scenes, a Beni weekly newspaper, to 5 years prison and ordered him to pay \$2,000 in fines for defamation of a wealthy North Kivu businessman in a November 2003 article. The article alleged that the businessman had committed customs fraud. The sentence was appealed pending additional evidence.

In late May, ex-RCD/G combatants operating under former commanders such as General Nkunda and Colonel Mutebusi attacked, vandalized, looted, and closed three Bukavu radio stations and threatened to kill their directors. The three directors took refuge at the MONUC compound and were evacuated to Kinshasa. JED reported that on June 3, rebel forces seeking Joseph Nkinzo, director of the radio station Sauti ya Rehema (Voice of Mercy), killed the journalist's younger brother, Mukamba Mwanaume, believing him to be Nkinzo.

Armed groups' treatment of foreign and Radio Okapi journalists improved during the year. However, in North and South Kivu, armed groups detained a few international journalists and confiscated their equipment after the journalists photographed military installations without permits. For example, in October, an international journalist was detained in Beni for photographing a military installation.

Armed groups took no known credible action against those accused of beating or otherwise abusing journalists or persons critical of their groups in 2003 or 2002.

*b. Freedom of Peaceful Assembly and Association.*—The Transitional Constitution provides for freedom of peaceful assembly; however, the Government restricted this right in practice. The Government considered the right to assemble to be subordinate to the maintenance of "public order," and continued to require all organizers to inform the local city government before holding a public event. According to the law, organizers automatically have authorization to hold an event unless the city government denies authorization in writing within 5 days of receiving the original notification. Some NGOs reported that in practice, local authorities sometimes denied authorization for an event, mostly on the grounds of preserving public order, after the 5-day period by backdating the correspondence. Government security services often dispersed unregistered protests, marches, or meetings.

On October 22, local authorities in Kinshasa denied the Union for Democracy and Social Progress (UDPS) permission to conduct a protest march. The reason for the denial was not known.

During the year, the Government occasionally harassed opposition parties during private meetings (*see* Section 1.d.).

During the year, police occasionally arrested peaceful demonstrators. For example, on January 14, police dispersed a UDPS demonstration in Kinshasa intended to mark the arrival of South African President Thabo Mbeki. Ten UDPS members were arrested and detained for several days.

On February 5, authorities in Bas Congo arrested and detained for several days four students who were protesting what they considered excessive school fees.

In June, security forces reportedly killed approximately nine rioters in Kinshasa while attempting to disperse a violent crowd.

Unlike in the previous year, there were no confirmed reports that security forces forcibly dispersed political party press conferences or rallies. The Government required political parties to apply for permits to hold press conferences; According to local NGOs, such permits sometimes were denied.

No action was taken against security forces responsible for using excessive force during demonstrations in 2003 or 2002.

In June, MONUC peacekeepers killed three rioters in Kinshasa while attempting to disperse a violent crowd.

The Transitional Constitution provides for freedom of association; however, in practice, the Government sometimes restricted this right. During the year, government authorities generally did not harass political parties, although there were some exceptions concerning the UDPS. For example, on March 18, the ANR arrested 12 UDPS members near Mbuji Mayi for holding public meetings; by year's end, they had been released.

In areas under marginal government control, armed groups continued to restrict severely freedom of assembly and association, and security services used excessive force against protesters in Goma. For example, on November 15, RCD/G police and soldiers killed at least two demonstrators when RCD/G police and soldiers opened fire on students while they were protesting the death of a student who was reportedly shot in the back. A police officer was also killed, although it was not clear who was responsible. At year's end, no action had been taken against those responsible for the killings.

No action was taken against RCD/G agents who, in May 2003, fired upon activists who had gathered to greet a government delegation.

*c. Freedom of Religion.*—The Transitional Constitution provides for freedom of religion, and the Government generally respected this right in practice, provided that worshipers did not disturb public order or contradict commonly held morals. Unlike in the previous year, there were no reports that government forces committed abuses against religious figures.

The law provides for the establishment and operation of religious institutions, and requirements for the establishment of a religious organization were simple and generally not subject to abuse. The law grants civil servants the power to establish and dissolve religious groups; however, during the year, there were no reports that the Government suspended or dissolved a religious group. The Bundu Dia Kongo, an ethnically based spiritual and political movement that called for the violent overthrow of the Government and the establishment of an "ethnically pure" kingdom for the Bakongo tribe, remained outlawed at year's end. Officially recognized religions were free to establish places of worship and to train clergy. In practice, religious groups that were not recognized also worshipped freely.

While the Government generally did not interfere with foreign missionaries, they were not exempt from general restrictions on freedom of movement imposed on all persons by security force members who erected and manned roadblocks, at which they often solicited bribes.

In areas under marginal government control, respect for religious freedom generally improved. During the year, there were fewer reports of attacks against priests, parishioners, churches, parish property, or schools. However, in November, unidentified men broke into a Catholic parish in Kabare, west of Bukavu, and looted it.

No action was taken against RCD/G soldiers who targeted churches and religious leaders in 2003 or 2002, or against Lendu militia members who executed Hema civilians and priests who had taken refuge in a church compound in 2003.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement; however, the Government occasionally restricted this right in areas under its control. Freedom of movement between areas under government control and areas under marginal government control improved during the year. Movement between these areas continued to be hazardous; however, since the establishment of the Government, cross-country commercial air traffic has continued to increase, as has road and rail rehabilitation funded by the international community.

In Kinshasa, police and soldiers erected roadblocks for security checks and to protect government installations. In general, military and regular police were more aggressive than during the previous year, and there were many more instances in which drivers were harassed, forced to pay bribes, and forced to transport soldiers for free. In November, the main taxibus union organized a 1-day transportation strike in Kinshasa in response to such harassment. In addition, underpaid traffic police continued to routinely harass citizens and demand bribes in the course of pulling vehicles over for ostensible traffic violations. The Government closed certain national roads at night due to banditry.

The significant risk of rape perpetrated by uniformed men restricted freedom of movement at night for women in many areas.

Married women were required by law to have their husband's permission prior to traveling outside the country. Passport issuance was highly irregular and required the payment of significant bribes (up to \$500); however, there were no reports that certain groups were prevented from acquiring them.

The law prohibits forced exile, and there were no reports that the Government used forced exile.

According to the U.N. High Commission for Refugees (UNHCR), at year's end, approximately 370,000 Congolese refugees lived in several neighboring countries, including Tanzania (149,000), the Republic of the Congo (56,000), Zambia (54,000), Burundi (35,000), and Rwanda (33,000).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a very basic system for providing protection to refugees. In practice, the Government granted refugee and asylum status and provided protection against refoulement, the return to a country where individuals feared persecution. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to an unknown number of individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

During the year, the Government accepted refugees from Burundi and Rwanda. According to the UNHCR, by November the country was hosting an estimated 196,000 refugees, including refugees from Angola, Sudan, and Burundi.

There were numerous reports, including one prepared by an independent panel of experts for the U.N. Security Council, that former RCD/G agents entered refugee camps in Rwanda, with the aid of local Congolese and Rwandan authorities, to recruit young men, including children, to join their militia in the eastern DRC; however, some parents of refugees who left the camps said they sent their children to the DRC for schooling—not for use as soldiers—and the U.N. report, which relied heavily on statements by humanitarian aid workers, did not refute this claim.

In areas under marginal government control, freedom of movement was severely restricted during the year, partially as a result of fighting between armed groups and government forces, which frequently prevented travel and harassed travelers. Several towns were cut off from the surrounding countryside by government soldiers and armed groups, who controlled road and river access into and out of the towns. Soldiers established road, river, airport, market, and lake checkpoints and routinely harassed and demanded bribes from civilians, sometimes detaining those who could not pay extortion fees in underground prisons until the toll was paid by a family member. For example, in early February, the FNI held a man in 2 underground prisons and a commander's home until his family paid \$80 for his release a week later. Such travel restrictions contributed to widespread hunger and economic hardship.

Local authorities in the Kivus routinely required Congolese citizens to show official travel orders from an employer or government official authorizing travel. Foreigners were forced to go through immigration proceedings at airports, lake ports, and when entering and leaving towns.

Armed groups and local authorities frequently imposed travel restrictions on NGOs. In May and June, many NGOs evacuated their personnel following fighting in Bukavu, leaving millions without humanitarian aid. Throughout the year, banditry and poor security hampered NGO activities in large parts of Ituri (*see* Section 1.g.).

Unlike in the previous year, there were no reports that armed groups expelled persons from the country.

During May and June, a significant number of Banyamulenge refugees fled to Rwanda and Burundi because they reportedly feared reprisal attacks from the FARDC and others after ex-RCD/G elements took control of Bukavu (*see* Section 1.g.). By year's end, several hundred had returned, in large part due to the efforts of certain members of the Government. However, certain local officials in South Kivu attempted to prevent the refugees' return. For example, in October, the FARDC detained 38 refugees who were attempting to return from Burundi; the FARDC detained them in Bukavu and Uvira for several days without charge.

As of November, OCHA estimated that there were almost 2.2 million IDPs in the country, the majority of whom were reportedly in the eastern portion of the country, mostly concentrated in North Kivu, Orientale, and Katanga. In November, OCHA reported that there were an estimated 180,000 IDPs in the Ituri region, an estimated 785,000 IDPs in North Kivu, and 280,000 IDPs in South Kivu. Many of the IDPs received no assistance because of ongoing fighting and the denial of access to NGOs, and many were forced to relocate numerous times to escape fighting (*see* Section 1.g.). In December, fighting between FARDC forces and RCD/G soldiers who

were not integrated into the national army displaced over 100,000 persons in central North Kivu.

Unlike the previous year, there were no reports that militias attacked and fired upon IDPs attempting to flee.

On several occasions, armed groups denied access to humanitarian organizations or obstructed their ability to deliver humanitarian relief supplies. For example, during the first part of the year, Mai Mai groups in South Kivu harassed NGOs, imposed illegal taxes, and refused to let humanitarian workers transit their zones of control. During the year, armed groups, government troops, and civilians participated in widescale looting of humanitarian facilities, including the World Food Program warehouses in Bukavu and Kalemie. In Ituri, armed groups regularly attacked vehicles, including those of humanitarian workers, traveling from Bunia to Lake Albert (*see* Section 1.g.).

No known action was taken against soldiers who erected illegal checkpoints, attacked fleeing IDPs, or restricted U.N. or humanitarian access in 2003.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

Citizens did not have the right to change their Government peacefully and have not been able to change their Government through free elections since independence in 1960. Joseph Kabila continued to be President of the country under the Transitional Government. There are four vice presidents: two from the main former rebel groups, one from the political opposition, and one from Kabila's own political "family." The bicameral Parliament, as established under the Transitional Constitution, includes members from these groups, civil society and smaller, former rebel movements. There are also five "citizens' institutions" that began operating in 2003: An Observatory for Human Rights, a Truth and Reconciliation Commission, a High Authority for Media, an Ethics and Anti-Corruption Commission, and the Independent Electoral Commission. In mid-year, the Government installed provincial governors throughout the country, and by year's end, former rebel-held areas were under marginal government control. The Transitional Constitution calls for elections to be held by June 30, 2005. This period may be extended for two additional 6-month periods, with the approval of Parliament.

The law allows legally registered political parties to operate freely; however, authorities continued to arrest political activists and to block some activities, including marches and demonstrations (*see* Section 2.b.). Authorities in Katanga and other areas outside the national capital tended to impose more limits on civil and political liberties.

Corruption remained endemic at all levels. Many civil servants, police, and soldiers have not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which encouraged petty corruption. For example, local authorities and remnants of rebel groups continued to extort "taxes" and "fees" from all boats traveling on the Congo River. In addition, government authorities and wealthy individuals sometimes restricted the freedom of press and speech on occasions when there were accusations of corruption (*see* Section 2.a.). As noted in a Transparency International report released during the year, most Congolese said they believed official corruption was rampant in their country. The Ethics and Anti-Corruption Commission had little impact by year's end.

During the year, the Government took a few steps to combat corruption. In November, following a parliamentary investigation, the Government suspended six ministers for high-level corruption.

The law does not provide for public access to government information, and the Government was unable to provide information upon request.

Five of 36 cabinet ministers and 3 of 24 vice ministers were women, and women held 48 of the 614 seats in Parliament, including 5 in the 120-seat Senate.

Pygmies were not represented in the political process.

In areas under marginal government control, citizens did not have the right to change their government peacefully. Although the Government appointed provincial governors in May, most local-level officials appointed during the war by rebel authorities remained in place. Ituri District was an exception: In July, the Government appointed district commissioners in Ituri. By year's end, the Government had not provided newly appointed officials with adequate resources. Political freedom improved slightly, in part because MONUC deployed troops to more areas and because the Government's influence expanded.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

In areas under government control, a wide variety of domestic and international human rights NGOs continued to investigate and publish their findings on human rights cases. The Human Rights Ministry and the Observatory for Human Rights worked with NGOs during the year and were responsive to their requests and recommendations. However, during the year, many prison officials regularly obstructed NGO access to detainees, and security service personnel harassed and arrested domestic human rights workers.

The main domestic human rights organizations operating in the country included VSV; Groupe Jeremie; the Committee of Human Rights Observers (CODHO); The Christian Network of Human Rights and Civic Education Organizations (RODHECIC); and the African Association for the Defense of Human Rights (ASADHO). On April 10, ANR agents in Lubumbashi detained for 2 hours the executive director of the Center for Human Rights, Bin Masudi Kingombe.

On July 6, unidentified armed men dressed in civilian clothes harassed Floribert Chebeya, the president of VSV in Kinshasa.

During the year, domestic human rights activists self-censored reports about corruption and human rights abuses committed by certain government officials because they feared arrest.

The Government cooperated with international governmental organizations and NGOs and permitted international humanitarian and human rights NGOs access to conflict areas. A number of U.N. representatives and international NGOs visited the country during the year. During the year, international NGOs, including AI and HRW, and international organizations such as the U.N. published several reports on the human rights and humanitarian situation.

In March, U.N. Special Rapporteur for Human Rights Iulia Motoc presented her final report to the U.N. Commission on Human Rights. She reported that the “civilian population is subject to violence by the military and police . . . Since bribery is ubiquitous, the guilty parties can buy off the justice system and the police, and justice officials often help victims and perpetrators to make deals in exchange for part of the compensation paid.”

In July, MONUC presented a “Special Report on the Events in Ituri, January 2002–2003,” (MONUC Ituri Report) to the U.N. Security Council. It found that Ituri District, located in Orientale Province, “has one of the world’s worst—and for a long time largely ignored—human rights records” (see Sections 1.g. and 5).

In October, the U.N. Operations in Burundi, the U.N. High Commissioner for Human Rights, and MONUC presented a joint report on the August 13 Gatumba massacre of over 150 Banyamulenge to the U.N. Security Council. Although the team was able to establish the facts of the massacre and determined that the refugees appeared to be targeted because of their ethnicity, it was unable to determine who planned, supported, or carried out the killings. A Burundian rebel group, the National Liberation Force (FNL), claimed responsibility for the attack (see Section 1.g.).

On October 28, Frederic Pacere Titinga, the U.N.’s Independent Expert for the Commission on Human Rights in the DRC, reported to the U.N. General Assembly that grave human rights violations continued throughout the country, especially in the east, and that the justice system was incapable of responding to the situation.

The Government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR) and took the lead in capturing, arresting, and transferring suspected genocidaire Yusuf John Munyakazi to the ICTR. ICTR investigators operated freely in areas under government control, seeking a number of genocide indictees they believed might be living in the country.

On October 6, the Government and the International Criminal Court (ICC) signed an accord allowing the ICC to begin investigations into war crimes and crimes against humanity committed in the country since July 2002. By year’s end, the ICC had established a basic field presence and had started preliminary investigations into events in Ituri.

The Transitional Constitution provides for an independent Human Rights Observatory and a Truth and Reconciliation Commission. During the year, the Observatory published reports, made field visits, and brought human rights NGOs from around the country together to identify national human rights concerns. Members of the Truth and Reconciliation Commission made field visits to provincial capitals but lacked sufficient staff and resources to be truly effective.

In areas under marginal government control, domestic human rights NGOs and civil society members were subjected to frequent harassment and abuse, particularly in Ituri. Domestic human rights organizations operating in areas under marginal government control included Heirs of Justice, and Solidarity Exchange for Integral

Development (SEDI) in South Kivu; Lotus Group, Friends of Nelson Mandela, and Justice and Liberation in Kisangani; and Justice Plus, in Bunia.

Armed groups frequently committed abuses, including killings and rapes, against humanitarian workers or peacekeepers (*see* Section 1.g.). In addition, in Ituri, according to the MONUC Ituri Report, there were “several cases of harassment of humanitarian workers and church members, with the aim of halting the delivery of humanitarian assistance to members of ‘rival’ ethnic groups.” Ituri armed groups also “executed, abducted, arrested, or forced to flee persons they thought to be political opponents, as well as judges, intellectuals of enemy ethnic groups, journalists, and members of NGOs.”

The U.N. Special Rapporteur for Human Rights reported that government agents arrested the president of a local civil society organization, and agents subsequently intimidated NGO members after the Rapporteur met with NGOs in Walikale, North Kivu.

In April, security service agents in Bukavu harassed human rights workers at Heirs of Justice (Heritiers de la Justice).

On November 20, a local human rights activist who had strongly criticized recent insecurity in Goma was detained for several hours.

David Aliana, a member of the NGO Friends of Nelson Mandela, was released from prison in 2003.

Maitre Honore Musoko, president of Bunia-based Justice Plus, remained outside the country at year’s end after he was harassed in February 2003.

Armed groups frequently imposed travel restrictions on persons who provided humanitarian aid, human rights NGOs, and journalists (*see* Sections 1.g. and 2.d.).

International NGOs active in areas under marginal government control included the ICRC, Global Rights, HRW, and various humanitarian organizations. Although most armed groups permitted international humanitarian and human rights NGOs access to conflict areas, certain groups in Ituri and South Kivu regularly harassed persons who provided humanitarian aid and levied illegal taxes at ports and roadblocks (*see* Section 1.g.). Armed groups generally allowed international NGOs such as AI and HRW to conduct investigations and publish reports; however, there were some exceptions. For example, in mid-November, armed men attacked four humanitarian workers in Bukiringi, 62 miles south of Bunia, in an area controlled by ethnic Ngitu militiamen, who were under the control of the FRPI; one sustained a bullet wound.

During the year, government authorities cooperated with Dutch officials during an investigation into allegations of torture against Sebastien Nzapali, a former officer in the army of former President Mobutu Sese Seko. Nzapali had requested asylum in the Netherlands, but Dutch officials refused the request and began an investigation based on claims by persons claiming to be Nzapali’s victims. On April 7, a court in the Netherlands convicted Nzapali of committing torture in the DRC in 1995 and 1996.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Transitional Constitution prohibits discrimination based on ethnicity, sex, or religious affiliation; however, the Government was unable to enforce these prohibitions effectively. Nongovernmental actors incited violence against street children. Societal discrimination remained an obstacle to the advancement of certain groups, particularly women and indigenous Pygmies (Batwa).

*Women.*—Domestic violence against women, including rape, was common throughout the country; however, there were no known statistics on the extent of this violence. Assault and rape are crimes, but police rarely intervened in domestic disputes and rapists were very rarely prosecuted. There were no laws prohibiting spousal abuse or assault. It was commonplace for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to save the reputation of the victim and her family. The press rarely reported incidents of violence against women or children; press reports of rape generally appeared only if it occurred in conjunction with another crime, or if NGOs reported on the subject.

Armed groups used rape as a weapon of war (*see* Section 1.g.). Girls and women who had been raped often found it difficult to get married, and married women who were raped were often abandoned by their husbands. For example, AI reported that after a 50-year-old woman in South Kivu was gang-raped by Burundian combatants in 2003, her husband abandoned her and her children.

Victims and experts cited widespread impunity as the main reason sexual violence continued. A small number of sexual violence cases have been brought to court. For example, in early March, a man who raped a 23-month-old baby girl in Isiro, Orientale Province was sentenced to 5 years in prison. A local organization in South Kivu also won 57 of 60 rape cases it brought to court. In general, however, most

victims did not have sufficient confidence in the justice system to be willing to subject themselves to further humiliation and possible reprisals by pursuing formal legal action. For example, in March, there were reports that a woman in North Kivu publicly denounced local thugs who raped her and killed her husband as he tried to defend his family. The group returned shortly afterwards and cut off both of her lips as a warning to others not to speak out against sexual violence and other crimes.

The law did not prohibit the practice of FGM, and although FGM was not widespread, it was practiced on young girls among isolated groups in the north. The National Committee to Fight Harmful Traditional Practices/Female Genital Mutilation developed a network of community leaders, women representatives, and health professionals dedicated to the prevention and treatment of FGM; however, the Committee lacked adequate resources for prevention and treatment.

The law does not prohibit prostitution except in cases involving children under the age of 14; prostitution, including child prostitution, was a problem mainly due to poor economic conditions. There continued to be reports of women and girls pressured or forced to engage in prostitution by their families out of economic necessity. There was no information available on the extent of prostitution in the country. Security forces encouraged prostitution and were customers. There were unconfirmed reports that security forces harassed and raped prostitutes.

There were reports that women were trafficked (*see* Section 5, Trafficking).

There were no laws preventing sexual harassment; the extent of the problem was unknown. On October 25, security forces in Kinshasa attacked women for wearing tight pants. Ten soldiers and two policemen were arrested for beating and tearing clothes off women in Kinshasa. At year's end, it was unknown if any action had been taken against them.

Women were relegated to a secondary role in society. They constituted the majority of primary agricultural laborers and small-scale traders, and they almost exclusively were responsible for child rearing. In the formal sector, women commonly received less pay for comparable work. Only rarely did they occupy positions of authority or high responsibility.

Married women were required by law to obtain their husband's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. The law permits a woman to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce; however, in practice, women often were denied these rights, which in some cases was consistent with traditional law. Widows commonly were stripped of all possessions—as well as their dependent children—by the deceased husband's family. Human rights groups and church organizations worked to combat this custom, but there was little government intervention or legal recourse available. In addition, women often did not realize that they could improve their legal inheritance claims by obtaining official documents that proved their marital status. Women also were denied custody of their children in divorce cases, but they retained the right to visit them. Polygyny was practiced, although it was illegal. Father-child relationships resulting from polygynous unions were recognized legally, but only the first wife was recognized legally as a spouse.

There were a number of active and effective women's groups throughout the country.

*Children.*—Government spending on programs for children's welfare was almost nonexistent. Primary school education was not compulsory, free, or universal. In public schools, parents formally were required to pay a small fee, and informally expected to pay teachers' salaries. Many children were not able to attend school because their parents could not afford to send them. According to UNICEF, net primary school attendance was 51 percent. Attendance rates for girls were much lower because parents with meager financial resources preferred to send their sons to school.

FGM was not widespread but was performed on girls among isolated groups (*see* Section 5, Women).

Trafficking was a problem (*see* Section 5, Trafficking).

Child prostitution was a serious problem (*see* Section 5, Women).

The FARDC and other armed groups continued to have child soldiers in their ranks. During the year, the Government demobilized an estimated 3,080 children, and there were no reports that the Government actively recruited children; however, there were numerous reports that it provided support to Mai Mai groups, which continued to recruit and use child soldiers. The Government continued to collaborate with UNICEF and other partners to demobilize child soldiers, participated in an international program to demobilize child soldiers, and finalized the national demo-

bilization and disarmament committee's plan for children associated with armed groups.

Child labor was a problem (*see* Section 6.d.).

According to a November 2003 report by a U.N. Special Rapporteur, between 25,000 and 50,000 child refugees, war orphans, and children accused of witchcraft or sorcery lived on the streets throughout the country, although some of those who were not orphans returned to their families at day's end. So-called child sorcerers were accused of having mystical powers and their families often abandoned them, most often because of socio-economic difficulties.

There was widespread discrimination and violence by average citizens against these children, who were widely perceived to be street thugs who engaged in petty crime, begging, and prostitution. There were numerous reports of collusion between police and street children, including street children who paid police officers for the right to sleep in abandoned buildings, and children who paid police a percentage of goods they stole in large markets. In addition, there were reports that different groups and individuals regularly rented groups of these children to disrupt public order.

The Government was ill-equipped to deal with large numbers of street children. On September 22, 12 children between the ages of 12 and 17 were arrested and convicted of being "vagabonds," destruction of property, and illegal occupation of state buildings in Kisangani. The children were originally sentenced to prison until age 21, but MONUC negotiated their release contingent on a family or organization agreeing to take care of them. The judge told journalists that he knew the sentence was harsh, but the state did not have structures in place to deal with delinquent minors.

Violence against street children increased during the year. Soldiers and police subjected street children to harassment (*see* Section 1.a.). There were unconfirmed reports that security forces in Kinshasa rounded up street children and transferred them outside the city. In late September, street children attacked civilians and local artisanal miners in Mbuji Mayi. In retaliation, the next week, miners and mobs of civilians killed at least 20 street children. Some were burned alive and others were beheaded. There were reports that civilians burned alive a policeman and soldier for complicity with the street children. In November, Parliament conducted an inquiry into the killings and recommended that some local government officials, including the governor, be dismissed. At year's end, there was no known action taken against those who committed the killings.

No action had been taken against those responsible for killing alleged child sorcerers in 2003 by year's end.

There were several active and effective local and international NGO groups working with MONUC and UNICEF to promote children's rights throughout the country, and with the Government's national committee on disarmament, demobilization, and reintegration.

In areas under marginal government control, children committed and were victims of serious crimes. Credible estimates of the total number of children associated with armed groups varied widely from 15,000 to 30,000, many of whom were very young, including a 7-year-old boy who served with PUSIC. Armed groups continued to abduct and forcibly recruit children to serve as forced laborers, porters, combatants, "war wives," and sex slaves (*see* Sections 5, Women and Trafficking, and 6.c.).

The MONUC Ituri report found that all Ituri armed groups had "recruited and trained children to turn them into combatants." According to some estimates, during the year, 40 percent of each Ituri militia force may have been composed of children under 18, and estimates suggested that 6,000 children belonged to armed groups, with several thousand others possibly involved in local defense groups. The MONUC Ituri report indicated that children have been used as combatants, laborers in the illegal exploitation of natural resources, domestic labor, and sexual slaves. The report also noted that there have been several allegations that Uganda and Rwanda have aided and abetted Ituri armed groups to recruit and train children. The Coalition to Stop the Use of Child Soldiers reported that armed groups continued to use approximately 2,000 Rwandan children as soldiers in Ituri District.

During the year, children were voluntarily and forcibly recruited into armed groups; however, no reliable data was available on the number of children recruited willingly versus forcibly. Many children joined an armed group based on their ethnic origins and their places in shifting military alliances; however, most made calculated decisions about their best chances for survival and aligned with whichever group looked most likely to support them.

In anticipation of promised salaries for those soldiers who integrated in the national army, some commanders of armed groups reportedly recruited child soldiers

during the first part of the year and regularly diverted the salaries of child soldiers for their own gain.

During the year, armed groups pursued several recruitment targets and engaged in forced recruitment and recruitment of previously demobilized child soldiers. Credible sources reported that in May and June, former Mundundu-40 commanders allied with ex-RCD/G combatants recruited previously demobilized children in and around Bukavu.

In May, the FARDC arrested former Mundundu-40 Commander Biyoyo for unauthorized recruitment of soldiers, including minors. However, Biyoyo was given a provisional release and was said to have fled the country. Biyoyo's former Operations Chief, Antunov, threatened minors who testified against Biyoyo and aggressively targeted them for recruitment in mid-June. Although some children returned to their homes or went to child demobilization centers, some reported for duty out of fear.

In June, ex-RCD/G elements led by former commanders such as General Nkunda and Colonel Mutebusi recruited children in North and South Kivu, notably in Minova, Kalehe, and Masisi, to serve as soldiers. In September, ex-ANC forces in Ngungu kidnapped and forcibly recruited a 12-year-old boy, who, after a week of military training in Masisi, was sent to Walikale to serve as a soldier. A U.N. expert panel on resource exploitation reported that, in mid-year, Rwandan officials attempted to recruit demobilized Rwandan and Congolese soldiers and Congolese refugees in support of ex-RCD/G combatants; however, the Rwandan Government denied these claims. In addition to offering enrollment incentives, Rwandan officials, Nkunda, and other Congolese officials reportedly pursued recruitment aims through the use of intimidation tactics. For example, in late June, local sources reported that Nkunda forcibly recruited soldiers, including children in Kalehe, by threatening to shoot those who did not volunteer. In addition, credible sources reported that an unknown number of children were recruited out of refugee camps in Rwanda. There were also unconfirmed reports that some children recruited by ex-RCD/G elements following former commanders such as General Nkunda and Colonel Mutebusi were sent to Rwanda for training; however, these reports had not been independently confirmed by year's end.

Children were often treated brutally if they failed to obey orders. Child soldiers recruited by Mai Mai in Maniema Province told the U.N. Special Rapporteur that they were subjected to severe punishment by their superiors and had been initiated into war using fetishist rituals involving cannibalism. Some children were beaten or placed in detention for falling asleep while on guard duty, wasting ammunition, failure to obey orders, or desertion. In detention, they were often tortured and otherwise ill-treated. For example, in May, AI reported that approximately 20 former RCD/G child soldiers were being held in overcrowded conditions with poor sanitation and food in Goma. Some were held for military offenses. In one case, according to the MONUC Ituri report, a child was executed.

Girls associated with armed groups were often assaulted, raped, and infected with HIV/AIDS. In Ituri, girls have been utilized as foot soldiers, domestics, and sex slaves. The MONUC Ituri report found that all Ituri armed groups recruited girls, often forcibly, into their ranks. Once released, denial, shame, and fear prevented many of them from seeking assistance (see Section 5, Women).

During the year, armed groups demobilized 3,080 child soldiers with assistance from MONUC, UNICEF, and NGOs.

*Trafficking in Persons.*—There were no specific laws prohibiting trafficking in persons, and trafficking occurred. There are laws that prohibit slavery, rape, and child prostitution that could be used to prosecute traffickers; however, the laws were rarely enforced. The Government has not prosecuted any cases against traffickers; however, during the year, judicial authorities in South Kivu initiated legal proceedings against an individual suspected of recruiting child soldiers.

The country was a source for women and children trafficked for the purposes of sexual exploitation and forced labor. Internal trafficking for forced labor and forced sexual exploitation occurred. In addition, child prostitution was common. The forcible recruitment and use of children associated with armed groups contributed to trafficking (see Section 5, Children).

Unlike in the previous year, there were no confirmed reports that government officials participated in or facilitated trafficking in humans; however, there were unconfirmed reports that local government officials facilitated the trafficking of children from Rwandan refugee camps for use as soldiers in the DRC.

The Government had few programs in place to prevent trafficking. The Ministry of Women's and Family Affairs and Labor implemented an action plan against sexual exploitation in conjunction with an international organization. In addition, the

Government coordinated with other countries on trafficking issues and attended some regional meetings on trafficking in persons; however, government efforts to combat trafficking were limited by a lack of resources and information, and because much of the country's trafficking problem was related to the use of children associated with armed groups in areas under marginal government control. The Government had few resources for training; however, it permitted training of officials by foreign governments and NGOs. The Government had no funding available for protection services. Victims were not prosecuted.

In areas under marginal government control, there continued to be reports that armed groups kidnapped men, women, and children and forced them to provide menial labor and sexual services for members of armed groups (see Sections 1.g. and 6.c.). In addition, armed groups abducted children to serve as combatants in areas under their control (see Section 5, Children).

The Government repeatedly criticized the abduction of women and children by armed groups.

*Persons with Disabilities.*—Persons with disabilities were subjected to discrimination in employment, education, and the provision of other government services. Persons with disabilities were exempt from some civil laws, such as paying some taxes, or in some cases, paying customs duties.

The law does not mandate accessibility to buildings or government services for persons with disabilities. There were some special private schools that used private funds and limited public support to provide education and vocational training to students who were blind or had physical disabilities.

*National/Racial/Ethnic Minorities.*—There were at least 200 separate ethnic groups, which generally were concentrated regionally and spoke distinct primary languages. There was no majority ethnic group; some of the largest ethnic groups were the Luba, Kongo, and Anamongo. Four indigenous languages—Kiswahili, Lingala, Kikongo, and Tshiluba—had official status. French was the language of government, commerce, and education. Societal discrimination on the basis of ethnicity was practiced widely by members of virtually all ethnic groups and was evident in private hiring patterns in some cities; however, intermarriage across major ethnic and regional divides was common in large cities.

President Kabila's cabinet and office staff were geographically and ethnically diverse. However, a significant amount of political influence remained in the hands of individuals from Katanga. Katangans in the FARDC were more likely both to be promoted and to be paid than persons from other regions. The leadership of former rebel groups also was geographically and ethnically diverse. However, a significant amount of influence in the MLC continued to be held by members from the Equateur Province, and, in the RCD/G leadership, by Tutsis. A significant number of ethnic groups were represented in the Government.

Birth on national territory did not necessarily confer citizenship. The Government did not recognize the citizenship claims of some longtime residents whose ancestors immigrated to the country, including certain Congolese Tutsis from South Kivu, known as Banyamulenge, who fled to the country from Rwanda. The Transitional Constitution provides for a more inclusive approach to the Banyamulenge, and by year's end, Parliament had adopted a new nationality law, which for the first time recognized a person's right to acquire citizenship if the person was born in the country or had one Congolese parent; however, the Government had not yet promulgated the law.

After ex-RCD/G combatants following former commanders such as General Nkunda and Colonel Mutebusi took control of Bukavu in late May, anti-Tutsi sentiment increased. Tutsis were harassed and received threats, and some reported being afraid of abuse for appearing Rwandan. On October 6, a MONUC vehicle with peacekeepers and their Congolese interpreter broke down in central Bukavu. A few hundred persons surrounded the vehicle, accused the interpreter of being a Rwandan, and threatened to burn the vehicle and kill him. The ANR and the FARDC detained the interpreter, a Mushi from north of Bukavu, for several hours and interrogated him on the suspicion that he was a Rwandan infiltrator. The street incident broke up when the FARDC fired shots into the air. According to MONUC, over the course of the incident, 9 persons were hurt, 15 MONUC vehicles were damaged, the RCD/G office was destroyed, and 29 shops were looted. Government officials, including a vice governor and the local head of the ANR, encouraged the crowd.

During the second half of the year, FARDC soldiers in South Kivu and northern Katanga harassed, arbitrarily arrested, and threatened Banyamulenge. For example, there were reports that dozens of men attempting to return to South Kivu were arrested on their return by Congolese officials at the border, where they were held on suspicion of being spies or military infiltrators.

During the year, in Ituri District of Orientale Province, fighting between members of the Lendu and Hema ethnic groups (and other smaller tribes allied with either the Lendu or the Hema) resulted in numerous deaths.

There were reports that Ituri armed groups forced members of other ethnic groups to work in labor camps (*see* Sections 1.g. and 6.c.).

*Indigenous People.*—The country had a population of fewer than 10,000 Pygmies (Batwa), who were believed to have been the country's original inhabitants; during the year, societal discrimination against them continued. Although they were citizens, most Pygmies continued to live in remote areas and took no part in the political process. Unlike in the previous year, there were no confirmed reports that Pygmies were targeted for cannibalism.

Unlike in the previous year, there were no confirmed reports that some tribes used Pygmies as slaves or as part of burial ceremonies; however, there were a few unconfirmed reports during the year.

*Incitement to Acts of Discrimination.*—Anti-Tutsi sentiments—including appeals to force Tutsis into exile and practice discrimination toward Tutsis in regard to citizenship rights—were expressed in private and government-affiliated media. In addition to inflammatory articles and editorials in the major government-affiliated newspaper, *L'Avenir*, government-affiliated television talk shows featured guests with extreme, anti-Tutsi views.

During the year, there were credible reports that certain members of the Government directly and indirectly encouraged hate speech that advocated forcing Tutsis into exile. For example, there were unconfirmed reports that some hard-line government officials provided funding for Pastor Theodore Ngoy to buy television airtime to incite hatred against Congolese Tutsis by claiming they were Rwandans who were in the country to infiltrate society. Such programs were aired periodically through the first half of the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law permits all workers, except magistrates and military personnel, to form without prior authorization and to join trade unions; workers formed unions in practice. Since the vast majority of the country's economy was in the informal sector, only a small percentage of the country's workers were organized.

The Labor Code prohibits discrimination against unions, although this regulation was not enforced effectively. The law also requires employers to reinstate workers fired for union activities.

In areas under marginal government control, there were no reports of functioning labor unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of unions to conduct activities without interference and the right to bargain collectively; however, in practice, the Government did not protect these rights, due in part to a lack of resources, and collective bargaining was not used in practice. In the public sector, the Government set wages by decree, and the unions could only act in an advisory capacity. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. The law requires unions to have prior consent and adhere to lengthy mandatory arbitration and appeal procedures. During the year, there was increased labor union activity, and public sector unions organized several legal strikes to call for increased wages and back pay. The law prohibits employers or the Government from retaliating against strikers, but this prohibition was not enforced.

By year's end, most civil servants' salaries were not current, and most arrears had not been addressed. Some arrears were paid to certain workers with particularly effective unions or critical jobs. For example, striking air traffic controllers received some back pay, but striking customs officials did not.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Sections 5 and 6.d.).

There were unconfirmed reports that some tribes used Pygmies as slaves.

Soldiers used forced labor during the year (*see* Sections 1.g., 5 and 6.d.).

In areas under marginal government control, there were numerous reports that armed groups used forced labor. Armed groups routinely forced civilians to carry heavy loads, including looted household items and livestock, for long distances without pay, and abducted men, women, and children and forced them to work in rural areas.

Armed groups and, to a lesser extent, government forces, abducted women and children and forced them to provide household labor or sexual services for periods

ranging from several days to several months (see Section 5). Specific information was difficult to obtain due to limited NGO access and victims' reluctance to discuss their experiences because of possible reprisal from the perpetrators and the social stigma attached.

In April, there were reports that FARDC soldiers in Kabare territory, South Kivu forced civilians to construct their camp, including cutting down trees, digging holes, and building houses. There were reports of armed groups in Ituri and Maniema forcing civilians, including children, to dig for minerals (see Section 6.d.).

Certain ex-RCD/G combatants, led by former commanders such as General Nkunda and Colonel Mutebusi, forcibly conscripted adults and children, often forcing those they had arbitrarily arrested to train and serve with them (see Section 5).

There were credible reports that the FNI and FRPI abducted and detained civilians in up to 16 labor camps near Lake Albert, and that MONUC dismantled a UPC labor camp near Lake Albert (see Section 1.g.).

Unlike in the previous year, there were no reports that CNDD/FDD soldiers forced villagers to perform labor.

*d. Prohibition of Child Labor Practices and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace; however, the Government did not effectively implement these laws during the year, and child labor was a problem throughout the country. The employment of children of all ages was common in the informal sector and in subsistence agriculture, which were the dominant portions of the economy. Such employment often was the only way a child or family could obtain money for food. The Government established a national committee on child labor in 2002, but it was unclear if it was operating by year's end. The legal minimum age for full-time employment without parental consent is 18 years. Employers legally may hire minors between the ages of 15 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of 4 hours per day. Larger enterprises reportedly did not exploit child labor. Neither the Ministry of Labor, which was responsible for enforcement, nor labor unions effectively enforced child labor laws.

There continued to be reports that forced child labor occurred (see Sections 5 and 6.c.). Some parents forced their children to leave school and beg in the streets, hunt or fish, or engage in prostitution to earn money for their families.

In areas under marginal government control, there were numerous credible reports that armed groups used forced child labor, including the recruitment of children—reportedly with the aid of local Congolese officials—for use in armed conflict, and the use of girls as sex slaves and prostitutes (see Sections 2.d., 5, and 6.c.).

Children, including child soldiers, were involved in the illegal exploitation of natural resources in Ituri District to the benefit of their militia commanders. In December 2003, MONUC visited gold mines in UPC-controlled Iga Barriere and FNI-controlled Kilo-Etat. At Iga Barriere (the former headquarters of the Kilo Moto Mining Company), MONUC found that three quarters of the mine pit team were under the age of 18, most between 11 and 15. Reportedly, the children were all active or former child soldiers who worked on behalf of their UPC commanders. An FNI commander admitted he had 12 children, including an 11-year-old, in his armed group, and there were many child soldiers at a nearby mine. There were continued reports that re-recruitment of former child soldiers took place to secure mine labor for armed groups. There continued to be reports that, often because of economic necessity, children worked in mines extracting colombo-tantalite ore, or coltan, used to make mobile telephones.

*e. Acceptable Conditions of Work.*—Most citizens were engaged in subsistence agriculture or commerce outside the formal wage sector. The average wage did not provide a decent standard of living for a worker and family, and most workers relied on extended family and informal economic activity to survive. Minimum wage laws continued to be suspended at year's end. Civil servant salaries remained very low, ranging between \$4 and \$20 per month, and salary arrears continued to be a problem (see Section 6.b.). However, depending on their position, civil servants, including police and soldiers, frequently supplemented their incomes through extracting bribes and various other practices of corruption.

The maximum legal workweek (excluding voluntary overtime) was 48 hours. One 24-hour rest period was required every 7 days.

The Labor Code specifies health and safety standards; however, the Ministry of Labor did not effectively enforce these standards. No provisions in the Labor Code permit workers to remove themselves from dangerous work situations without jeopardizing their continued employment.

In areas under marginal government control, most citizens relied on informal economic activity, humanitarian aid, and scavenging in the forest to survive. Due to extended pillaging, extortion by armed groups, and instability forcing families to flee their homes and crops, poverty and economic hardship generally were more severe in the Kivus, Maniema, Northern Katanga, and Ituri than in areas under government control. Salary arrears for police, soldiers, and other public officials encouraged extortion and theft from the population.

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## REPUBLIC OF CONGO<sup>1</sup>

The Republic of Congo is ruled by a government in which most of the decision-making authority is vested directly in the President and his administration. Denis Sassou-Nguesso was elected President in 2002, and legislative elections were held in 2002 for the Senate and the National Assembly in all jurisdictions, except for parts of the Pool region where an insurgency was active. The President's Congolese Workers' Party won the May and June 2002 legislative elections and controlled 129 seats in the 137-seat National Assembly. Both the presidential and legislative elections were determined "not to contradict the will of the people" by independent monitors; however, there were some flaws and irregularities in the administration of these elections. Uncontrolled and unidentified armed elements remained active in the Pool region, despite an ongoing demobilization and reintegration program following the March 2003 Peace Accord between the Government and Pasteur Ntumi's Ninja rebels. The judiciary continued to be overburdened, underfunded, and subject to political influence, bribery, and corruption.

The security forces include the police, the Gendarmerie, and the armed forces; however, the functional distinction between these forces was not always clear. In practice, the overlapping of operations by the police, the Gendarmerie, and the armed forces were common. At times, the Government did not have full control over some members or units of the security forces. Some members of the security forces committed human rights abuses.

The economy remained in transition from a centrally directed economy to a mixed market-oriented economy. The population was estimated to be slightly less than 3 million, and approximately 70 percent lived in poverty. Economic growth was estimated at 1.3 percent in 2003.

The Government's human rights record remained poor; although there were some significant improvements, serious problems remained. At times, some elements of the security forces reportedly were responsible for beatings, physical abuse of detainees, rapes, arbitrary arrest and detention, looting, and solicitation of bribes and theft. Impunity and lack of transparency were still problems. Prison conditions were poor. Prolonged pretrial detention and lack of fair trials were problems. Security forces at times infringed on citizens' privacy rights. The Government at times limited freedom of the press. There were limits on freedom of movement in some areas of the Pool region because of uncontrolled and unidentified armed elements. Domestic violence and societal discrimination against women were problems. There were unconfirmed reports of trafficking. Discrimination on the basis of ethnic regions remained a problem, including employment discrimination against minority ethnic groups such as indigenous Pygmies. Child labor was a problem. Citizens sometimes resorted to vigilante justice and killed suspected criminals.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents, and, unlike in the previous year, there were few reports that government forces killed civilians in the Pool region; however, at least one person was beaten to death in police custody during the year. In September, an 18-year-old male died from injuries from a beating received while in custody for suspected theft.

No action was taken against members of the security forces responsible for civilian deaths in 2003.

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<sup>1</sup>The U.S. Chancery in Brazzaville was destroyed in the 1997 civil war, and there is no American chancery or interim office space in the country. However, American diplomats are assigned to Kinshasa and travel by boat to Brazzaville on extended temporary duty status to cover the full range of bilateral issues.

There was no action taken against members of the security forces who reportedly summarily executed several soldiers in 2002.

There continued to be occasional deaths due to mob violence, as civilians took vigilante action against presumed criminals, or as individuals settled private disputes; however, police at times intervened to stop such action. For example, the press reported a man killed his wife out of jealousy, and another man killed his uncle for suspected sorcery.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

The daughter of a local nongovernmental organization (NGO) employee, who was reported missing in 2003, remained missing at year's end.

On June 21, the International Court of Justice (ICJ) gave the Government until year's end to provide more persuasive arguments in the 1999 case of 359 persons who were separated from their families by security forces upon returning to Brazzaville from the Democratic Republic of the Congo and who subsequently disappeared. During the year, government officials implicated in the alleged disappearances spoke out describing their view of the events, claiming that they were not involved and did not know what happened to those who disappeared. In September, members of the Government went to the ICJ to argue the case. In December, the ICJ extended the deadline for responses and replies from the concerned parties until 2005. Also in December, a French court determined that it had no legal standing to pursue the case.

*c. Torture and other Cruel, Inhuman, and Degrading Treatment or Punishment.*—The Constitution prohibits such actions; however, in practice, security forces sometimes used beatings to coerce confessions or to punish detainees. During the year, there were reports that abuses continued in the jail system, and one person died while in custody (*see* Section 1.a.).

In June, security forces reportedly beat a landowner after he requested payment from a colonel for land the colonel was using to build a house.

Security forces beat persons who were on strike during the year (*see* Section 2.b.).

During the year, there were unconfirmed reports by NGOs that female detainees were raped and that elements of the security forces beat citizens.

Unlike in the previous year, there were no reports that security forces regularly harassed and extorted refugee returnees and residents in outlying areas.

In certain areas of the Pool, unidentified armed elements, some of whom could be uncontrolled government security forces or former Ninjas, continued to rob trains and harass civilians and international NGO workers. There were reports by NGOs and members of the private sector that unidentified armed elements also extorted bribes in the Pool Region. The Government investigated these attacks but was unable to determine who the perpetrators were.

There were no developments, nor were any likely, in the 2002 case of the soldiers responsible for robbing, beating, and, in some cases, raping of fleeing citizens in Brazzaville.

Unlike in the previous year, there were no reports that elements of Ntumi's Ninjas were engaged in extortion and harassment.

Prison conditions remained poor due to overcrowded facilities and scarcity of resources to provide food or health care to the inmates. Prisons functioned in Brazzaville, Pointe Noire, and, to a lesser degree, in the smaller, more remote towns of Owando, Ouesso, and Djambala. The Ministry of Justice continued to repair some prisons during the year; however, lack of funds hindered efforts to improve physical facilities and to provide food and medicine.

During the year, there continued to be reports that detainees held at police stations often were subjected to beatings, overcrowding, and extortion.

Women were incarcerated with men, and juveniles were held with adults. Pretrial detainees were detained with convicted prisoners.

Access to prisons and detention centers by domestic and international human rights groups continued to be granted. Local human rights groups, including the Congolese Observatory for Human Rights, the Association for the Human Rights of the Incarcerated, the National Counsel for the Promotion and Protection of the Rights of Detained Persons, and a Catholic Church organization visited prisons during the year. The International Committee of the Red Cross (ICRC) continued regular visits to prisons and detention centers throughout the country.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, elements of the security forces committed such acts. There were fewer reports of arbitrary arrest and detention than in previous years.

Police and the gendarmerie are responsible for maintaining domestic order. Although the Human Rights Commission was established for the public to report

abuses, NGOs reported that there was still impunity for some elements of the security forces who committed abuses. Lack of transparency was still a problem. In late December 2003, the Government began a security and anti-crime campaign called Operation Hope to reduce the amount of insecurity, local drug trafficking, and crime in the country. The campaign was still in operation at year's end; however, there are no official reports on the effectiveness of the campaign. During the year, the ICRC provided resources for human rights training for police officers.

The Code of Penal Procedure requires that a person be apprehended openly, that a lawyer be present during initial questioning, that warrants be issued before arrests are made, and that detainees be brought before a judge within 3 days and either charged or released within 4 months; however, in practice, the Government often violated these legal provisions. Detainees generally were informed of the charges levied against them, and lawyers and family members usually were given access to them. There is a system of bail called a "caution"; however, more than 70 percent of the population has an income below poverty level and could not afford to pay bail. Prolonged pretrial detention due to judicial backlogs was a problem.

In January, a police sergeant was arrested without charge. In September, a landowner (who also was a university teacher) was arrested without charge while trying to collect back rent from a tenant. Both were still in detention without charge at year's end.

Security forces detained a journalist during the year (*see* Section 2.a.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary continued to be overburdened, underfunded, and subject to political influence, bribery, and corruption. Lack of resources continued to be a severe problem; almost nothing remained of judicial records, case decisions, and law books following the looting during the civil wars of the late 1990s.

The judicial system consists of traditional and local courts, courts of appeal, the High Court of Justice, the Supreme Court, and a Constitutional Court. Both the Constitutional Court and High Court of Justice were created under the 2002 Constitution. The Constitutional Court's function is to adjudicate the constitutionality of laws and judicial decisions; the High Court of Justice's function is to review judicial decisions as well as try the President and other high authorities for crimes in the conduct of their official duties. By year's end, the Constitutional Court was operational. Members of the High Court of Justice were appointed, but due to lack of funds the court was not yet functioning.

In general, defendants were tried in a public court of law presided over by a state-appointed magistrate. The defense has access to prosecution evidence and testimony and the right to counter it. In formal courts, defendants are presumed innocent and have the right of appeal; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials. Some cases have never reached the court system.

In rural areas, traditional courts continued to handle many local disputes, particularly property and probate cases, and domestic conflicts that could not be resolved within the family.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, in practice security forces at times illegally entered, searched, and looted private homes. During the year, military, gendarmerie, and police forces occasionally beat civilians and looted homes sometimes in revenge for complaints filed against them by the civilians (*see* Section 1.c.). In some areas of the Pool region, intimidation and harassment by uncontrolled and unidentified armed elements increased according to reports from some international NGOs, the private sector, and civilians (*see* Section 1.c.).

Citizens generally believed that the Government monitored private mail and telephone communications.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, although the Constitution also criminalizes certain types of speech such as incitement to ethnic hatred, violence, or civil war; however, the Government at times limited these rights in practice; however, the Government did not restrict academic freedom.

There was no state-owned newspaper; however, there were several closely allied with the Government. There were 15 to 20 private newspapers that appeared weekly in Brazzaville, which were critical of the Government. Newspapers continued to publish on occasion open letters written by opponents of the Government who were in the country or lived abroad. The print media did not circulate widely beyond

Brazzaville and the commercial center of Pointe Noire; however, it reached approximately one-third of the population.

Most citizens obtained their news from the radio or television broadcast media, primarily government-controlled radio in nonurban areas. There was one privately owned radio station and one privately owned television station. There were two government-owned radio stations, Radio Congo and Radio Brazzaville and one government-owned television station, Tele Congo. There were several satellite television connections available, which permitted viewing of a range of news and entertainment programs. The news coverage and the editorial positions of the state-owned media reflected government priorities and views. A number of Brazzaville-based journalists represented international media, such as the British Broadcasting Corporation (BBC), Associated Press, Reuters, Agence France Presse, Voice of America (VOA), Canal France International (CFI), and TV5.

Government journalists were not independent and were expected to report positively on government activities. There was evidence that when government journalists deviated from this there were repercussions. For example, in August, a broadcaster at government-owned Radio-Congo presented some information about undeclared and unofficial leave taken by some government ministers. The broadcaster was subsequently moved to the Ministry of Education by the Minister of Communication and was no longer working for the radio station.

In September, a journalist at Government-owned Tele-Congo interviewed an opposition leader on his talk show, who was critical of the President's overall policies. The station management ordered the journalist to stay home until a decision was made concerning his tenure at Tele-Congo. No decision was made by year's end.

In November, the Ministry of Foreign affairs officially informed freelance international journalists, some of whom worked for services such as the BBC and Reuters and some who also held jobs with government-controlled media outlets such as Tele-Congo, that their accreditation could be revoked if stories reflecting adversely on the country's image were reported. In November, the Government asked the BBC to remove the local BBC correspondent from the country--one of the few locally based journalists who was not linked to a national media service. The BBC complied and was in the process of reassigning the correspondent at year's end.

Also in November, a correspondent for Radio France International (RFI) arrived in Brazzaville to report on the 1999 disappearance of hundreds of persons (*see* Section 1.b.) and interviewed Pasteur Ntumi. During the visit, security forces detained and interrogated the RFI reporter during the evening, despite the intervention of the French Embassy. After the interrogation, she was detained at her hotel to prevent her from meeting a member of the opposition, and security forces subsequently escorted her back to her flight to France.

Security forces beat journalists who were on strike during the year (*see* Section 2.b.).

The Press Law allows for monetary penalties for defamation and incitement to violence but does not require prison terms for violators.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice; however, in July, journalists demonstrated over non-payment of their wages in front of a public building in Brazzaville, and security forces forcibly dispersed them. Some of the demonstrators were injured. No payments were made to the journalists by year's end. Groups that wished to hold public assemblies were required to inform the Ministry of Territorial Administration, which could withhold authorization for meetings that threatened public order.

All groups or associations--political, social, or economic--were generally required to register with the Ministry of Territorial Administration. Although registration could sometimes be subject to political influence, there was no evidence that this occurred during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

All organizations, including religious organizations, are required to register with and be approved by the Government. There were no reports of discrimination against religious groups in this process, although all admit that it is time-consuming and lengthy. Penalties for failure to register involve fines and potential confiscation of goods, invalidation of contracts, and deportation for foreigners, but no criminal penalties are applicable.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, in practice, the Government imposed some limitations. During January and February, military and police checkpoints, which at times interfered with the movement of civilians, were instituted as a result of the December 2003 attacks by uncontrolled Republican Guard government forces on Ninja elements in the BaCongo district of Brazzaville. International NGOs reported renewed harassment and intimidation by uncontrolled and unidentified armed elements in certain areas of the Pool region during the year, and one reduced its small expatriate staff (*see* Section 1.c.).

The Constitution prohibits forced exile; however, the Government prevented the return of some citizens.

NGOs working in the Pool Region reported that returning internally displaced persons (IDPs) still had not repopulated certain war-torn areas at year's end. The Ministry of Social Affairs reported that all IDPs who wished to return to their villages had returned by year's end.

During the civil conflicts of the 1990s, tens of thousands of citizens fled into neighboring countries, particularly Gabon and the Democratic Republic of the Congo. According to office of the U.N. High Commissioner for Refugees (UNHCR), there were 283 returnees from the Democratic Republic of the Congo (DRC) and 344 returnees from Gabon during the year. Approximately 15,000 citizens fled to Gabon and, according to U.N. figures, 12,000 persons remained there because they did not wish to return and had integrated into Gabonese society.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees.

The country continued to host a small number of Burundians and approximately 3,000 mainly Rwandan Hutus, who remained within distinct Rwandan sectors and communities within villages or cities. At year's end, there was only 1 camp of less than 300 Rwandan Hutus, mostly women and children, located north of Brazzaville. The camp was not considered a refugee camp by UNHCR and has not received international assistance since the mid-1990s. During the year, UNHCR continued some assistance to Angolan refugees in Pointe Noire; however, most Angolan refugees either returned to Angola or were integrated into local communities. UNHCR estimates that there were approximately 1,800 Angolan refugees from Cabinda in the country at year's end.

The Government also provides temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in 2002 elections that independent observers determined did "not contradict the will of the people," despite obvious flaws like insufficient numbers of ballots at certain polling stations, confusion over their locations, and the boycott by some opposition members who claimed the elections were biased. In addition, the Constitution and the elections also were viewed by some international NGOs and foreign observers as designed to protect the status quo. The elections remained incomplete at year's end because of continued lack of security in some areas of the Pool, and 8 of the region's 12 National Assembly seats remained vacant at year's end.

The state remained highly centralized under the President; the President appointed key regional and local leaders. Sub-national government entities lacked an independent revenue base and did not represent a significant check on central authority.

Major political parties included the ruling PCT, the Pan-African Union for Social Democracy, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, and the Rally for Democracy and Social Progress. Some opposition party leaders remained in exile while other party officials remained in the country. There was no cohesive opposition, and many of the smaller political parties were more personality-centered than they were representative of a significant constituency.

In March 2003, the Government and the Ninjas of Pasteur Ntumi signed a peace accord that called for a disarmament, demobilization, and reintegration (DDR) program; however, during the year, the full DDR program was replaced by a demobili-

zation and reintegration (DR) program, funded by the European Union (EU) and administered by the U.N. Development Program (UNDP). By August, the DR program had progressed slowly, although not fully in place in some areas of the Pool because of unidentified armed elements that remained active.

There were press reports of government corruption particularly regarding the misuse of the country's revenues in the oil sector. To meet International Monetary Fund (IMF) requirements and obtain approval of a Poverty Reduction Growth Facility (PRGF), the Government had made some improvements in oil sector transparency by year's end. In December, the country was approved for a PRGF program that requires further oil sector transparency, completion of several audits in both the oil and forestry sectors, and continued debt and arrears repayments in order to remain on the program.

There were 9 women in the 66-seat Senate and 12 women in the 137-seat National Assembly but only 129 seats were filled, as 8 seats from areas of the Pool remained unfilled. There were five female ministers in the 34-member Cabinet, including the Minister of Agriculture, Commerce, Primary and Secondary Education, Social Affairs, and Minister Delegate of Agriculture and Women's Issues. There was one female candidate in the 2002 presidential election who died in connection with a random robbery at her home during the year.

Pygmies continued to be excluded from employment opportunities, social programs and the political process, in part due to their isolation in remote forested areas of the country, their culture, and their stigmatization by the majority Bantu population. The Cabinet included four southerners; however, northerners, including many members of the President's northern Mbochi or related clans, held many key posts. Members of southern ethnic groups, who did not support the Government during the war, were permitted to return to their former government jobs.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were uncooperative and unresponsive to local human rights groups; however, government officials were generally cooperative and responsive to international organizations.

The ICRC maintained an office in Brazzaville. Access improved for international humanitarian officials during the year.

The Constitution provides for the establishment of an autonomous Human Rights Commission, which was established in August 2003. Its purpose is to act as a watchdog on the Government and react to public concerns on human rights issues. At year's end, it had not taken any action.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution specifically prohibits official discrimination; however, societal discrimination persisted, particularly against women and Pygmies. Ethnic and particularly regional differences continued.

*Women.*—Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law for spousal battery, apart from general statutes prohibiting assault. Domestic violence usually was handled within the extended family, and only the more extreme incidents were brought to the attention of the police.

Rape, including spousal rape, is illegal; however, the Government did not effectively enforce the law. The Government began compiling nationwide data on violence against women in 2003; however, no figures were available by year's end. NGOs, such as the local Human Rights Center, the Center to Combat Violence Against Women Group, the International Rescue Committee, the ICRC, and Doctors Without Borders continued to draw attention to the issue and provided counseling and assistance to victims.

Female genital mutilation (FGM) was not practiced indigenously, but may have occurred in some of the immigrant communities from West African countries where it was more common.

Prostitution is illegal; however, the Government did not effectively enforce this prohibition.

The Constitution prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work; however, in practice women were underrepresented in the formal sector. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas especially were disadvantaged in terms of education and wage employment and were confined largely to family farming, petty commerce, and childrearing responsibilities.

ities. Many local and international NGOs have developed micro-credit and micro-finance programs to address this problem, and government ministries such as Social Affairs and Agriculture were very active in addressing these problems. For example, women received assistance to set up dressmaking and beauty salons as well as gardening and manioc flour-making to provide an income for their families.

Marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygyny is legal; polyandry is not. While the Legal Code provides that 30 percent of the husband's estate is transferred to the wife, in practice, the wife often lost all rights of inheritance upon the death of her spouse, particularly in the context of traditional or common law marriage. The symbolic nature of the dowry set in the Family Code often was not respected, and men were forced to pay excessive bride prices to the woman's family. As a result, the right to divorce was circumscribed for some women because they lacked the financial means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers.

*Children.*—The Government was committed to protecting the rights and welfare of children. The Constitution provides children equal protection under the law. Education was compulsory and tuition free until the age of 16; however, families were required to pay for books, uniforms, school fees, etc. Girls and boys attended primary school in equal numbers; however, school attendance by girls declined precipitously at the high school and university levels. The adult literacy rate was unknown but was believed to be approximately 40 percent due to the widespread destruction of the educational system during the 1990s civil wars.

Teenage girls were often pressured to exchange sex for better grades, which resulted in both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

FGM may be performed on girls in some West African immigrant communities (see Section 5, Women).

There were reports of isolated cases of child prostitution among the growing numbers of street children from the Democratic Republic of Congo (DRC); however, the prevalence of the problem still remained unclear. According to reports from international and local NGOs and others, the isolated cases were not linked to trafficking but used as an economic means by the street children to purchase food and other items. International organizations were assisting with programs to feed and shelter DRC street children.

There were a few unconfirmed reports that there was trafficking in children by West African immigrants to the country (see Section 5, Trafficking).

Child labor was a problem (see Section 6.d.).

During the year, the number of street children increased. UNICEF estimated that most of the street children in Brazzaville were from the DRC. Street children from the DRC also were found in Pointe Noire. Street children were not known to suffer from targeted abuse by government authorities or vigilante groups; however, they were vulnerable to sexual exploitation and often fell prey to criminal elements including drug smugglers. Many of the street children begged or sold cheap or stolen goods to support themselves; some may have turned to prostitution or petty theft.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were unconfirmed reports of trafficking of children by West African immigrants living in the country. Trafficking could be prosecuted under existing laws against slavery, prostitution, rape, illegal immigration, forced labor, and employer-employee relations. There was no evidence that the Government has prosecuted any trafficker under these laws.

There were unconfirmed reports that the Republic of Congo was a country of destination; however, it was not a country of transit or origin. There were unconfirmed reports that minor relatives of West African immigrants from Benin and Togo could be victims of trafficking. There was no evidence of trafficking in men or women. Outside of the unconfirmed reports of "minor relatives" of West African immigrants, there were no other reports of trafficking in children. Children from West Africa worked as fishermen, shop workers, street sellers, or domestic servants. There were reports some were physically abused. There were reports of isolated cases of child prostitution, which according to international and local NGOs and others were not linked to trafficking or forced labor. UNICEF and the International Rescue Committee had programs to assist with feeding and sheltering DRC street children. In addition, there was no evidence that any of these street children were from the Republic of Congo (see Section 5, Children).

There was no evidence of involvement of government officials in trafficking, although bribery and corruption were problems.

*Persons with Disabilities.*—The Constitution prohibits discrimination based on physical condition; however, in practice, this prohibition generally was not enforced

because the Ministry responsible for implementation of this provision lacked the necessary funds. There was no overt official or societal discrimination against persons with disabilities. There were no laws mandating access for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Constitution prohibits discrimination based on ethnicity; however, the Government did not enforce this prohibition effectively, and, in practice, many citizens from southern regions believed that ethnic discrimination persisted. However, former civilian employees of the Government were encouraged to return to their former jobs even though they were from southern ethnic groups that opposed the Government during the civil wars and the disturbances that followed.

Regional ethnic discrimination was prevalent among all ethnic groups, was evident in government and private sector hiring and buying patterns, and apparent in the effective north-south regional segregation of many urban neighborhoods. The relationship between ethnic, regional, and political cleavages was inexact; however, supporters of the Government included persons from mostly, but not solely, northern ethnic groups, such as the President's Mbochi group and related clans.

*Indigenous People.*—The Constitution prohibits discrimination based on ethnicity; however, the indigenous Pygmy ethnic group, who numbered in the tens of thousands and lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Pygmies were severely marginalized in employment, health, and education, in part due to their isolation in remote forested areas of the country and different cultural norms. Pygmies usually were considered socially inferior and had little political voice; however, in recent years, several pygmy rights groups have developed programs and were actively focusing on these issues. Many of them were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests. In 2003, a national conference representing Pygmy groups was held in Brazzaville.

Bantus have exploited many Pygmies, possibly including children, as cheap labor; however, there was little information regarding the extent of the problems during the year. There were no reports of forced labor of Pygmies.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and Labor Code provide workers with the right to associate and form unions, and workers exercised this right in practice. Workers, except members of the security forces, which included police, gendarmerie, and armed forces, were free to join a union of their choice. Most workers in the formal wage sector were union members. Employers were prohibited from discriminating against employees who join unions. There were no reported firings for union activities; however, salaries were withheld from teachers who attempted to strike.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining, and this right was generally respected and practiced freely. However, collective bargaining was not widespread due to the severe economic conditions. The Government set industry-specific minimum wage scales; however, unions usually were able to negotiate higher wages for their members.

The Constitution provides for the right to strike, subject to conditions established by law, and workers exercised this right. Unions were free to strike after filing a letter of intent with the Ministry of Labor, which began a process of non-binding arbitration under the auspices of a regional labor inspector from the Ministry. The letter of intent must include the strike date, at which time the strike legally may begin, even if arbitration is not complete. Employers have the right to fire workers if they do not give advance notice of a strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however such practices occurred (see Section 5). Bantus reportedly discriminated against Pygmies in employment; however, during the year, Pygmy organizations reported that there was no system of forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the Constitution, children under age 16 are not permitted to work; however, in practice, this law generally was not enforced, particularly in rural areas and in the informal sector in cities, and child labor was a problem. Children worked with their families on farms or in small businesses in the informal sector without government moni-

toring or supervision. The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector where its efforts generally were effective.

*e. Acceptable Conditions of Work.*—The minimum wage, which was approximately \$100 (48,000 CFA francs) per month in the formal sector, did not provide a decent standard of living for a worker and family. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment beyond their principal employment, mainly in the informal sector.

Regulations provide for a standard workweek of 7 hours per day, 6 days a week with a 1-hour lunch break per day. There were no legal limits on the number of hours that could be worked per week. The law stipulates that overtime must be paid for all work in excess of 40 hours per week; however, there is no legal prohibition against excessive compulsory overtime, which was decided in an agreement between employer and employee.

Although health and safety regulations require twice yearly visits by inspectors from the Ministry of Labor, in practice such visits occurred much less regularly. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from dangerous working conditions without jeopardizing their continued employment.

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## COTE D'IVOIRE

Laurent Gbagbo became the republic's third elected president in 2000, ending an almost 10-month period of military rule. The election, which excluded two of the major parties, the Democratic Party of Cote d'Ivoire (PDCI) and the Rally for Republicans (RDR), was marred by significant violence and irregularities. The Supreme Court declared Gbagbo the victor with 53 percent of the vote. In September 2002, rebellious exiled military members and co-conspirators in Abidjan simultaneously attacked government ministers and military/security facilities in Abidjan, Bouake, and Korhogo. The failed coup attempt evolved into a rebellion, splitting the country in two and escalating into the country's worst crisis since independence in 1960. Rebel "New Forces" (NF), composed of Patriotic Movement of Cote d'Ivoire (MPCI), Ivoirian Popular Movement of the Greater West (MPIGO), and Movement for Justice and Peace (MPJ), retained control in Bouake, Korhogo, and the northern half of the country.

In January 2003, the political parties signed the French-brokered Linas-Marcoussis Accord ("Marcoussis Accord"), agreeing to a power-sharing national reconciliation government with rebel representatives. President Gbagbo appointed Seydou Diarra as the Prime Minister, and in March, Prime Minister Diarra formed a government of national reconciliation of 41 ministers. In July 2003, the National Armed Forces of Cote d'Ivoire (FANCI) and NF military signed an "End of the War" declaration, pledged their support for President Gbagbo, and vowed to work for the Marcoussis Accord and disarmament, demobilization, and reintegration (DDR). In September 2003, the NF suspended their participation in the national reconciliation government and the reunification committee and boycotted the DDR program, citing security concerns and slow implementation of the Marcoussis Accord. On February 27, U.N. Resolution 1528 approved the U.N. Operation in Cote d'Ivoire (ONUCI) deployment of 6,000 peacekeeping troops, joining the French Licorne force of 4,000. At the end of February, the NF again suspended their participation in the DDR discussions stating that a date for the beginning of the real disarmament phase had not been determined jointly with the NF. Nevertheless, with the participation of U.N. Secretary General Kofi Annan and several African heads of state, President Gbagbo and the leaders of the seven main opposition parties (known as the G7) met in Ghana on July 29 and 30. The parties agreed to enact political reforms required by the Marcoussis Accords by August 31, amend Article 35 of the Constitution concerning eligibility for the presidency by September 30, and begin DDR by October 15.

In November, the Government attacked rebel bases in the north, breaking an 18-month ceasefire and sparking widespread civil unrest that resulted in numerous deaths and injuries. The threat of U.N. sanctions in the wake of the break of the ceasefire provided the impetus for legislative movement on some of the Marcoussis reforms. By December 23, Parliament had approved most of the Marcoussis legislative reforms but some were unacceptable to the opposition. By year's end, the coun-

try remained divided and DDR had not commenced. The NF rebels controlled the northern 60 percent of the country, while the Government controlled the slightly smaller but more populous south. The judiciary continued to operate slowly and to lack transparency, and remained subject to financial, executive branch, and other outside influences.

Security forces under the Ministries of Defense and Territorial Administration include the Army, Navy, Air Force, Republican Guard, Presidential security force, and the Gendarmerie, a branch of the armed forces with responsibility for general law enforcement. The police forces are under the jurisdiction of the Ministry of Interior. There were major divisions within the military based on ethnic and political loyalties. Members of the military participated in seminars on human rights. The Government did not always maintain effective control of the security forces. There were numerous credible reports of instances when security forces acted independently of government authority. The Government and NF security officials committed numerous human rights abuses.

The country, which has a population of 16.8 million, was generally poor but had a historically thriving modern sector. The largely market-based economy was heavily dependent on commercial agriculture, characterized by smallholder cash crop production, especially of cocoa and coffee. After assuming power, the Gbagbo Government began repaying international arrears and adhering to a balanced budget, steps that led to the resumption of foreign aid and re-engagement with the Bretton Woods institutions; however, political instability, widespread corruption, and the lack of accountable executive and judicial branches deterred investors. The 2002 rebellion impeded commerce and brought investment to a virtual halt, as political uncertainty and the division of the country disrupted traditional trade arrangements and prompted international financial institutions to suspend their programs in the country. At year's end, the major international financial institutions resumed their consultations with the Government, although no disbursements were being made except World Bank humanitarian-related projects.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. During the year, both the Government and NF committed serious abuses, and there were credible reports of pro-government death squad activity, extrajudicial killings, and disappearances. Security forces frequently resorted to lethal force to combat widespread violent crime and sometimes beat detainees and prisoners. The Government failed to bring perpetrators of most abuses to justice, and members of security forces operated with relative impunity. Prison conditions improved but remained harsh and sometimes life threatening. Arbitrary arrests and detention were common; numerous persons, including opposition members, journalists, and military officers, were detained for long periods without trial. The judiciary did not ensure due process. Police harassment and abuse of noncitizen African immigrants continued. Privacy rights continued to be restricted severely. State-owned media created an atmosphere of patriotism, nationalism, and xenophobia. The Government restricted freedoms of speech, press, assembly, and movement. The targeting of Muslims suspected of rebel ties diminished somewhat during the year. A U.N. International Investigation Committee investigated the violence of March 25–26 and a U.N. Human Rights Investigation Commission conducted an inquiry into human rights abuses committed since 2002. Discrimination and violence against women, abuse of children, and female genital mutilation (FGM) remained serious problems. There were incidents of violent ethnic confrontation; societal discrimination based on ethnicity remained a problem. Child labor as well as reports of forced child labor and trafficking in children and women also persisted.

The NF's human rights record was extremely poor. The rebels in the north summarily executed persons, killed numerous civilians, arbitrarily arrested and detained persons, and conducted arbitrary ad hoc justice. Mass graves were found in rebel-held territory. In Bouake, the NF continued to operate the national television station and aired their leaders' speeches and deliberations. Citizens in the north were usually cut off from news aired in the south, although they were occasionally given access to the national radio and television programs broadcast in the south. Freedom of movement improved somewhat in rebel held territory. There were no reports that rebels forcibly conscripted persons during the year and unlike in previous years, there were fewer reports of the enrollment of children soldiers, and many were released. Rebels and mercenaries committed particularly grave abuses in the western region of the country and in the north.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed extrajudicial killings, some of which were believed to be politically and ethnically motivated (*see* Section 1.g.). There were credible but unconfirmed reports that government-linked “death squads” and irregular forces (Liberian fighters, Liberian refugees, and civilians with ethnic ties to Liberia) committed extrajudicial killings. Security forces frequently resorted to lethal force to combat widespread crime. Rebel forces in the north also committed numerous extrajudicial killings (*see* Section 1.g.).

There continued to be numerous reports of pro-government militia groups and some death squads operating in Abidjan during the year. Credible sources described “hit lists” of suspected rebels and rebel sympathizers circulated within secretive, loyalist security forces in Abidjan and other areas under government control.

On March 25 and 26, in Abidjan, government forces used lethal force to suppress a demonstration by opposition parties to protest the Government’s lack of progress in implementing the Marcoussis Accords. The G7 held the demonstration despite a presidential ban. During this time, government forces also sought out and attacked opposition supporters in Abidjan who were not at the demonstration. There were many conflicting reports on the number of killed and detained in connection with the march. According to police reports, 37 persons were killed and 205 were rounded up and then released after having been screened. The Ministry of Human Rights reported that 79 persons were killed and 137 wounded. A U.N. Commission of Inquiry reported that more than 100 persons were killed, more than 274 wounded, and 20 missing. The U.N. report characterized the events as a “massacre in which summary executions, torture, disappearances, and arbitrary detention were repeatedly committed by units of the security forces and the parallel forces acting in coordination or in collusion with them.” Most of the violence took place in persons’ homes in the districts of Abobo, Koumassi, and Anyama, where many northerners and citizens of Mali and Burkina Faso lived. The violence in these areas accounted for 63 percent of the deaths, 35 percent of the wounded, and 40 percent of the disappeared. The U.N. report noted that its figures were not comprehensive, but represented what the Commission was able to gather under difficult circumstances in the time available.

During the March 25 and 26 clashes, 2 police officers were killed and 13 persons were arrested in connection with their deaths and detained at the Abidjan Arrest and Correction Center (MACA). They were visited and interviewed by the U.N. International Investigating team. They were provisionally released by May.

During the year, one journalist was killed (*see* Section 2.a.).

There were credible reports of more than 50 cases in which security forces used excessive force that resulted in deaths; such cases often occurred when security forces apprehended suspects or tried to extort money from taxi drivers and merchants. In one instance during the year, security forces shot persons while looting (*see* Section 1.f.). Authorities detained an increased number of police officers for using excessive force during the year.

On January 9, at a routine police check, a truck driver who protested the confiscation of his vehicle’s documents was shot and killed by a police officer in charge of regulating traffic. An investigation was opened to establish responsibility; however there were no developments in the investigation by year’s end.

The Minister of Human Rights issued a press statement condemning the human rights abuses, but the Government took no other action to punish those responsible.

On March 20, two police officers shot and killed a driver near the market of Yopougon-Wassakara while chasing a suspect. The two officers were arrested and awaits trial at year’s end.

On August 7, at the Gesco corridor near Abidjan, a soldier shot and killed a street vendor and seriously injured a bus driver. The soldier tried to force a bus passenger to pay a bribe of \$10 (5,000 CFA francs) and fired at the bus as it drove away. The military prosecutor opened an investigation to establish whether the soldier intended to kill. There were no developments in the investigation by year’s end.

On October 4, armed men in fatigues abducted a gardener and three other caretakers from the Abidjan house of opposition RDR party leader Alassane Ouattara. They killed the gardener and severely beat the others. RDR officials claimed that members of the Republican Guard were the perpetrators. The police have opened an investigation, which was ongoing at year’s end.

On February 12, police officer Zamble Bi Lizie was sentenced to 8 years’ imprisonment for the August 2003 murder of Doumbia Inza, a taxi driver.

In February, police officer Baba was sentenced to 5 year’s imprisonment and dismissed from the force for the 2002 murder of taxi driver Khalilou Keita. The taxi

drivers' union members were pleased because they reported that out of the 27 drivers killed by the police in the past, only 2 police officers had been tried and sentenced.

The investigations into the security force killing of taxi driver Seydou Konere continued at year's end.

The following 2003 cases remained outstanding at year's end: The May police shooting of Zougba Eustache Gogbeu; the July killing of an adult and child by alleged government soldiers in Doloa; the August shooting of farmer Konate Yaya; and the December shooting of 21 persons by police and gendarmes forces during an attempted break in the Ivoirian Television Radio (RTI).

There were no developments in the reported 2002 killings by security forces.

The Ministry of Justice declared the investigation in the 2000 Yopougon massacre was at a standstill for lack of funds.

On February 11, unidentified assailants beat a member of the PDCI National Secretary in charge of security.

On June 23, approximately 50 persons wearing Federation of Ivoirian Students (FESCI), a student group dominated by Ivoirian Popular Front (FPI) supporters, T-shirts broke into the apartment of Ekissi Achy, Secretary general of the Ivoirian Communist Party in Yopougon. They ransacked the apartment and kidnapped Abib Dodo, secretary general of the youth section of the Communist Party. On June 29, Dodo's body was found on Cocody University campus. On the same day in Port Bouet unknown assailants beat Kouame Kouadio, also a member of the Communist Party. The Communist Party accused the FESCI of Dodo's death because Dodo had helped found a new student association, the General Association of School Children and Students of the Country.

In the western part of the country, there were numerous credible reports of atrocities including killings, rapes, and looting, mostly by rebel forces (*see* Section 1.g.). There were reports of conflict between the native population and Burkinabe farmers, whom the natives expelled from their farms (*see* Section 5). Verification of all of these reports was difficult because of limited access.

On June 2, violent demonstrations organized by young persons shook the town of Guiglo, in protest against the killing of Karim Fofana, a public transportation bus driver. According to the demonstrators, Fofane was killed by armed militiamen in fatigues who were threatening and harassing persons without any reaction from the local police, military, and administrative authorities.

There were numerous incidents of ethnic violence that resulted in deaths (*see* Section 5).

*b. Disappearances.*—There were several reports of disappearances during the year. Several members of the opposition, journalists, and ordinary citizens remained missing at year's end. For example, in February, 24 Heures, an independent newspaper reported that five men kidnapped Sylvain Kanga Codaly, a man working for the National Identification Office, in October 2003 for delivering national identity cards to members of the RDR and to noncitizens.

In April, Guy Andre Kieffer, a Franco-Canadian freelance journalist disappeared in Abidjan. Michel Legre, the brother-in-law of the First Lady, was arrested in the case. In spite of the investigation undertaken by the police, French judges, his family, and Canadian authorities, Kieffer was still missing at year's end.

Some persons reported missing later were found in the custody of security forces. In May, newspapers reported that an 18-year-old student who had been reported missing since April 24 was found on May 3. Gendarmes arrested him during a round up for a suspected thief. The gendarmes forced him to work for them although his innocence was quickly established. A friend, an army officer, eventually recognized him and obtained his release.

In May, newspapers also reported that Nadine Victoire Goudard and her children had been missing since September 2003. Her family reported that Goudard was active in politics and had received numerous death threats from unknown persons.

On August 28, Amadou Dagnogo, a journalist for the pro-government newspaper L'Inter disappeared in Bouake, an area held by the NF. NF leaders had publicly threatened Dagnogo weeks before his disappearance.

Several persons were reported missing after the March 25–26 demonstration (*see* Section 1.a.).

Several persons, including members of opposition parties, who disappeared in 2003 were Bionaho Mathias, a former member of the Union for Democracy and Peace in the country (UDPCI); University of Cocody student activist Mahe Hippolyte; youth RDR activist Mamadou Kone; and RDR activist Ibrahim Bakayoko; Nigerian businessman Garba Amadou Dougourikoye; prominent businessman Herve

Pamah Coulibaly; PDCI party members Aboubacar Gbane; and his younger brother Soule Ouattara. There were no developments in these cases at year's end.

Persons reported missing in previous years remained missing at year's end. Many, especially members of the opposition and RDR members in particular, reportedly had elected to remain in hiding to escape death squads and to prevent harassment of their relatives still in the country.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, in practice security forces often beat detainees and prisoners to punish them or to extract confessions. Police officers forced detainees to perform degrading tasks under threat of physical harm. Police detained persons overnight in police stations where they often beat detainees and forced them to pay bribes (*see* Sections 1.d., 1.f., and 2.d.). Police also harassed persons of northern origin or with northern names (*see* Section 1.f.).

There were numerous reports that police and gendarmes continued to harass, beat, extort, and commit other abuses with impunity.

Members of the security forces continued to beat and harass journalists regularly (*see* Section 2.a.).

There were several incidents during the year in which police used excessive or inappropriate force (*see* Section 1.a.).

In February, the Ivoirian Human Rights Movement (MIDH) reported that on January 29, police tortured, degraded, and robbed 17 drivers who had placed posters on their vehicles about police racketeering.

On March 17, police led a public transport mini-bus “Woro-Woro” driver to a police camp in Williamsville and beat him for refusing to give money to a police officer.

On April 3 and 4, four police officers severely beat a police officer in front of a nightclub in Yamoussoukro. The officer had a disagreement with a nightclub owner who called the police. Although the victim informed the four police officers that he was also a police officer, they noted that he had a northern name and beat him, accusing him of being a member of the RDR.

In May, plainclothes security forces stopped and searched a UDPCI member. Upon discovering a letter from the President of the UDPCI, the security drove him to the Banco forest and severely beat him.

During the year, there were several reports that security forces conducted widespread neighborhood searches during which they beat and robbed residents (*see* Section 1.f.).

Security forces remained on heightened alert for potential rebel infiltrators or active sympathizers, erected numerous roadblocks, and searched Abidjan neighborhoods, frequently during the nightly curfew. Individuals associated with opposition parties or rebellion leaders or believed to be sympathizers were subjected to increased harassment and abuse (*see* Sections 1.d. and 1.g.).

Noncitizen Africans, mostly from neighboring countries, complained that they were subject to increased harassment by security forces, including repeated document checks, increased security force extortion and racketeering, violence, and frequent neighborhood searches (*see* Sections 1.f. and 2.d.).

Police and security forces occasionally used excessive force to disperse demonstrations, including lethal force (*see* Section 1.a. and 2.b.).

There were no reported developments in the January 2003 police beating of Adama Kone or the July 2003 police beating of Kouao Heriri Julien Yao N'Cho.

Youth groups who supported President Gbagbo conducted several violent attacks during the year (*see* Sections 1.a., 2.a., and 2.b.). For example, on March 9, hundreds of Young Patriots and FESCI students assaulted magistrates on the premises of the Palais de Justice in Abidjan to disrupt the presentation ceremony of the new President of the Appellate Court nominated by the Minister of Justice, who was a member of the RDR. Two magistrates were severely beaten while police looked on. The ceremony took place the following day under heavy police protection. In reaction, the three magistrates' unions suspended work until a special police unit was assigned to the protection of the Palais de Justice.

Violent actions and threats against political opposition figures continued during the year. There were numerous reports that opposition leaders received death threats over the telephone and from armed men dressed in fatigues, and that armed men harassed family members. For example, on January 23, after being threatened by armed men, the former deputy mayor of Adjame and his family fled their house.

During the night of November 4, before the beginning of the bombings by the army on the north (*see* Section 1.g.), the headquarters of the opposition PDCI in Abidjan was vandalized. Youths tried to set ablaze the headquarters of former President Henri Konan Bedie's party. At the same time, the offices of several opposition newspapers were completely ransacked (*see* Section 2.a.). On November 5 and 6,

crowds of young patriots in Abidjan also ransacked and looted the headquarters of the opposition RDR and the houses of the Secretary General of the PDCI, of the son of PDCI President Henri Konan Bedie, and the houses of three RDR Ministers and one NF Minister.

In the rebel-held part of the country, rebel military police operated with impunity in administering justice without legally constituted executive or judicial oversight (*see* Section 1.g.). The rebels often harassed and abused local citizens with impunity, often on the basis of ethnic background. Although there were fewer reports during the year, there continued to be reports that rebel forces beat persons who supported President Gbagbo and his FPI party. For example, during the year, there were reports that rebel soldiers tortured FPI party members in the zones under their control, regardless of their ethnic background.

There were numerous incidents of ethnic violence during the year, some of which resulted in injuries, especially in the west and the south west (*see* Section 5).

Conditions were poor and in some cases life threatening in the country's 33 prisons, largely because of inadequate budgets and overcrowding. In May, the main MACA prison housed approximately 6,000 detainees; it was built for 1,500. In the A building, cells built for 20 detainees housed 60. MACA was the country's biggest prison and conditions were notoriously bad, especially for the poor. Wealthy prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations; however, there were no reports that guards brutalized prisoners. Doctors Without Borders (MSF) supplemented the prison system's inadequate medical facilities. Several small national and international charities also helped some prisoners. There were press reports of a flourishing drug trade and prostitution in the MACA. The daily food allowance per prisoner in the MACA was \$0.12 (80 CFA francs), the cost of one serving of corn meal mush. In other prisons, the daily allowance was \$0.18 (120 CFA francs). Families frequently supplemented the food ration and at some prisons inmates grew vegetables to feed themselves. The International Committee of the Red Cross (ICRC) helped feed prisoners with no family. During the year, to improve prison conditions, the Government changed the quality of the food served at MACA to rice, yams, and cassava twice a week, and kidneys beans on Sundays.

Unlike in the previous year, there were no reports that prisoners died from malnutrition.

There were two incidents in early November at Abidjan's main jail, MACA, in which prisoners were killed. The first incident was sparked by a lengthy water shortage; prisoners reportedly had not had water for 5 days except for small rations of drinking water. At least 7 prisoners died and 30 were injured in the ensuing riots. U.N. human rights officials said they were investigating the riot and could not give a final death toll yet. Paramilitary police used tear gas and fired in the air to push back the detainees, but several escaped into nearby Banco forest, a large national park in the heart of the city. Shortly after this incident, when civil unrest broke out around Abidjan, some 3,500 prisoners took advantage of the situation to escape from MACA. Security forces trying to stop the escape shot and killed 19 of the prisoners while wounding 66. More than 200 of the escapees have since returned to jail on their own or been arrested.

Men and women were held separately in prisons. Male minors were held separately from adult men, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. Prison conditions for women and children remained particularly difficult. Female prisoners were segregated in a separate building under female guard. There were continued reports that female prisoners engaged in sexual relations with wardens to get food and privileges. There were no health facilities for women. Pregnant prisoners went to hospitals to give birth and then returned to prison with their babies. Some women prisoners were pregnant before being jailed. The penitentiary accepted no responsibility for the care or feeding of the infants; the women received help from local NGOs. In May, the daily ruling party newspaper, *Notre Voie*, reported that out of the 94 women held in the women's section of MACA, there were 6 female minors.

The 2003 BICE study on youths in prisons revealed that 576 males under 18 were held in the Center for Observation of Minors in Abidjan during the year. BICE also helped conduct physiological tests to determine the age of some inmates who had no identification papers. BICE taught juvenile prisoners trades, such as sewing, carpentry, gardening, house painting, and drawing.

Pretrial detainees were held with convicted prisoners. In May, *Notre Voie* reported that out of 6,000 prisoners held in MACA, 1,876 were pretrial detainees and were held with convicted prisoners.

The Government permitted access to prisons by local and international NGOs including the ICRC, MSF, World Doctors, and International Prisons' Friendship. LIDHO and MIDH did not ask to visit prisons during the year.

The rebels maintained detention centers, and during the year, the ICRC and the ONUCI human rights division local team were granted full access.

There were credible reports that the rebels still killed prisoners, though less frequently due to improved conditions (*see* Section 1.g.).

In March, the rebel forces in Man released eight army officers under the supervision of the ICRC. In December 2003, the NF released 40 army officers in Korhogo and Bouake under the supervision of ICRC.

*d. Arbitrary Arrest and Detention.*—The Constitution prohibits arbitrary arrest and detention; however, in practice arbitrary arrest and detention remained common.

Police forces include paramilitary rapid intervention units such as the Anti-Riot Brigade and the Republican Security Company, and the plain-clothes investigating unit, Directorate for Territorial Security (DST). A central security staff collected and distributed information about crime and coordinated the activities of the security forces. Security forces frequently resorted to excessive force (*see* Sections 1.a. and 1.c.).

Poor training and supervision of security forces, the public's fear of pressing charges, and continued impunity of those responsible for committing abuses were problems. There were credible reports of a few disciplinary or legal actions against some police officers for mistreating suspects and arrestees as well as killing persons during the year (*see* Section 1.a.); while still uneven and inadequate, disciplinary action against police officers increased during the year. Security forces still did not face sanctions for confiscating or destroying noncitizens' identification papers.

During the year, the Military Tribunal of Abidjan tried several police officers. For example, in January, police Master Sergeant Dago Sery Theodore was tried and sentenced to 17 years imprisonment for the murder of French journalist Christian Baldensperger (*see* Section 2.a.).

In July, a soldier, Sebastien N'Dri, was charged with murdering a French peacekeeper in Yamoussoukro in June and awaited trial.

There were no developments in the April 2003 incident in which two gendarmes were detained for extorting money from merchants or the June 2003 incident in which seven military men beat merchants and stole money and goods from the market.

In January and February, taxi, Woro-Woro, and bus drivers carried out a campaign against racketeering by police officers and gendarmes with support from the Ministry of Transport, the National Assembly, and the MIDH. The Government reduced the number of unofficial checkpoints, and there was a corresponding decrease in the number of shakedown incidents. However, in March following an increase in tension between the Government and the NF, the Council of Ministers recommended an increase in the number of checkpoints on the roads, which led to a rise in the number of unofficial checkpoints and shakedown incidents. There had been no further decrease by year's end.

On August 27, the military Public Prosecutor, Ange Kessy, reported the arrests of a number of police and military personnel charged with racketeering. Kessy urged the victims of racketeering to file complaints. There were no prosecutions by year's end.

During the year, the MIDH launched a national campaign against racketeering.

Under the Code of Penal Procedure, a public prosecutor may order the detention of a suspect for 48 hours without bringing charges, and in special cases, the law permits an additional 48-hour period. According to members of the jurists' union, police often held persons for more than the 48-hour legal limit without bringing charges, and magistrates often were unable to verify that detainees who were not charged were released. A magistrate could order pretrial detention for up to 4 months but also had to provide the Minister of Justice with a written justification on a monthly basis for continued detention.

The DST was charged with collecting and analyzing information relating to national security. The DST has the authority to hold persons for up to 4 days without charges; however, human rights groups stated there were numerous cases of detentions exceeding the statutory limit.

Defendants do not have the right to a judicial determination of the legality of their detention. A judge may release pretrial detainees on provisional liberty if the judge believed that the suspect was not likely to flee.

Although the law prohibits it, police restricted access to some prisoners. There were reports that police and the DST denied detainees access to a lawyer or to their families.

There were many instances during the year in which gendarmes or other security forces arbitrarily arrested persons. National and international human rights groups were unable to give precise figures on detainees because authorities would not allow them to visit military installations where prisoners were held.

Security forces continued to arbitrarily arrest merchants and transporters, often in conjunction with harassment and requests for bribes. There was no further information on several merchants arrested in 2002 who were detained at an unknown location without access to family or counsel.

Police also detained journalists during the year (*see* Section 2.a.).

During the year, security forces continued to arrest and usually release persons of northern origins, RDR party members and officials, military men from the north, and some individuals thought to be loyal to former junta leader General Guei or close to the rebellion (*see* Section 2.b.).

On March 18, Karim Ouattara and Zana Lamoussa Ouattara, both security agents at the RDR headquarters, were arrested and taken to an unknown destination. They were released following their party's intervention.

In May, Emmanuel Séhoué Guei, spokesperson of the MPIGO, was arrested in Port Bouet and charged with trafficking counterfeit currency. Following the intervention of the NF and the executive committee of the G7 opposition parties, Guei was released on August 19 without a trial.

On July 16, two members of the RDR were seized in Abobo and transferred to the DST where they were denied contact with their families. They were released by year's end.

On July 23, a gendarme arrested Captain Mamadou Toure, a retired Army officer and RDR deputy Mayor of Bouake, in Adjame and accused him of housing rebels in Bouake. Toure's family and RDR party members informed the ONUCI human rights division of his arrest, and Captain Toure was released on August 5.

On July 24, the drivers of four vehicles were arrested in Saioua in the southwest while they were transporting cocoa and 75 passengers from Daloa to Abidjan. The soldiers alleged that they had a warrant from the President's office. The gendarmerie brigade in Saouia refused to detain the drivers arguing that there were no grounds for their arrest. The soldiers proceeded to take them to Daloa and then to Abidjan, to the President's office. The officers in charge of the security at the presidency and the commanders of the gendarmerie in Abidjan also refused to detain the men. Finally, the men were released at the end of July.

In August 2003, more than 20 persons, including some opposition members, were arrested for collaborating with NF leader Sergeant Ibrahim Coulibaly ("IB") in an alleged coup attempt. RDR officials accused the FPI of fabricating the coup plot as a ruse to arrest political opponents. The last two remaining in detention, Youssef Ouattara and Anliou Sylla, were provisionally released on July 28.

Local and international human rights organizations continued to report that security forces frequently made arrests without warrants and frequently held persons beyond the statutory limits without bringing charges. There were credible reports that the police and gendarmes detained persons in various military camps in Abidjan. Few of these detainees entered the civil justice system. There also were credible reports of forced confessions.

Human Rights Watch (HRW) and Amnesty International (AI) reported that authorities made numerous arrests based on calls to a government hotline that denounced persons for unproven sympathies with the rebels or "suspicious" activity.

Many inmates continued to suffer long detention periods in the MACA and other prisons while awaiting trial. A magistrate reported in May that more than 1,876 of the 6,000 detainees (31 percent) in the MACA prison were awaiting trial (*see* Section 1.c.). Despite the legal limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some detainees were held in detention for many years awaiting trial.

AI and other human rights organizations reported that in rebel-controlled territory, the NF also arbitrarily arrested, mistreated, and detained many persons thought to be loyal to President Gbagbo or Sergeant Ibrahim Coulibaly.

On June 20 and 21, following the attempted murder of MPCSI Secretary General Guillaume Soro by rebels close to IB, hundreds of rebels and civilians suspected of being close to IB were arrested in Bouake and in Korhogo. They were all released on July 9, after the visit of the ONUCI investigation team.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to executive branch, military,

and other outside influences. Although the judiciary was independent in ordinary criminal cases, it followed the lead of the executive in national security or politically sensitive cases. There were also credible reports that judges submitted to financial influence. The judiciary was slow and inefficient.

On February 9, three members of the student group FESCI, were tried and convicted of assault and extortion of funds. The prison director released the students from MACA on February 16 upon the instructions given to him by the public prosecutor without informing the Minister of Justice, an RDR member. The Minister of Justice and the union of magistrates denounced their release and demanded that the students return; however, the students remained free at year's end.

The formal judicial system is headed by a Supreme Court and includes the Court of Appeals, lower courts, and a Constitutional Council. The Constitution grants the President the power to replace the head of the Court after a new parliament is convened. In August 2003, President Gbagbo appointed the seven members of the Constitutional Council, without consultation with the Government. President Gbagbo tasked the Council with, among other things, the determination of candidate eligibility in presidential and legislative elections, the announcement of final election results, the conduct of referendum, and the constitutionality of legislation. Gbagbo named three advisors to the Constitutional Council for 3-year terms, three other advisors to 6-year terms, and a president. At year's end, Tia Kone remained president of the Supreme Court.

The law provides for the right to public trial, although key evidence sometimes was given secretly. The Government did not always respect the presumption of innocence. Those convicted have the right of appeal, and although higher courts rarely overturned verdicts, it has occurred. Defendants accused of felonies or capital crimes have the right to legal counsel. The judicial system provides for court-appointed attorneys; however, no free legal assistance was available, except infrequently when members of the bar provided pro bono advice to defendants for limited periods.

In rural areas, traditional institutions often administered justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution was by extended debate, with no known instance of resort to physical punishment. The formal court system increasingly was superseding these traditional mechanisms. The Constitution specifically provides for a Grand Mediator to bridge traditional and modern methods of dispute resolution. The President appoints the Grand Mediator, who since his nomination by the Bedie government has been Mathieu Ekra.

Military courts did not try civilians. Although there were no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

There were no reports of political prisoners. HRW and AI have said that political leaders detained after the September 2002 coup attempt were held primarily because of their opposition political views rather than hard evidence of involvement in the the coup should be considered political prisoners. The last of these detained political leaders were released in mid-2003.

There was little available information on the judicial system used by the NF in the northern and western regions; however, there were several credible reports that rebels have executed suspected looters or members of rival factions on the spot without detention or trial in Korhogo and in Bouake in June.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for these rights; however, the events of 2002 triggered a widespread suspension of privacy rights. Officials must have warrants to conduct searches, must have the prosecutor's agreement to retain any evidence seized in the search, and are required to have witnesses to the search, which may take place at any time; however, in practice police sometimes used a general search warrant without a name or address. Police frequently entered the homes of northern citizens and non-citizen Africans (or apprehended them at large), took them to local police stations, and extorted small amounts of money for alleged minor offenses. Unlike in previous years, there were no reports that police searched the homes of journalists.

There were credible reports that security forces continued to search opposition party officials' residences allegedly seeking weapons without search warrants. During the year, security forces continued to conduct neighborhood searches where they would enter several homes at the same time, usually at night looking for arms.

In January and July several gendarmes and police in military vehicles entered Anyama, a suburb of Abidjan inhabited by northerners and citizens from Mali, Burkina Faso, and Guinea and looted and searched houses, beat and threatened residents, confiscated and destroyed identity documents, and stole money from residents. One resident was shot to death and others severely beaten. The Minister of

Human Rights issued a press statement condemning the human rights abuses, but the Government took no other action to punish those responsible.

No action was taken against security forces who forcibly entered residences in previous years.

Security forces reportedly monitored private telephone conversations, but the extent of the practice was unknown. The Government admitted that it listened to fixed line and cellular telephone calls. Authorities monitored letters and parcels at the post office for potential criminal activity, and they were believed to monitor private correspondence, although there was no evidence of this. Members of the Government reportedly continued to use students as informants.

Unlike previous years, security forces did not enter and destroy shantytowns near military installations in Abidjan in search of alleged arms and rebels. However, tens of thousands of persons remained displaced at year's end, and continued to live in inadequate social centers, were taken into the already crowded homes of friends or relatives, or left the country.

There were numerous reports that rebels confiscated property and vehicles of those suspected to be loyal to President Gbagbo or of persons who had abandoned their houses following the rebellion. In addition, there were credible reports that NF military looted and occupied several missionary houses in Bouna, Tiebessou, and Bouake.

After 2002 rebellion, in the northern towns of Bouake and Katiola, rebels monitored parcels for potential threats to their position; it was unknown if this practice continued.

There were corroborated reports that the rebels forcibly conscripted locals to join their ranks. Those who refused reportedly disappeared. Many of the conscripts were youth or children, although there also were reports that many volunteered to join the rebels.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—There were numerous reports that pro-government death squads operated during the year.

On November 4, the army carried out "Operation Dignity" and mounted surprise attacks on Bouake, stronghold of the NF and the largest city in the north, thus shattering an 18-month ceasefire. The Government cut off electricity and water supplies to the north the day before the attacks. They remained off for about a week.

In Abidjan, loyalist mobs attacked unarmed U.N. personnel and burned two of their vehicles. Crowds also attacked the offices of at least three opposition newspapers, as well as the headquarters of the two main opposition parties and the homes of several senior opposition party members (see Sections 1.c. and 2.a.). On November 6, Licorne peacekeeping troops destroyed most of the air force on the ground in retaliation for a bombing of the French military base in Bouake, which left nine French peacekeepers and one foreign citizen dead. Serious unrest began in Abidjan and hate messages broadcast on state radio and television by the leaders of the FPI and the leaders of the Young Patriots fomented anti-French feeling. Thousands of irate citizens took to the streets, attacked homes, businesses, and schools of French citizens, other expatriates, and some citizens in Abidjan and elsewhere. More than 8,000 French and several thousand non-French expatriates fled the country.

French troops moved into the city to secure major junctions, the bridges, the airport as well as the Hotel du Golf and the Hotel Ivoire where many French persons and opposition leaders and ministers had taken refuge. The French troops fired on several occasions, killing over 57 civilians and military personnel and injuring more than 1,300. In the rebel-controlled north, according to the NF, more than 80 civilians were killed during the bombings in November.

The collaboration of government forces and irregular forces created a climate of fear and impunity. However, there were no reported executions of suspected rebels and rebel sympathizers by security forces during the year. Abidjan police and security forces in search of rebel sympathizers, infiltrators, and arms caches continued to use lethal force in neighborhood sweeps against citizens with northern origins and African immigrants (see Section 1.a and 1.f.).

There were no developments in the following 2003 security force killings: The January killing of Mamadou Ganame; the February killing of well-known television sitcom actor and RDR activist, Yerefe Camara; the February killing of Mory Fanny Cisse, an Islamic preacher; and the April killing of former student leader Maurovlaye Kener.

There were no developments in the cases of security force killings after September 2002: Commander Aboubacar Dosso, aide-de-camp to RDR leader Ouattara; Adama Cisse, head of the RDR party in M'Bahiakro; Seydou and Lanzeni Coulibaly, related to RDR Deputy Secretary General Amadou Gon Coulibaly; Emile Tehe, president of

the RDR-aligned Ivoirian Popular Movement party; and Benoit Dakoury-Tabley, medical doctor and brother of Louis Dakoury-Tabley, one of the political leaders of the rebel MPCCI, now NF.

There was no action taken regarding the death of former military junta leader General Robert Guei, his wife Rose, a son, his aide-de-camp Captain Fabien Coulibaly, several army guards, and others in 2002. AI and HRW concluded that the deaths of Guei and his family were extrajudicial killings.

There were no results released from the Government's investigation into the 2002 security force killings of more than 100 noncombatants in Daloa in evident reprisal against northerners living in the town and those suspected of assisting rebels. The Government publicly denied its involvement. The results also were not released in the Government's investigation into the 2002 death of 50 political party members and citizens.

There were no investigations of the mass graves found in 2002.

A U.N. Human Rights Investigation Commission conducted an inquiry into human rights abuses committed since September 2002; however, the report had not yet been published.

Unlike in the previous year, there were no reports that the Government used gunship helicopters in attacks; however, a number of civilians were killed when the Government used aircraft to bomb rebel targets in the north in November.

There were credible reports describing serious abuses committed by armed forces working in complicity or in coordination with youth groups in the central and western parts of the country. HRW reported that in many attacks on civilians by paramilitary groups in Daloa, Duekoue, Guiglo, and Monoko-Zohi, local villagers from ethnic groups close to the Government provided names of foreigners, RDR members, northerners, and other alleged rebel supporters to the security forces.

Self-defense committees manned checkpoints with the assent of security forces and conducted summary executions of Burkinabe and other northerners accused of being rebels.

On January 5, unidentified armed men in the village of Kahin, in Bongolo shot and killed three adults and killed three children with machetes, according to a French army spokesman. On January 7 in the same area, two foreign workers were killed and a third seriously injured. Authorities suspected the same group of unidentified men armed with rifles and machetes in both attacks. The victims included workers from neighboring Burkina Faso and Guinea.

There were fewer reports that Liberian fighters were involved in attacks during the year. Most left the country in 2003. There was no investigation into the numerous abuses committed by Liberian fighters in 2003, including mass killings, rapes, and torture.

Rebel groups were also responsible for numerous indiscriminate killings. Several human rights organizations described numerous extrajudicial killings by rebels, particularly by the western rebel group MPIGO. The rebels in the west targeted, beat, and sometimes killed gendarmes, government officials, and suspected FPI sympathizers, and committed sexual violence against girls and women, including rape and sexual slavery. However, the frequency of such incidents declined compared with previous years and most of the Liberian mercenaries who were involved in these incidents in previous years returned home during the year.

On February 9, unidentified assailants dragged Adama Coulibaly, a rebel warlord in the city of Korhogo, out of a nightclub and shot and killed him.

There were 2 civilians among the 20 persons killed in clashes between unidentified gunmen and Ivoirian and French soldiers near the village of Maminigui, Gohitafla on June 6 and 7. French peacekeepers captured 22 assailants and handed them over to the gendarmerie station at Bouaflé.

On June 20-21, following a murder attempt against the leader of the MPCCI Guillaume Soro, Soro's supporters began fighting with supporters IB. At least 11 persons were killed and 20 injured in clashes near Bouake and Korhogo. ONUCI said in a statement in August that the U.N. investigation "discovered and confirmed the existence of 3 mass graves containing at least 99 persons. Some of these persons were killed by bullets and others died from asphyxiation." According to the preliminary findings of a U.N. investigation, a number of persons were summarily executed, some held in detention in the Korhogo Territorial Company (CTK) prison, and some were held in detention in two containers. Some of the released prisoners stated that approximately 60 prisoners died from suffocation in 1 of the containers. On July 1, the local rebel authorities opened the civil prison upon the arrival of the U.N. investigating team and transferred 39 prisoners there previously held in detention at the CTK prison. On July 9, all the prisoners were released.

During the year, following the outbreak of the leadership struggle between Guillaume Soro and Sergeant Coulibaly for the control of the rebellion, there were

numerous reports of killings and atrocities committed against the rebels and on civilians suspected of supporting either side in Korhogo and in Bouake.

There was no investigation into the numerous abuses committed by rebels in 2003, including summary executions, killings, rape, beatings, and looting. There was no further investigation into the mass graves discovered.

No action has been taken against rebels who committed abuses in 2002. In 2002, rebels targeted and killed Interior Minister Emile Boga Doudou and attempted to kill then-Defense Minister Lida Kouassi. Rebels also killed Colonel Yode, Director of the Army Engineers in Abidjan; Dally Oble, Commander in Korhogo; and Dago Loula, Commander in Bouake. No government or NF investigation was conducted in the 2002 executions of 60 gendarmes and 50 of their sons in Bouake, who were detained before their executions and whose bodies were found in mass graves.

On July 11, a newspaper reported that Kouassi Kouame, a bus driver from Bouake, had been missing since the beginning of the rebellion in 2002. The rebels reportedly arrested the driver along with pro-government gendarmes.

French peacekeepers were also killed and injured during the year. For example, on June 25, a French soldier, Kevin Ziolkowski was shot in the back as he was patrolling with colleagues in a military vehicle in Yamoussoukro. The soldier accused of shooting him was still awaiting trial at year's end (*see* Section 1.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, and the Government restricted these rights in practice. The 2002 rebellion triggered significant self-censorship and a deterioration of press freedom. However, there were private newspapers that frequently criticized government policy. Members of the security forces continued to harass and beat journalists. Outspoken members of the press continued to receive death threats and suffer physical intimidation from groups aligned with the ruling FPI party. The “Young Patriots,” supporters of President Gbagbo, continued to destroy opposition newspapers and threaten vendors in several regions. Journalists continued to practice self-censorship.

On March 19, PDCI Deputy Secretary General Maurice Kacou Guikahue and Vice President of the PDCI youth group Jan Claude Atse received a summons from the gendarmerie research brigade for allegedly stating “one should shorten President Gbagbo’s term in office” during a political rally. President Gbagbo instructed the Minister of Justice to initiate legal action against Guikahue for making the statement. No further actions were taken by year’s end.

The media played a critical role in inflaming tensions, even before the 2002 rebellion. In 2003, the U.N. Special Humanitarian Envoy and Agence France Press criticized the media for sending “messages of hatred” and creating a climate of hostility. During the November 4–10 events, state radio and television repeatedly broadcast hate messages aimed at the French. The Young Patriots urged citizens to mobilize in the streets.

The National Press Commission was meant to enforce regulations relating to the creation, ownership, and freedom of the press. The only remaining government-owned daily newspaper, *Fraternite Matin*, which had the greatest circulation of any daily, rarely criticized government policy. There were a number of private newspapers. Newspapers often ceased publication and were supplanted by others due to strong competition, a limited audience, and financial constraints. Many newspapers were politicized, sometimes resorting to fabricated stories to defame political opponents. The law requires the “right of response” in the same newspaper, thus newspapers often printed articles in opposition to an earlier article. In December, a new press law passed the National Assembly that established new rules for the creation of newspapers, including an investigation of the good morality of the promoter, a duly registered rental contract or property ownership title, and the first and last names, as well as the parents’ names of the printing company legal representative.

Because of low literacy rates, radio was the most important medium of mass communication. Newspapers and television were relatively expensive. The government-owned broadcast media company, RTI, owned two major radio stations; only the primary government radio station broadcast nationwide. Neither station offered criticism of the Government; both government-owned stations frequently criticized opposition parties and persons critical of the Government. There were approximately 50 community radio stations authorized under government regulations. They had limited broadcast range and were allowed no foreign language programming, no advertising, and only public announcements limited to the local area. Some of the stations did not broadcast for lack of resources. The private radio stations, except for *Radio Nostalgie*, had complete control over their editorial content. The Government monitored *Radio Nostalgie* closely because the major shareholders of the company were

close to RDR president Ouattara. National broadcast regulations forbade the transmission of any political commentary.

Four major private international radio stations operated: Radio France Internationale (RFI), the British Broadcasting Company (BBC), Africa No. 1, and Radio Nostalgie, which was considered a local station. These stations broadcast in Abidjan only, except for RFI, which broadcast to the north and center of the country. The RFI, BBC, and Africa No. 1 stations all broadcast news and political commentary about the country.

In accordance with a U.N. Resolution, the ONUCI undertook actions to start operating a radio channel in the country. On July 19, the Government granted ONUCI one of RTI's frequencies to broadcast in Abidjan, and on August 10, the station began broadcasting. In December, ONUCI radio started to broadcast in Daloa in the south west and Bouake in the center.

On March 25, the day of the march organized by the G7 opposition parties (*see* Section 1.a.), the programs of all the international radios were cut off for several days on the FM band in Abidjan without explanation. Agence France-Presse quoted an RFI spokesperson stated that the transmitter cutoff was not due to technical reasons but was "probably deliberate," given the "tension" in the city.

In May the National Audio-Visual Communication Council sanctioned RFI by forbidding it to broadcast its programs for 1 day, due to a broadcast that the U.N. blamed the Government for the violence during the protest on March 25 and 26. The next day RFI resumed normal broadcasting. From November 4 to 24, BBC, RFI, and Africa No. 1 were prevented from broadcasting from Abidjan due to sabotage of their equipment.

The Government owned and operated two television stations (RTI 1 and RTI 2) that broadcast domestically produced programs. Only one broadcast nationwide. Neither station criticized the Government, but they frequently criticized the opposition or persons who opposed the government's actions, including foreign countries and foreign governments. However, criticism of the opposition was reduced when President Gbagbo reinstated Minister of State and Minister of Communication Guillaume Soro in office in August. From November to year's end, the criticisms resurfaced when the Presidency replaced the official director general of the two television and radio stations with an FPI journalist to "manage the information relating to the November crisis."

There were two satellite television broadcasters: One French (Canal Horizon/TV5), and one South African (DS TV). They did not broadcast domestically produced programs. During the year, the Government did not receive or accept any applications to establish privately owned domestic television stations.

On January 22, a military court found police Master Sergeant Dago Sery Theodore guilty of the October 2003 murder of French journalist Christian Baldensperger, a RFI reporter and French citizen who wrote under the name "Jean Helene." Theodore was sentenced to 17 years imprisonment. Sery appealed the judgment, and the appeal was pending at year's end.

On November 7, French Licorne forces in Duekoue, in the West, killed Antoine Masse, an English teacher and correspondent of *Le Courrier d'Abidjan*, a private daily newspaper close to President Gbagbo, as he was standing with villagers who were blocking the road to prevent passage of the French soldiers.

There were several reports that security forces beat and harassed journalists. For example, on January 16, Minister of Vocational Education Youssouf Soumahoro detained and confiscated equipment from two journalists for the private daily *Le Courrier d'Abidjan* who were covering a student demonstration in which students invaded Soumahoro's office. Reporters Without Borders insisted that the Minister return the seized equipment. The equipment was later returned.

On January 31, presidential guards severely beat a photographer in Yamoussoukro when they learned that he was working for the opposition newspaper *Le Patriote* and two other journalists who attempted to come to his aid. On February 16, President Gbagbo ordered the release of the photographer; however, he was not released immediately.

During the March 25 and 26 protest, the Committee to Protect Journalists (CPJ) reported that several journalists and media workers were harassed. For example, police arrested and beat journalist Dembele Al Seni and reporter and photographer Agbola Mesmer, both working for the private pro-opposition daily *Le Patriote*. They were later released. Republican Guard detained and beat Kady Sidibe, a photographer working for *Le Patriote*, while Sidibe covered a demonstration in Treichville, in southern Abidjan.

Gendarmes brutally attacked Guira Safi, Soumahoro Vamara, and Kone Malick, respectively copy editor, driver, and webmaster for the private pro-opposition daily *Le Liberal Nouveau*, at a roadblock during an interrogation.

Presidential guards threatened Habiba Dembele, a reporter for the state-owned television station TV2, and Drame Lancine, a TV2 cameraman, with death for filming the arrest of protestors.

Police arrested journalist Laurent Banga and his cameraman, Joseph Konan. They were detained for several hours before being released without charge.

On March 30, the CPJ wrote to President Gbagbo to complain about the attacks against journalists by security forces and the censoring of news outlets during the March 25 and 26 events. The CPJ encouraged the Government to take measures to ensure that journalists can safely report on problems of public concern.

The Young Patriots continued to destroy independent and opposition newspapers in several regions of the country and to threaten newspaper vendors. In July, Edipresse, the national newspaper distributing company, stopped sending any newspapers to Gagnoa, President Gbagbo's home region, because the Young Patriots were forcibly preventing pro-opposition newspapers (Le Patriote (pro-RDR), Le Liberal (pro-RDR), Le Front (pro-RDR), Le Jour (independent), 24 Heures (independent), and le Nouveau Reveil (pro-PDCI) from being sold in that region, by attacking the vehicles and the drivers transporting those newspapers and by removing them from newsstands. A few weeks later Edipresse resumed sending newspapers to Gagnoa.

The Young Patriot campaign to block distribution of pro-opposition newspapers increased and spread throughout government-held territory. Then in November, following the collapse of a ceasefire agreement between government and rebel forces, gangs of youth militias reportedly linked to the ruling FPI party attacked the offices of opposition media. On November 4, more than 100 armed youths attacked the offices of opposition newspapers Le Patriote, 24 Heures, Le Nouveau Reveil, and Le Liberal Nouveau, looting and destroying equipment and documents. These newspapers ceased publishing for several weeks because of the damage to their premises and equipment. The Media Foundation of West Africa and, RSF noted that on 26 October, unidentified individuals had threatened vendors in Abidjan, warning them not to carry copies of these newspapers.

On November 19, the Minister of Human Rights Victorine Wodie denounced these actions.

After the November 4 events, Edipresse stopped distributing eight opposition newspapers in government-held territory citing security concerns—the four whose offices had been attacked and also Le Front, Ivoire Matin, Le Journal des Journeaux, and Le Jour Plus. On December 2, a court order compelled Edipresse to start distributing opposition newspapers again.

Several journalists continued to receive threats during the year from unknown persons. For example, on June 11, following the publication in *Fraternite Matin* of an article very critical of President Gbagbo and the Government, the author received telephone death threats.

There also were several reports during the year that foreign journalists were subjected to government harassment and intimidation. For example, in April, Guy Andre Kieffer, a Franco-Canadian journalist working for the French-based newspaper *La Lettre du Continent*, has been missing since April 16 (*see* Section 1.b.). Baudelaire Mieux, a local journalist working for the Associated Press and a friend of Kieffer's started to receive threatening telephone calls. Mieux left the country.

Since the killing of Jean Helene in 2003 and the disappearance of Guy-Andre Kieffer on April 16, many western journalists concerned about their security relocated to other parts of West Africa. France 2 channel transferred to Dakar and RFI closed its office in Abidjan.

No action was taken against members of the security forces or youth groups loyal to President Gbagbo who beat and harassed journalists during the year, in 2003, or in 2002.

The Government exercised considerable influence over the official media's program content and news coverage, using them to promote government policies and criticize the opposition. Much of the news programming during the year was devoted to the activities of the President and government officials. Minister of Communications Soro frequently complained that the Government has not freely accorded television airtime to opposition party members, including himself.

Following the 2002 rebellion, the Government gradually reduced press freedoms in the name of patriotism and national unity. On June 8, FPI Acting Minister of Communication Alphonse Douati, issued an administrative notice announcing censorship of the state media to "ensure the protection of state interests and safeguard republican institutions." The notice indicated that in dealing with the information relating to the attacks on the positions of the FANCI in Gohitafla, in the center west, and in Ity in the west, the treatment of the certain issues must be submitted for approval to the cabinet of the Minister: Any defense and security information

concerning the attack in June; any statement made by the political parties on the subject, as well as the statements made by the rebel movements; any live intervention, statement, or debate, relating to the security of the State; and the guide program drawn up at the end of the editorial staff meeting, when it includes subjects dealing with the security of the State. To enforce these measures, the notice announced the designation of two journalists at the radio and at the television stations to prevent the broadcasting of news likely to endanger the security of the country. Following this notice, all news reporting from government-owned media solely reflected the viewpoint of the ruling party.

The law authorizes the Government to initiate criminal libel prosecutions against officials. In addition, the State may criminalize a civil libel suit at its discretion or at the request of the plaintiff. Criminal libel was punishable by from 3 months to 2 years in prison.

On March 31, Gaston Bony, publisher of a private newspaper, *le Venin*, and main speaker on the community radio station in Agboville, the *Agneby Voice*, was tried and sentenced to 6 months' imprisonment and fined \$930 (500,000 CFA francs) in a libel suit. His newspaper had published an article that the Mayor of Agboville had embezzled \$5,570 (3 million CFA francs) of the radio station's grant.

While there was still self-censorship in the press, some newspapers were significantly more critical of presidential and government actions than in the previous year. Independent daily newspapers and opposition party dailies frequently examined and called into question the government's policies and decisions.

In rebel-held territory, rebels broadcast from Bouake and aired their own programming, which included radio shows that were heard in towns and villages around Bouake and, according to some reports, in the political capital, Yamoussoukro. In the western part of the country, MJP rebels also broadcast on a local radio station around Man. At year's end, the NF were occasionally allowing the broadcast of government television or radio programs in their zones. The NF also allowed distribution of all pro-government papers and most independent newspapers in their territory.

In the rebel-held zones, rebel forces also beat, harassed, and sometimes killed journalists. On February 11, while traveling in Vavoua to report on the redeployment of the administration in the zones under rebel control, rebel forces arrested a *Fraternite Matin* correspondent. He was held prisoner for 5 hours and prevented from traveling by the warlord Kone Zakaria.

On February 14, two regional correspondents of *Fraternite Matin*, Youssouf Sylla and Diallo Mohamed stated that they were leaving Bouake due to daily telephone death threats.

In rebel-controlled Bouake, the correspondent of independent daily *l'Inter* disappeared from August to October. He later reported that in August rebels detained and tortured him for 5 days, and then he went into hiding until October because of continued threats from the rebels (*see* Section 1.b.).

There were no developments in the 2003 arrest of journalist Zabnl Kovkovgnon. The Government did not restrict access to or distribution of other electronic media.

The Government limited academic freedom through its proprietary control of most educational facilities, even at the post-secondary level. A presidential decree required authorization for all meetings on campuses.

Many prominent scholars active in opposition politics retained their positions at state educational facilities; however, some teachers and professors suggested that they have been transferred, or fear that they may be transferred, to less desirable positions because of their political activities. According to student union statements, security forces continued to use students as informants to monitor political activities at the University of Abidjan.

Members of the pro-Gbagbo FESCI undertook a number of violent actions to further their political goals, particularly to disrupt the work of officials appointed by opposition ministers and to intimidate other students (*see* Section 1.c.). On January 14, FESCI students protested against the Minister of Technical Education's, a New Forces member, decision to replace the Directors of the vocational and technical schools. The students harassed and beat the new Director, and destroyed administrative documents.

On January 16, approximately 100 FESCI students forced their way into the Minister of Technical Education's office and destroyed it. Several of the Minister's aides were injured. French and U.N. peacekeepers stopped the students and assisted the Minister. Approximately, 30 demonstrators were arrested.

On May 18, FESCI members forced their way into the French International Mermoz high school, attacking the students and a teacher. The school guards and

the police succeeded in dispersing the FESCI students. Following the incident, the French Embassy closed French schools in Abidjan for several days.

On June 7, during the payment of students' scholarships on the University of Cocody campus, members of FESCI demanded that members of National Trade Union of Health Science Students (SYNESS) pay \$28-47 (15,000-25,000 CFA francs) from their scholarships to FESCI. When they refused, the members of FESCI responsible for collecting dues violently attacked the leaders of SYNESS. FESCI members then ransacked the rooms of the health science students, blocked their access to the schools and hospitals for training, and threatened to kill SYNESS leaders if they protested. On June 14, the Secretary General of SYNESS wrote a letter to the Government and to various foreign Embassies, requesting protection during the payment of scholarships and compensation for the physical and material damages; however, no further action was taken by year's end.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution allows for freedom of assembly; however, the Government sometimes restricted this right in practice. Groups that wished to hold demonstrations or rallies were required by law to submit a written notice of their intent to the Ministry of Security or the Ministry of Interior 3 days before the proposed event. No law expressly authorizes the Government to ban public meetings or events for which advance notice has been given in the required manner. In practice, the Government prohibited specific events deemed prejudicial to the public order; even if authorization was granted, it later could be revoked.

There were numerous demonstrations during the year. There were few instances of police forcibly dispersing demonstrations, when the demonstrators supported the ruling party; generally they allowed the demonstrations to proceed. However, security forces on occasion used excessive force to disperse demonstrators.

In March, a day after the G7 parties announced their decision to organize a march at the plaza of the Republic, President Gbagbo issued presidential decree banning all demonstrations in the capital from March 11 until April 30. He also signed a decree mobilizing the military to deploy forces throughout the city, citing fears that opposition groups were "plotting a coup." Commanders of the armed forces decreed that the area around the presidential palace would be considered a "red zone" in which demonstrators would be considered "enemy fighters and treated as such without warning."

On March 25, the Government used lethal force to suppress a march held by opposition parties and also sought out and killed opposition supporters who did participate in the demonstration (*see* Section 1.a.).

On June 8, the Young Patriots attacked French citizens and ONUCI peacekeepers in Abidjan, damaging 30 U.N. vehicles. In addition, the demonstrators looted and destroyed several vehicles and wounded about 40 French citizens. The demonstrators accused ONUCI and French peacekeepers of conspiring with rebels who earlier attacked positions of the armed forces in the central western region of the country. Authorities strongly condemned the demonstrations, which forced the closure of all French schools in the country. There were no reports of arrests.

No action was taken against security forces who used excessive force to disperse demonstrations in previous years.

Unlike in the previous year, there were no demonstrations held by persons with disabilities during the year.

On June 16, the gendarmerie of Sinfra arrested three local leaders of the RDR's Youth Section in Konifla for holding a meeting. Two of the persons arrested were released shortly after their arrest. However, Adama Fofana, the local secretary general, was kept in detention, and released on June 18, following the announcement of his arrest in newspapers.

In NF-controlled territory, there were numerous demonstrations throughout the year, usually organized by the MPC and in support of the NF and against President Gbagbo.

The Constitution provides for freedom of association and the Government generally respected this right in practice. The Government allowed the formation of political parties, trade unions, professional associations, and student and religious groups, all of which were numerous.

All parties and NGOs must register with the Ministry of Interior before commencing activities. To obtain registration, political parties had to provide information on their founding members and produce internal statutes and political platforms or goals consistent with the Constitution. There were no reports that the Government denied registration to any group, but processing rarely was expeditious. There were more than 100 legally recognized political parties, 7 of which were represented in the National Assembly (*see* Section 3). The Constitution prohibits the

formation of political parties along ethnic or religious lines; however, in practice ethnicity and religion were key factors in some parties' membership (see Sections 2.c. and 5).

Loyalists of President Gbagbo's FPI party had youth patriot groups with thousands of members in Abidjan neighborhoods and in towns and cities throughout southern, central, and western regions. The common factors with these groups were that they were linked to President Gbagbo and the FPI, were anti-French, anti-"foreigner" and anti-Marcoussis Accord. Gendarme and army officers led some groups in physical training. Belligerent patriot groups rallied in neighborhoods, called for "armed resistance" and hassled and intimidated residents and merchants. There were persistent reports that some patriot groups had arms or had ready access to arms. The Presidency sponsored some of these groups, tolerated others, but did not have complete control over some of them.

There continued to be reports that presidency-supported militias harassed and assaulted peasant farmers, many of whom were migrants from other West African countries. According to HRW, most of the militia members are Bete (the ethnic group of President Gbagbo) or members of groups related to Bete.

On August 15, members of the Patriotic Grouping for Peace (GPP), an organization banned by the Government at a Council of Ministers meeting in October 2003 for its violent activities, invaded the Marie Therese Institute, a state women's vocational training school in Abidjan and turned it into a military training camp for young hardline supporters of President Gbagbo. On occasions, members of the GPP also bullied and extorted funds from the numerous vendors working in the neighborhood, accusing them of being infiltrated by rebels. In spite of requests made by the Minister of Family, Women, and Children in charge of the Marie Therese Institute, the Minister of Security or the Government did not take any action to expel the members of the GPP from the school, and at year's end, GPP members continued their activities in Abidjan's Adjame district.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and the Government generally respected that right. However, after 2002, the Government targeted persons perceived to be perpetrators or supporters of the rebellion, who often were Muslim. Strong efforts by religious and civil society groups have helped prevent the crisis from becoming a religious conflict. The targeting of Muslims suspected of rebel ties diminished somewhat during the year.

There was no state religion; however, for historical as well as ethnic reasons, the Government informally favored Christianity, in particular the Roman Catholic Church. Catholic Church leaders had a stronger voice in government affairs than their Islamic counterparts, which led to feelings of disenfranchisement among some Muslims. The Government restructured the cabinet after the Marcoussis Accord, and at least 12 of the 41 ministers, along with the Prime Minister, are Muslims.

Unlike in the previous year, there were no reports that security forces killed Muslim leaders.

Following the conflict in 2002 and during the year, there were credible reports of military and security forces committing abuses, including reprisal killings, against presumed rebel sympathizers, which included many Muslims (see Section 1.g.). Unlike during the previous years, there were no reports that government forces and unknown assailants linked to the Government detained and questioned Muslim leaders. There were no reports that persons were beat or detained solely on religious grounds.

The law requires religious groups desiring to operate in the country to register; however, registration was granted routinely.

Although nontraditional religious groups, like all public secular associations, were required to register with the Government, no penalties were imposed on groups that failed to register.

Members of the country's largely Christianized or Islamic urban elites, which effectively controlled the State, generally were disinclined to accord to traditional indigenous religions the social status accorded to Christianity and Islam.

Some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the Government with regard to both employment and the renewal of national identity cards. As northern Muslims shared names, style of dress, and customs with several of the country's predominantly Muslim neighboring countries, they sometimes were accused wrongly of attempting to obtain nationality cards illegally to vote or otherwise take advantage of citizenship. This created a hardship for a disproportionate number of Muslim citizens.

There have been several reports of violence and increased Christian/Muslim tensions, generally in the north and west regions.

Relations between Muslims and Christians, specifically Catholics, improved during the year. In January, to celebrate the New Year, leaders of all major religious groups and the Minister of Religion met within the Forum of Religious Groups, an NGO-inspired, interdenominational gathering. In April an interfaith memorial service was held in Abidjan to mourn those killed during the March 25 and 26 demonstrations. Religious leaders continued to attend each other's main religious celebrations, setting an example of reconciliation for their respective communities.

There were some societal discrimination against Muslims and followers of traditional indigenous religions (animists).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution does not provide specifically for these rights, and the Government restricted freedom of movement during the year. The Government generally did not restrict internal travel; however, security forces and water, forestry, and customs officials frequently erected and operated roadblocks on major roads, where they demanded that motorists or passengers produce identity and vehicle papers and regularly extorted small amounts of money or goods for contrived or minor infractions. Extortion was particularly high for those intending to travel north from government-controlled areas to NF territory.

During the year, security forces or local civilian “self defense committees” erected numerous roadblocks and harassed and extorted travelers, commercial traffic and truckers, foreigners, refugees, and others; however, there were fewer such reports by year's end (see Sections 1.a. and 1.d.). Uniformed forces and civilian committees demanded payment at each roadblock, sometimes reportedly beat and detained those who could not pay. Persons living under NF authority regularly faced harassment and extortion when trying to travel between towns, and to the government-controlled south. Local military authorities regularly sold passes required of travelers. Security and defense forces also victimized northerners when they tried to cross into the zone under government control. Due to the closure of banks in the north at the onset of the crisis, northerners were forced to cross into the south and back to conduct all banking business, including collecting remittances (upon which many northerners depend). Government workers in the north must also travel into the south to collect their salaries. The cost of either paying the way through the various barricades or hiring a money runner to do so was substantial.

There were cases during the year when members of the opposition were victims of police harassment at the airport. There were also cases when foreigners were prevented from traveling between the north and the south.

On April 18, Adama Tounkara, RDR Mayor of Abobo, was arrested but not detained after his arrival at Port Bouet airport in Abidjan. An officer informed him that the police superintendent of the airport wanted to keep his computer. The airport police superintendent confirmed having received instructions from the Director General of the DST via the Chief of Staff of the Minister of Security. The Minister of Agriculture, who was traveling with Mayor Tounkara, instructed the officials to let Mr. Tounkara leave the airport with his computer.

On May 18, President Gbagbo required government ministers to get his approval for travel out of the country. On May 23, the PDCI Minister of Industry and Promotion of the Private Sector, Ahoussou Kouadio, was held briefly at Port Bouet airport by a police officer who informed him that he had received orders from the President not to let him leave the country. The police officer also informed the Minister that he had received instructions from the Director General of the Police to seize his passport. Although the Minister was carrying a mission order signed by the Secretary General of the Government on behalf of President Gbagbo, he had to cancel his trip.

On May 29, seven buses coming from Burkina Faso destined for Guiglo were stopped in Duekoue and sent back. The buses were carrying Burkinabe and Malian passengers. Security forces at the checkpoint in Duekoue told the passengers that citizens of Burkina Faso and Mali were not authorized to travel in the zone under government control.

On June 9, at a checkpoint in Tiebissou in the zone under government control, FANCI forces stopped 20 buses carrying approximately 1,500 passengers from Mali and Burkina Faso. Many of them were residents of Cote d'Ivoire who were going back to Divo, Meagui, or Gagnoa where they had cocoa plantations. The group was held for several days. Some returned to their countries of origin, and some were successful in crossing into government territory. On June 17, the NF wrote to the Presidents of Mali and Burkina Faso to inform them that according to NGOs, in

9 days the FANCI had sent back 1,907 Burkinabe and 139 Malian passengers, in violation of the African Charter on the Freedom of Movement of People and Goods.

The Marcoussis Accord required that a revised citizen Identification and Naturalization Law be enacted within 6 months to settle citizenship and naturalization questions. At year's end, an identification and naturalization law had been passed but in a form unacceptable to the opposition. The Marcoussis Accord also declared that the residence permit program for foreign residents should be replaced. The residence permit program for foreigners had not been replaced by year's end.

The Constitution specifically prohibits forced exile, and no persons were exiled forcibly during the year. However, due to the numerous death threats that they received at the outbreak of the rebellion, and that they kept receiving after each major event, several members of the RDR, including the President of the party, former Prime Minister Alassane Ouattara, as well as members of other opposition parties were still in exile in Europe or in neighboring African countries.

During the year, there were still large numbers of internally displaced persons (IDPs) in the country, a direct result of the crisis that began in 2002. Rebel forces and forces loyal to the Government did not generally target civilians, but the fighting forced many persons to flee the zones of conflict, and others simply felt uncomfortable in the side of the divided country that they found themselves in initially. The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) estimated that as many as 1 million persons were displaced initially, of whom perhaps half (300,000 Burkinabe, 150,000 Malians, and 50,000 Guineans) were foreign residents who left by early 2003 but have been returning or attempting to return to their former communities of origin in northern and western parts of the country. Local authorities has blocked some who have tried to go back to their villages and fields in government-held territory, claiming that it would be unsafe to do so because of "security concerns." Road blocks and toll collection points have made it difficult for civilians to move in both sides of the country.

There are perhaps as many as half a million IDPs who in many cases fled from the NF held north to the government-held south. This exodus was particularly evident in the country's second largest city, Bouake, where a pre-crisis population of over 500,000 was estimated at only 300,000. Many of these displaced persons were living with family and friends in Abidjan and other large towns. At year's end, there were still approximately 300,000 IDPs in the country. Most of the IDPs were in urban areas but were in smaller towns. These IDPs were invisible, but have placed heavy burdens on host communities, especially given the prolonged nature of the crisis. Government assistance, especially in the north where civil servants and infrastructure were not in place, did not meet the needs of these IDPs. International and local NGOs were working to fill the gap.

There is a specific group of IDPs who were resident in the two "official" IDP camps located near Guiglo. These are the 4,000 Burkinabe who fled the fighting near Bolequin, west of Guiglo. Due to the ethnic tensions between the local Guere population and these persons of Burkinabe descent (many were born in the country but never sought or received citizenship), these IDPs have been unable to return to their villages or fields. The international community, with the approval of the Government, provides assistance to these IDPs, but little or no effort has been made to solve the underlying ethnic tensions, based mainly on land tenure issues, that prevent them from going home. It was generally acknowledged that the conditions in the camp are poor compared with the 8,000 Liberian refugees in the nearby Niela refugee camp ("Peacetown"), since the refugee camp is maintained according to stricter U.N. High Commissioner for Refugees (UNHCR) standards for housing, water, sanitation, health services, education, etc. Article 12 of the Constitution provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established procedures for providing such protections. The Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee and asylum status. A new law that went into effect on May 3 provides asylum seekers or refugees with legal status, including the right to work. The Government also cooperated with the UNHCR and other humanitarian organizations in assisting refugees, and maintained an office charged with assisting refugees and other stateless persons. According to the director of this office, during the year the Government granted refugee status to approximately 80 individuals and continued to work on determination of the status of the 50,000 Liberians who arrived in the west of the country in May 2003.

The Government also provided temporary protection for individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. There were an estimated 67,000 refugees in the country, the vast majority of whom were Liberians. During the year, the Government continued to admit new Liberian refugees, and be-

fore the November bombings there were about 70,000 Liberian refugees. Approximately 1,000 Liberians went back to Liberia along with 10,000 Ivoirians in the wake of the attacks.

Various West African governments complained about the harassment their citizens faced in the country. The U.N. and other international organizations documented abuses against foreigners in Abidjan that included arbitrary arrest, beating, and theft of money and valuables. These complaints diminished during the year, and there were no large-scale departures by foreigners due to harassment.

Although the Government maintained a policy of according refugee status, individual security officers often did not honor identity documents issued to refugees by the UNHCR. There were frequent reports that security officers stopped refugees to ask for identity documents. When the refugee produced only a UNHCR document, the security officers often also demanded money. There also were credible reports that security forces destroyed refugees' identity documents, arbitrarily detained, and occasionally beat refugees. The identity card law included provision for the issuance of identity cards to refugees; according to the director of the government office for assisting refugees and stateless persons, the Government has started the process of issuing these cards.

During the year, the Government continued to repatriate citizens who took refuge in Mali after the rebel takeover of the north.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to change their government peacefully through democratic means; however, significant violence and irregularities marred presidential and legislative elections held in 2000. The Constitution and Electoral Code provide for presidential elections and legislative elections every 5 years by a single and secret ballot. The Constitution, which was formally implemented in 2000, also continues the tradition of a strong presidency.

The 2000 presidential elections followed several postponements and a controversial Supreme Court decision disqualifying 14 of the 19 candidates, including all of the PDCI and RDR candidates. RDR leader Ouattara was excluded from running in the presidential and legislative elections following the Supreme Court's ruling that he had not demonstrated conclusively that he was of Ivoirian parentage. The Constitution includes language that is considered more restrictive than the Electoral Code on questions of parentage and eligibility requirements for candidates. Furthermore, the Court maintained that Ouattara had considered himself a citizen of Upper Volta (Burkina Faso) earlier in his career. The Court also disqualified Emile Constant Bombet, PDCI candidate and former Interior Minister, because of pending charges of abuse of office when he was Minister, and former President Bedie, who also was president of the PDCI party, because he did not submit the required medical certificate.

As a result of the Supreme Court decision, most international election observers declined to monitor the election. The nationwide participation rate was 33 percent, and some polling places, especially in the north, closed early because of the lack of voters. Preliminary results showed that Gbagbo was leading by a significant margin. However, on October 24, 2000, Daniel Cheick Bamba, an Interior Ministry and National Elections Commission (CNE) official, announced on national radio and television that the CNE had been dissolved and declared General Guei the victor with 56 percent of the vote. Thousands of Gbagbo supporters protested, demanding a full vote count. Mass demonstrations resulted in numerous deaths and injuries, and on October 25, 2000, national radio and television reported that General Guei had stepped down.

The 2000 National Assembly election was marred by violence, irregularities, and a very low participation rate. Largely because of the RDR boycott of the elections to protest the invalidation of Ouattara's candidacy, the participation rate in the legislative election was only 33 percent. In addition, the election could not take place in 26 electoral districts in the north because RDR activists disrupted polling places, burned ballots, and threatened the security of election officials.

Following the legislative by-elections in 2001, 223 of the 225 seats of the National Assembly were filled: The FPI won 96 seats, the PDCI 94 seats, the Ivorian Worker's Party (PIT) 4 seats, very small parties 2 seats, independent candidates 22 seats, and the RDR (in spite of its boycott of all of the legislative elections) 5 seats. The two seats from Kong, where Ouattara planned to run, remained unfilled as the RDR, the only party running in that electoral district, boycotted the elections.

Citizens' ability to elect subnational governments was limited. The State remained highly centralized. At the level of the region (regional prefect), the department (prefect), and the district (sub-prefect), the Government appointed office hold-

ers. Other departmental and community officials, including mayors, were elected, as were some traditional chieftains. Subnational governments relied on the central government for most of their revenues, but mayors had autonomy to hire and fire community administrative personnel.

In 2002, the country held its first departmental (provincial) elections. Voters selected 58 departmental councils to oversee local infrastructure development and maintenance as well as economic and social development plans and projects. The elections were fraught with poorly administered distribution of voter cards, widespread voter intimidation, and other irregularities.

Following the Marcoussis Accord in January 2003, President Gbagbo and Prime Minister Diarra formed a reconciliation government with ministers from all major political parties and the three ex-rebel parties. Of the 41 portfolios, the FPI maintained 10 ministerial posts; the PDCI, RDR, and MPCFI 7 posts each; UDPCI and PIT 2 posts each; and MPJ, Movement of Forces for the Future, Democratic and Citizen Union, and MPIGO 1 post each. The Ministers of Defense and Security, named in September 2003 after several months of deadlocked negotiations, were neutral and not formally associated with any political party.

In April 2003, President Gbagbo issued a decree listing the powers and duties of the new Prime Minister. The 16 duties include: Disarmament; the reestablishment of the territorial integrity of the country; the liberation of prisoners of war; the reformulation of defense and security forces; an amnesty for all those detained or exiled for actions against the state; the reestablishment of normal economic, social, and administrative functions; the reform of the naturalization process; the preparation of the organizational framework for the conduct of future elections; the regulation and promotion of a free and neutral media; the reinsertion of military units previously demobilized; and application of laws related to human rights.

On August 9, as mandated by Accra III, President Gbagbo issued another decree regarding the duties of the Prime Minister, which included: Definition of the national reconciliation policy in accordance with Marcoussis Accord, translation of policy on a national reconstruction program, coordination of relations with development and financing agencies, assurance of implementation of the Government's policy on DDR, and preparation of a schedule for free and fair elections. This decree was meant to legalize the Prime Minister's abilities to carry out the Marcoussis Accord free of interference from the President.

In December, the National Assembly also made changes to the Nationality Code and adopted a Special Law on Naturalization, legislation that was envisioned by the Marcoussis Accord to resolve the dispute over which persons born in Cote d'Ivoire of foreign parents before 1972 should be entitled to citizenship, and to simplify procedures to obtain citizenship for this group and for foreigners married to citizens. The legislation that was eventually passed resolved the citizenship question for those born before 1960, but not for those born between 1960 and 1972.

The youth wings of political parties were allowed to organize and were active. The youth wing of the governing FPI party (JFPI) was a less of a political force than in previous years. JFPI activity was ongoing; however, youth patriot groups conducted most activities during the year (*see* Section 2.b.). Many of the members of the JFPI were likely members of some of these patriot groups. During the year, militia groups such as the Young Patriots and the GPP drew large crowds at demonstrations in Abidjan and elsewhere (*see* Section 2.b.). The youth wings of the PDCI and RDR kept a low profile, especially after the killings of 120 members of the opposition at the G7 March 24–25 demonstration that was violently repressed by the defense and security forces (*see* Section 1.a.), but staged some low profile activities during the year.

Government corruption and lack of transparency remained a serious problem during the year. It was common for judges open to financial influence to distort the merits of a case. Corruption has the greatest impact on judicial proceedings, contract awards, customs, and tax issues.

Women held 19 of 225 seats in the National Assembly. The first vice president of the National Assembly was a woman. Women held 7 of the 41 ministerial positions in the cabinet. Of the 41 Supreme Court justices, 4 were women. Henriette Dagri Diabate served as Secretary General of the RDR, the party's second ranking position, and was also the Minister of Justice.

Following the Marcoussis Accord, at least 12 of the 41 ministers were Muslim, along with the Prime Minister. In the National Assembly, 44 out of 223 Members of Parliament were Muslim.

*Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups, including LIDHO, MIDH, Justice Action, and the Committee of Victims of Cote d'Ivoire, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The Government occasionally met with some of these groups. During the year, members of MIDH received death threats on several occasions.

During the year, LIDHO, MIDH, and other human rights groups gathered evidence and testimony on events. They also frequently published letters and statements in certain independent local daily newspapers that publish them, often criticized state security forces. MIDH officials stated that they were constantly threatened and that two members went into hiding for several months after receiving death threats following MIDH's reporting on French radio RFI of government actions during the March 25 and 26 events. Subsequently, in December, the president of MIDH went into hiding after MIDH released a report on the November events that criticized the actions of pro-government demonstrators. Authorities said they would investigate the incident, but there were no reports of an investigation or arrests in the 2003 ransacking of MIDH's offices at year's end.

There were no reports that the Government suppressed international human rights groups or denied them visas; however, on occasion the Government has restricted their access to certain areas that the Government deemed sensitive and often denigrated their work.

During the year, the Government regularly permitted access to the World Food Program (WFP), the ICRC, and other international humanitarian organizations. Eleven U.N. agencies, including the International Labor Organization (ILO) and the World Health Organization (WHO), were resident and active throughout the year.

Local newspapers covered reports by several international human rights organizations that were critical of both the Government's and the rebels' human rights records.

In April, a U.N. International Investigation Committee came to the country to look into the violence of March 25 and 26. In July, a five-member independent commission appointed by the U.N. began a 2-month investigation into human rights violations committed since the 2002 rebellion, throughout the country. In July, a special U.N. team confirmed the existence of mass graves in Korhogo (*see* Section 1.g.).

*Section 5 Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and the law prohibit discrimination based on race, ethnicity, national origin, sex, or religion; however, in practice women occupied a subordinate role in society. Ethnic discrimination and division were problems.

In February, Mr. Doudou Diene, Special Rapporteur of the U.N. Human Rights Commission on Racism, Racial Discrimination, Xenophobia, and Intolerance carried out a 12-day investigation in the country. After visiting several parts of the country and meeting with political parties; the Government; the New Forces; and the representatives of ethnic, religious, and spiritual communities, Mr. Doudou Diene said that the country did not have a tradition of xenophobia but was entering a xenophobic dynamic.

*Women.*—Representatives of the Ivoirian Association for the Defense of Women (AIDF) and other NGOs active in the field of the protection of women or the promotion of non-violence stated that spousal abuse (usually wife beating) occurred frequently and often led to divorce. Female victims of domestic violence suffered severe social stigma and as a result often did not discuss domestic violence. The courts and police viewed domestic violence as a family problem unless serious bodily harm was inflicted, or the victim lodged a complaint, in which case they could initiate criminal proceedings. However, a victim's own parents often urged withdrawal of a complaint because of the shame that affected the entire family. The Government did not collect statistics on rape or other physical abuse of women. The Civil Code prohibits, and provides criminal penalties for, forced or early marriage and sexual harassment, but contains nothing about spousal abuse, and the Government had no clear policy regarding spousal abuse.

During the year, women's advocacy groups continued to protest the indifference of authorities to female victims of violence. The groups also reported that victims of rape or domestic violence often were ignored when they attempted to bring the violence to the attention of the police. AIDF and the Republican Sisters, another women's NGO, continued to seek justice on behalf of rape victims but had made no progress by year's end. AIDF ran a house for battered girls and wives, which report-

edly received approximately 18 battered women per week in 2003. MIDH provided legal, medical, and psychological assistance to battered women.

During the year, the Ministry of Women, Family, and Children's Affairs undertook to convince the mayors of the 10 districts of Abidjan to open and maintain permanent psychological assistance centers in the city halls for battered women and children. The Ministry also tried to get the mayors of eight large towns to open similar centers. By year's end, the Minister of Women, Family, and Children had been able to open up three centers in the districts of Yopougon, Treichville, and Abobo.

During the year, the National Committee in charge of Fighting against Violence against Women and Children of the Ministry of Women, Family and Children's Affairs continued to receive women and child victims of violence. According to an employee of the Ministry, the National Committee received approximately 10 victims every week. Most of them were battered women from the populous districts of Yopougon, Abobo and Adjame. Some of the victims were young girls from Dabou or Port Bouet, trying to escape FGM or forced marriage, and some were young maids who were victims of abuses. The National Committee of the Ministry had a hotline for social and psychological assistance. The Committee helped women to stay with relatives and informed the husbands of the legal actions that may be taken for wife beating. If the husband agrees to stop spousal abuse, the wife returned home, and a Committee member monitored the situation through frequent visits. Young girls who feared becoming a victim of FGM or forced marriage or maids who were victims of abuse may appeal to the Committee, which then arranged for the victim to stay in a center run by an NGO such as the BICE or in one of the district social centers run by the Ministry of Solidarity and Social Security. By threatening the parents with legal action, the Committee usually succeeded in stopping the abuse and in improving the child's situation.

FGM was a serious problem. The law specifically forbids FGM and imposes on those who perform it criminal penalties of imprisonment for up to 5 years and a fine of approximately \$690 to \$3,800 (360,000 to 2 million CFA francs); double penalties apply to medical practitioners. In August, the National Committee in charge of Fighting against Violence against Women and Children had arrested an FGM practitioner who was preparing to perform FGM on four girls in Yopougon Km 7, in Abidjan. The legal counsel of the Ministry initiated legal action against the practitioner by referring the matter to court; there was no update on the case at year's end. In August, the Committee had another FGM practitioner arrested in Port Bouet, Abidjan.

FGM was practiced most frequently among rural populations in the north and west and to a lesser extent in the center and south. The procedure usually was performed on young girls or at puberty as a rite of passage, with techniques and hygiene that did not meet modern medical standards. According to WHO and the AIDF, as many as 60 percent of women have undergone FGM. Many families in cities went back to their villages to have their daughters circumcised. The practice was declining in popularity, but persisted in many places. In July, the National Committee for the Fight Against Harmful Traditional Practices adopted more efficient strategies to combat FGM including raising the awareness of traditional chiefs, the creation of a permanent executive board, and the training of victims who could in turn sensitize the families of potential victims. In July, the Madinani Theater Company continued its sensitization campaign in Abidjan through plays.

During the year, the Djiguiba Foundation of Imam Cisse Djiguiba, Iman of the Plateau Mosque, Director of the Moslem radio, and Al Bayane, continued a sensitization campaign against AIDS, FGM and forced marriage, through public conferences held in Abidjan, Yamoussoukro and Dabou. On September 8, the Cisse Djiguiba Foundation held a training seminar in Abidjan for members of civil society that featured prominent gynecologists. In addition to the sensitization campaigns, when asked, members of the Djiguiba Foundation visited families to help family heads understand that FGM and forced marriages were not Muslim practices. According to a Djiguiba Foundation member, in many cases, the Djiguiba Foundation succeeded in stopping the procedure. In mosques in Abidjan, imams have started to ask young brides if they agreed to get married before performing weddings.

In July, a newspaper reported that a young woman name Nman Toure had disappeared in May 2003 from her home in Tiassale, in the south. Her father reportedly wanted to force her to marry an older cousin.

Prostitution is not illegal as long as it occurs between consenting adults in private. Soliciting and pandering are both illegal and the police sometimes enforced the law. Women from nearby countries sometimes were trafficked into the country, including for prostitution (see Section 5, Trafficking).

The Constitution and the law prohibit discrimination on the basis of sex; however, women occupied a subordinate role in society. Government policy encouraged full

participation by women in social and economic life; however, there was considerable informal resistance among employers to hiring women, whom they considered less dependable because of their potential for pregnancy. Some women also encountered difficulty in obtaining loans, as they could not meet the lending criteria established by banks such as a title to a house and production of a profitable cash crop, specifically coffee and cocoa. Women in the formal sector usually were paid at the same rate as men (*see* Section 6.e.); however, because the tax code did not recognize women as heads of households, female workers frequently paid income tax at a higher rate than their male counterparts. In rural areas, women and men divided the labor, with men clearing the land and attending to cash crops such as cocoa and coffee, while women grew vegetables and other staples and performed most household tasks.

Women's advocacy organizations continued to sponsor campaigns against forced marriage, marriage of minors, patterns of inheritance that excluded women, and other practices considered harmful to women and girls. Women's organizations also campaigned during the year against the legal texts and procedures that discriminated against women. During the year, the Coalition of Women Leaders continued its efforts to promote greater participation of women in decision-making. In July, the Coalition went to the Accra III conference to try to influence decisions on resolution of the crisis.

*Children.*—The Ministries of Public Health and of Employment, Public Service, and Social Security sought to safeguard the welfare of children, and the Government also encouraged the formation of NGOs such as the Abidjan Legal Center for the Defense of Children.

The Government strongly encouraged children to attend school; however, primary education was not compulsory. Primary education was tuition free but usually ended at age 13. In principle, students do not have to pay for books or fees; however, in practice some still must do so. In addition, they must pay for some school supplies, including photocopying paper. In at least one school, students had to bring their own bench to sit on. Poverty caused many children to leave the formal school system when they were between the ages of 12 and 14. Research in 2002 showed that 67 percent of children 6 to 17 years old attend school: Boys 73 percent, girls 61 percent. The WFP has worked with the Government to establish a countrywide system of school canteens that provided lunches for \$.04 (25 CFA francs).

Secondary school entrance was restricted by the difficulty of the exam, which changed each year, and the Government's inability to provide sufficient spaces for all who wished to attend. A student who fails the secondary school entrance exams does not qualify for free secondary education, and many families cannot afford to pay for schooling. Parental preference for educating boys rather than girls persisted, particularly in rural areas. The Minister of National Education stated that almost one-third of the female primary and secondary school dropout rate of 66 percent was attributable to pregnancies.

Many of the sexual partners of female students were teachers, to whom girls sometimes granted sexual favors in return for good grades or money. The penalty for statutory rape or attempted rape of either a girl or a boy aged 15 years or younger was a 1- to 3-year prison sentence and a fine of \$190 to \$1,900 (100,000 to 1 million CFA francs).

The Ministry of Health operated a nationwide network of clinics for children, infants, and prenatal care staffed with nurses and doctors who served the local residents, whether citizens or noncitizens, free or at low cost. The Health Ministry also conducted a nationwide vaccination program for measles, yellow fever, meningitis, and other diseases and publicized "well baby" contests. Rotary Clubs sponsored a polio vaccination campaign throughout the country. There were no reported differences in the treatment of boys and girls.

In a study released in March 2003, the NGO SOS Sexual Violence surveyed 500 schoolchildren in Abidjan and its suburbs and reported that 27 percent of children had been victims of sexual abuse; 74 percent of the victims were girls and 26 percent boys. Approximately 33 percent had been raped, 15 percent had been the victims of attempted rape; 42 percent had been fondled, and 11 percent were victims of sexual harassment. When the sexual abuse occurred in the family, 54 percent of the assailants were male cousins, 11 percent were female cousins, 5 percent were guardians, and 3 percent were the brothers and sisters.

FGM was commonly performed on girls (*see* Section 5, Women).

There were reports of trafficking in children (*see* Section 5, Trafficking).

A knowledgeable U.N. representative reported that in government-held territory, it was common for pro-government militias to recruit children, both on a voluntary and a forced basis.

Child labor remained a problem (*see* Sections 5, Trafficking and 6.d.).

There were large populations of street children in the cities. In 2002, the government newspaper, *Fraternite Matin*, reported 215,000 street children in the country, of whom 50,000 were in Abidjan. According to numerous credible reports, some children were employed as domestics and were subject to sexual abuse, harassment, and other mistreatment by their employers (*see* Section 6.d.). No new figures of the number of street children were available for the year, but according to the BICE, the number of street children decreased because the streets were no longer safe. Since the outbreak of the 2002 rebellion the crime rate has increased due to the numerous arms circulating in the country. However, the number of children and more specifically, the number of young girls working in the streets, has increased. Because of the political military crisis, many families, including many displaced families, have become poor and relied on their children who work as street vendors to bring money home. A forum of 15 NGOs worked with approximately 8,000 street children in training centers, similar to halfway houses. The NGOs paid the children a small subsistence sum while teaching them vocational and budgeting skills. The Ministry reported that many street children were reluctant to stay in training centers where they earned no money and were subject to strict discipline.

In the NF-controlled north and west, many schools continued to operate in 2003 despite the Ministry of Education's opposition to funding schools in rebel-held territory zones. UNESCO and UNICEF called on the Government to keep the schools open to reduce youth inactivity and curb their recruitment into rebel forces. In February, following pressure from school children's parents, the NF and international organizations such as UNICEF and UNESCO, the Ministry of Education finally agreed to send inspectors to assess the courses delivered by the volunteers under the supervision of the state teachers who had remained in rebel-controlled territory. The Minister of Education allowed exams to be held in the rebel-held territory and validated the 2003 school year.

During the year, the school year started late in the center and in the north, because many teachers refused to go back to their posts as they feared for their security and their homes had been destroyed. In September, the National Committee in charge of the Redeployment of the Administration in rebel-controlled territory announced that the redeployment of the administration had been completed in the west and that the Government planned to carry out the same operation in the north. The administrative buildings were being repaired and the teachers and other civil servants had started to return when the bombings on the center and the north occurred on November 4–6. As a result, many civil servants again left the rebel-controlled zones and the exams to validate the 2004 school year had not yet been held by year's end.

UNICEF has reported that in the NF-controlled territory, most hospitals have been closed for 2 years, there were very few doctors and nurses, and virtually no routine vaccinations. Fifteen cases of polio have been reported during the year, and the November bombings forced the Ministry of Health to twice postpone the national polio immunization campaign targeted at 5.1 million children. A nationwide measles vaccination campaign for 8.8 million children was also postponed.

There were credible reports that the rebel forces that controlled the north and the west used child soldiers. NGOs reported that in the west, rebel forces were actively recruiting child soldiers from refugee camps and other areas. In the north, many rebel soldiers volunteered at ages 15 or younger. In September, the local representatives of UNICEF and U.N. OCHA, visited Bouake in rebel-controlled territory, informed the special representative of the U.N. Secretary-General in the country that the situation of child soldiers in Bouake was improving, and 752 children were being cared for by the "Children's House," a local organization, with the assistance of the local office of the WFP.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and although the Government continued its anti-trafficking efforts, trafficking in persons remained a problem. The Government did not prosecute traffickers during the year. With the continuing crisis, the Government, U.N. agencies, and international humanitarian agencies concentrated on child soldiers and children displaced because of the war, and it was difficult to distinguish trafficked children. The country was a source and destination country for trafficking in women and children from Mali, Burkina Faso, Ghana, Togo, and Benin for the purpose of forced commercial agriculture and domestic servitude.

After 2002, minimal law enforcement continued in government-held territory. The military fronts that divided the country inhibited northern workers from reaching the cocoa, coffee, and other rich agricultural zones in the south where labor demand was high.

There was no good overall estimate of the number of children intercepted or repatriated during the year.

The Government cooperated with neighboring countries, international organizations, and NGOs to combat trafficking in persons. The Ministries of Employment and of Family, Women, and Children's Affairs continued working with Malian authorities to prevent cross-border child trafficking and to repatriate Malian children from the country. They actively sought international funding for their work. The Government also continued to work with the Governments of Burkina Faso, Togo, and Benin on an anti-trafficking in children and repatriation multilateral accord. A national committee for the fight against child trafficking, which included representatives from numerous government ministries; representatives from several national and international organizations and NGOs, such as UNICEF, ILO, Save the Children, REFAMP-CI (network of women ministers and parliamentarians); and the BICE continued its work during the year.

The full extent and nature of the problem was unknown in spite efforts carried out during the year to document the trafficking of persons in the country. However, there have been changes in the direction and extent of trafficking since 2002. The Ghanaian-Ivoirian border near Aboisso was more frequently used for trafficking persons than in previous years. The primary reason for the increased traffic at this border was that the borders with other countries (Mali, Liberia, Burkina Faso, Guinea) were closed for several months after the onset of the conflict.

The country's cities and farms provided ample opportunities for traffickers, especially of children and women. The informal labor sectors were not regulated under existing labor laws, so domestics, most nonindustrial farm laborers, and those who worked in the country's wide network of street shops and restaurants remained outside most government protection. Internal trafficking of girls aged 9 to 15 sent from all parts of the country to work as household domestics in Abidjan, and elsewhere in the more prosperous south, remained a problem.

The regular trafficking of children into the country from neighboring countries to work in the informal sector in exchange for finder's fees generally was accepted. Children were trafficked into the country from Mali, Burkina Faso, Ghana, Togo, Benin, and Mauritania for indentured or domestic servitude, farm labor, and sexual exploitation.

Women principally were trafficked to the country from Nigeria, Ghana, and Liberia. A local NGO estimated that 58 percent of the female prostitutes in Abidjan were not citizens and reported that a small number of Ivoirian women were trafficked to Europe and the Middle East for prostitution.

Women and children were trafficked from the country to African, European, and Middle Eastern countries.

The controversy over child labor in the cocoa sector in the country continued, and the ILO, the Institute of Tropical Agriculture, and the Chocolate Manufacturers' Association financed studies to document the problem. The survey research, released in 2002, revealed that most children who were working in the cocoa sector worked on the family's farm (approximately 70 percent) or beside their parents. Of the 625,000 working children, 96.7 percent had a kinship relation to the farmer. Others, most frequently the children of extended family members or persons well known to them, indicated their or their family's agreement to leave their respective countries to work on farms in the country to earn money or in search of a better life.

The research suggested that perhaps 5,000 to 10,000 children were trafficked to or within the country to work full or part time in the cocoa sector. It also showed an estimated 5,100 children employed as full-time permanent workers, approximately 3,000 of whom were from Burkina Faso. The survey found another 12,000 children working part time on cocoa farms who had no family ties with the farmer. The research showed that approximately 109,000 child laborers worked in hazardous conditions on cocoa farms in the country in what the study described as the worst forms of child labor. The studies estimated that 59 percent were from Burkina Faso, 24 percent were citizens, and the others were from Mali or other countries to the north. During the year, compared with previous years, there were significantly fewer reports of children from neighboring countries being imported for fieldwork on plantations under abusive conditions.

The Government and the ILO continued to implement their "West African Project Against Abusive Child Labor in Commercial Agriculture" (WACAP), with some interruptions due to security concerns. WACAP was expected to eventually include 30 pilot projects reaching 6,000 displaced children in the country. The projects aimed to increase farmers' awareness, improve schooling for children, and provide better social services to families. In Abgville, in the heart of the cocoa zone, Winrock International continued its project "Alternatives to Child Labor through Improved Education."

*Persons with Disabilities.*—The law requires the Government to educate and train persons with physical, mental, visual, auditory, and cerebral motor disabilities, to hire them or help them find jobs, to design houses and public facilities for wheelchair access, and to adapt machines, tools, and work spaces for access and use by persons with disabilities; however, wheelchair accessible facilities for persons with disabilities were not common, and there were few training and job assistance programs for persons with disabilities. Following the Marcoussis Accord in January 2003, the Ministry of Solidarity, Social Security, and the Handicapped was created. A Federation of the Handicapped was established, headed by an advisor to that Minister. During the year, the Government allocated approximately \$200,000 (10 million CFA francs) to the Federation principally to make buildings more accessible to persons with disabilities. In 1996 the Government announced a program to recruit persons with disabilities for government service; however, by year's end, only 135 had been recruited. The last recruitment was in 2003; there were none during the year.

The law also prohibits the abandonment of persons with mental or physical disabilities and acts of violence directed at them. Adults with disabilities were not specific targets of abuse, but they encountered serious difficulties in employment and education. The Government supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many persons with physical disabilities begged on urban streets and in commercial zones. Persons with mental disabilities often lived in the streets.

Unlike in the previous years, there were no demonstrations by person with disabilities.

Traditional practices, beliefs, and superstitions varied, but infanticide in cases of serious birth defects was less common than in previous years. Many parents no longer believed that children with disabilities were sorcerers or the signs of a curse.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse. Citizens born in the country derived from five major families of ethnic groups. The Akan family comprised more than 42 percent; the largest Akan ethnic group, and the largest ethnic group in the country, was the Baoule. Approximately 18 percent of citizens belonged to the northern Mande family, of which the Malinke were the largest group. Approximately 11 percent of citizens belonged to the Krou family, of which the Bete were the largest group. The Voltaic family accounted for 18 percent of the population, and the Senoufo were the largest Voltaic group. Approximately 10 percent belonged to the southern Mande family, of which the Yacouba were the largest group. Major ethnic groups generally had their own primary languages, and their nonurban populations tended to be concentrated regionally.

All ethnic groups sometimes practiced societal discrimination on the basis of ethnicity. Urban neighborhoods still had identifiable ethnic characteristics, and major political parties tended to have identifiable ethnic and regional bases, although interethnic marriage increasingly was common in urban areas.

At least 26 percent of the population was foreign, and of that group, 95 percent were other Africans. There were more than 5 million West African immigrants living in the country. Most of the Africans were from neighboring countries, with half from Burkina Faso. Birth in the country did not automatically confer citizenship. Outdated or inadequate land ownership laws resulted in conflicts with an ethnic and anti-foreigner aspect.

Some ethnic groups included many noncitizens, while other ethnic groups included few noncitizens. There were societal and political tensions between these two sets of ethnic groups. This cleavage corresponded to some extent to regional differences. Members of northern ethnic groups that were found in neighboring countries as well as in the country often were required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the west, south, and center reportedly were not required to do so. Police routinely abused and harassed noncitizen Africans residing in the country (*see* Section 1.f.). Official harassment reflected the frequently encountered belief that foreigners were responsible for high crime rates, as well as a concern for identity card fraud. Harassment of northerners increased markedly after the 2002 rebellion. The victims of the March 25–26 violence in Abidjan included foreigners as well as northerners.

The Government razed some shantytowns where many poor West African immigrants and citizens lived, rendering tens of thousands persons homeless (*see* Section 1.f.).

Following the violence in January and February 2003 after the signing of the Marcoussis Accord, many private French citizens left the country. Approximately 350,000 Burkinabe returned to Burkina Faso. The French and the Burkinabe who

remained in the country kept a low profile as attacks against them continued during the year (*see* Section 2.b.).

Since the outbreak of the armed rebellion in 2002, clashes have regularly occurred between the native Guere populations and the Burkinabe and have led to the death of at least 10 persons on both sides. The native populations accused the Burkinabe of being assailants and the rebels' accomplices. However, according to French military sources, the repeated attacks against the non-natives (citizens and foreigners alike) were only aimed at stealing the latter's crops or money. An independent newspaper reported that Burkinabe immigrants working with the MPCJ rebels killed 21 Guere farmers from the village of Bloody during the period from January 5 to 10.

In February, young men of the Guere ethnic group in Duekoue, in a zone under government control beat to death three Burkinabe men and seriously injured a fourth. French and FANCI soldiers deployed to prevent clashes between the two communities.

In December, 18 persons were reported killed and 7 injured by gunfire or machete in an outbreak of violence between villagers from President Laurent Gbagbo's Bete ethnic group and settlers from other parts of the country and West Africa near the southern town of Gagnoa. These clashes generally were over land rights and the buying of cocoa beans.

Ethnic tensions led to fighting and deaths, especially in the western areas of the country. During the year, We and Yacouba ethnic groups in the west continued fighting, and hundreds reportedly were killed. In the West and in Duekoue in particular there were violent clashes between the native We population and members of the foreign community, particularly Burkinabe farmers.

During the year, Minister of National Reconciliation Sebastian Dano Djedje and civil society members organized activities aimed at promoting peace between the native We ethnic group and the foreign community living in the west by using traditional methods of settling conflicts. From July 21 to 25, the Collective of Civil Society for Peace traveled to the west to try to help reconcile the We populations and the Burkinabe in of Duekoue.

*Incitement to Acts of Discrimination.*—During the November 4–10 events, state radio and television repeatedly broadcast hate messages aimed at the French (*see* Section 1.g.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code grant all citizens, except members of the police and military services, the right to form or join unions, and workers exercised these rights in practice. Registration of a new union required 3 months and was granted routinely.

Only a small percentage of the workforce was organized, and most laborers worked in the informal sector that included small farms, small roadside and street side shops, and urban workshops. However, large industrial farms and some trades were organized. There was an agricultural workers union.

*b. The Right to Organize and Bargain Collectively.*—The law protects persons working in the formal sector (approximately 1.5 million workers or 15 percent of the workforce) from employer interference in their right to organize and administer unions, and this was observed in practice. The Constitution provides for collective bargaining, and the Labor Code grants all citizens, except members of the police and military services, the right to bargain collectively. Collective bargaining agreements were in effect in many major business enterprises and sectors of the civil service. In most cases in which wages were not established in direct negotiations between unions and employers, the Ministry of Employment and Civil Service established salaries by job categories (*see* Section 6.e.). There are no export processing zones.

The Constitution and statutes provide for the right to strike, and workers generally exercised this right in practice. However, the Labor Code requires a protracted series of negotiations and a 6-day notification period before a strike may take place, making legal strikes difficult to organize. Workers in the private and government sectors continued to strike over working conditions and terms of employment, and the Government generally tolerated the strikes, which rarely resulted in violence. There were several strikes during the year.

A 2003 ministerial decree declared that chief court clerks must share among all judicial system workers, including judges, the fees they traditionally collected and kept. Previously they shared the fees only with other court clerks (*greffiers*). Staff members of the Ministry of Justice shared all the fees. Some members of the National Union of Court Clerks of Cote d'Ivoire (UNAGCI) argued that the fees were not properly collected and accounted for and on May 3 undertook to evict the state treasurers to collect the fees themselves. On May 26, Mr. Roger Dacoury, President

of the UNAGCI and nine of his colleagues were convicted of violence on the police officers who tried to secure the Court House on May 12 and sentenced to 6 months' imprisonment. Their colleagues went on strike to protest their imprisonment. Following negotiations between the Minister of Justice's office and the court clerks' trade unions, court clerks agreed to resume work in all the jurisdictions. In return, in accordance with the commitments made, the Ministry of Justice released all the court clerks arrested and jailed at MACA.

In July 3, workers on the construction site of the Members of Parliament's house in Yamoussoukro went on strike to protest against their employers, the District of Yamoussoukro and the Chinese contractor for alleged failure to honor commitments as to salaries and working conditions. In addition to stopping to work, the workers also used violence against the managers of the construction company employing them and against the Chinese technical management staff. Following the mediation of the local authorities and of the Minister of Relationships with Institutions, a compromise was found and a new contract was signed.

The Labor Ministry arbitrated scores of labor conflicts in 2002 in spite of the social and political crisis. Employees could appeal decisions made by labor inspectors to labor courts.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports such practices occurred (see Sections 5, Trafficking and 6.d.).

*d. Prohibition of Child Labor Practices and Minimum Age for Employment.*—There were laws against the exploitation of children in the work place; however, child labor remained a problem. In most instances, the legal minimum working age is 14; however, the Ministry of Employment and Civil Service enforced this provision effectively only in the civil service and in large multinational companies. Labor law limits the hours of young workers, defined as those under the age of 18. However, children often worked on family farms, and some children routinely acted as vendors, shoe shiners, errand boys, domestic helpers, street restaurant vendors, and car washers and washers in the informal sector in cities. Some girls begin work as domestic workers as early as 9 years of age, often within their extended family. There were reliable reports of children laboring in "sweatshop" conditions in small workshops. Children also worked in family operated artisanal gold and diamond mines.

In April 2003, the Ministry of Solidarity, Social Security, and the Handicapped completed a child labor study. The study was designed to cover all economic sectors across the entire country, but the political crisis confined the research to the southern half of the country. Regardless of school attendance, 28 percent of all children worked, with 20 percent working full time. About 23 percent of the children aged 10 to 14 and 55 percent of the children aged 5 to 17 carried out an "economic activity." Most children worked in agriculture, but some also worked in small business, tailor and beauty shops, street restaurants, and manufacturing and repair shops in the informal sector. Child work varied inversely with school attendance.

Approximately 109,000 child laborers worked in hazardous conditions on cocoa farms in what has been described as the worst forms of child labor (see Section 5, Trafficking.); some of these children were forced or indentured workers but 70 percent worked on family farms or with their parents.

During the year, with the help of the ILO, the Government initiated a pilot program to certify that cocoa was produced free of child labor. This program is to be joined with a mechanism to ensure that children in cocoa producing areas attend school. The country still has failed to elaborate a judicial framework for tackling the problem, including enactment of laws specifically for use against child labor.

The Association of Domestic Worker Placement in Cote d'Ivoire (ACPGM-CI), an association to legalize their agencies and eliminate all agencies that refuse to comply with the law or that try to exploit young girls' continued to work. ACPGM-CI worked under the auspices of BICE, which along with other NGOs, campaigned against child trafficking, child labor, and sexual abuse of children in the country.

In March, the Government created a National Management Committee for the International Program for the Elimination of Child Labor of the International Bureau of Labor. The Committee falls under the Ministry of Labor and Civil Service and advises on policies for activities aimed at suppression of child labor and to integrate IPEC activities in other national efforts to fight child labor.

*e. Acceptable Conditions of Work.*—The Government administratively determined monthly minimum wage rates, which last were adjusted in 1996. Minimum wages varied according to occupation, with the lowest set at approximately \$70 (36,000 CFA francs) per month for the industrial sector; this wage did not provide a decent standard of living for a worker and family. A slightly higher minimum wage rate

applied for construction workers. The Government enforced the minimum wage rates only for salaried workers employed by the Government or registered with the social security office.

Labor federations attempted to fight for just treatment under the law for workers when companies failed to meet minimum salary requirements or discriminated between classes of workers, such as local and foreign workers. For example, the sanitary services company ASH continued to pay wages as low as \$23 (12,000 CFA francs) a month to female employees who swept the streets of Abidjan. According to their labor federation, labor inspectors continued to ignore this violation of the law. The shipbuilding company Carena continued to discriminate between European engineers who were paid on average \$15,600 (8 million CFA francs) a month and their African colleagues who received approximately \$1,500 (800,000 CFA francs) a month. Government labor and employment authorities did not take action in these cases.

On July 8, the employees of the oil firm Exxon-Mobil ended a 2-week strike over severance pay packages following the layoff of 25 workers, reported the government newspaper, *Fraternite Matin*. The workers reportedly considered the severance pay low compared with what their colleagues in Cameroon and Tunisia received. Following negotiations, the company agreed to reassess the package.

Through the Ministry of Employment and the Civil Service, the Government enforced in the formal sector a comprehensive Labor Code that governs the terms and conditions of service for wage earners and salaried workers and provides for occupational safety and health standards. Employees in the formal sector generally were protected against unjust compensation, excessive hours, and arbitrary discharge from employment. The standard legal workweek was 40 hours. The Labor Code requires overtime payment on a graduated scale for additional hours and provides for at least one 24-hour rest period per week.

Working conditions did not improve during the year and in some cases declined. Government labor inspectors could order employers to improve substandard conditions, and a labor court could levy fines if the employer failed to comply with the Labor Code. However, in the large informal sector of the economy, the Government enforced occupational health and safety regulations erratically, if at all. The practice of some labor inspectors accepting bribes was a continuing problem, and observers believed that it was widespread. Workers in the formal sector had the right to remove themselves from dangerous work situations without jeopardy to continued employment by utilizing the Ministry of Labor's inspection system to document dangerous working conditions. However, workers in the informal sector ordinarily could not absent themselves from such labor without risking the loss of their employment.

Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws did not apply.

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## DJIBOUTI

Djibouti is a republic with a strong presidency and a weak legislature. In 1999, the country elected its second president since gaining independence in 1977. Ismael Omar Guelleh, the candidate of the ruling People's Rally for Progress (RPP) that has ruled the country since independence, won the election with 74 percent of the vote. The election was considered generally free and fair. In the 2002 legislative elections, the ruling party coalition won all 65 seats, amid opposition claims of massive fraud. The judiciary was not independent of the executive and was subject to corruption and inefficiency.

Security forces include the National Police Force (FNP) and the Gendarmerie Nationale under the Ministry of Interior, the army under the Ministry of Defense, and an elite Republican Guard under the Presidency. An intelligence bureau under the direction of the National Security Advisor reports directly to the President. The FNP is responsible for internal security, border control, and prisons. The Gendarmerie Nationale is responsible for internal security. The army is responsible for external security, but also has some domestic security responsibilities. The Republican Guard is responsible for the protection of the President. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority. Security forces committed serious human rights abuses.

The country's mixed economy has little industry and few natural resources; its population was estimated at 660,000. Outside the capital city, the primary economic activity was nomadic subsistence. In 2003, the rate of economic growth was esti-

mated at 3.5 percent, and inflation was 3 percent; wages and benefits have not increased in 10 years. The part of the annual gross domestic product not generated by and for the foreign community was estimated at no more than \$250 per capita annually. Much of the country's wealth was concentrated in the hands of a small elite.

The Government's human rights record remained poor, and it continued to commit serious abuses. The Government limited citizens' rights to change their government. There was at least one report of the arbitrary or unlawful deprivation of life by security force members. There were reports that security forces beat and physically abused prisoners and detainees. Prison conditions remained harsh. Official impunity was a problem. The Government continued to detain persons arbitrarily, and prolonged detention was a problem; however, unlike in the previous year, there were no reports that persons were held incommunicado. The Government infringed on citizens' privacy rights; restricted freedom of the press; limited freedom of assembly; used force to disperse demonstrations and strikes; and restricted freedom of association. Violence and discrimination against women persisted, and, although the Government prohibited such practices, the practice of female genital mutilation (FGM) continued to be widespread. Discrimination on the basis of ethnicity, nationality, and clan background persisted. The Government restricted unions and harassed and intimidated their leaders.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, security forces killed a few persons during the year.

On March 3, in Obock, a military vehicle hit and killed Hassan Mohamed Kassim, a 4-year-old child. The soldier driving the vehicle fled the scene and subsequently claimed that the vehicle lacked brakes; he has not been charged in connection with the incident.

In early July, four members of the Gendarmerie reportedly severely beat a military pensioner who had become disgruntled after being refused entrance to the National Treasury. The victim died 3 days later of severe trauma to the head and a brain hemorrhage. The Chief of the Gendarmerie, who initially refused to conduct an internal investigation, agreed to do so only after being pressured by the pensioner's family; however, he subsequently refused to allow the four to appear in court. A trial was pending at year's end.

Unlike in previous years, there were no reports of deaths in connection with the expulsions of undocumented foreigners.

No action was taken in the September 2003 killing by security forces of an undocumented foreigner during a roundup of illegal immigrants or the 2002 killing of a protester by members of the presidential guard.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there continued to be reports that police and gendarmes beat and physically abused prisoners and detainees.

On April 25, Farah Paris, an officer of the police unit in charge of political security, assaulted and arrested without charge Mohamed Darar Waberi, a known opponent of the Government. Ali Kahin, the Commanding Colonel of City Police, placed Waberi in custody; Waberi was released after 5 days.

Police beat protesters while dispersing a demonstration during the year (*see* Section 2.b.).

Members of police vice squads targeted prostitutes on the streets and reportedly raped them as a precondition for their release.

Prison conditions were harsh, and overcrowding was a serious problem. Conditions at Nagad detention center, where foreigners were held prior to deportation, also were extremely harsh. Detainees at Nagad were held in unsanitary conditions and often were not fed for several days before their deportation.

Several prisoners reportedly suffered from untreated illnesses or injuries received during arrest. Medical care was inadequate, and the prison infirmary lacked sufficient medication and medical staff.

Women and men were held in separate cells. Children of female inmates under the age of 5 sometimes were allowed to stay with their mothers. In principle, juveniles were housed separately from adult prisoners; however, in practice, this was not always the case. Pretrial detainees usually were not held separately from convicted prisoners due to the lack of facilities.

The Government granted access to the International Committee of the Red Cross (ICRC) to the prisons for annual inspections and to monitor Gabode prison's sanitation system.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government did not respect these prohibitions. The Government did not take steps to prosecute human rights abusers, and official impunity was a problem. There were reports of police corruption, particularly in the lower ranks on the streets.

The law stipulates that the Government may not detain a person beyond 48 hours without an examining magistrate's formal charge. Detainees may be held another 24 hours with the prior approval of the public prosecutor. All persons, including those accused of political or national security offenses, must be tried within 8 months of arraignment. The law also provides for bail and expeditious trial; however, the police occasionally disregarded these procedures. Unlike in previous years, there were no reports that incommunicado detention was used.

There were several reports of arbitrary arrest (*see* Section 1.c.). For example, on January 4, during a roundup of illegal aliens, police arrested a citizen of the country who had been released from Peltier Hospital on a temporary pass. Despite the presentation of his national identity card, the individual was sent to Nagad Detention Center, where police reportedly demanded money in exchange for his release. There were reports that other citizens were forced to bribe police for their release during roundups of illegal foreigners.

During the year, two members of a religious group were arrested and imprisoned on libel charges (*see* Section 2.a.).

Security forces arbitrarily arrested and detained journalists during the year (*see* Section 2.a.).

On June 26, the Government released or reduced sentences of prisoners as part of an Independence Day amnesty. Prisoners serving 1 year or less were released; prisoners with longer terms received reductions in their sentences. The amnesty excluded drug dealers, those held for money fraud, and rapists.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice, the judiciary was not independent of the executive. Constitutional provisions for a fair trial were not respected universally, even in non-political cases.

The judiciary, based on the French Napoleonic code, was composed of a lower court, an appeals courts, and a Supreme Court. The Supreme Court may overrule decisions of the lower courts. Magistrates are appointed for life terms. The Constitutional Council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties; however, its rulings did not always protect these rights.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (Shari'a), and nomadic traditions. Urban crime was dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. During the year, the Government published and began implementing the 2002 Family Code, which replaces Shari'a in governing the majority of laws pertaining to family and personal matters, including marriage, divorce, child custody, and inheritance matters. Issues that fall under the Family Code are brought to civil court, and both parties are given the opportunity to present their case to the judge; the court then tries to reach a reconciliation agreement between the two parties. If no solution can be found, the Judge decides the case based on the appropriate statutes in the Family Code.

Traditional law often was used in conflict resolution and victim compensation. For example, traditional law often stipulates that a blood price be paid to the victim's clan for crimes such as murder and rape.

The Constitution states that the accused is innocent until proven guilty; however, the Government did not protect this right in practice. Prisoners have the right to be examined by a doctor. Trials generally were public, except in politically sensitive cases when security measures effectively prevented public access. Legal counsel was supposed to be available to the indigent in criminal and civil matters; however, defendants often did not have legal representation. Court cases were heard before a presiding judge and two accompanying judges. The latter received assistance from two persons, lay assessors, who were not members of the bench, but who were considered to possess sufficient legal knowledge to comprehend court proceedings. The Government chose lay assessors from the public at large, but reports indicated that political and ethnic affiliations played a role in the selection.

No action was taken on the 2003 opposition coalition complaint filed with the Council of Claims alleging abuse of power by the ruling party in the January 2003 legislative elections.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not respect these prohibitions in practice. The law requires that the authorities obtain a warrant before conducting searches on private property; however, in practice, the Government did not always obtain such warrants. The Government reportedly monitored and sometimes disrupted the communications of some government opponents by cutting their telephone or electric service. Police reportedly frequently followed persons who attended opposition rallies.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice.

The law prohibits the dissemination of false information and regulates the publication of newspapers. The Government owned the principal newspaper, *La Nation*, which was published three times a week. In addition, each registered political party is permitted to publish a public journal. There were several opposition-run weekly and monthly publications that circulated freely and openly criticized the Government.

The Government also owned the radio and television stations. The official media generally were uncritical of government leaders and government policy. Radio-Television Djibouti, the official government station, broadcast 24 hours a day in four languages on the radio. Foreign media also broadcast throughout the country.

During the year, several persons were arrested for libel. On March 15, Sheikh Abdokarim Ismael Abdo and Sheikh Artaoui, two members of a religious “sect” of Mohamedians, were arrested on charges of libel after writing an open letter to all Ministers criticizing the President and calling for an end to persecution of the Mohamedian Brotherhood. The two sheikhs, who were tried and sentenced to 6 and 8 months, respectively, remained in Gabode Prison at year’s end.

On April 11, police arrested without charge Abdoukader Abdillahi Miguil, the editor of the *Ali Sabieh Tribune*, after he published an article describing the unpopularity of government policies; on April 12, Miguil was released.

During the year, the Government lifted the 2000 ban on the importation and sale of Somaliland newspapers *Jamhuuriya* and *The Republican*.

The country had one government-owned Internet service provider, and the Government did not prevent access to the Internet.

The Government generally did not restrict academic freedom, and teachers could speak and conduct research without restriction, provided that they did not violate sedition laws. However, during the year, the Government blocked the salaries of teachers involved in strike activity (see Section 6.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. Some opposition leaders effectively practiced self-censorship and refrained from organizing popular demonstrations, rather than provoke a government crackdown.

On March 28, security forces forcibly dispersed a demonstration of veterans’ wives; several women were detained briefly. Authorities claimed that no force was used and that only those women who refused to leave the demonstration were detained.

No action was taken against security forces that used excessive force to disperse demonstrations in 2003 or 2002.

The Constitution provides for freedom of association provided that certain legal requirements are met; however, the Government restricted this right in practice. Political parties are required to register with the Government. The Government continued to harass and intimidate members of groups who were viewed as opposed to the Government (see Section 1.f.).

Nonpolitical associations also must register and be approved by the Ministry of Interior (MOI).

*c. Freedom of Religion.*—The Constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the Government generally respected this right in practice; however, proselytizing was discouraged. Although Islam is the state religion, the Government imposed no sanctions on those who choose to ignore

Islamic teachings or practice other faiths. More than 99 percent of the population was Sunni Muslim.

During the year, two Mohamedian sheikhs were arrested and imprisoned on charges of libel after criticizing the President (*see* Section 2.a.).

The Government requires that religious groups be registered with the MOI. In 2003, Baha'i leaders reported they were refused the right to register; it was unknown whether they were able to register by year's end.

There is no legal prohibition against proselytizing; however, proselytizing was discouraged.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times limited them in practice.

On January 29, the Government declared the country “mine safe” after demining efforts cleared a majority of all mines laid in the 1990s in Tadjoura and Obock districts. (Areas that have little impact on civilian safety, agriculture, or infrastructure development do not require clearance before a country can be declared “mine safe,” and the Government has plotted and publicized the locations of all such remaining mines.)

A judge may order a passport seized from persons under judicial surveillance or awaiting trial; however, there were no reports during the year that persons were restricted from leaving the country.

The law prohibits forced exile, and the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared protection. However, the Government did not routinely grant refugee or asylum status, and there were unconfirmed reports during the year of the forced return of persons to a country where they feared persecution, specifically Ethiopia.

The country hosted an estimated 22,000 refugees and illegal foreigners at year's end. Although the Government officially did not recognize those refugees under the protection of the U.N. High Commission for Refugees (UNHCR), the Government cooperated with the UNHCR in providing assistance to more than 18,000 registered Somali and Ethiopian residents of the 2 remaining refugee camps in Hol-Hol and Ali-Addeh. During the year, the UNHCR repatriated 7,575 Somaliland refugees who had fled to the country during the Somaliland civil war.

During the year, the Government rounded up and deported undocumented foreigners—primarily from Ethiopia, Somalia, and Yemen; however, unlike in the previous year, there were no reports that such roundups resulted in deaths. In 2003, more than 80,000 undocumented foreigners were forced to leave the country, and there were numerous reports of deaths resulting from exposure and overcrowding.

In June, the National Eligibility Commission finished processing the approximately 8,000 requests for asylum from undocumented foreigners, who claimed fear of persecution during the 2003 mass expulsion of illegal immigrants. The Commission granted asylum status to more than 4,000 southern Somalis and 100 Ethiopians; approximately 4,000 individuals were denied status and repatriated to their countries of origin in June. Those individuals granted asylum were transferred to either Ali Adde or Hol Hol Refugee camps, where they were awaiting resettlement at year's end.

During the year, unknown assailants reportedly raped two women in the Aour Aoussa refugee camp; unconfirmed reports indicated that a third woman also may have been raped. The women were taken to Djibouti City for treatment and relocated to other refugee camps.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their Government; however, the Government limited this right in practice.

The RPP candidate Ismael Omar Guelleh, the designated successor of former President Hassan Gouled Aptidon, won the 1999 election with 74 percent of the vote. For the first time since multiparty elections began in 1992, no group boycotted the vote. Although Moussa Ahmed Idriss and the Unified Djiboutian Opposition Party challenged the results, alleging election “irregularities” and asserting that “foreigners” voted in various districts of the capital, international and domestic observers considered the election to be generally fair and transparent, citing only minor irregularities.

In January 2003, the country held its first multiparty elections. The legislative elections were contested by the progovernment coalition Union for the Presidential Majority (UMP) and the opposition coalition Union for a Democratic Alternative (UAD). The UMP was dominated by RPP, the ruling party since independence. The RPP continued to carefully control the political system. Official tallies registered a UMP majority victory in all 5 voter districts and a sweep of all 65 legislative seats, although the UAD received 37 percent of the vote count. International observers noted the peaceful conditions during the election but also identified irregularities in the process. The opposition claims of massive fraud centered on the electoral list, which was not made public, and accusations that the Government stuffed ballot boxes, mobilized military units to vote multiple times and intimidate opposition supporters, and changed vote counts in some districts. In February 2003, the Constitutional Council rejected the UAD appeal to annul the elections.

There were no laws to provide public access to government information. La Chambre des Comptes, a public expenditures audit board established in 1997 to fight corruption and promote transparency, issued its second annual report on government expenditures during the year; however, the report was not made available to the public.

There were 7 women in the 65-seat legislature. Seven legislative seats were reserved for women by presidential decree in the January 2003 elections. The country's first female parliament members took office when the UMP legislature convened in February 2003. Hawa Ahmed Youssouf served as Minister of State for the Promotion of Women, Family, and Social Affairs and reported to the Prime Minister. Khadija Abeba, President of the Supreme Court, was the highest-ranking female official and, according to the Constitution, would become interim President should the presidency become vacant.

There were 9 members of minorities—non-Issa Somali clans (Issaks, Gadaboursis, and Darood) and Arabs—in the 65-seat legislature. There were 3 members of minorities in the 20-seat cabinet. The President's subclan, the Issa Mamassans, wielded disproportionate power in affairs of state. Afars held a number of senior ministerial posts; however, they were not well represented at lower levels. Somali clans other than the Issa and citizens of Yemeni origin were limited unofficially to one ministerial post each. There also were informal limits on the number of seats for each group in Parliament.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few domestic human rights groups generally operated without serious government restriction, conducting limited investigations and sometimes publishing their findings on human rights cases. Government officials generally disregarded their views. The local human rights group LDDH operated without government interference during the year. The Union of Djiboutian Women (UNFD) and the Djiboutian Association for the Promotion of the Family promoted the rights of women and children.

The ICRC maintained a small office that was staffed with locally hired personnel. The ICRC regional representative, who was based in Nairobi, visited the country during the year.

There was a government ombudsman, who also served as a legislator in the Parliament and whose specific responsibilities included mediation between governmental and nongovernmental organizations. There was no record of any successful mediation carried out by his office. The National Human Rights Committee for the Promotion and Protection of Human Rights was inactive during the year.

On May 14, the Government held a national forum on human rights to solicit public views and to discuss possible human rights legislation. The four opposition parties refused to participate, charging that the Government was not serious because it had failed to respond to human rights claims filed by the parties during the year. The LDDH also refused to participate because the forum did not include international human rights observer groups. The Government had not made public its findings on the forum by year's end.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of language, race, or sex; however, discrimination against women and ethnic minorities persisted. The Government's enforcement of laws to protect women and children was ineffective.

*Women.*—Domestic violence against women existed, but few cases were reported. Violence against women generally was addressed within the family or clan structure rather than in the courts. The police rarely intervened in domestic violence incidents, and the media reported only the most extreme examples, such as murder.

The law includes sentences of up to 20 years' imprisonment for rapists. The number of such cases prosecuted during the year was unknown.

It was believed that as many as 98 percent of females have undergone FGM. FGM traditionally was performed on girls between the ages of 7 and 10. The law states that "violence causing genital mutilation" is punishable by 5 years' imprisonment and a fine of more than \$5,650 (1 million DF); however, the Government has not yet convicted anyone under this statute. The efforts of the UNFD and other groups to educate women were having some effect in the capital city. Many believed that the incidence and severity of infibulation have decreased, although no systematic data were available on the problem. U.N. and other experts believed that lesser forms of FGM still were practiced widely and that infibulation still was common in rural areas.

Prostitution is illegal; however, it was a significant problem. In general, there were two categories of prostitutes: Those with apartments and those on the streets. The first group was largely tolerated and catered to the foreign (particularly military) community. Police raped prostitutes (*see* Section 1.c.). Refugees and girls from poor families were at greater risk of becoming street prostitutes.

Women legally possess full civil rights; however, custom and traditional societal discrimination in education have resulted in a secondary role for women in public life and fewer employment opportunities. Women largely were confined to trade and secretarial fields. Customary law, which is based on Shari'a, discriminates against women in travel; however, during the year, the Government published and began implementing the 2002 Family Code, which replaces Shari'a in governing the majority of laws pertaining to family and personal matters (*see* Section 1.e.). Male children inherited larger percentages of estates than did female children. The few women who were educated increasingly turned to the regular courts to defend their interests.

*Children.*—The Government devoted almost no public funds to the advancement of children's rights and welfare. A few charitable organizations worked with children. Primary education was compulsory; however, the Government did not monitor compliance. The Government provided tuition-free public education, but extra expenses, such as transportation, book fees, and chalk, could be prohibitive to poorer families. School facilities continued to be inadequate. Teacher salaries continued to be in arrears, and a large percentage of highly qualified teachers have left the profession (*see* Section 6.e.). Approximately 20 percent of children who started secondary school completed their education. Only 62 percent of girls attended primary school, compared with 73 percent of boys, and only 23 percent of girls attended secondary school, compared with 33 percent of boys. Only 32 percent of girls were literate, compared with 60 percent of boys, and more than 53 percent of the total population was illiterate. In rural areas, limited access to schools, a shortage of educational materials, and cultural attitudes led to significantly lower enrollment and greater disparities in enrollment between boys and girls.

Child abuse existed; however, the Government has not used existing provisions of the law to deal with child abuse seriously, and punishments generally were light. For example, perpetrators of rape or abuse generally were fined an amount sufficient to cover the child's medical care.

FGM was performed on as many as 98 percent of young girls (*see* Section 5, Women).

Child labor existed (*see* Section 6.d.).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports of persons being trafficked to, from, or within the country. Trafficking could be prosecuted under various sections of the Penal Code, including "exploitation of the weakness or ignorance of persons" or "exerting pressure on a person so that the person engages in prostitution."

*Persons with Disabilities.*—Although persons with disabilities have access to education and public health facilities, there was no specific law that addressed the needs of persons with disabilities, and there were no laws or regulations that prevent job discrimination against persons with disabilities. The Government did not mandate accessibility to buildings or government services for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Government continued to discriminate against citizens on the basis of ethnicity in employment and job advancement. Somali Issas were the majority ethnic group and controlled the ruling party, the civil and security services, and the military forces. Discrimination based on ethnicity and clan affiliation limited the role of members of minority groups and clans in government and politics.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to join unions; however, the Government restricted these rights.

Under the labor code, a union must have government sanction to exist. In recent years, the Government suppressed independent, representative unions by firing their leaders, preventing them from holding congresses, and creating government-sponsored shadow unions to replace them.

The law prohibits anti-union discrimination, and employers found legally guilty of discrimination were required to reinstate workers fired for union activities; however, the Government neither enforced nor complied with the law.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, the Government did not protect this right in practice. Collective bargaining did not occur. Relations between employers and workers were informal and paternalistic. The Government could and did select labor representatives. Employers generally established wage rates on the basis of Ministry of Labor guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encouraged direct resolution by labor representatives and employers. Workers or employers may request formal administrative hearings before the Ministry's inspection service. The International Labor Organization (ILO) has noted that the same personnel were employed for both inspection and dispute settlement, and critics claimed that both services suffered from poor enforcement due to its low priority and inadequate funding.

The law provides for the right to strike and requires representatives of employees who plan to strike to contact the Ministry of Interior 48 hours in advance.

The law confers upon the President broad powers to requisition public servants who are considered indispensable to the operation of essential public services. The ILO has noted that this power has been defined too broadly.

The Government on occasion retaliated against strikers. For example, Kamil Hassan, a schoolteacher, who was reinstated in 2002 after leading a teacher's strike in 1997, was still not teaching at year's end. During the year, the salaries of Hassan and four other teachers reportedly were blocked repeatedly by order of the Prime Minister.

There is an export processing zone; however, its activity level was low during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits all labor by children under the age of 14, but the Government did not always enforce this prohibition effectively, and child labor, although not common, existed. Children generally were not employed in hazardous work. Children may and did work in family-owned businesses, such as restaurants and small shops, at all hours of the day and night. A shortage of labor inspectors reduced the likelihood of investigation into reports of child labor.

On June 21, the Government ratified ILO Convention 182 on the Elimination of the Worst Forms of Child Labor.

*e. Acceptable Conditions of Work.*—Only a small minority of the population was engaged in wage employment. The Government administratively sets minimum wage rates according to occupational categories, and the Ministry of Labor is charged with enforcement. The monthly wage rate for unskilled labor, set in 1976, was approximately \$125 (22,000 DF); however, it was not enforced in practice. The national minimum wage did not provide a decent standard of living for a worker and family. The Government still owed 3 months' worth of salary arrears from 1995 and 1997 to teachers, security forces, and civil servants.

By law, the workweek was 40 hours, normally spread over 6 days. The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement was ineffective, workers sometimes faced hazardous working conditions. Workers rarely protested, mainly due to fear that others willing to accept the risks would replace them. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment.

Only legal foreign workers were protected under the law.

**EQUATORIAL GUINEA<sup>1</sup>**

Equatorial Guinea nominally is a multiparty constitutional republic; however, in practice President Teodoro Obiang Nguema Mbasogo and the Mongomo sub-clan of the majority Fang ethnic group, which has ruled since the country's independence in 1968, dominated the Government. President Obiang, who has ruled since seizing power in a military coup d'etat in 1979, was re-elected with 97.1 percent of the vote and 98 percent of registered voters participating in a December 2002 election marred by extensive fraud and intimidation. The President's Democratic Party of Equatorial Guinea (PDGE) controlled the judiciary and the legislature; the latter was chosen in elections in April that were criticized widely by the international community as seriously flawed. There was an attempted coup d'etat in March; 19 mercenaries in the capital city of Malabo and 70 mercenaries in Harare, Zimbabwe were arrested in conjunction with the plot. In November, 14 were convicted by a court in Malabo at a hearing open to international observers. The judiciary was not independent.

President Obiang forfeited some of his power through cabinet reforms in June, but he still exercised de facto control over the police and security forces. The new Ministry of National Security controls the police and gendarmes while the new Ministry of National Defense oversees the military. In a cabinet reshuffle in June, the President again named a member of the Bubi ethnic group as Prime Minister; the President also named one of his brothers as Minister of Defense; another brother as Senior Delegate of National Security; and his uncle as Minister of National Security, all positions previously held by the President himself. Ultimately, the cabinet reforms resulted in only a slight dilution of the President's power. Civilian authorities generally maintained effective control of the security forces; however, there were some instances in which security forces acted independently of government authority. The security forces committed numerous serious human rights abuses.

The economy grew rapidly during the year due to an increased production of oil and gas. Although the 2002 census estimated the population at approximately 1 million, credible estimates put the number at closer to 500,000. The majority of the population lived by subsistence agriculture, supplemented by hunting and fishing. Unemployment and underemployment were very high. Barter was a major aspect of the economy. The gross domestic product has increased substantially in the last 8 years; the rate of growth was approximately 20 to 24 percent during the year. Estimates of per capita income varied between \$930 and \$5,000 (465,000 and 2.5 million CFA francs); most of the growth in income was due to an increase in crude oil production, which averaged more than 350,000 barrels per day during the year, and rising prices. Poor fiscal management and a lack of transparency in public accounting of national finances have undermined the country's economic potential. Oil companies have paved roads in Malabo, upgraded the island's electricity generating system, and funded a variety of health and environment projects designed to improve citizens' well being. There has been some concern regarding the use of irregular payments made by oil companies into bank accounts controlled personally by the President and the ruling elite. Most of the oil wealth remained in the control of the Government with little being distributed to the majority of the population, which remained poor. There was some evidence, including several infrastructure projects, that the Government started to use the country's oil wealth for the public good. Most foreign economic assistance was suspended due to the lack of economic reform and the Government's poor human rights record.

The Government's human rights record remained poor, and the Government continued to commit serious abuses. Citizens did not have the ability to change their government peacefully. Security forces committed numerous abuses, including torture, beating, and other physical abuse of prisoners and suspects, which at times resulted in deaths. Prisoners often were tortured to coerce confessions. Prison conditions remained harsh and life threatening. Members of the security forces generally committed abuses with impunity. Security forces used arbitrary arrest, detention, and incommunicado detention. Foreigners with legal standing were arbitrarily harassed, detained, and deported. The judicial system repeatedly failed to ensure due process. The Government restricted the right to privacy and severely restricted freedom of speech and of the press. The Government continued to restrict the rights of assembly and association and limit freedom of movement. Corruption remained a problem. There were no effective domestic human rights nongovernmental organiza-

<sup>1</sup>The American Embassy in Malabo was reopened in October 2003 and was staffed during the year by one officer; this officer was assisted by other Embassy officials who were resident in Cameroon, which limited the ability to gather information.

tions (NGOs). Violence and discrimination against women remained serious problems. Discrimination against ethnic minorities, particularly the Bubi ethnic group, and foreigners continued. The Government restricted labor rights. Child labor persisted and forced prison labor was used. The Government passed an antitrafficking law during the year, but trafficking in persons continued, largely unchecked by the Government.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents; however, security forces killed several persons through abuse and excessive force. For example, between May 28 and 30, approximately 20 persons attempted to take over a police station in what some observers believe was part of an attempted coup on Corisco Island. According to a government press release, security forces killed 5 persons while attempting to stop the assault; however, according to Amnesty International, soldiers shot and killed some of the attackers as they fled and summarily executed those who surrendered, resulting in between 12 and 16 deaths. No action was taken against the soldiers responsible.

There were no reports of extrajudicial killings, except for killings by security forces in reaction to perceived coup attempts.

The Government did not prosecute any members of the security forces considered responsible for unlawful killings in previous years, nor is it likely to do so.

There was no action taken against border guards responsible for the July 2003 killing of a Spanish aid worker in Bata.

There were no developments in the 2002 killings by security forces of two persons.

There were unverified reports of death resulting from torture during the year. On March 17, German citizen Gerhard Eugen Nershz, who was arrested in March on accusations of plotting a coup, died while in Black Beach Prison in Malabo. Government officials said he died of cerebral malaria, and a German autopsy indicated that he died of natural causes; however, there were reports that he showed signs of having been tortured and that prison officials denied him prompt medical treatment.

There were no developments in the 2002 deaths by torture of three prisoners at the Black Beach Prison.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law does not specifically prohibit such practices, and although the law mandates respect for the liberty and dignity of persons, members of the security forces tortured, beat, and otherwise abused suspects, prisoners, and opposition politicians. In July, Amnesty International reported that torture was “routine” in the country’s places of detention, and in 2002, the U.N. Commission on Human Rights (UNCHR) Special Representative Gustav Gallon described the use of torture as a “normal means of investigation.” Senior government officials told foreign diplomats during the year that human rights did not apply to criminals and that torture of known criminals was not a human rights abuse.

There was one report of a prisoner’s death due to torture and abuse by prison authorities (*see* Section 1.a.).

There were reports that officials tortured political opposition activists and other persons during the year. For example, in March, police arrested Weja Chicampo, leader of the Bioko Island Movement, an opposition party. Prison officials reportedly tortured him in prison and denied him access to medical treatment and food brought by his family. At year’s end he remained in jail.

Five persons arrested in late May after the alleged attack on Corisco Island appeared on television before they went before a judge; small sections appeared to have been cut out of their ears. There were reports that one of the five individuals arrested, Alfredo Asumu, was suspended from the ceiling and beaten. At least two of the five individuals were reportedly denied medical treatment.

On June 27, security forces shot Marcelino Manuel Nguema Esono, leader of the outlawed Progress Party, prior to his arrest and subsequent detention in Malabo’s Black Beach Prison, where he was denied medical attention and placed in solitary confinement. At year’s end he remained in jail.

There continued to be unconfirmed reports that torture was used to extract forced confessions, particularly from the group of 19 persons arrested on March 9 for plotting a coup. For example, after a brief visit with her son in Black Beach Prison, a mother of one of the accused coup plotters claimed that her son’s legs were broken due to torture during interrogation and that he had been chained to the wall and

denied medical treatment. However, when the trial began in August, all the prisoners walked into the courtroom unaided and without obvious signs of pain.

In November, there were unconfirmed reports that government agents arrested and tortured Lieutenant Colonel Maximiliano Owono Nguema, Military Chief of Einayong, in Bata.

No action was taken against members of the security forces responsible for the use of torture in June and July 2003 to extract confessions from Felipe Ondo Obiang, leader of the Republican Democratic Forces, and 30 other prisoners belonging to a group of 144 alleged coup plotters arrested in 2002 (*see* Section 1.d.). There was no action taken against security forces responsible for beatings and torture reported in 2002.

During the year, local authorities singled out foreigners from neighboring countries for harassment such as verbal intimidation and arbitrary arrest. Police routinely extorted money from citizens of Cameroon, Nigeria, Ghana, Togo, and Benin. Beginning in March, following a coup attempt led by foreigners, the Government increasingly and arbitrarily harassed, arrested, and deported foreigners of African nationalities. Police in Bata and Malabo often used excessive force, including beatings, and looted property during the arrests and deportations; in addition, some deportees said that police had raped them; however, those claims had not been independently verified by year's end. The Government accused the deportees of being accomplices to the mercenaries arrested during a coup attempt in March. Approximately 300 Cameroonian nationals were expelled out of a total of 400 foreign deportees.

In November 2003, security forces harassed and assaulted a Malian citizen after the Malian did not heed an order to stop.

There continued to be reports that security forces harassed oil company employees (*see* Section 1.d.).

The conditions of jails and prisons in the country remained harsh and life threatening; inmates were not provided with food, medical care, working toilets, drinkable water, clean and healthful living space, or minimum equipment, such as beds. There were credible reports that conditions at Black Beach Prison continued to improve; however, there were also credible reports that prison authorities tortured prisoners (*see* Section 1.d.). Family members of prisoners reported that they were only allowed visits of several minutes and that guards would not distribute food brought for the inmates. Medical attention was routinely denied to prisoners with gangrene, broken bones, infections, and fatal illnesses.

Prison authorities and male prisoners sexually assaulted female prisoners. There were credible reports that police gang-raped female prisoners in Malabo. Prisoners were used habitually as labor and as workers on construction projects for certain officials, without pay or other compensation. There were unconfirmed reports that judges used prisoners as domestic workers.

Male and female prisoners were not held in separate facilities, nor were juveniles held separately from adult prisoners. Pretrial detainees and political prisoners were not held separately from convicted prisoners.

The International Committee of the Red Cross (ICRC) visited detainees and prisoners at prisons and police stations multiple times during the year. The Red Cross was allowed visits in accordance with its standard modalities—meetings with prisoners without third parties and regular, repeated visits. The ICRC made recommendations to the Government, but did not release them publicly. Prison conditions have marginally improved, but remained harsh and well below international standards.

In October, the U.N. and the Government began a series of seminars to raise awareness of human rights among prison employees.

*d. Arbitrary Arrest or Detention.*—There were nominal legal procedural safeguards regarding the protection of citizens' rights, including provisions concerning detention and the obtainment of search warrants; however, security forces systematically ignored these safeguards and continued to arrest and detain persons arbitrarily and with impunity. Security forces often detained individuals "on orders from superiors" without any further formality.

Responsibility for policing is divided between the police, who are primarily responsible for security in urban centers, and the gendarmes, who have responsibility for the areas outside the cities and for special events within cities. Both are under the control of the Ministry of Interior. Corruption was endemic within these forces. Citizens who were not police officers were allowed to arrest persons suspected of being illegal residents, increasing the frequency of arbitrary arrests based on xenophobia. Members of the security forces were rarely held accountable for abuses; impunity for police officers and gendarmes was a problem. In 2002, the then-U.N. Special Representative noted that some executive officials closely related to the security ap-

paratus of the Government were treated as being above the law. There were no known reforms of the security forces proposed or enacted during the year.

By law, arrests do not require warrants. Police can detain persons whom they arrest for up to 5 days before a hearing; however, in practice, the length of such detentions was usually much longer. The lack of a published penal code allows for frequent abuses by security forces.

Police routinely detained prisoners and held them incommunicado (*see* Section 1.c.).

Arbitrary arrest was a serious problem. Local authorities singled out foreigners from neighboring countries for arbitrary arrest, harassment, and deportation, especially following the coup attempt in March (*see* Section 1.c.). For example, in November 2003, police arbitrarily detained and handcuffed a Nigerian in his residence. The Nigerian embassy had to provide him with guards, and visitors had to provide basic necessities. The arresting police officer was later criticized by his superiors and issued an apology but was allowed to continue working.

In January, police arrested Simon Maria Nsue Mokuy of the Republican Forces for Reflection and Action on Equatorial Guinea (FRRAGE) for distributing information about an upcoming FRRAGE meeting abroad; he was detained incommunicado without charge or trial for 6 weeks.

During the security forces' roundup of foreigners following the March coup attempt, police arbitrarily detained and questioned two foreign humanitarian volunteers vacationing in Luba before placing them under house arrest at their hotel for 2 days. In addition, police arbitrarily arrested and detained for several days a foreign missionary couple in Malabo.

During the year, security forces continued to arbitrarily harass oil company employees, primarily by delaying them at checkpoints and demanding small bribes.

Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to cooperate (*see* Section 1.f.).

In November, there were unconfirmed reports that the Government arrested more than 50 military officers on the mainland and tortured one of them, a lieutenant colonel (*see* Section 1.c.). At year's end, no additional information was available.

Pretrial detention was a problem. The majority of inmates had not been charged, and their cases had not been heard in court. Prisoners often remained in detention at police stations awaiting hearings for longer than the 5 days prescribed by law because of judges who were absent from their posts.

During the year, authorities reportedly detained members of political opposition parties for short periods. Some political detentions lasted more than a few months. It remained difficult to estimate the number of political detainees, although it was believed to be fewer than 100 persons. The Government used arrest, reported beatings and other forms of harassment to intimidate opposition party officials and members.

Republican Democratic Forces (FDR) leader Felipe Ondo Obiang, arrested in March 2002 in connection with an alleged coup plot, was reportedly tortured and remained in Evaniyong Prison at year's end. He was chained to the wall by his left leg, which became swollen, and was held in solitary confinement for several months. It was believed that the 30 other prisoners arrested along with Ondo Obiang, including FDR leader Guillermo Nguema Ela, remained in prison, despite having been granted partial amnesty; however, their status had not been verified by year's end. They remained in difficult and substandard conditions; at least two of them required medical attention due to ill treatment and neglect.

In September, police arrested Air Force Captain Felipe Obama. By year's end, there were no reports that charges had been filed against him or that he had been released. In November, Convergence for Democracy Party (CPDS) party member Pio Miguel Obama was arrested and held at the central Malabo police station. At year's end, no charges had been filed, and according to opposition reports, he had not been released.

*e. Denial of Fair Public Trial.*—The Constitution provides for judicial independence; however, the judiciary was not independent. Judges served at the pleasure of the President, and they were appointed, transferred, and dismissed for political reasons. Judicial corruption was widespread.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and a Supreme Court. The President appoints members of the Supreme Court, who report to him and take their orders from him in practice. At least two military generals, neither of whom was a lawyer, served on the Supreme Court. The President was the most powerful influence on the judicial branch. The law allows the Ministry of Justice to undertake periodic inspections and name judges. There were approximately 60 judges in the country, about 20 percent of whom were

trained lawyers. Some judges were regularly absent from their posts, resulting in delays in judicial proceedings. In December, upon the recommendation of the president of the Supreme Court, President Obiang fired a Malabo Court of First Instance judge and two of his clerks for incompetence and inaction in cases on his docket. The Parliament's Complaints Commission was a de facto judicial authority, although it had no formal legal jurisdiction. According to local media, the Parliament's president acted as a court of last resort.

Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside.

The Constitution and laws provide for legal representation in trials and the right to appeal; however, in practice the authorities often did not respect these provisions. There were about 100 practicing lawyers, approximately one-quarter of whom practiced full-time and had no other profession. The Ministry of Education grants certificates to practice law, and the minimum requirement of having a law degree from any university worldwide can often be circumvented. Civil cases rarely came to public trial.

Cases involving national security were tried by a military tribunal. Cases that essentially were political in nature frequently were referred to military courts, even when the defendants were civilians and the charges were not related to the military. The Code of Military Justice permits persons who disobey a military authority to be tried in a military tribunal whether or not they are military personnel. Military courts did not provide due process or other procedural safeguards, and proceedings were not made public.

In February, nearly 120 civil and military officers were convicted in a 1-day secret trial of "crimes against state security" that allegedly concerned theft of public funds. Most of the defendants received sentences of 6 to 10 years in prison. No additional information was available at year's end.

On August 23, the 19 mercenaries arrested in March went on trial before 3 civilian criminal court judges. On August 31, the prosecution asked for the indefinite suspension of the trial following the acquittal in Zimbabwe of 66 persons who had also been accused of involvement in the same plot to overthrow the President. On November 24, the trial resumed when the Prosecutor General presented cases against 9 additional men, all members of the Progress Party, living in exile in Spain. On November 26, three South Africans were acquitted while the other defendants, including two citizens, received prison sentences of between 1 and 62 years. Both Amnesty International and the International Bar Association stated that the trial did not meet international fair-trial standards, particularly with regard to the absence of interpreters for foreign defendants.

The Government continued to hold political prisoners, and it was estimated that there were fewer than 100 by year's end. These prisoners were all members of opposition parties or persons the Government accused of involvement in coup attempts. During the year, only the ICRC was permitted to visit them.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not respect these prohibitions in practice. There continued to be reports that security forces regularly searched homes and arrested occupants without warrants, generally with impunity. There continued to be reports of government surveillance of members of the opposition parties and of foreign diplomats. During the year, journalists and citizens continued to report that they strongly suspected monitoring of their telephone calls and e-mails by the Government.

In March, police in Malabo rounded up a significant number of foreign nationals, mostly West Africans, and looted their property. The foreigners were displaced or repatriated following an attempted coup in March led by foreigners (*see* Section 1.c).

Membership in the ruling party, the PDGE, generally was a large advantage for hiring and promotion, both in the public and private sectors. Membership in a rival political organization was reportedly grounds for dismissal from any position, public or private. Opposition politicians who were not participating in the Government often claimed to have been dismissed from their jobs after joining alternate political groups but had no legal redress.

Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to cooperate. For example, relatives of the Progress Party Activist Macelino Nguema Esono, including his wife Pilar Angue Adimi, daughter Elvira Okomo, and relative Nicolas Obiang, were arrested and tortured. Their homes were looted and dismantled.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and the Press.*—The Constitution provides for freedom of speech and of the press; however, the Government severely restricted these rights

in practice. During the year, the Government monitored journalists; the media remained firmly under government control, and journalists practiced self-censorship.

The Government did not tolerate criticism of public institutions and public sector mismanagement and permitted no criticism of the President or the security forces. Opposition figures were warned that they should contain their criticisms to the floor of the Parliament, where they were severely outnumbered and easily overruled. Expatriates dependent on the Government did not voice complaints about the frequent abuses against them, ranging from the police demanding bribes for imaginary offenses to extortion of money by city, provincial, and federal officials for "licenses" for which there was no statutory basis. Complaints about official conduct in the country continued to be accompanied by requests not to be identified to avoid reprisals.

An independent or privately owned press was nearly non-existent in the country. There were three general-interest periodicals operating under at least nominal government control that published irregularly: *La Gaceta*, a Malabo-based monthly magazine printed in Spain and published by an employee of the Ministry of Information, Tourism, and Culture; *El Correo Guineo Ecuatoriano*, a bimonthly newspaper published by the *Gaceta* group; and *Ebano*, a publication of the Ministry of Information, which appeared approximately twice a month. Foreign publications were available for sale at foreign-owned grocery stores; there were no bookstores or newsstands in the country.

Radio was the most important and influential medium of mass communication. During the year, the Government continued to effectively dominate domestic radio broadcasting. It owned and operated the station Radio Malabo, officially known as National Radio of Equatorial Guinea. The President's son, Teodoro Nguema Obiang Mangue, owned the only private local radio station, Radio Asonga, based in Bata. The Government has not approved other applications for private radio stations that have been pending for several years.

The only domestic television station was government-controlled, and broadcast only a few hours a day. Television Asonga, owned by President Obiang and run by his son in coordination with Radio Asonga, broadcast by cable only in Bata. Foreign cable television was available and provided news in French, Spanish, and English, as well as entertainment programming. Satellite reception increasingly was available.

International electronic media was available and included Radio France International, which broadcast in Malabo, and Radio Exterior, the international short-wave service from Spain. Radio Exterior often broadcast news about the country and interviews with opposition politicians and was virtually the only means for the opposition to disseminate its views and positions widely. Its editorials, like those of most of the Spanish media, frequently were highly critical of the Government. The Government regularly accused Radio Exterior, sometimes with justification, of misrepresenting the situation in the country.

Unlike in the previous year, the Ministry of Information no longer required national journalists to register with it; however, all journalists were required to register with the government-controlled local press association. There were 54 journalists registered in the association. Foreign journalists were generally allowed to travel and report independently. The law requires foreign media to obtain ministerial accreditation before or upon entering the country; however, during the year, some foreign journalists were permitted to enter the country with visas.

Journalists were subject to harassment during the year. For example, on March 9, the President's press secretary denied a correspondent for Agence France-Presse, access to a presidential press conference in Malabo and refused to give an explanation; only journalists from the state radio and television stations were allowed access.

On May 12, a government minister threatened to imprison an Australian television news crew, who were investigating the allocation of state oil revenue, unless they left the country that night. At the airport a few hours later, the director of national security, the President's brother, supervised a search of the crew's baggage and confiscated computer memory cards.

In October, Peter Maass, a foreign writer researching a book on the oil industry, was deported for "talking to people of concern to the Government and actions not coherent with his stated purpose." The Government seized his computer memory chip, although the chip was later returned. By year's end, the President had issued an apology concerning Maass' deportation.

The law authorizes government censorship of all publications. During the year, the Ministry of Information sometimes required publishers to submit a copy for approval prior to publication. In addition, all local publications exercised self-censorship and were subject to prior restraint.

The Government generally withheld access to domestic broadcasting from opposition parties and rarely referred to the opposition in anything but negative terms when broadcasting the news.

The Association of the Press of Equatorial Guinea (ASOPGE), prevented in previous years from organizing exhibitions and conferences organized at least one conference and several other events. There was no additional information on former ASOPGE president Pedro Nolasco Ndong, who left the country in 2002 after the President reportedly ordered his arrest.

The Government did not appear to restrict Internet access. However, the one Internet service provider was affiliated with the Government telephone monopoly, and there were unconfirmed reports that the Government monitored citizens using the Internet.

During the year, the Government did not overtly restrict academic freedom; however, professors practiced self-censorship in relation to political matters. The Government opened its first public library during the year.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government restricted this right in practice. Government authorization must be obtained for private home meetings of more than 10 persons for discussions that the Government considers political in nature. Although the Government formally has abolished permit requirements for party meetings within party buildings, in practice, opposition parties must inform the authorities to hold gatherings of any kind, regardless of location. Security forces generally monitored gatherings in public places, even small gatherings. The Government required notification for public events; however, it usually granted permission for such events.

Prior to the April legislative elections, the Government harassed the opposition party CPDS and eventually denied it permission to host a convention.

The Constitution provides for the right of association; however, the Government restricted this right in practice. The law prohibits the formation of political parties along ethnic lines. The law prohibits coalitions between political parties; however, six opposition groups continued to be part of a coalition, which allied itself with the ruling party during the year (*see* Section 3). Opposition party members complained of disruption of meetings. In addition, the political opposition was often monitored during meetings.

By year's end, the Government had yet to recognize the Bioko Island Movement.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

The law includes a stated official preference for the Catholic Church and the Reform Church of Equatorial Guinea due to their traditional roots and historic influence in the social and cultural life. For example, a Roman Catholic Mass normally was part of any major ceremonial function, such as the October 12 national day.

During the year, police arrested and detained a foreign missionary couple in Malabo (*see* Section 1.d.).

A religious organization must be formally registered with the Ministry of Justice, Religion, and Penal Institutions before its religious activities are allowed. There were no reports during the year that the Government had refused to register any group. The approval process usually takes several years, due primarily to general bureaucratic slowness and not as the result of any apparent policy designed to impede the operation of any religious group.

The Government continued to restrict the freedom of expression of the clergy, particularly regarding any open criticism of the Government. During the year, church representatives reported that they practiced self-censorship on these issues. The Government required permission for any religious activity outside the church building, but in practice this requirement did not appear to hinder organized religious groups.

Religious study was required in schools and was usually, but not exclusively, Catholic. Protestants sometimes faced discrimination in schooling. For example, a Protestant church official cited difficulties when enrolling his children at school. At the school, each child was required to lead a daily Catholic-based devotional. When the child's father requested that a teacher of the child's own faith be made available, the school official claimed there was a lack of funds and stated that he could provide the teacher only if the child's church was willing to pay the teacher's salary.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the Government limited them in practice. The police routinely stopped citizens at roadblocks, subjected them

to searches, harassed travelers, and extorted money from them. Police and soldiers continued to single out foreigners for harassment, mainly because they were perceived to have more means than most citizens (see Sections 1.c. and 1.d.). The Government justified the roadblocks as internal controls to compensate for its inability to control the country's borders effectively. These checkpoints effectively restricted the freedom of movement of members of the opposition.

All citizens were required to obtain permission to travel abroad from the local Police Commissioner, and some members of opposition parties were denied this permission. Those who did travel abroad sometimes were interrogated upon their return.

The Constitution does not permit forced exile; however, the Government used forced internal exile. The Government did not use forced external exile; however, some persons have fled the country for political reasons. The leaders of the National Resistance of Equatorial Guinea Group reported that their attempts to return to the country were unsuccessful, and there were no reports of returnees during the year.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has not established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the forced return of persons to a country where they feared persecution, and granted refugee status or asylum. In recent years, an average of one or two persons requested refugee status in the country. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR).

The police reportedly continued to harass asylum seekers, often for bribes, on an individual basis.

The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 U.N. Convention or its 1967 Protocol.

*Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

The Constitution provides citizens with the right to change their government peacefully; however, in practice citizens could not freely choose and change the laws and officials that govern them. There have been no free, fair, and transparent elections since independence in 1968. The President exercised strong powers as head of state, commander of the armed forces, and founder and head of the government party, the PDGE. Impeachment of the head of state is forbidden in the Constitution. Leadership positions within the Government in general were restricted to the President's Mongomo sub-clan of the Fang ethnic group and its closest supporters. The Government completely dominated the elected Chamber of Deputies, and the Minister of the Interior also acted as President of the National Electoral Board.

President Obiang won the December 2002 presidential election with 97.1 percent of the vote and 98 percent of registered voters participating. Opposition leaders charged that census results showing a twofold population increase were flawed and that numbers were inflated to perpetuate election fraud. Prior to the elections, there were reports that arrests and harassment of opposition party members increased. Four of the leading opposition candidates published a statement that rejected the vote and called for new elections. There were widespread reports of irregularities on election day, including intimidation at the polls. The European Union expressed concern regarding the democratic process and severely criticized the way the presidential election was carried out.

Prior to legislative elections in April, the Government harassed opposition party members and subjected them to arbitrary arrest. PDGE members went door-to-door, seeking out and threatening opposition supporters. On election day, there were widespread reports of irregularities, including intimidation at the polls. Voters were discouraged from voting in secret, ballots were opened, and ruling party representatives reportedly cast votes in their own right as well as on behalf of children and the deceased. There also were reports that security forces intimidated voters by their presence in polling booths. There was a lack of observers in rural areas. Although international observers claimed that the opposition CPDS party received about 12 percent of the vote, the ruling party only offered the CPDS 2 seats in the 100-seat Parliament.

The electoral law prohibits coalitions between political parties; however, at year's end, all legal political parties except the CPDS were aligned with and were part of the Government.

There were 12 political parties that the Government called "opposition parties"; 11 have allied themselves with the ruling PDGE. The Government pointed to these opposition parties as examples of the country's multiparty democracy. The Government reportedly applied pressure to persuade opposition members or officials from

most, but not all, opposition parties to join the PDGE party; opposition members joining the PDGE during the year suggested that such practices persisted. Reportedly the Government bribed members of the opposition.

During the year, the Government intermittently moved its executive seat from Malabo to Bata in an effort to provide more of a presence on the mainland. Ministers and key party officials moved, but the bureaucratic infrastructure remained in Malabo.

Government officials were required to declare their personal assets before a National Commission for Ethics; however, official corruption in all branches of the government remained a significant problem.

President Obiang has been widely accused of spending the country's oil wealth on his own family and friends. On July 15, an extensive investigation by the legislature of a foreign country revealed the misappropriation of at least \$35 million of oil revenues from foreign oil companies by President Obiang, his family, and other senior government officials through foreign bank accounts since the country started exporting oil in the mid-1990s. The report found that in many cases the money went straight into accounts controlled personally by the President and his close associates. In response to the July 15 report, the Government released a report refuting the allegations of oil revenue misappropriation.

The law does not provide for access to government information, and in practice, it remained difficult for citizens to obtain access to government information due to a lack of organized record-keeping and archiving.

There were 20 women in the 100-member legislature and 5 women in the 50-member cabinet. The Prime Minister was a member of the minority Bubi ethnic group.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no effective domestic human rights NGOs. The law restricts NGOs and identifies specific areas in which they may operate; human rights were not among these areas.

The government-controlled National Commission for Human Rights (CNDH) operated without adequate funding and staff. The Presidency appointed the members of the CNDH, and the CNDH refrained from criticizing the Government during the year. During the second half of the year, the CNDH, in cooperation with U.N. agencies, co-sponsored some human rights workshops concerning women, children, and detainees.

No international human rights NGOs were resident in the country; however, there were signs of improvement in the relations between some international organizations and the Government during the year. For example, the Government allowed the UNICEF and the U.N. Development Program to become increasingly active in the areas of trafficking in persons, child protection, and economic development.

Catholic Relief Services (CRS), operating out of Cameroon, confined its programming to health-related issues, citing safety concerns for staff and partners. There continued to be allegations from CRS, Reporters Without Borders, and the Center for Rural Development that NGO representatives visiting Malabo have had their movements, calls, e-mails, and faxes monitored.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits all forms of discrimination; however, both governmental and societal discrimination against women and ethnic minorities continued.

*Women.*—Domestic and other societal violence against women, particularly wife beating, was common. The public beating of wives was forbidden by government decree; however, violence in the home generally was tolerated. The Government did not prosecute perpetrators of domestic violence, except for one ongoing case concerning a government official who allegedly shot and killed his wife during the year.

Prostitution is illegal; however, the massive influx of unaccompanied foreign men in the petroleum sector contributed to an increasing prevalence of prostitution. During periodic crackdowns, police arrested prostitutes but allowed their clients—generally expatriates—to go free.

Although the Constitution provides for equal rights, women largely were confined by custom to traditional roles, particularly in agriculture. Polygyny, which was widespread, contributed to women's secondary status, as did limited educational opportunity.

There was no discrimination against women in formal inheritance and family law; however, in the Fang, Ndowe, and Bisio cultures, primogeniture was practiced. Because women become members of their husband's family upon marriage, they usu-

ally were not accorded inheritance rights. When the husband dies, a widow either remains with his family in a dependent, marginalized position, or she returns the dowry and leaves with nothing.

For an estimated 90 percent of women, including virtually all ethnic groups except the Bubi, tradition dictates that if a marriage is dissolved, the wife (or her father or brother) must return the dowry given to her family by the bridegroom at the time of marriage. Tradition also dictates that if a girl's family accepts a dowry from a man, she must then marry him, regardless of her wishes. If the marriage does not take place, the family is required by tradition to return the dowry, and failure to pay the debt can result in the imprisonment of the bride or a family member. The law protects women from imprisonment for not repaying the dowry following divorce; however, in practice, many divorced women faced intense family pressure to repay the dowry. If a marriage dissolves, the husband also automatically receives custody of all children born after the marriage, while the wife maintains custody of all her children born prior to the marriage.

According to the law, women have the right to buy and sell property and goods; however, in practice, the male-dominated society permitted few women access to sufficient funds to engage in more than petty trading or to purchase real property beyond a garden plot or modest home.

*Children.*—The Government devoted little attention to children's rights or their welfare and had few set policies in this area. In September the Parliament passed a trafficking in persons law, focused almost exclusively on trafficked children; however, no other provisions for the welfare of children were legislated.

Education was compulsory through primary school, but the law was not aggressively enforced. In practice, boys were expected either to complete an additional 7 years of secondary school or to finish a program of vocational study following primary education. For girls, pregnancy and the requirement to assist in agricultural or other work made attainment of this level of education less likely. Many rural families were unable to afford school fees and book expenses for children over 10 years of age. A UNICEF report noted that net primary school attendance from 1992 to 2002 was 60 percent for boys and 61 percent for girls; however, secondary school enrollment was much lower, particularly for girls. From 1997 to 2000, the gross secondary school enrollment ratio was 43 percent for boys and 19 percent for girls. Women generally have only one-fifth of the educational level of men. During the year, new schools were opened; however, they were reported to lack basic materials such as books and desks. The Government cooperated with a foreign government to provide textbooks to all schools. Teachers could be political appointees and often received no training. Children suffered poor health and a high mortality rate. The 2005 national budget, passed by the Parliament in September, allocated increased expenditures to education.

Child prostitution existed but was rare. Trafficking of children continued to be a problem (*see* Section 5, Trafficking).

According to a 2001 child labor study by UNICEF, the most recent information available, child labor existed primarily in the form of children working as farmhands and market vendors in family businesses (*see* Section 6.d.). In addition, during the year, there were unconfirmed reports that foreign children were used as market vendors by nonrelatives and had no access to schooling.

*Trafficking in Persons.*—In September, Parliament passed a law criminalizing trafficking in persons; however, there continued to be reports that the country increasingly was a destination and transit point for trafficked persons.

Children, mostly from Benin and Nigeria, primarily were trafficked into the agricultural and commercial sectors in Malabo and Bata. Nigerian boys worked in market stalls in Bata, often without pay or personal freedom. The country was both a destination and a transit point for trafficked girls and boys, mostly from Cameroon, Benin, and Nigeria. Women were trafficked for prostitution, especially to Malabo, where they worked for clients in the country's oil sector.

There was evidence that lower-level law enforcement officials such as border guards and immigration officers facilitated trafficking in persons in exchange for bribes.

By year's end, the Government had not established a system to conduct systematic monitoring or reporting of trafficking; however, toward the end of the year, the Government made efforts to address trafficking. In July, with guidance from a foreign government and UNICEF, the Government organized an inter-ministerial committee to explore ways of addressing the problem of trafficking in persons. In October, a second inter-ministerial meeting was held to begin designing an action plan to address the problem, and at a conference on trafficking during the year, the Government asked regional governors and local government authorities to monitor traf-

ficking and report any cases to the Ministry of Justice. A trafficking in persons technical working group was established in November. In addition, during the year, the Government conducted a radio campaign to raise awareness of the new law against trafficking, and UNICEF co-hosted three human rights conferences involving government officials in which trafficking was a central issue.

*Persons with Disabilities.*—There was no constitutional or legal provision to protect persons with disabilities from discrimination in employment, education, or the provision of other state services, and while there was no formal evidence of discrimination against persons with disabilities, anecdotal evidence suggested that basic care may have been withheld from children with disfiguring diseases such as polio. The law does not mandate access for persons with disabilities to buildings, and there was societal discrimination against persons with disabilities. During the year, a local charity added a classroom to its orphanage to train the mentally disabled.

*National/Racial/Ethnic Minorities.*—Discrimination against ethnic or racial minorities was not legal, and the Government did not overtly limit the participation of minorities in politics; however, the near monopolization of political and economic power by the President's Mongomo sub-clan of the Fang ethnic group persisted. In practice, some members of ethnic minorities, particularly the Bubi ethnic group, faced discrimination because they were not members of the Fang ethnic group, or belonged to a Fang sub-clan other than the President's. Differences among sub-clans of the Fang ethnic group, especially resentment of the political dominance of the Mongomo sub-clan, were also sources of political tensions. Tensions also arose because most property was controlled by the dominant group, which afforded it greater access to economic prosperity and prevented competition from minorities from developing.

Several thousand citizens of Nigeria, Ghana, and Francophone Africa continued to reside in the country, even after the deportations of foreigners in March (*see* Section 1.c.). Most were small traders and businesspersons. The police reportedly continued to harass and extort money from them as well as harassing asylum seekers on an individual basis.

Citizens arbitrarily arrested foreigners during the year, reportedly as a result of xenophobia (*see* Section 1.d.).

*Other Societal Abuses and Discrimination.*—Societal discrimination against homosexuals existed during the year; no additional information was available.

Persons with HIV/AIDS continued to be victims of societal discrimination and often kept their illnesses hidden. However, during the latter part of the year, the Government and the World Health Organization cosponsored public awareness and sensitization campaigns on HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to organize unions; however, the Small Farmers Syndicate was the country's only legally recognized labor union. According to the International Confederation of Free Trade Unions, authorities have consistently refused to register the Equatorial Guinea Trade Union, which has been forced to carry out its activities in secret. There were a few cooperatives with limited power. The law stipulates that a union must have at least 50 members who are from a specific workplace and located in the same geographic area to register; this effectively blocked union formation. Authorities refused to legalize the public sector union, the Independent Syndicated Services, despite having met the requirements of the law.

During the year, the country's major private employer, the oil industry, which was dominated by foreign firms, continued to take steps to reduce government control of hiring in the industry. To eliminate political bias in the hiring process, companies employed methods ranging from public advertising of jobs and objective testing to screening of applicants by non-citizens only. According to regional representatives of the International Labor Organization (ILO), these efforts largely have been ineffective, and the Government continued to influence employment in all sectors.

There were instances when the Government retaliated against political opponents by compelling their employers to dismiss them.

There was no law prohibiting anti-union discrimination, and during the year there were reports that when workers tried to form unions, the police visited their homes and intimidated them.

The law does not recognize the right of labor unions to affiliate with international bodies, and there were no reports of such affiliation during the year.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers the right to organize and bargain collectively; however, the Government placed practical obstacles before groups wishing to organize. The Government and employers set

wages, with little or no participation by workers. There was no evidence of collective bargaining by any group; however, the Labor Ministry sometimes mediated labor disputes. For example, there was a 1-day strike at the Consolidated Contractors International Company (CCIC) regarding minimum wages; the Labor Ministry intervened and resolved the problem. It also met with oil companies to reconcile a language dispute over minimum wages and facilitated an agreement. There are no export processing zones.

The law provides for the right to strike; however, workers were effectively prohibited from striking, although on rare occasions workers engaged in temporary protests or “go slows” (work slowdowns and planned absences). The Labor Code contains provisions to uphold worker rights, but the Government generally did not enforce them, in part because of inadequate staffing in the Ministry of Labor. Apart from the Labor Ministry, workers had few other places to seek redress. Members of Parliament reportedly tried to mediate employer-worker disputes over wages or dismissals; however, they had no legal authority to do so.

*c. Prohibition of Forced or Compulsory Labor.*—The law forbids forced or compulsory labor—including forced labor by children—and slavery; however, detainees and convicted felons performed extensive labor outside prison, including for prison officials, without compensation (see Section 1.c.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The legal minimum age for employment was 14 years, but the Ministry of Labor did not enforce this law, and child labor was common particularly on family farms and businesses. Underage youth performed both family farm work and street vending. While the Ministry of Labor was responsible for the enforcement of labor legislation, the Government did not have a comprehensive policy on child labor.

*e. Acceptable Conditions of Work.*—Employers must pay the minimum wages set by the Government, and most companies paid more than the government-established minimum wage. There was a two-tier structure that created a separate wage system for private sector workers inside and outside of the oil sector. Companies subcontracted to the oil industry were considered part of the oil sector. The minimum monthly wage for all private sector workers was approximately \$180 a month (90,000 CFA francs). Within each group (oil and non-oil), a multi-tiered system of classification was created, and workers were graded according to education-level, skills, and experience. Wages increased according to these factors and the responsibilities of the position. High-level professional employees of international companies received salaries near to or the same as expatriate workers. Any additional task or duty added to a worker’s responsibility required the worker to receive a minimum increase of 25 percent of base pay, and workers received such increases in practice. Changes to the labor code in 2003 also raised the public sector minimum wage to match the private sector; however, application of the minimum wage was inconsistent in the public sector. The minimum non-oil sector wage was generally insufficient to provide a decent standard of living in the capital city for a worker and dependant family.

The law prescribes a standard 35-hour workweek and a 48-hour rest period, which generally were observed in practice in the formal economy. Exceptions were made for particular jobs, such as those concerning off-shore oil industry work.

The Labor Code provides for comprehensive protection for workers from occupational hazards; however, the Government did not enforce this in practice. The Government had an insufficient number of labor inspectors to oversee local industry. The Government continued training more inspectors during the year.

Employees who protested unhealthy or dangerous working conditions risked losing their jobs.

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## ERITREA

Eritrea is a one-party state that became independent in 1993 when its citizens voted for independence from Ethiopia. The Eritrean People’s Liberation Front (EPLF), which led the 30-year war for independence, has controlled the country since it defeated the Ethiopian armed forces in 1991; its leader, Isaias Afwerki, is the President. The EPLF became the People’s Front for Democracy and Justice (PFDJ) and redefined itself as a political party in 1994; it is the sole political party in the country. Presidential and legislative elections have been continuously postponed. The Constitution, ratified in 1997, provides for democratic freedoms; how-

ever, its provisions have not been implemented. The judiciary was weak and subject to executive interference.

Police were officially responsible for maintaining internal security, and the army was responsible for external security; however, the Government could call on the armed forces, the reserves, and demobilized soldiers in response to both domestic and external security requirements. Civilian authorities maintained effective control of the security forces. In addition to border incidents with Ethiopia, the army contended with the Eritrean Islamic Jihad Movement (ERIJM), a small, Sudan-based insurgent group that continued to attack in the north and west since 1993. Some members of the security forces committed serious human rights abuses.

The country had a mixed economy, with trade, services, and manufacturing accounting for the greatest portion of gross domestic product and subsistence agriculture dominating the rural economy. According to an estimate during the year, more than 70 percent of the population of approximately 4.4 million engaged in farming and herding. Real economic growth rose from negative 1.2 percent in 2003 to positive 1.8 percent. Wages did not keep pace with inflation. The continued integration of as many as 75,000 Eritreans, or Ethiopians of Eritrean origin deported from Ethiopia, more than 100,000 long-term refugees from camps in Sudan, and an unknown number of internally displaced persons (IDPs), continued to burden the economy. In addition, much of the skilled labor force continued to serve in the national service. More than one-third of the population depended on foreign emergency assistance. The PFDJ and the military exerted a growing economic influence through numerous investments in businesses owned by the party or the military.

The Government's human rights record remained poor, and it continued to commit serious abuses. Citizens did not have the ability to change their government. Security forces were responsible for unlawful killings; however, there were no new reports of disappearances. There were numerous reports that security forces resorted to torture and physical beatings of prisoners, particularly during interrogations, and security forces severely mistreated army deserters and draft evaders. The Government generally did not permit prison visits by local or international groups, except the International Committee of the Red Cross (ICRC). Arbitrary arrests and detentions continued to be problems; an unknown number of persons were detained without charge because of political opinion. The use of a special court system limited due process. The Government at times infringed on the right to privacy. The Government severely restricted freedom of speech and press, and restricted freedom of assembly, association, freedom of religion for religious groups not approved by the Government, and freedom of movement. Human rights groups were not allowed to operate in the country. Violence and societal discrimination against women continued to be problems, and female genital mutilation (FGM) remained widespread despite government efforts to discourage the practice. Members of the Kunama ethnic group also faced societal discrimination. The Government restricted workers' rights. Child labor occurred.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, the Government continued to authorize the use of deadly force against anyone resisting or attempting to flee during military searches for deserters and draft evaders, and deaths occurred during the year. For example, in November, there were credible reports of the deaths of 20 civilian and 4 security force members in an incident at a detention facility near Asmara following searches for military draft evaders in and around the capital. The individuals were killed when a cinderblock wall at the facility collapsed, and guards reportedly fired at inmates attempting to escape. No action was taken against the guards.

According to the Government Commission for Coordination with the U.N. Peacekeeping Mission, there were an estimated 3 million landmines and unexploded ordnance in the country. The ERIJM and others laid some new mines during the year. The U.N. reported 13 deaths and 19 injuries from landmine incidents during the year; at least 2 of these casualties involved newly laid landmines. It was probable that there were additional, unreported deaths in remote areas.

There was no additional information during the year regarding the April 2003 killing of British national Timothy Butt in the western Bisha region. There were reports that unidentified militants killed Butt.

During the year, the Government did not release a report concerning its investigation of the August 2003 killing of two citizens who worked for Mercy Corps International.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year; however, there were unresolved disappearances from previous years.

There were no developments in the 2003 arrests of an unknown number of Kunama, an ethnic group residing predominantly near the border with Ethiopia, detained because of their association with other captured or killed Kunama insurgents. At year's end, the whereabouts of the arrested Kunama remained unknown.

At year's end, the whereabouts of 11 senior PFDJ and National Assembly members, arrested by the Government in 2001, remained unknown (*see* Section 1.d.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code prohibits torture; however, there were numerous reports that security forces resorted to torture and physical beatings of prisoners, particularly during interrogations. During the year, security forces severely mistreated and beat army deserters, draft evaders, and members of particular religious groups (*see* Section 2.c.). Security forces detained deserters and draft evaders and subjected them to various disciplinary actions that included prolonged sun exposure in temperatures of up to 113 degrees Fahrenheit or the binding of hands, elbows, and feet for extended periods.

There were reports that some women drafted into the national service were subjected to sexual harassment and abuse.

There continued to be numerous reports of injuries and some deaths from landmines and unexploded ordnance (*see* Section 1.a.).

Prison conditions remained Spartan. The Government generally permitted three visits per week by family members, except for detainees arrested for national security reasons. These prisoners were not allowed visits. There were no confirmed reports that any prisoners died due to lack of adequate medical care.

There were substantial reports that prison conditions for persons temporarily held for evading military service were poor. Unconfirmed reports suggested there may be hundreds of such detainees. Draft evaders were typically held between 1 and 12 weeks before being re-assigned to their units. At a detention facility outside Asmara, detainees reportedly were held in an underground hall with no access to light or ventilation, and in sometimes very crowded conditions. Some detainees reportedly suffered from severe mental and physical stress due to these conditions.

Women and men were held in separate facilities. There were no juvenile detention centers or correction facilities, and juvenile offenders often were incarcerated with adults. Pretrial detainees generally were not held separately from convicted prisoners; however, in some cases, detainees were held separately. For example, human rights observers believed that the 11 PFDJ and National Assembly detainees and others detained on national security grounds in 2001 were held separately, although their whereabouts remained unknown. These political detainees continued to be denied visitors during the year.

The Government allowed the ICRC to visit and register Ethiopian civilian detainees in police stations and prisons; however, the ICRC was not permitted to visit the unknown number of Ethiopian soldiers who the Government claimed were deserters from the Ethiopian army. The ICRC was allowed to monitor prison conditions, but local groups were not.

Unlike in past years, there were no reports of prolonged detentions of Sudanese nonpolitical prisoners.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were serious problems.

The police force was adequate in enforcing traffic laws and in acting against petty crime, but it did not have a role in cases involving national security. Corruption was not prevalent. During 2003, the police force was reorganized, and active duty military officers were placed in charge of key police divisions. The military has the power to arrest and detain persons, and internal security forces and the military detained many persons during the year.

The Penal Code stipulates that detainees may be held for a maximum of 30 days without being charged with a crime. In practice, authorities often detained persons suspected of crimes for much longer periods. Detainees did not always have access to legal counsel (*see* Section 1.e.), and incommunicado detention was widespread. There was a functioning bail system for all cases except those involving national security or subject to capital punishment.

Security forces detained, generally not for more than 3 days, many persons during searches for evaders of national service, although they had valid papers showing that they had completed or were exempt from national service (*see* Section 1.c.).

The Government continued to arrest journalists (*see* Section 2.a.).

The Government continued to arrest and detain members of nonsanctioned religious groups; some persons have been in detention for more than 10 years (*see* Section 2.c.).

Ethiopian nationals reportedly were singled out for arrest because they were unable to pay the necessary fees to renew their residency permits every 6 months. Although numbers of detainees fluctuated from month to month, the ICRC visited approximately 300 Ethiopians who were detained at various times during the year.

There were reports that the Government imprisoned and continued to hold incommunicado and without charges approximately 110 citizens deported from Libya in July.

There were no developments concerning the approximately 220 citizens deported from Malta in 2002 on suspicion that they had fled the country to escape or avoid national service. It is believed that they were held at secret locations without contact with their families and without formal charges. There were reports that security forces killed some of those who tried again to escape.

Three elderly businessmen who had been held without charge after their attempt to mediate the 2001 dispute within the PFDJ were released during the year.

There were reports that the Government continued to hold numerous members of the Eritrean Liberation Front, an armed opposition group that fought against Ethiopia during the struggle for independence.

The Government held numerous pretrial detainees during the year. An unknown number of persons suspected of association with the Ethiopian Mengistu regime, with Islamic elements considered radical, or with suspected terrorist organizations, continued to remain in detention without charge, some of whom have been detained for more than 10 years.

There were reports of numerous politically motivated detentions of those who were seen as critical of the Government, and many of those detained remained in prison at year's end. Many were perceived to have ties to political dissidents or were believed to have spoken against government actions. There were unconfirmed reports that the number of such persons detained may be several hundred.

There were no developments in the 2002 arrests of individuals associated with the detained group of 11 PFDJ/National Assembly members and of diplomats who were recalled from their posts. At least four of these detainees, in addition to many detained in previous years, remained in prison without charges at year's end. Among the detainees were former Ambassador to China Ermias Debessai (Papayo), arrested most recently in November 2003, and Aster Yohannes, wife of former Foreign Minister Petros Solomon, arrested in December 2003.

Two citizens who worked for a foreign embassy have remained in detention without charge since 2001.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the judiciary was weak and subject to executive control. The judiciary relied on the Ministry of Justice for logistical and budgetary support, which limited its independence. Public trials generally were perceived as fair, but virtually all cases involving individuals detained for national security or political reasons were not brought to trial.

The drafting into national service of many civilians, including court administrators, defendants, judges, lawyers, and others involved in the legal system, continued to have a significant negative effect on the judiciary; however, during the year, the ministry made certain improvements in judicial capacity. For example, elections were held throughout the country to staff approximately 700 village courts with local judges. The High Court, which had been reduced to three benches in 2003, was restored to seven benches, and a separate bench heard final appeals. Unlike in the previous year, the High Court had no case backlog.

The judicial system had three parts: civilian; military; and special courts. The civilian court system consisted of community courts, subregional courts, regional courts, and the High Court, which also served as an appellate court. Appeals could be made in the civilian courts up to the High Court. Not all appeals are accepted for a hearing at the High Court level, and the High Court takes an average of 2 months to decide if it will hear an appeal. Under the legal system, minor infractions involving sums of less than approximately \$7,400 (100,000 nakfa) were brought to community courts and subregional courts. More serious offenses were argued before regional courts, but a significant proportion of cases involving murder, rape, and other felonies were heard by the High Court. A single judge heard all cases, except those argued before the High Court, where panels of three judges heard cases.

The judicial system suffered from a lack of trained personnel, inadequate funding, and poor infrastructure that, in practice, limited the Government's ability to grant accused persons a speedy trial.

At independence, the Government chose to retain many Ethiopian legal proclamations, but issued new laws via proclamation, covering, among others, commercial, criminal, banking, and civil matters.

Detainees did not always have access to legal counsel. Defendants could hire a legal representative at their own expense; however, not all detainees could afford to do so. Although there was no formal public defender's office, the Government frequently assigned attorneys to represent defendants accused of serious crimes punishable by more than 10 years in prison and who could not afford legal counsel. Defendants could appeal verdicts to a High Court panel, composed of the High Court president and four other judges.

Most citizens had contact only with the legal system through the traditional village courts. Elected village judges heard civil cases, while magistrates versed in criminal law heard criminal cases. Village courts and local elders used customary law to adjudicate local problems such as property disputes and petty crimes. The Ministry of Justice offered training in alternative dispute resolution to handle some civil and criminal cases.

Shari'a law could be applied when both litigants in civil cases were Muslims. Traditional courts cannot impose sentences involving physical punishment.

The executive-controlled special courts issued directives to other courts regarding administrative matters, whereas their domain was supposed to be restricted to criminal cases. The special court system ostensibly was created to reduce a growing backlog in the civilian court system; however, in practice, special courts, which banned defense counsel and the right of appeal, allowed the executive branch to mete out punishment without respect for due process. Judges in the special courts were senior military officers, most of whom had little or no legal experience. They based their decisions on "conscience," without reference to the law. There was no limitation on punishment. The special courts had jurisdiction over many criminal cases, such as capital offenses, felonies, some misdemeanors, cases of tax evasion involving large sums, and cases of embezzlement by senior officials. The office of the Attorney General decided which cases were to be tried by a special court. The Attorney General also allowed special courts to retry civilian court cases, including those decided by the High Court, thereby subjecting defendants to double jeopardy.

Special courts also reportedly were authorized to handle crimes involving corruption, theft, and misuse of government authority; however, the courts had not heard such cases.

There were no reports of political prisoners; however, there were numerous reports of persons detained for political reasons (*see* Section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government at times infringed on the right to privacy. Under the law, warrants are required for routine searches and seizures, except in cases where authorities believe individuals may attempt to escape or destroy evidence.

The Government deployed military police throughout the country using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders.

Warrants are theoretically required before the Government can monitor mail, telephones, or other means of private communication; however, in practice, the Government often did not obtain warrants. There were reports that the Government monitored telephone calls and e-mail. Government informers were believed to be present throughout the country.

There were reports that military officials seized residences belonging to relatives of persons identified with the political opposition and rented the property or used it as housing for senior military officers' families.

Unlike in previous years, there were no reports that the Government took land from ethnic Kunama without compensation.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government severely restricted this right in practice. The private press remained closed, and most independent journalists remained in detention or had fled the country, effectively preventing public criticism of the Government. Private newspapers were banned, and the ban remained in effect at year's end.

The Government controlled all media, including three newspapers, one radio station, and one television station. There were no private media in the country. Publications distributed by religious or international organizations had to be submitted for government approval before their release. The law does not allow private ownership of broadcast media or foreign influence or ownership of media. The press law

forbids reprinting of articles from banned publications. The Government continued to restrict the right of the religious media to comment on politics or government policies.

The Government permitted one reporter for a foreign news organization to operate in the country. In September, the Government ordered another reporter who had previously reported for the British Broadcasting Corporation and Reuters to leave the country.

The arrests of journalists continued during the year. In September, authorities reportedly arrested Goitom Biahon, a journalist who submitted reports to Deutsche Welle, for filing a story that the Ministry of Information (MOI) found unfavorable. At year's end, he reportedly was being held without charges.

In late December, the Government released Aklilu Solomon, a journalist arrested in 2003 who had submitted articles to the Voice of America. At least 15 other journalists who were arrested in 2001 remained in government custody at year's end.

The Government had the authority to ban the import of foreign publications, and it did so during the year.

The Government did not restrict access to the Internet. In October, the Government announced that all Internet cafes would be closed, and Internet access would be moved to libraries and schools; however, at year's end, Internet cafes had not been closed.

The Government restricted academic freedom; freedom of speech, free movement of students and their ability to assemble were not respected in the academic context. The status of the University of Asmara, the only institution of higher education, was uncertain, because prospective students for the last 2 years were diverted to the Mai Nafhi Technical Institute and did not continue to the university (*see* Section 5, Children).

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association; however, the Government did not permit freedom of assembly or association. The Government did not allow the formation of any political parties other than the PFDJ.

*c. Freedom of Religion.*—The law provides for freedom of religion; however, the Government restricted this right in practice. Only the four government-sanctioned religious groups in the country—Orthodox Christians, Muslims, Catholics, and members of the Evangelical Church of Eritrea (an umbrella group of several Protestant churches affiliated with the Lutheran World Federation)—were allowed to meet freely during the year. Although reports of government abuse of nonregistered churches declined in the second half of the year, arbitrary arrests continued. For example, on December 31, 60 members of the Rema Charismatic Church in Asmara reportedly were arrested in the home of the church leader.

During the year, there continued to be reports that security forces used torture, such as bondage, heat exposure, and beatings to punish those detained for their religious beliefs, and that some detainees were required to sign statements repudiating their faith, or agreeing not to practice it, as a condition for release. There continued to be reports that relatives were asked to sign for detainees who refused to sign such documents.

During the year, there were reports that several dozen followers of various non-sanctioned churches (mostly Protestant) were detained, harassed, and abused. For example, in February, authorities in Asmara reportedly beat and arrested 12 members of the Full Gospel Church while they were praying in a private home. They were released after approximately 1 month. Of the detained, one was under the age of 18 and another had disabilities; both of these detainees were released after 4 days of imprisonment.

Also in February, authorities arrested 50 members of the Hallelujah Church in Asmara; by the end of the year, these individuals reportedly had been released. In March, authorities in Assab arrested 20 members of the Kalehiwot Church while they were praying in a private home, and they reportedly remained in custody at year's end.

In late May, authorities arrested the leaders of the Eritrean Evangelical Alliance, the Full Gospel Church, and the Rhema Church; at year's end, they continued to be held without charges.

Human rights observers did not know whether the Government had released the 57 students arrested in August 2003. By year's end, the Government reportedly had released the 12 Bethel Church members arrested in September 2003.

At year's end, the Government had released approximately 10 of the 74 military and national service personnel arrested in 2002 and imprisoned near Assab. Reports suggested that the remaining 64 individuals were being detained until they repudiate their faith.

The Government also harassed and monitored members of one reformist Orthodox group known as "Medhane Alem," whose religious services the Government did not find appropriate. There were reports that the Government monitored all public religious services and issued warnings or shut down services that it interpreted as promoting extremism, antigovernment views, or foreign influence.

Following the MOI's 2002 closure of many religious groups, including the Baha'is, Rhema Church, Presbyterians, Full Gospel, Jehovah's Witnesses, and other small Protestant groups, no group has been allowed to reopen, although some groups submitted the required registration forms. The four government-sanctioned religious groups were not required to fill out as detailed a registration form as other groups.

There were some complaints that the Government discriminated against the Muslim community and Catholics because the Government offered tax relief to Orthodox churches, but not to some mosques and Catholic churches.

The Government prohibited political activity by religious groups and faith-based nongovernmental organizations (NGOs). The Government's Office of Religious Affairs monitored religious compliance with this proscription against political activity.

There were negative societal attitudes toward members of some religious denominations other than the four sanctioned ones. Some citizens approved of the strict measures levied against unsanctioned churches, especially the charismatic Christian churches and Jehovah's Witnesses during the year.

The Government continued to harass, detain, and discriminate against the small community of Jehovah's Witnesses because of their refusal, on religious grounds, to vote in the independence referendum, or the refusal of some to perform national service. The Government dismissed members of Jehovah's Witnesses from the civil service. Many were evicted from or not allowed to occupy government-owned housing. Members of Jehovah's Witnesses frequently were denied passports and exit visas, and some could not get identity cards or had their cards revoked.

In January, Asmara authorities reportedly arrested approximately 40 Jehovah's Witnesses who were praying in a private home. One of the members in his 90s was not released until September. At year's end, approximately 15 of the 40 members remained incarcerated. None of the members arrested reportedly received due process, that is, a court hearing and a judicial decision that authorized their imprisonment.

According to the Office of General Counsel for Jehovah's Witnesses Society, 20 Jehovah's Witnesses remained imprisoned without charge, including 6 allegedly detained during the year for failing to participate in national service. Although the maximum penalty for refusing to perform national service is 3 years' imprisonment, three of the individuals had been detained for more than 10 years. Of the Jehovah's Witnesses detained, 10 were reportedly held at Sawa Military camp and 1 at a prison in Asmara.

The army resorted to various forms of extreme physical punishment to force objectors, including some Jehovah's Witnesses, to perform their military service (*see* Section 1.c.).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the Government restricted some of them in practice. While citizens generally could travel freely within the country and change their place of residence, authorities sometimes restricted freedom of movement and emigration. For security reasons, the Government restricted travel to some areas within the country. Military police periodically set up roadblocks in Asmara and on roads between other cities to find draft evaders and deserters, and periodic crackdowns continued during the year (*see* Section 1.d.).

There were reports that Ethiopians who remained in the country were not allowed to live in the Debub Province bordering Ethiopia.

The Government continued to restrict travel along much of the border with Sudan. Some areas remained heavily mined, a legacy of the war for independence. Occasionally, the ERIJM or others planted new mines, leading to additional travel restrictions (*see* Section 1.a.).

Citizens and foreign nationals were required to obtain an exit visa to depart the country. There were numerous cases where foreign nationals were delayed departure for up to 2 months, or initially denied permission to leave, when they applied for an exit visa. During the year, the Government announced that citizens who had left the country without exit visas would be allowed to return to the country without legal consequences; however, at year's end, it was unclear if this provision had been implemented.

Citizens of national service age (men 18 to 45 years of age, and women 18 to 27 years of age), Jehovah's Witnesses (*see* Section 2.c.), and others who were out of favor with or seen as critical of the Government were routinely denied exit visas. Students who wished to study abroad often were unable to obtain exit visas. In addition, the Government frequently refused to issue exit visas to adolescents and children as young as 5 years of age, either on the grounds that they were approaching the age of eligibility for national service or because their diasporal parents had not paid the 2 percent income tax required of all citizens residing abroad. Some citizens were given exit visas only after posting bonds of approximately \$7,400 (100,000 nakfa).

In general, citizens had the right to return; however, citizens had to show proof that they paid the 2 percent tax on their income to the Government while living abroad to be eligible for some government services on their return to the country. Applications to return from citizens living abroad who had broken the law, contracted a serious contagious disease, or had been declared ineligible for political asylum by other governments, were considered on a case-by-case basis.

The law has no provision concerning exile, and the Government generally did not use exile.

During the year, the Government repatriated approximately 549 Ethiopians to Ethiopia. They were repatriated voluntarily and with ICRC participation.

Approximately 67,000 IDPs from the conflict with Ethiopia remained in 11 camps in the Debub and Gash Barka zones at year's end. Camp facilities were rudimentary, but conditions generally were adequate. There also was a large but unknown number of IDPs residing outside camps during the year.

The law does not provide for the granting of asylum or refugee status in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and there is no domestic legislation relating to refugees. Consequently, the Government cannot issue legal refugee status or asylum to persons seeking protection on its territory; however, the Government offers temporary protection to persons from Sudan and Somalia and provided protection against refoulement, the return of persons to a country where they feared persecution. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees. There were 732 Sudanese refugees at Elit camp in the west and 3,400 Somali refugees at Emkulu camp, near Massawa. There were also up to 30,000 Beja Sudanese and approximately 600 Ethiopians in the Gash Barka region to which UNHCR had no access or responsibility. UNHCR accommodated 441 Ethiopians in urban areas who arrived over the past several years. The Government issued, for a fee, residency permits to Ethiopians living in the country.

UNHCR reported that it repatriated 9,351 refugees from Sudan during the year. At year's end, UNHCR ended organized repatriation of citizens living in Sudan. The Eritrean Relief and Refugee Commission (ERREC), a government agency, was the principal organization responsible for returnees and IDPs. The Office of Refugee Affairs was responsible for refugees of non-citizen origin, including management of the Elit and Emkulu camps.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully; however, citizens were not allowed to exercise this right. The Government came to power in a 1993 popular referendum in which voters chose to have an independent country managed by a transitional government run by the PFDJ. The PFDJ has not allowed for a democratically elected government, and national elections, originally scheduled for 1997, were never held. The only authorized political party was the PFDJ, and there were no opposition parties active domestically (*see* Section 2.b.).

During the year, elections for community judges were held throughout the country, and elections took place for regional assembly positions in Asmara and other large cities. Only persons who had finished national service were able to stand in the elections and vote. No campaigning was allowed beyond posting photographs of candidates and providing information such as name, age, and work experience. There were no reports of obstruction or intimidation of voters or candidates.

There were reports of petty corruption within the executive branch, largely based on family connections. There were unconfirmed reports involving illicit trade and the appropriation of houses by military leaders. The legislature was not active during the year. There was provision for citizens to obtain information from the Government.

Three women served on the PFDJ's 19-member Executive Council, and 11 women served on the 75-member Central Council. Women participated in the Constitutional Commission, occupying almost half of the positions on the 50-person committee.

They also served in several senior government positions, including the Ministers of Justice, Tourism, and Labor and Welfare. By law, one-third of regional National Assembly seats are reserved for women, and women also may compete for the unreserved seats; however, the National Assembly does not meet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government allowed one domestic human rights NGO—Citizens for Peace in Eritrea—to operate, and its work was limited to advocacy on behalf of war victims. Government officials were cooperative and responsive to CPE's views on these issues. International human rights organizations were not permitted to operate within the country. All NGOs were required to register with ERREC.

The ICRC has been allowed to operate. During the year, ICRC provided shelter to approximately 68,000 persons who were displaced by the conflict with Ethiopia (see Section 2.d.). The ICRC also visited prisons and detention centers where Ethiopians were held, and provided assistance to approximately 157,000 citizens through projects in water supply, health structure rehabilitation, and housing (see Section 1.c.).

The Ministry of Foreign Affairs was responsible for handling human rights inquiries.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The transitional Civil Code prohibits discrimination against women and persons with disabilities, and the Government generally enforced these provisions. However, there continued to be problems with violence against women and discrimination against minority ethnic groups.

*Women.*—Violence against women was pervasive. Spousal abuse is a crime; however, spousal abuse, especially wife beating, was widespread. Women seldom discussed openly the issue of domestic violence because of societal pressures. Such incidents were more commonly addressed, if at all, within families or by religious clergy.

Rape is a crime; however, no specific information was available on its prevalence in the country.

FGM was widespread, with estimates placing the number of women and girls who have been subjected to FGM as high as 95 percent. Almost all ethnic and religious groups in the country practiced FGM. In the lowlands, local groups practiced infibulation, the most severe form of FGM. There was no law prohibiting FGM; however, the Government worked to combat the practice. The Government and other organizations, including the National Union of Eritrean Women and the National Union of Eritrean Youth and Students, sponsored education programs that discouraged the practice. The U.N. Population Fund, through the Ministry of Health, sponsored reproductive health projects that provided training and awareness programs focusing on the harmful physical and psychological impacts of FGM.

Prostitution is illegal; however, as a result of war-related displacement and difficult economic conditions, prostitution was a serious problem. There were confirmed reports that security forces, who regularly patrolled the city at night, occasionally followed prostitutes and arrested those who had spent the night with a foreigner. The Ministry of Labor and Human Welfare continued its National Plan of Action for the Prevention, Rehabilitation, and Reintegration of Commercial Sex Workers, and the Ministry successfully helped some prostitutes to obtain training and be able to re-enter the legal economy.

The Government consistently advocated improving the status of women, many of whom played a significant role as fighters in the independence struggle. Women have a legal right to equal educational opportunities and equal pay for equal work; however, in practice, men retained privileged access to education, employment, and control of economic resources, with greater disparities in rural areas than in cities. Women generally did not enjoy a social status equal to men. Laws were enforced unevenly because of a lack of capacity in the legal system and because of long-standing cultural attitudes.

The law requires that women between the ages of 18 and 27 participate in national service (see Section 6.c.). During the year, efforts to detain women draft evaders and deserters generally decreased compared to previous years. According to reports, some women drafted for national service were subject to sexual harassment and abuse. During the year, hundreds of women were demobilized from national service due to age, infirmity, motherhood, marriage, or needs of their families. Once demobilized, women were not required to serve in a government ministry.

*Children.*—The Ministry of Labor and Human Welfare is responsible for policies concerning children rights and welfare. The Children's Affairs Division in the Min-

istry of Labor and Human Welfare covered childcare, counseling, and probation. Although the Government generally was committed to children's rights and welfare, its programs were limited by resource constraints.

Education through grade seven is compulsory, and the Government provides tuition-free education; however, students were responsible for uniforms, supplies, and transportation, which could be prohibitively expensive for many families. The Ministry of Labor and Human Welfare operated an Integrated Early Childhood Development Project to keep children in school by providing some of the most vulnerable with necessary books, uniforms, and other supplies. Education above grade seven requires a nominal fee and is not compulsory. There was a shortage of schools and teachers at all levels, remedied in part by holding morning and afternoon shifts at schools. According to Ministry of Education estimates, the net enrollment rate of school-age children in the 2001–02 school year was approximately 38 percent. Approximately 75 percent of the population was illiterate. In rural areas, young girls usually left school early to work at home.

In 2003, the Government added an additional grade to secondary school and required that all students attend their final year at a location adjacent to the Sawa military training facility in the western section of the country. Students who do not attend this final year of secondary school do not graduate and cannot sit for examinations to be eligible for advanced education. The remote location of this boarding school, concerns about security, and societal attitudes restricting the free movement of girls resulted in few female students enrolling for their final year of high school; however, women may earn an alternative secondary school certificate by attending night school after completing national service.

In 2003, the Government opened Mai Nafhi Technical Institute on the outskirts of Asmara. Students from the Sawa school who scored well on the university exams were admitted to Mai Nafhi and then could be eligible to attend the University of Asmara. No new students were accepted at the University of Asmara in the current or previous year.

The law criminalizes child prostitution, pornography, and sexual exploitation, and there were confirmed reports of some child prostitution. The Government had an aggressive program to identify these children and reintegrate them into their families and society.

FGM was performed on up to 95 percent of all young girls (*see* Section 5, Women).

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports of trafficking.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services. The war for independence and the conflict with Ethiopia left thousands of men and women with physical disabilities from injuries they received as guerrillas, soldiers, and civilian victims. The Government dedicated a substantial share of its resources to support and train these former fighters, who were regarded as heroes. There are no laws mandating access for persons with disabilities to public thoroughfares or public or private buildings; however, many newly constructed buildings provided access for persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups residing primarily in the west. Because a Kunama opposition group operated out of Ethiopia and was supported by Ethiopian authorities, some Kunama in the country were suspected of supporting or having sympathies with the Ethiopian Government.

In past years, there were unconfirmed reports that the Government took land from Kunamas without compensation and gave it to other ethnic groups, claiming that the land had not been efficiently exploited; however, there were no such reports during the year. There was some societal discrimination against Kunamas because they were seen as ethnically and culturally different from most citizens.

Members of the Kunama ethnic group remained in detention without charges during the year (*see* Section 1.b.).

During the year, there was sporadic abuse of Ethiopians by individual citizens, and there were fewer reported cases than in previous years.

*Other Societal Abuses and Discrimination.*—The country has a less than 3 percent rate of HIV/AIDS infection, and there were no reports of systematic discrimination or abuse against persons with HIV/AIDS. Homosexuals face severe societal discrimination, and there were reports that several expatriates were expelled due to their sexual orientation.

*Section 6. Worker Rights*

*a. The Right of Association.*—Proclamation 118 of 2001, which has the effect of law, provides workers with the legal right to form unions to protect their interests; however, some government policies restricted free association or prevented the formation of unions, including within the civil service, military, police, and other essential services. The Ministry of Labor and Human Welfare must grant special approval for groups of 20 or more persons seeking to form a union. There were no reports that the Government opposed the formation of labor associations during the year.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is allowed, and under Proclamation 118, a tripartite board composed of workers, employers, and Ministry of Labor and Human Welfare officials, is required to resolve differences. The complainant can pursue a case in court if it cannot be resolved by the tripartite board.

The law allows strikes; however, there were no reported strikes during the year. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports that it occurred during the year. The Government required all men between the ages of 18 and 45 and women between the ages of 18 and 27 to participate in the national service program, which included military training and civilian work programs. In addition, some national service members were assigned to return to their civilian jobs, while nominally still in the military, because their skills were deemed critical to the functioning of the Government or the economy. These individuals continued to receive only their national service salary. They were required to forfeit to the Government any money they earned above and beyond that salary. Government employees generally were unable to leave their jobs or take new employment.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government has a national plan of action to protect children from exploitation in the workplace; however, child labor occurred. The legal minimum age for employment is 18 years, although apprentices may be hired at age 14. Proclamation 118 bars children, young workers, and apprentices under 18 years of age from performing certain dangerous or unhealthy labor, including working in transport industries, jobs involving toxic chemicals or dangerous machines, and underground work such as in mines and sewers. It was common for rural children who did not attend school to work on family farms, fetching firewood and water, and herding livestock, among other activities. In urban areas, some children worked as street vendors of cigarettes, newspapers, or chewing gum.

Labor inspectors from the Ministry of Labor and Human Welfare are responsible for enforcing child labor laws; however, due to the small number of inspectors, inspections were infrequent.

*e. Acceptable Conditions of Work.*—Two systems regulate employment conditions—the civil service system and the labor law system. There is no legally mandated minimum wage in the private sector. In the civil service sector, wages ranged from \$24 to \$288 (325 to 3,900 nakfa) per month. Factory workers in government-owned enterprises earned the highest wages. The minimum wage in the civil service sector did not provide a decent standard of living for a worker and family.

The standard workweek was 44.5 hours, but many persons worked fewer hours. Under Proclamation 118, workers are entitled to 1 rest day per week; most workers were allowed 1 to 1.5 days off per week. The Government has instituted occupational health and safety standards, but inspection and enforcement varied widely among factories. Workers were permitted to remove themselves from dangerous work sites without retaliation.

Legal foreign and citizen workers are treated equally under the law. A large number of foreigners worked as teachers.

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## ETHIOPIA

Ethiopia continued its transition from a unitary to a federal system of government, under the leadership of Prime Minister Meles Zenawi. According to international and local observers, the 2000 national elections generally were free and fair in most areas; however, serious election irregularities occurred in the Southern Region, particularly in Hadiya zone. The Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) and affiliated parties held 519 of 548 seats in the federal parliament

(elected in 2000). EPRDF and affiliated parties also held all regional councils by large majorities. The Addis Ababa regional council remained dissolved at year's end, with new elections not expected to take place until May 2005. Although political parties predominantly were ethnically based, opposition parties were engaged in a gradual process of consolidation. Ethnic conflict continued during the year in the Gambella region after the December 2003 killing of eight government workers by unknown assailants and retaliatory killings of Anuak civilians by local mobs, which included some army and police members. The judiciary was weak and overburdened but continued to show signs of independence; progress was made in reducing the backlog of cases. Local administrative, police and judicial systems remained weak throughout the country.

The security forces consist of the military, federal and local police, and local militias. The police have primary responsibility for internal security, but local militias outside police command also operated as local security forces. The army is responsible for external security but also has some domestic security responsibilities, particularly along borders with neighboring countries. The Federal Police Commission and the Federal Prisons Administration are subordinate to the Ministry of Federal Affairs, which in turn is accountable to the Parliament. The military consists of both air and ground forces and reports to the Ministry of National Defense. Military forces continued to conduct a number of low-level operations against the Oromo Liberation Front (OLF), the Somalia-based Al-Ittihad Al-Islami terrorist organization, and elements of the Ogaden National Liberation Front (ONLF). While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Members of the security forces committed serious human rights abuses.

The economy was agriculture-based, with more than 85 percent of the estimated population of 71 million living in rural areas under basic conditions and engaged in small leasehold subsistence farming. Agriculture accounted for approximately 45 percent of gross domestic product (GDP). GDP grew 6.7 percent during the year. Inflation remained steady at 5.5 percent, according to the International Monetary Fund. In urban centers, the majority of economic activity was in the informal sector. Drought, crop failures, and extensive livestock losses adversely affected approximately 7 million persons during the year, and caused GDP growth to slow. Trade regulations were liberalized, but still favored EPRDF-owned businesses. The Government continued to implement an economic reform program designed to stabilize the country's financial position, promote private sector participation in the economy, and attract foreign investment; however, some impediments to investment remained, petty corruption was widespread, and there were approximately 200 government-owned enterprises that had not been privatized by year's end.

The Government's human rights record remained poor; although there were improvements, serious problems remained. Security forces committed a number of unlawful killings, including alleged political killings, and beat, tortured, and mistreated detainees. Prison conditions remained poor. The Government continued to arrest and detain persons arbitrarily, particularly those suspected of sympathizing with or being members of the OLF. Thousands of suspects remained in detention without charge, and lengthy pretrial detention continued to be a problem. The Government infringed on citizens' privacy rights, and the law regarding search warrants was often ignored. The Government restricted freedom of the press; however, compared with previous years, there were fewer reports that journalists were arrested, detained or punished for writing articles critical of the Government. Journalists continued to practice self-censorship. The Government at times restricted freedom of assembly, particularly for members of opposition political parties; security forces at times used excessive force to disperse demonstrations. The Government limited freedom of association, but the nongovernmental organization (NGO) registration process continued to improve. On occasion, local authorities infringed on freedom of religion. The Government eliminated the requirement for residents to obtain exit visas before leaving the country. Numerous internally displaced persons (IDPs) from internal ethnic conflicts remained in the country. Violence and societal discrimination against women and abuse of children remained problems. Female genital mutilation (FGM) was widespread but leadership efforts to curb such practices made some inroads. The exploitation of children for economic and sexual purposes remained a problem. Trafficking in persons remained a serious problem. Societal discrimination against persons with disabilities and discrimination against religious and ethnic minorities continued. Interethnic clashes resulted in deaths. The Government continued low-level interference in unions. Forced labor, including forced child labor, continued to be a problem, particularly in the informal sector.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed many unlawful killings, including some alleged political killings, during the year. There were numerous reports of unlawful killings during the year.

The opposition All Ethiopia Unity Party (AEUP) reported that government militia and soldiers killed 11 of their supporters in the period from December 2003 to May 2004. For example, on March 29, government militiamen Gashaw Melese and Dessalegn Damtew reportedly murdered AEUP member Dessalegn Simegn of Ebinet District, South Gondar Zone. On April 29, government militia killed AEUP district council member Hailu Zelleke in Gishu Rabel District. On May 15, government militia murdered AEUP Youth League leader Getiye Alagaw. No actions were taken against the perpetrators by year's end.

The opposition Southern Ethiopia People's Democratic Coalition (SEPDC) reported that district police shot and killed one of its supporters, Aeliso Tieliso, while he was having lunch in his home in Megacho Locality, Giibe District, Southern Region, on December 28, 2003. The suspected police officer was not detained and there was no investigation of the killing.

A Parliament-appointed commission investigating ethnic violence in Gambella Region occurring between December 2003 and May 2004 found evidence of military involvement in the extra-judicial killings of 13 Anuak civilians. On March 20 according to unconfirmed reports, soldiers seeking revenge for the death of a soldier were reported to have summarily executed eight elderly Anuak men in the village of Chobo (*see* Section 5).

Unlike in the previous year, there were no reports that persons died from torture while in government custody.

There continued to be reports of unlawful killings by security forces, particularly in the Oromiya and the Somali Regions. For example, on March 1, district police shot and killed Alemu Tesfaye, a ninth-grade student in Tikur Inchine, Oromiya Region, during a student protest. Amelework Buli, a female high-school student in Nekemte, Oromiya Region, died from a police beating she sustained at her high school, although the Government and police claimed she died from natural causes.

Regional government officials from Somali Region reported that military personnel fired upon a vehicle carrying civilians on June 15, killing ten persons, after the military vehicle in which the soldiers were traveling collided with the civilian vehicle around the town of Gode.

There were no developments in the following cases from 2003: The death in police custody of Abera Hey; the August killing of two men in Addis Ababa by Federal Police forces; and the December killings of five persons in a bar in Addis Ababa by a man in military uniform. Federal Police reported that the individual was not a soldier, but a person with mental disabilities, who remained in custody at year's end.

There were no developments in the reported 2002 cases of killings by security forces.

Armed elements of the OLF and ONLF continued to operate within the country and clashed with government forces on several occasions, resulting in the death of an unknown number of civilians and government forces.

At year's end, there were approximately 2 million landmines in the country, many dating from the 1998 to 2000 war with Eritrea. The Government de-mining unit continued to make limited progress in its survey and de-mining of border areas. U.N. Peacekeeping Mission in Eritrea and Ethiopia officials reported that some new landmines were planted on both sides of the Ethiopian-Eritrean border during the year. Through July, officials reported a total of 11 deaths and 10 injuries caused by unexploded landmines and ordnances during the year.

On April 29, an unidentified person threw a hand grenade into a television room at Addis Ababa University (AAU) during a Tigrigna language news program, killing one student and injuring eight others. Police arrested suspects in connection with the incident, some of whom were AAU students who had been suspended following January protests (*see* Section 1.c.). As of year's end, the suspects were released on bail, but the case remained pending.

On May 3, an unidentified person threw a hand grenade into a shop owned by a Tigrayan woman in Debre Zeit, Oromiya Region, killing her Tigrayan relative. Police blamed the OLF for the attack.

There were no developments in the investigation into the July 2003 bombing of the Segen Hotel in Addis Ababa, which injured 31 persons, or in the September 2003 bombing of a passenger train near Adiquala, which killed two persons and injured nine.

Ethnic clashes resulted in hundreds of deaths during the year (see Section 5).

The Federal High Court in Addis Ababa continued to arraign and prosecute those formally charged with committing genocide and other war crimes, including extrajudicial killings, under the 1975–1991 Derg regime (see Section 1.e.).

*b. Disappearance.*—There were some reported cases of disappearances perpetrated by government forces during the year, some of which may have been politically motivated. In nearly all cases, security forces abducted persons without warrants and detained them in undisclosed locations for varying lengths of time ranging from weeks to months. For example, in May, security forces abducted Jigsa Soressa, a guard at Mecha and Tulema Association (MTA)—an influential Oromo political, social and cultural organization. Soressa was reportedly still being detained at Addis Ababa Prison at year's end.

There was no new information regarding the whereabouts of Ahmad Haji Wase, an information officer for the Afar Regional Government, who was detained in an undisclosed location in December 2003 for a report he wrote about fighting between Afar rebels and government troops.

The Government reported that Mesfin Itana, Yilma Mosisa, and Gdissa Mosisa, who were believed to have disappeared after being detained in connection with the September 2002 bombing of the Tigray Hotel in Addis Ababa, were in government custody and awaiting trial (see Section 1.a.). Several young Oromo businessmen remained missing at year's end.

The whereabouts of Oromo singer Raya Abamecha remained unknown at year's end. The Government stated it had no information about his case and had not opened an investigation. There was no new information regarding this case during the year.

There was no information regarding the whereabouts of several young Oromo businessmen reported missing at the end of 2003.

There was no new information about any of the 39 persons reported in a March 2003 report by the Ethiopian Human Rights Council (EHRCO) to have disappeared at the hands of government security forces.

In 2003, the Government conducted an investigation into the 2002 abduction from a bus and subsequent murder of 32 Nuer IDPs. Ten regional government officials, including four police officers, were arrested in connection with the murders. This case remained pending at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture and mistreatment; however, there were numerous credible reports during the year that security officials often beat or mistreated detainees. Opposition political parties reported frequent and systematic abuse of their supporters by police and government militias.

Unlike in the previous year, there were no reports of death due to torture during the year.

AEUP supporters reported attacks by government militia against them escalated during the year. Local officials often turned a blind eye to these attacks or were complicit in them. On May 5, government militia assaulted Habtamu Baye of Seha Tefases Farmers Association in Shebel Berenta District as he returned from an AEUP meeting. On May 6, government militiamen Habte Endale and Bimirew Adal beat AEUP supporter Endashaw Alemu in Enemay District in East Gojjam Zone, Amhara Region. On May 13, government militiamen beat AEUP party organizer Damtew Ayele in Rabel District, North Shoa Zone, Amhara Region, according to AEUP reports. No action was taken against those responsible.

Security forces reportedly beat persons during demonstrations (see Section 2.b.). In late January, Federal Police responded to peaceful Oromo student protests at Addis Ababa University (AAU) and arrested approximately 330 students. International NGOs reported that the arrested students were taken to the Kolfe police training academy, where they were ordered to run and crawl barefoot over sharp gravel for several hours at a time. The arrested students were subsequently released and were expelled from AAU for the academic year.

At several Oromiya high schools and universities, police severely beat students, teachers, and parents according to local reports. In February and March, violence erupted in schools throughout Oromiya as students protested the January arrest and expulsion of 330 Oromo students from AAU. The Government blamed the student unrest in Oromiya on “anti-peace elements” supported by the OLF, but produced no evidence of such support.

On February 25, violence broke out in Ambo Secondary School when students demanded to have the school administrator respond to their concerns about the suspension of the AAU students. Police entered the high school compound to disperse students, beating several of them. On March 4, students from Ambo high school and

Addis Ketema Primary School marched to the center of town and were dispersed by members of the Oromiya regional police who fired in the air and later began beating the students.

On March 17, police beat dozens of high school students engaged in a peaceful protest in Dembi Dolo, East Wollega Zone, Oromiya Region. Local observers reported that police also beat students at three high schools in Nekemte and detained dozens of students and teachers for weeks without charging them (*see* Sections 1.d. and 5).

Security forces beat journalists in several incidents during the year (*see* Section 2.a.).

Unlike in previous years, there were no reports that security forces beat or tortured members of religious groups.

No action was taken against security forces responsible for the January 2003 beating and torture of Nake Abebe; the February 2003 beating of Ayele Liyew and Habtamu Liyew; the March 2003 beating of a teacher in Addis Ababa; the October 2003 beating of Kassa Zewdu and Sinishaw Tegegn; or the October 2003 beating of Retta Bayih, Awoke Tegegn, Derejaw Ayehou, and Alellign Ayalew.

There were reports during the year that army members raped Anuak women during raids on villages in Gambella region. The Government did not open an investigation into the December 2003 rape of two Anuak women at gunpoint by soldiers in the town of Echeway, Gambella Region, during the outbreak of violence against Anuaks (*see* Section 5), an attack that was reported by credible witnesses.

On April 15, unidentified persons detonated a hand grenade inside Ambo Secondary School, injuring 30 students. Police claimed to have taken eleven suspects into custody in connection with the blast. All suspects were released on bail at year's end, and the case against them remained pending.

During the year, ethnic clashes resulted in numerous injuries and some deaths (*see* Section 5).

Prison and pretrial detention center conditions were very poor and overcrowding remained a serious problem. Prisoners often were allocated fewer than 21.5 square feet of sleeping space in a room that could contain up to 200 persons. The daily meal budget was approximately 25 cents per prisoner per day, and many prisoners had family members deliver food every day or used their own funds to purchase food from local vendors. Prison conditions were unsanitary, and access to medical care was not reliable. There was no budget for prison facility maintenance. Prisoners typically were permitted daily access to prison yards, which often included working farms, mechanical shops, and rudimentary libraries. Prison letters must be written in Amharic, which made outside contact difficult for non-Amharic speakers; however, this restriction generally was not enforced. In police detention centers police often physically abused detainees. Diplomatic observers reported firsthand accounts of such beatings from AAU student detainees in Oromiya. Visitors generally were permitted; however, they were sometimes denied access to detainees.

There were some deaths in prison during the year due to illness and disease; however, no statistics on the number of deaths in prison were available at year's end. Prison officials were not forthcoming with reports of such deaths. At least one prisoner, a Gambella police officer, died in prison while being held in connection with ethnic-related violence (*see* Section 5).

In August, the International Committee of the Red Cross (ICRC) finished its nationwide training program for prison directors, and heads of security, health, and administration on proper treatment of prisoners, including respect for human dignity, treatment of women and children, and medical treatment of sick detainees. In November the ICRC began a second, more advanced training course nationwide.

Female prisoners were held separately from men; however, juveniles sometimes were incarcerated with adults. There was only 1 juvenile remand home for children under age 15, with the capacity to hold 150 children. Juveniles who could not be accommodated at the juvenile remand home were incarcerated with adults. Pretrial detainees were usually detained separately from convicted prisoners at local police stations or in the limited Central Investigation Division detention facility in Addis Ababa until they were charged. The law requires that prisoners be transferred to federal prisons upon conviction; however, this requirement sometimes was not enforced in practice.

The Government permitted independent monitoring of prisons and police stations by the ICRC. Diplomatic missions were also granted access upon providing advance notification to prison officials. In June, the African Commission on Human and Peoples' Rights paid one of its occasional visits to prisons in various parts of the country. The ICRC generally had access to federal and regional prisons, civilian detention facilities, and police stations throughout the country during the year, and conducted hundreds of visits involving thousands of detainees. The ICRC was allowed

to meet regularly with prisoners without third parties being present. The ICRC received government permission to visit military detention facilities where suspected OLF fighters were detained. The ICRC also continued to visit civilian Eritrean nationals and Ethiopians of Eritrean origin detained on national security grounds.

Government authorities continued to permit diplomats to visit prominent detainees held by the Special Prosecutor's Office (SPO) for alleged involvement in war crimes and terrorist activities.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the Government frequently did not observe these provisions in practice. The Federal Police Commission reports to the Ministry of Federal Affairs, which in turn is subordinate to the Federal Parliament. Local government militias operated as local security forces largely independent of the police and the military. Petty corruption remained a problem with the police force, especially among traffic policemen accused of soliciting bribes from motorists. Impunity also remained a serious problem. The results of any police investigations into such reported abuses were rarely disclosed publicly. However, in May, a Federal High Court sentenced Addis Ababa police officer Mesfin Tekeba to 4 years' imprisonment for soliciting a bribe from a taxi bus driver. The Federal Police acknowledged that many members of its police force as well as regional police lack professionalism; a reform process supported in part by major donor governments was underway during the year.

Following the outbreaks of violence early in the year, due in part to improved command and control and better training, police forces, particularly in chronically troubled areas, became more adept at avoiding confrontations and better at calibrating their responses to avoid escalating spirals of violence. Police forces also improved their ability to identify tensions earlier and accelerate their response.

The Government continued its efforts to train police and army recruits in human rights, and sought assistance from the ICRC in improving and professionalizing its human rights training and revamping its human rights training curriculum to include more material on the Constitution and international human rights treaties and conventions. In September, the ICRC conducted a 2-day human rights training for approximately 800 local leaders in the conflict-prone Oromiya region.

Under the Criminal Procedure Code, any person detained must be informed of the charges within 48 hours and, in most cases, be offered release on bail. Bail was not available for some offenses, such as murder, treason, and corruption. In most cases, bail was set between \$115 (1,000 Birr) and \$1,150 (10,000 Birr), which was beyond the reach of most citizens. Suspects of serious offenses could be detained for 14 days while police conduct an investigation if a panel of judges ordered it, and for additional 14-day periods while the investigation continues. In practice and particularly in the outlying regions, authorities regularly detained persons without warrants, did not charge them within 48 hours, and, if persons were released on bail, never recalled them to court. The law also prohibits detention in anything less than an official detention center; however, there were dozens of crude detention centers at the local level used by local government militia. The Government provided public defenders for detainees who were unable to afford private legal counsel, but only when their cases came before the court. While in detention, such detainees were allowed little or no contact with their legal counsel.

There were many reports from opposition party members that in small towns persons were detained in police stations for long periods without access to a judge and that sometimes these persons' whereabouts were unknown for several months. Opposition parties registered many complaints during the year that government militias beat and detained their supporters without charge for participating in opposition political rallies (*see* Section 1.c.).

The AEUP reported that on April 27, government militia detained three of its members—Alem Eniyew, Geta Mitiku, and Gebeyu Mitiku—in Enessie District, Amhara Region, for refusing to cancel their AEUP membership. On April 28, Enemay District officials ordered the arrest and imprisonment of five members of AEUP's executive committee. On May 3, police arrested Mulugeta Wassie in Metchera town, Fentale District, North Shoa Zone, Amhara Region, for distributing AEUP information leaflets.

Police also reportedly detained Oromiya National Congress (ONC) member Olbana Lelisa on suspicion of his support for the OLF. Police kept him in a crowded room at the police station for nearly 2 months without filing charges before he was released on July 20. According to his reports, police tried to coerce him to denounce the ONC publicly and to link the ONC with the OLF in exchange for an end to police harassment.

No further information was available by year's end about the May 2003 arrest of three Eritrean members of the Eritrean opposition group Movement for Democratic Change for their support of the Ethiopia-Eritrea Boundary Commission ruling.

On April 20, 200 persons, alleged to be members of the opposition AEUP, were arrested in Northern Shoa, Debre-Sina District and released after being harassed. Party members Mersha Haile, Wessene Gizaw, Girum Tadesse, and Minda Gizaw, residents of Northern Shoa were arrested for periods ranging from 7 to 30 days for unknown reasons.

The Government continued its harassment of teachers during the year, particularly in Oromiya and Tigray. The independent Ethiopian Teachers Association (ETA) reported that numerous teachers were detained and accused of being OLF sympathizers, many of who remained in prison at year's end. Some of the teachers have been in detention for several years without charges. Such cases were remanded at least 10 to 15 times, for 2 weeks each time, and the courts allowed police to conduct investigations that continued for months. In addition, judges were shifted among cases, failed to show up for hearings, or new judges were not reassigned in time for hearing dates upon the death or incapacity of assigned judges. While lack of capacity within the judicial system contributed to this problem, several of the prolonged detentions were suspected to be politically motivated. During an outbreak of student unrest in schools across Oromiya, police detained hundreds of Oromo students and teachers for several weeks in detention centers on suspicion of being supporters of the OLF (*see* Section 1.c.). For example, on April 2, police were said to have detained without a warrant Alemitu Biru, a teacher at Burayu Elementary School in Holleta, Oromiya Region, and held her incommunicado for over 3 weeks.

Police entered private residences and arrested people without court warrants. On April 7, police entered and searched the homes of eleven teachers in Debre Zeit, Oromiya Region, without a court order. Police later detained those eleven teachers for several weeks without charging them. On April 9, in the towns of Guder and Ambo in Oromiya Region police entered the homes of 60 people, mostly teachers, on suspicion that they were supporters of the OLF. The teachers whose houses were searched include Mosisa Futasa, Abebe Chimdi, and Dhinsa Serbessa.

Police officials did not respect court orders to release suspects on bail. For example, on July 22 and 23, the Federal First Instance Court ordered police to grant bail for Executive Committee members of the MTA. MTA Executive Committee members Dirbi Demissie, Gemechu Feyera, Sintayehu Workineh, Dabas Wakjira, and Shiferaw Ansermu had been held in detention for over two months. They were released on US\$1,150 (10,000 Birr) bail on August 9; however, police rearrested Gemechu and Sintayehu when they went back to the police station to pick up their personal property. Demissie, Feyera, Workneh and Wakjira were released on bail at year's end. However, Ansermu was rearrested on his way to work at Ethiopian Television.

Police detained journalists during the year (*see* Section 2.a.).

Police detained persons for holding meetings and demonstrations during the year (*see* Section 2.b.).

Opposition groups alleged that some of the persons detained by the SPO were held for political reasons, an allegation that the Government denied (*see* Section 1.e.).

In response to attacks by armed opposition groups operating out of Somalia and Kenya, the military continued to conduct operations around border areas. The vast majority of military interventions took place in the Gambella, Somali, and Oromiya Regions. Occasional detentions were reported during these operations.

Parliamentary immunity protected members of the House from arrest or prosecution except in the act of committing a crime ("flagrante delicto").

Berhanu Nega and Mesfin Woldemariam, two prominent academics and human rights activists charged with inciting AAU students to riot in 2001, were ordered by the Federal High Court to prepare to present their defense for a trial in July 2005.

The following detainees remained in custody at year's end: Alazar Dessie, an American citizen working as a consultant to the Commercial Bank of Ethiopia, who was arrested and charged with abuse of power (a nonbailable offense) and has been awaiting trial for over 3 years; 24 businessman and government officials, who were arrested in 2001 under allegations of corruption but were never charged formally; and the official driver of the Eritrean Embassy, who was arrested in 2001 and whose whereabouts remained unknown.

Thousands of criminal suspects reportedly remained in detention—some for years—without charge. Some of the detainees were teachers and students from Oromiya accused of involvement in OLF activities or were arrested after student unrest broke out in Oromiya in February and March.

The Government detained several persons without charge at the Gondar Prison, some for years, while the police investigated their cases. Muche Berihun, who was charged with murder although the person whom he allegedly murdered was killed after he was detained, was held in solitary confinement for 3<sup>o</sup> years. His hearing began in 2002; however, the court adjourned and the status of the hearing was unknown at year's end. He remained in detention at year's end. Wondante Mesfin has been in detention in Nefas Mewcha Prison in South Gondar Zone since 1994 and has never appeared in court nor been charged formally. According to AEUP reports, there was no change in his status during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary remained weak and overburdened. Although the federal and regional courts continued to show signs of judicial independence, in practice severe shortages of adequately trained personnel in many regions, as well as serious financial constraints, combined to deny citizens the full protections provided by the Constitution.

The Government continued to decentralize and restructure the judiciary along federal lines with the establishment of courts at the district, zonal, and regional levels. The federal High Court and federal Supreme Court heard and adjudicated original and appeal cases involving federal law, transregional issues, and national security. The regional judiciary was increasingly autonomous, with district, zonal, high, and supreme courts mirroring the structure of the federal judiciary. Two three-judge benches at the High Court level handled criminal cases. Prior to 2002, the federal High Court and federal Supreme Court heard regional cases, due to the lack of well-established regional courts. Due to the strengthening of the regional courts since 2002, regional cases were more often heard locally.

Regional offices of the federal Ministry of Justice monitored local judicial developments. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions had not begun operation; overall, the federal judicial presence in the regions was limited. Anecdotal evidence suggested that some local officials believed they were not accountable to a higher authority. Pending the passage by regional legislatures of laws particular to their region, all judges are guided by the federal procedural and substantive codes.

To remedy the severe lack of experienced staff in the judicial system, the Government continued to identify and train lower court judges and prosecutors, although officials acknowledged that the pay scale offered did not attract the required numbers of competent professionals.

According to the Constitution, accused persons have the right to a public trial by an ordinary court of law within a "reasonable time" after having been charged and the right to be represented by legal counsel of their choice; however, in practice, lengthy pretrial detention was common, closed proceedings occurred, and at times, detainees were allowed little or no contact with their legal counsel (*see* Section 1.d.). Although the Constitution provides for a presumption of innocence, defendants did not enjoy this protection in practice. The public defender's office provides legal counsel to indigent defendants, although its scope remained severely limited, particularly with respect to SPO trials. Access to prosecutorial evidence before a trial was routinely denied to the defense, even though there is no law forbidding this and the law explicitly stipulates that persons charged with corruption are to be shown the body of evidence against them prior to their trials.

The Constitution provides legal standing to some pre-existing religious and customary courts and gives federal and regional legislatures the authority to recognize other courts. By law, all parties to a dispute must agree before a customary or religious court may hear a case. Shari'a (Islamic) courts may hear religious and family cases involving Muslims. In addition, other traditional systems of justice, like councils of elders, continued to function. Although not sanctioned by law, these traditional courts resolved disputes for the majority of citizens who lived in rural areas and who generally had little access to formal judicial systems.

On October 28, the Federal First Instance Court's Seventh Criminal Branch began operation. The court was established to handle cases of sexual abuse against women and children. During hearings, victims were physically separated from the accused, and provided testimony to the court via a closed circuited television system. By year's end, the court had delivered six guilty verdicts in sexual abuse cases, and imposed penalties ranging from 4 to 20 years.

Three federal judges sat on one bench to hear all cases of juvenile offenses. There was a large backlog of juvenile cases and accused children often remained in detention with adults until their cases were heard.

The outbreak of hostilities with Eritrea in 1998 adversely impacted the military justice system. Most foreign assistance to train officers and noncommissioned offi-

cers was suspended at the same time that the rapid expansion of the military greatly increased the need for trained military lawyers and judges. This training need remained unmet by year's end.

There was no new information on the activities of the SPO, established in 1992 to create a historical record of the abuses committed during the Mengistu Government (1975–91, also known as the Dergue regime) and to bring to justice those criminally responsible for human rights violations. Approximately 1,000 persons remained in detention for Dergue-era offenses. Court-appointed attorneys, sometimes with inadequate skills and experience, represented many of the defendants.

There were reports the Government detained approximately 100 political prisoners, and the Government permitted ICRC access on a regular basis.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law requires judicial search warrants to search private property; however, in practice, particularly outside of Addis Ababa, police often searched property without obtaining warrants (*see* Section 1.d.). Opposition party representatives claimed that police sometimes used fraudulent warrants to enter homes and commit criminal acts, including money extortion. There were reports that members of the Federal Police robbed persons during the year, including through the use of false warrants.

There continued to be reports that police forcibly entered the homes of civilians. There also were reports that security forces took persons from their homes in the middle of the night without warrants. For example, Oromo students accused of detonating hand grenades at Ambo Secondary School in April were reportedly rounded up from their residences in the middle of the night.

Opposition party members reported that their homes were burned down and their offices looted (*see* Section 3).

The Government arbitrarily monitored private communication such as Internet communications and phone conversations. All electronic communications facilities were state-owned. The Government also used a system of paid informants to report on the activities of particular individuals.

There were reports during the year of the forced displacement of families in rural areas. The Government said that its resettlement program, which moved families from drought-prone areas to more fertile lands, was entirely voluntary, but opposition parties accused local authorities in some rural areas of targeting opposition supporters for resettlement by manipulating resettlement rosters. NGOs such as Doctors Without Borders reported that in several instances, the Government had resettled persons to areas with no existing infrastructure or clean water supply, resulting in unusually high rates of infant mortality.

Unlike in previous years, there were no reports that the Government, in an attempt to “clean up” Addis Ababa, forcibly resettled indigent persons to areas outside of the city.

There continued to be credible reports during the year from EHRCO and opposition parties that in certain rural areas in the Southern Region, Oromiya Region, and Amhara Region, local officials used threats of land redistribution and withholding of food aid and fertilizer to garner support for the ruling coalition. There were many reports of ruling party or government harassment intended to prevent individuals from joining opposition parties or from renting property to them. There were numerous reports of more serious forms of harassment and violence directed against members of opposition parties in many areas of the country, including beatings, house burnings, and murder (*see* Sections 1.c., 1.d., and 3).

There also were credible reports that teachers and other government workers had their employment terminated if they belonged to opposition political parties.

According to the SEPDC, the regional government continued to dismiss its members—particularly teachers—from their jobs. In response, the regional government asserted that employees of the Government should implement government policy. The region accuses employees who were opposition party members of not carrying out government policy.

The family law code imposes a 6-month waiting period on anyone seeking to remarry following a divorce or the death of one's spouse (*see* Section 5). The Government maintained that this waiting period was necessary to determine whether a woman may still be carrying the child of her former spouse.

Security forces detained family members of persons sought for questioning by the Government, such as suspected members of OLF.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press; however, the Government restricted these rights in practice. The Government continued to prosecute journalists and editors for publishing allegedly fabricated information and for other violations of the press law. The Government con-

trolled all broadcast media. Private and government journalists routinely practiced self-censorship. Nonetheless, the private press remained active and often published articles that were extremely critical of the Government.

The independent print media were active and expressed a wide variety of views, although their access to the executive, legislative, and judicial branches of the Government was restricted and they were subject to intimidation and harassment by the Government.

Despite the constant threat of legal action, the private press continued to publish articles critical of the Government and to report on human rights abuses. While much of the private press continued to lack professionalism in its reporting, some print media continued developing into more responsible publications. Several publications were tied to distinct ethnic groups, particularly the Amharas and Oromos, and severely criticized the Government for being ethnocentric.

The Government continued to control all radio and television broadcast media. Although the law allows for private radio stations, a regulatory mechanism was not in place, and there were no independent radio stations. Broadcasting time on state-run Radio Ethiopia was sold to private groups and to individuals who wanted to buy spots for programs and commercials. The Government operated the sole television station and tightly controlled news broadcasts. In September, the Ethiopian Broadcasting Agency invited interested parties to apply for licenses for two new private FM stations, although no applications were filed by year's end. The Broadcasting Law prohibits political and religious organizations from owning broadcast stations. Foreign ownership is also prohibited.

There were no restrictions on access to international news broadcasts. Ownership of private satellite receiving dishes and the importation of facsimile machines and modems were permitted; however, access to this technology was restricted by its high cost and the limited capacity of the sole telecommunications entity, the Ethiopian Telecommunications Corporation.

Foreign journalists continued to operate freely and often wrote articles critical of government policies. They or their local affiliates were often granted greater access to government officials than were local independent journalists. Several foreign news organizations staffed offices in Addis Ababa with local journalists who operated free of government restriction.

There were reports that police harassed, beat, and detained journalists during the year. For example, on March 29, armed police beat Atnafu Alemayehu, deputy editor-in-chief of Tobia newspaper and magazine, at Kara Kore in Oromiya State after Atnafu made enquiries into resident's complaints about the demolition of their houses. Atnafu was detained for 1 day and was released after posting bail of \$115 (1,000 Birr) at Alemgena police station. Atnafu appealed to the police station about the beating and confiscation of the tape recorder. Wondwosen Gebrekiidan, former Editor in Chief of Itop newspaper was arrested on December 23 and released on December 31. Shiferaw Ansermu was arrested and released three times during the year, and at year's end, was detained at Addis Ababa Prison.

The Government used statutory provisions on the publication of false information, incitement of ethnic hatred, libel, and publication of articles offensive to public morality to justify the arrest and detention of journalists. Independent journalists accused the Government of selectively applying sections of the penal code to levy charges against them. Journalists were charged, detained, and fined during the year.

For example, in May, Leul Seboka, editor-in-chief of the Amharic weekly newspaper Seife Nebelbal, was charged at the Federal High Court for publishing a poem viewed by the prosecutor as "inciting violence among the public to secede from a region that is established by constitutional order."

Befekadu Moreda, owner and editor-in-chief of the private Amharic weekly newspaper Tomar, was indicted in January by the Federal Prosecutor General for an alleged violation of the Ethiopian Press Freedom Proclamation. The charges stemmed from an article published in 2001 about a 2000 riot in Addis Ababa.

Wossenseged Gebre Kidan, editor-in-chief of the private weekly Amharic-language Ethop, was prosecuted during the year for allegedly publishing a false report in 2002 concerning a terrorist attack on the Tigray Hotel in Addis Ababa.

In June, Tewodros Kassa, the former editor of the private Amharic-language weekly Ethop, was nearing the end of his 2-year prison term, but was newly convicted on 4-year-old criminal defamation charges and sentenced to a further 3 months in prison, and was released after serving the additional sentence.

In April, Debassa Wakjira and Shiferaw Ansermu, two journalists of the state-owned Oromo Service of Ethiopian Television, were arrested for allegedly passing information to the OLF. The two journalists were arrested with officials of the MTA (see Section 1.d.). All except Shiferaw Ansermu were released.

At year's end, one journalist was in prison on press charges, approximately 54 journalists remained in self-imposed exile, and a number of journalists in the country were facing criminal charges.

There were reports during the year that 10 journalists from the government media and the private press fled the country or were missing. There were reports that three Ethiopian Television journalists (Mohammed Ahmed, Keriyat Ismael, and Lemlem Fanta) had fled the country for Kenya. No details were available on why the journalists had fled.

All official media received government subsidies; however, the official media were legally autonomous and responsible for their own management and partial revenue generation. The Ministry of Information was the Government's official spokesperson and managed contacts between the Government, the press, and the public; however, the Government routinely refused to respond to queries from the private press and often limited its cooperation with the press to the government-run Ethiopian News Agency, the EPRDF-controlled Walta news agency, and correspondents of international news organizations. The Prime Minister's office continued to deny all access to the independent press for coverage of official events at the Prime Minister's office, limiting such coverage and access to government media representatives. Reporters admitted that they routinely practiced self-censorship.

The Ministry of Information required that newspapers show a bank balance of \$1,150 (10,000 Birr) at the time of their annual registration for a license to publish. This sum effectively precluded some smaller publications from registering. Permanent residency also was required for publishers to establish a newspaper. The Government did not require residency for other business owners, and some independent journalists maintained that the residency requirement was used as a form of intimidation. The press law requires all publishers to provide free copies of their publications to the Ministry of Information on the day of publication.

The majority of private newspapers as well as government newspapers were printed at government-owned presses; however, there were no reports that the independent media was unable to print articles. Police had the authority to shut down any printing press without a court order, but did not exercise that power during the year.

The former Ethiopian Free Press Journalists Association (EFPJA) and its leadership remained banned throughout the year. A new association, bearing the same name, was established and new executive officers were elected in January at a meeting facilitated by the Ministry of Justice. In February, the Ministry of Justice gave recognition to the newly elected leadership of EFPJA. Representatives of the old EFPJA continued to protest the Government's ban on the original association and its leaders, and filed charges against the Ministry of Justice claiming that the ban was illegal and politically motivated. A court ruled the original EFPJA had to be reinstated, but the Government had yet to do so at year's end.

The Ethiopian Women's Media Association, which included both government and private journalists, remained active during the year. The association organized training and workshops and published a journal.

The Government did not restrict Internet access.

The Government restricted academic freedom during the year. The Government maintained that professors could do research in any field in their discipline but that they could not espouse political sentiments. Teachers at all levels were not permitted to deviate from official lesson plans. AAU students were prohibited from forming associations on the basis of their ethnicity. Political activity was discouraged on university campuses. There were unconfirmed reports that uniformed police officers were visible on campuses and that plainclothes security officers tried to blend in with the student body. While student governments were permitted, many students refrained from involvement in any on-campus activity that could be considered political in nature by the Government. According to a 2002 survey conducted by the ETA of 280 public universities and secondary schools throughout the country, nearly 90 percent of the school directors and vice-directors of those schools belonged to the ruling party or its affiliates. Students and teachers were arrested during the year (*see* Section 1.d.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Organizers of large public meetings or demonstrations must notify the Government 72 hours in advance and obtain a permit. There were several reports during the year that permits were denied to opposition political parties. Opposition parties also reported long, unexplained delays by the regional authorities in issuing permits and last minute revocations of permits.

Opposition political parties reported that their supporters were the targets of frequent and systematic violence by ruling party supporters during the year, often after leaving meetings (see Sections 1.c., 1.d., and 3).

The AEUP, SEPDC, and ONC charged the district and regional authorities with deliberately obstructing their attempts to hold public meetings. The independent ETA continued to encounter government restrictions while attempting to hold meetings or demonstrations.

After notifying government officials, MTA organized a peaceful demonstration on January 4, where approximately 10,000 Oromo residents of Addis Ababa and its environs gathered at Meskel Square in the city center to urge the federal Government to reverse its decision to transfer the capital of Oromiya from Addis Ababa to Adama (formerly known as Nazret). Police reportedly beat and arrested demonstrators including elders, youth, and women. The Government claimed that the MTA did not have the required permit to conduct the rally. All demonstrators were released and no action was taken against the police.

A January protest by Oromo students at AAU resulted in several hundred arrests and the subsequent expulsion of 330 students. During their 2-day detention, many of these students were forced to kneel on gravel for hours (see Section 1.c.).

In March, the residents of Aby Adi, a town in Tigray region, conducted a peaceful demonstration, protesting the lack of electricity, usable roads, and running water. Three members of the Tigray People's Liberation Front (TPLF) Central Committee reportedly threatened to arrest the organizers of the demonstration if they did not apologize. According to reports, the Government also sent security agents to prevent any further protests. The Government rejected requests to hold similar protests in the Tigrayan towns of Maichew and Samre.

In March, police broke up an authorized protest march by students at Alemaya Agricultural University, protesting the move of Oromiya's capital to Adama and demanding the release of detained AAU students. Police arrested some protesters before the protest left the campus, according to press reports. There were numerous reports of protest-related arrests of students across the Oromo region early in the year (see Sections 1.c., 1.d., and 5).

The Government has still not released the results of its investigation into the 2002 demonstration in Awassa, the capital of the Southern Region, in which police killed and injured dozens of peaceful protesters. No further information was available on the status of the individuals arrested in cases related to the Awassa demonstration and the killing of the head of the Southern Region's education bureau, some of whom were held incommunicado.

No further action was taken against security forces who forcibly dispersed demonstrations in 2003 or 2002. It was unknown at year's end if persons detained in previous years for holding illegal meetings remained in detention.

The Constitution provides for freedom of association and the right to engage in unrestricted peaceful political activity; however, the Government limited this right in practice. A number of policy issues regarding NGOs remained unresolved, including the ability of NGOs to enter into formal network arrangements that would enable them to pool funds. However, there was some improvement in transparency of the NGO registration process. The Ministry of Justice administers primary registration. The Government continued to deny an operating license to the Human Rights League (see Section 4).

As provided by law, the Government required political parties to register with the National Election Board (NEB). Parties that did not participate in two consecutive national elections were subject to deregistration. There were approximately 69 organized political parties; 13 were national parties, and the remainder operated in limited areas. There were no reports during the year that any political party had its registration revoked.

During the year, the Government repeatedly arrested persons allegedly involved with the MTA, including the president, vice president, members of the executive committee and staff, and two gate guards. Some arrests appear to have been made without warrants, and some detentions continued despite court orders to release suspects (see Section 1.d.). The organization complained of illegal searches of its premises. In July, the Government suspended the MTA's permit to operate, effectively banning the organization, on the basis of its alleged involvement in organizing several acts of violence, including a grenade attack in AAU that killed a student.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, on occasion local authorities infringed on this right. The Ethiopian Orthodox Church (EOC) and Islam are the dominant religions, accounting for nearly 90 percent of the population.

The Government required that religious groups be registered. Religious institutions register with the Ministry of Justice and must renew their registration every year. However, the EOC has yet to register and has never suffered ramifications for not registering. Similarly, the Ethiopian Islamic Affairs Supreme Council (EIASC), after registering in 1995, reportedly has never reregistered after it protested this requirement to the Prime Minister. Protests from other religious groups over these exceptions have not resulted in equal treatment from the Government.

Under the law, a religious organization that undertakes development activities must register its development wing separately as an NGO. Religious groups were given free government land for houses of worship, schools, hospitals, and cemeteries; however, the title to the land remained with the Government, and the land, other than that allocated for prayer houses or cemeteries, could be taken back at any time.

Minority religious groups reported discrimination in the allocation of government land for religious sites. A traditional animist Oromo religious group was banned after being found to be involved in unspecified illegal activities. The group's leaders were suspected of having close links to the OLF and MTA. Protestant groups occasionally reported that local officials discriminated against them when seeking land for churches and cemeteries. Evangelical leaders reported that because they were perceived as "newcomers" they remained at a disadvantage compared with the EOC and the EIASC in the allocation of land. The EIASC reported that it had more difficulty obtaining land from the government bureaucracy than the EOC while others believed the EIASC was favored for mosque locations. Many mosques were built by squatters without city government approval and since have been targeted for demolition.

The Government did not issue work visas to foreign religious workers unless they were attached to the development wing of a religious organization.

While some Muslim leaders complained in the past that public school authorities sometimes interfered with their free practice of Islam because they prohibited the wearing of headscarves in schools, the leaders reported that the Ministry of Education has accepted the practice of headscarves in schools not only in Addis Ababa but also in regional areas.

Some religious property confiscated under the Mengistu regime has not yet been returned.

Unlike in previous years, there were no violent interfaith clashes during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted some of these rights in practice.

In the Gambella region throughout the year, the Government monitored and sometimes controlled the passage of relief supplies and access by humanitarian organizations, explaining that it was doing so as a matter of safety and security for those planning to travel in the region. For a period following the December 13, 2003 incident, travel was restricted.

The law requiring citizens and residents to obtain an exit visa before departing the country was eliminated in July. Eritreans and Ethiopians of Eritrean origin had their status regularized by the Government.

Exile is prohibited and there were no reports of forced exile during the year. A number of persons remained abroad in self-imposed exile, including 54 journalists (*see* Section 2.a.).

During 2003, 1,579 cases of Eritrean civilians waiting to return to Eritrea in the country were pending with the ICRC. There were several ICRC overseen returnee occasions during the year. Most Eritreans and Ethiopians of Eritrean origin were registered with the Government and held identity cards and 6-month residence permits that allowed them to gain access to hospitals and other public services. However, there were unsubstantiated anecdotal reports that indigent Eritreans were denied the right to seek free medical services by government officials at the local level.

In 2002, the Government transferred at least 200 Eritrean military deserters who had been held at the Dedesa detention center to a northern refugee camp. UNHCR processed 178 cases in 2002 and 94 during the year for resettlement to third countries. At year's end, it was unknown whether additional cases were still pending. As a result of the 1998 to 2000 war with Eritrea, thousands of persons were displaced internally. Of the approximately 350,000 IDPs resulting from the border war, approximately 225,000 IDPs have been resettled.

Due to violent clashes between different ethnic groups during the year, thousands of persons were killed, injured, or internally displaced (*see* Section 5).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing such protection. Parliament passed a national refugee law during the year, but the law has not yet been published in the national gazette and thus has not yet taken effect. In practice, the Government generally provided for protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government generally cooperated with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and returning citizens.

As of September, the country hosted approximately 121,000 refugees, down from 128,610 refugees at the end of 2003. Of these, some 89,000 Sudanese refugees were located in 5 refugee camps in the west. As the result of the ongoing repatriation program in the eastern camps, the number of Somali refugees decreased to about 23,000 at 2 camps, Aysha and Kebribeyah. The Hartishek camp closed in July. The Government, in cooperation with the UNHCR, continued to provide temporary protection to refugees from Sudan and Somalia.

Approximately 24,500 Nuer and Dinka refugees remained in Fugnido camp in Gambella Region at year's end. Plans to move all Nuer and Dinka refugees from Fugnido camp were delayed indefinitely after unknown assailants, allegedly local ethnic Anuaks, attacked a vehicle carrying local government refugee officials, and killed eight persons in December 2003; the officials were enroute to the proposed new camp site in the Odier-Bol area (see Section 5).

In May, Eritrean refugees were moved from the Wa'ala Nhibi temporary camp to a new permanent refugee camp further from the border. The new camp, Shimelba, holds approximately 8,200 Eritrean refugees, approximately 4,200 of whom were ethnic Eritrean Kunamas. The Shimelba camp had only marginal health, education, water, and sanitation facilities.

The conflict between ethnic groups in the Gambella Region complicated UNHCR refugee protection efforts (see section 5). Food deliveries to refugees continued in spite of the crisis in the west; however, humanitarian organizations were unable to adequately monitor food deliveries due to travel restrictions.

Early in the year, there were unconfirmed reports of conflicts between refugees and local residents over scarce resources.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised their right to vote in the 2000 national elections that were generally free and fair in most areas but were also marred by serious irregularities. The Constitution grants universal adult (18 years of age) suffrage, establishes periodic elections by secret ballot, and allows citizens to take part in the conduct of public affairs, directly and through freely chosen representatives; however, in practice the EPRDF ruling party dominated the Government.

According to observers organized by EHRCO, local U.N. staff, diplomatic missions, political parties, and domestic NGOs, the 2000 national elections and the 2001 regional elections were generally free and fair in most areas but were marred by serious irregularities, including killings, disappearances, voter intimidation and harassment, and unlawful detentions of opposition party supporters, particularly in the Southern Region.

Opposition parties accused the NEB of being an instrument of the ruling party and of failing to take meaningful action upon being informed of electoral irregularities, including ballot stuffing, vote count fraud, bribery, killings, beatings, and widespread intimidation and harassment by ruling party supporters during the 2000 and 2001 elections.

The constitutionally mandated national census, which determines popular representation in the Federal Parliament, was scheduled to be held during the year but was postponed indefinitely due to lack of funds. There were great disparities in regional representation in the Federal Parliament, based on 1994 census figures and 1995 voter registration. In 2003, the State Minister of Federal Affairs publicly acknowledged that the country's nomadic communities, estimated at 7 million persons, were still being excluded from effective democratic representation.

Of 548 seats in the House of Peoples' Representatives (HPR), the ruling EPRDF coalition or its affiliate parties held 496 seats. The EPRDF itself continued to be dominated by the Tigrayan ethnic group. The EPRDF-affiliated TPLF occupied 40 seats, but its influence in politics was far greater than its numbers would suggest. The EPRDF, its affiliates, and EPRDF supporters controlled all seats in the 108-member House of Federation, whose members were appointed by regional govern-

ments and by the federal Government. In the Southern Region, opposition party members held approximately 7 percent of the seats in the Regional Council.

Elections for the Somali Region that were originally scheduled for 2001 were finally held on January 25. EHRCO reported the regional election was marred by significant irregularities; however, the NEB reviewed the allegations and disputed them.

Membership in the EPRDF conferred advantages upon its members, and the party owned many businesses and awarded jobs to loyal supporters. In addition to the Government, only the TPLF was allowed to operate radio stations (*see* Section 2.a.).

The major opposition parties continued a slow process of consolidation. The Ethiopian Medhin Democratic Party, 1 of the 15 political organizations that constituted the Union of Ethiopian Democratic Forces (UEDF), opened its first office in the country in June.

In August, the Government announced that it was willing to talk to the UEDF about concerns that the EPRDF had previously rejected outright, such as a restructuring of the NEB to remedy a perception of bias in its composition, the equitable distribution of media airtime access among competing parties, the presence of international observers at the May 2005 national elections, and revision of electoral laws the UEDF believes unfairly advantage the EPRDF. After meeting with the UEDF in October, the EPRDF accepted many of the UEDF's requests such as access to media airtime and international observers.

Registered political parties must receive permission from regional governments to open local offices. Opposition parties, such as the AEUP and the Konso Peoples Democratic Union (KPDU), reported that the pattern of widespread intimidation and violence directed against members of opposition political parties by local government officials continued throughout the year. Hundreds of cases were reported by the AEUP, KPDU, and other parties or by the press. Such cases ranged from public insults of opposition party members by local officials at civic events to bombings, house burnings, property confiscation, and murder. In many of the cases reported, opposition members were allegedly told they must resign from or denounce their party membership if they wanted access to fertilizer, other agricultural benefits, health care, or other benefits controlled by the Government. Party meetings were often disrupted or unlawfully banned.

The KPDU reported that in late 2003 and early in the year, the EPRDF closed KPDU offices in Fasha, Toka, Kamale, Fichucha, and Tara, and dissolved the KPDU-dominated Abaroba and Jarso Local Councils. These were replaced with councils dominated by EPRDF members. Arrests and beatings of KPDU members also were reported.

According to AEUP reports, on February 29, stones were thrown at the house of AEUP member Bekele Tadesse, a resident of Ankober. On March 7, a bomb was thrown at the house of Zemedkun Gebre Kidane, chairman of the AEUP organizing committee in Ankober District.

Political participation remained closed to organizations that have not renounced violence and do not accept the Government as a legitimate authority.

The Addis Ababa Municipal Council was dissolved by the Government in October 2002, and members were replaced by interim members belonging entirely to the ruling party. Under the Addis Ababa Charter, elections to fill those seats should have been called within one year of the council's dissolution. These elections did not take place by year's end.

The Ministry of Justice has primary responsibility to combat corruption. According to the U.N., there was relatively little bureaucratic corruption, although bureaucratic delays and difficulties existed. A combination of social pressure, cultural norms, and legal restrictions were used to combat corruption. Nevertheless, the lack of transparency in the frequent cancellation of telecommunications, power, and other infrastructure tenders raised suspicions of corruption. In addition, it was believed that government officials manipulated the privatization process as state- and party-owned businesses receive preferential access to land leases and credit.

Since its establishment in 2001, the Ethics and Anti-Corruption Commission has arrested officials, including managers of the Privatization Agency and the state owned Commercial Bank of Ethiopia, and private businessmen and charged them with corruption; however, there have been no major arrests in the last 2 years. It is a criminal offense to give or receive bribes.

The Government publishes its laws and regulations in the national gazette prior to their taking effect.

Of the 19 members of the Council of Ministers, 1 was a woman; 2 other women held ministerial positions, and a number of women held senior positions. There were 42 women in the 548-seat HPR, and 9 of 113 members in the House of Federation were women. Of the 14 members of the Supreme Court, 3 were women.

The government policy of ethnic federalism led to the creation of individual constituencies to ensure representation in the HPR of all major ethnic groups. Nevertheless, small ethnic groups were not represented in the legislature. There were 23 nationality groups in 6 regional states that did not have a sufficient population to qualify for constituency seats; however, individuals from these nationality groups competed for 23 special seats in the 548-seat HPR in the 2000 elections.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated with limited government restriction, investigating and publishing their findings on human rights cases. The Government generally was distrustful and wary of domestic human rights groups; however, its relationship with international NGOs appeared to improve during the year. Two of the most prominent domestic human rights organizations were EHRCO and the Ethiopian Women Lawyers Association (EWLA). The Government routinely discounted EHRCO's reports and labeled it a political organization. The EWLA's primary function was to represent women legally. These and numerous other groups primarily engaged in civic and human rights education, legal assistance, and trial monitoring. However, the Government neither shared information about nor acknowledged the existence of human rights abuses with members of the domestic NGO community.

The Government continued to investigate the Human Rights League at year's end for its alleged ties to the OLF. The League's offices remained closed, and the Government still had not responded to its registration request, despite a court order to do so.

The Government's relations with international human rights NGOs appeared to improve during the year. Several international human rights groups visited the country during the year, and had unrestricted access to areas needing emergency humanitarian assistance. A senior level Amnesty International delegation visited the country for the first time in 10 years, and the African Union's Special Rapporteur on Prisons visited prisons in various parts of the country (*see* Section 1.c.). The Government cooperated with international governmental organizations on human rights issues. Officials of the Federal Security Authority generally were more responsive to requests for information from the diplomatic community.

The Government is required under the Constitution to establish a Human Rights Commission, and an Office of the Ombudsman with the authority to receive and investigate complaints with respect to misadministration by executive branch offices. In August, the Government named Kassa Gebre Haiwot as Human Rights Commissioner and Abay Tekele as Ombudsman. Neither entity was fully operational by year's end.

During the year, the Ministry of Justice began a 3-year program of human rights training workshops for judges, prosecutors, and police as well as community members around the country.

A Parliamentary committee investigated potential government human rights abuses in conjunction with ethnic violence in the Gambella region late 2003 and during the year (*see* Section 5).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, color, sex, language, national origin, political or other opinion, or social status; however, in practice the Government did not effectively enforce these protections.

*Women.*—Domestic violence, including wife beating and marital rape, was a pervasive social problem. There is no specific law regarding domestic violence or sexual harassment. While women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, particularly in rural areas. Social practices obstructed investigations and prosecutions in rape cases, and many women were not aware of their rights under the law. It was estimated that there were more than 1,000 rapes a year in Addis Ababa. The press continued to regularly report on rape cases, particularly where injury to minors resulted. Rape sentences were handed down in line with the 10 to 15 years prescribed by law. During the year, the EWLA conducted research on the number of rapes committed and the number of rape convictions handed down; however, the results had not been released by year's end.

During the year, a court was established to try cases of sexual abuse against women and children (*see* Section 1.e.).

Although illegal, the abduction of women and girls as a form of marriage continued to be practiced widely in the Oromiya and the Southern Regions, despite the Government's attempts to combat this practice. Forced sexual relationships often ac-

accompanied most marriages by abduction, and women often were physically abused during the abduction. Many of those girls married as early as the age of 7, despite the legal marriage age of 18. Abductions led to conflicts among families, communities, and ethnic groups. In cases of marriage by abduction, the perpetrator was not punished if the victim agreed to marry him (unless the marriage was annulled); even after a perpetrator was convicted, the sentence was commuted if the victim married him. There were some signs of growing public awareness of the problem of attacks on women and early marriage; in August a public demonstration took place in Dessie to protest the problem.

The majority of girls underwent some form of FGM. Clitoridectomies typically were performed 7 days after birth and consisted of an excision of the labia. Infibulation, the most extreme and dangerous form of FGM, was performed at any time between the age of 8 and the onset of puberty. According to the findings of a government national baseline survey released in 2003 on harmful traditional practices, 90 percent of women undergo one of four forms of FGM—circumcision, clitoridectomy, excision, and infibulation. The National Committee on Harmful Traditional Practices reported that, according to a national baseline survey, harmful practices against women, including FGM, abduction, and early marriage have declined from over 90 percent to 73 percent since 1992.

The Constitution and the penal code prohibit bodily injury; however, these provisions did not specifically outlaw FGM. The Government continued to update the penal code during the year. The Government also worked to discourage the practice of FGM through education in public schools and through broader mass media campaigns.

The Government took some measures to help eradicate FGM. For example, an official from South Omo Zone, Southern Region, said in July that an official from Hamer District was removed from office for forcing his wife to undergo FGM. The Hamer official subsequently was brought to justice by the District women's affairs bureau. The South Omo Zone Mobilization and Social Affairs Department Deputy Head reported that committees to eradicate harmful traditional practices were established in 197 localities through South Omo Zone. In Eastern Harerge Zone, police arrested 4 women who had allegedly circumcised 62 girls in 1 day; local residents allegedly tipped off the police following an intensive media campaign on the harmful effects of circumcision. Charges against the women were pending at year's end.

Sex workers routinely reported poverty was the underlying cause for resorting to prostitution. Prostitution was generally legal, although it was prohibited for persons under the age of 18. Pimping and benefiting from prostitution was also illegal. Prostitution was a problem.

There were credible reports from the EWLA and the International Organization for Migration (IOM) that many female workers who traveled to the Middle East as industrial and domestic workers were abused (*see* Section 5, Trafficking). In August, the Government opened a new consulate in Dubai, in part to assist Ethiopian women workers who were abused.

The Constitution states that all persons are equal before the law; however, the Government has not yet fully put into place mechanisms for the effective enforcement of these protections. The Family Law sets the legal marriage age for girls at 18, the same as for boys; elevates civil law above customary and religious law; allows for the legal sharing of property for unmarried couples who live together for at least 5 years; eliminates family arbitrators as a means of settling marital disputes in lieu of the court system; allows for the joint administration of common marital property; requires the courts to take into account the situation of children or the weakest member of the family in the event of divorce or separation; and imposes a 6-month waiting period on women seeking to remarry following divorce or the death of a spouse. However, regional councils had authority to determine family law for their respective regions.

Discrimination against women was most acute in rural areas, where 85 percent of the population lived. The civil code and the penal code contained discriminatory regulations, such as the recognition of the husband as the legal head of the family and the sole guardian of children over 5 years old. Domestic violence was not considered a serious justification to obtain a divorce. There was only limited juridical recognition of common law marriage. Irrespective of the number of years the marriage existed, the number of children raised, and joint property, the woman was entitled to only 3 months' financial support if the common law relationship ended. A husband had no obligation to provide financial assistance to his family and, as a result, women and children sometimes were abandoned when there was a problem in the marriage. The law states that any property owned before marriage belongs to the spouse that had it. Any property gained during marriage is shared equally by the husband and wife. Thus a widow is entitled to her 50 percent share of property

gained during the marriage; however, a wife does not have inheritance right to her deceased husband's share.

All land belonged to the Government. Although women could obtain government leases to land, and the Government had an explicit policy to provide equal access to land for women, this policy rarely was enforced in rural communities. According to the EWLA, in nearly all regions women do not have access to land. They cannot inherit land, and the only way for them to gain access to land was via marriage. However, when the husband dies, other family members often take the land from the wife.

In urban areas, women had fewer employment opportunities than men, and the jobs available did not provide equal pay for equal work.

In July, at the urging of a group of activists on women's issues, the head of the NEB publicly endorsed the candidacies of women for Parliament.

*Children.*—The Government supported efforts by domestic and international NGOs that focused on children's social, health, and legal issues, despite its limited ability to provide improved health care and basic education.

Education is compulsory through grade six. By law, primary education is tuition-free; however, despite the increase in the number of schools during the year, there were still not enough schools to accommodate the country's youth, particularly in rural areas. In addition, the cost of uniforms and schools supplies was prohibitive for many families. The Government used a three-shift system in most primary and secondary schools in urban areas to maximize the utilization of classrooms and to provide an opportunity for working children to attend school. In 2003, approximately 43 percent of primary and 70 percent of secondary schools operated in two shifts to maximize the utilization of classrooms. Only 74.4 percent of male primary school-age children and 59.1 percent of female primary school-age children attended school. Girls attended school in fewer numbers than boys, except in Addis Ababa, where girls' attendance was slightly higher at 52.9 percent. Government reports showed that 28.7 percent of the children who attended school left the system before they reached the second grade. Only 22.1 percent of children who began first grade completed eighth grade. The literacy rate, according to the 2001 Child Labor Survey, was 20.6 percent of women, compared with 42.7 percent of men.

In Addis Ababa's police stations, there were 10 Child Protection Units that were staffed by members of an NGO to protect the rights of juvenile delinquents and juvenile victims of crime. Some police officers completed training on procedures for handling cases of child abuse and juvenile delinquency.

Societal abuse of young girls continued to be a problem. FGM was performed on the majority of girls (see Section 5, Women). Other harmful traditional practices included uvulectomy, milk-teeth extraction, early marriage, marriage by abduction, and food and work prohibitions (see Section 5, Trafficking).

In the Afar region of the east, young girls continued to be married to much older men, but this traditional practice continued to come under greater scrutiny and criticism. Indigenous NGOs, such as the Kembatta Women's Self-Help Center and the Tigray Women's Association, also affected societal attitudes toward harmful traditional practices and early marriage. Media accounts suggested increasing awareness of the problem. An account in February from a rural district noted that 74 children in the district had been rescued from marriages at ages as young as 9, through the intervention of the schools and local officials. Pregnancy at an early age often led to obstetric fistulae and permanent incontinence. Treatment was available at only 1 hospital in Addis Ababa that performed more than 1,000 fistula operations a year. It estimated that for every successful operation performed, 10 other young women needed the treatment. The maternal mortality rate was extremely high, partly due to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM, particularly infibulation.

There were some unconfirmed reports that children from the south were transported into Kenya by child traffickers operating adoption rings, and adopted as other nationalities.

Child prostitution continued to be a problem and was widely perceived to be growing. There were a few reports that children were trafficked out of the country in adoption schemes (see Section 5, Trafficking).

Child labor remained a serious problem (see Section 6.d.).

Official government estimates put the number of street children in the country at 150,000 to 200,000, with approximately 50,000 to 60,000 street children in Addis Ababa. UNICEF estimated that there were probably close to 600,000 street children in the country and over 100,000 in Addis Ababa. UNICEF believed the problem was growing worse because of the families' inability to support children due to parental illness and decreased household income. These children begged, sometimes as part

of a gang, or worked in the informal sector (*see* Section 6.d.). Government and privately run orphanages were unable to handle the number of street children, and older children often abused younger children. Due to severe resource constraints, abandoned infants often were overlooked or neglected at hospitals and orphanages. Children sometimes were maimed or blinded by their “handlers” to raise their earnings from begging.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were numerous reports that persons were trafficked to, from, and within the country. Child prostitution was a problem, particularly in urban areas. The penal code applies only to women and children trafficked for the purposes of prostitution; such trafficking was punishable by up to 5 years imprisonment and a fine of \$1,150 (10,000 Birr). Laws provide for fines and prison sentences of up to 20 years. Despite the arrests of suspected traffickers during the year, there were no successful prosecutions of traffickers in persons by year’s end.

Training programs for police officers on the criminal aspects of trafficking were ongoing during the year. These institutions have limited resources and jurisdiction to protect or intervene in cases of prosecution of offending employers.

The country was a source country for women, children, and to a lesser extent men, trafficked for the purposes of sexual exploitation and forced domestic and commercial labor, primarily to the Gulf States and Lebanon. NGOs estimated that between 20,000 and 25,000 persons annually were trafficked internationally. Internal trafficking was also a serious problem. Children and adults were trafficked internally from rural areas to urban areas, principally for involuntary domestic servitude, and also for prostitution and forced labor, such as street vending. There were reports that Ethiopian women may have been trafficked onward from Lebanon to Europe.

NGOs reported that impoverished girls as young as age 11 were recruited to work in houses of prostitution where they were kept uninformed of the risks of HIV/AIDS infection and other sexually transmitted diseases. A 2003 Family Health International Report indicated that customers targeted younger girls because they were believed to be free of sexually transmitted diseases.

According to an NGO report, 60 percent of commercial sex workers were between the ages of 16 and 25. Underage girls worked as hotel workers, barmaids, and prostitutes in resort towns and rural truck stops. Pervasive poverty, migration to urban centers, early marriage, HIV/AIDS and sexually transmitted diseases, and limited educational and job opportunities aggravated the commercial sexual exploitation of children. A few NGOs aided child victims, including the Forum on Street Children-Ethiopia, which provided children forced into prostitution or commercial sexual exploitation with shelter, protection, and return to their families.

IOM reported that trafficking was “increasing at an alarming rate.” A 2003 study by a foreign government on the problem of internal trafficking of women and children confirmed that the problem was pervasive. The overwhelming majority of respondents confirmed that they were trafficked from rural areas to Addis Ababa and other urban centers, lured by false promises of employment. Of the 459 respondents, 46 percent were illiterate and 49 percent had completed no more than a grade 8 education. Upon arrival at their new destinations, 54 percent worked as domestic servants, but that number dropped to 9 percent as the trafficked women and children took jobs in bars, became sex workers, or begged on the street.

Although illegal, the abduction of women and girls as a form of marriage still was practiced widely in Oromiya regions and the Southern Region (*see* Section 5).

Private entities arranged for overseas work and, as a result, the number of women sent to Middle Eastern countries, particularly Lebanon, Saudi Arabia, Bahrain, and the United Arab Emirates, as domestic or industrial workers remained a significant problem during the year. These women typically were trafficked through Djibouti, Yemen, and Syria. The Chief of the Investigation and Detention Center in Lebanon reported that 30,000 Ethiopian women worked in Beirut, the vast majority of whom were trafficked. During the year, the Government also began registering persons seeking employment overseas. Approximately 50 percent of these women were not able to return legally to their home country.

There was almost no government assistance, in the form of counseling or other support services, to trafficked victims who returned to the country. The government provided limited consular assistance in a few cases. EWLA provided limited legal assistance to such victims. The Federal Police’s Women’s Affairs Bureau, in collaboration with the media, continued to implement a public awareness program on the dangers of migrating to Middle Eastern countries.

The National Steering Committee Against Sexual Exploitation of Children was chaired by the Children, Youth, and Family Affairs Department of the Ministry of

Labor and Social Affairs. There were some government initiatives during the year to combat trafficking, including government consultation with IOM to try to resolve the problem. During the year, the Ministry of Labor and Social Affairs reviewed the contracts of prospective domestic workers planning to work overseas and declined approval if the contracts did not appear satisfactory. Immigration officials at the airport also inspected the employment contracts of prospective workers traveling to the Middle East. The Ministry of Labor and Social Affairs had limited success in regulating employment agencies that sent migrant workers to Middle Eastern countries. Some illegal employment agencies escaped government scrutiny and continued to operate. The consulate in Beirut continued to assist women who were trafficked to Lebanon, and a new consulate was opened in Dubai to assist women in the United Arab Emirates.

*Persons with Disabilities.*—The law mandates equal rights for persons with disabilities; however, the Government had no established mechanisms to enforce these rights. Persons with minor disabilities sometimes complained of job discrimination. The Government did not mandate access to buildings or require government services for persons with disabilities. Although the Constitution provides for rehabilitation and assistance to persons with physical and mental disabilities, the Government devoted few resources to these purposes.

There were approximately 6 million persons with disabilities in the country, according to local NGOs. The conflict with Eritrea resulted in numerous soldiers losing limbs, many from landmine explosions. Wheelchairs were not widely available throughout the country. Although there were approximately 800,000 persons with mental disabilities, there was only 1 mental hospital and only approximately 10 psychiatrists in the country. There were approximately 70 NGOs that worked with persons with disabilities. For example, the Amhara Development Association provided vocational training to war veterans with disabilities in Bahir Dar. The Tigray Development Association operated a center in Mekelle that provided prostheses and seed money for business development, training, and counseling for persons with disabilities. The international NGO Landmine Survivors Network provided a number of services to victims of landmine explosions, including counseling and referrals to rehabilitation services.

*National/Racial/Ethnic Minorities.*—There were more than 80 ethnic groups living in the country. The Oromo were the largest single group, accounting for 40 percent of the population. Although many groups influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system has boundaries drawn roughly along major ethnic lines, and regional states had much greater control over their affairs. Most political parties remained primarily ethnically based.

The military remained an ethnically diverse organization; however, diversity was less common in the higher ranks among officer personnel, which was dominated by members of the Tigrayan ethnic group. There were unconfirmed reports that soldiers targeted Oromos for abuse during the year.

There were occasional reports that teachers and other government workers had their employment terminated if they were not of the dominant ethnic group in the region.

There were continued incidents of ethnic conflict during the year, particularly in the western, southern, and eastern parts of the country. The Oromo group and the Government engaged in many clashes. There were also clashes among ethnic groups in Gambella, Southern Nations, and Somali regions.

Kidad Gacha, arrested for killing a woman and a child during inter-clan clashes in Bench-Maji Zone in June 2003, continued to await trial at year's end.

There were multiple clashes early in the year between police forces and Oromo students at a number of schools and universities, including institutions in Addis Ababa, Ambo, Alemaya, Nazereth, Awassa, Dilla, Debre Zeit, Jimma, and Bahir Dar (see Sections 1.c. and 1.d.). Protests were directed in part at the Government's decision to move the capital of the Oromo Region from Addis Ababa to Nazaret (Adama). Following protests by Oromo students at several schools and the expulsion from AAU of 330 students (see Section 2.b.), there were several incidents that resulted in deaths and injuries. In Ambo, hand grenades exploded in a school, killing several students and injuring others. At Alemaya Agricultural College and Adama Technical College, riots between Oromo and Tigrayan students armed with knives and sticks resulted in some severe injuries. A number of reports indicated that some of the Oromo students expelled from their universities were arrested on return to their home areas. In April, approximately 600 Oromo students fled across the border to Kenya. Violence decreased during the latter half of the year, although tensions re-

mained high. By year's end, almost all of the students were reported to have returned.

In some instances, security forces were involved in ethnic clashes during the year, most prominently in the Gambella disturbances that began in December 2003 and continued until May. In December 2003, unknown assailants, presumed to be Anuaks, ambushed a vehicle near the village of Itang, Gambella Region and killed eight government officials of ethnic groups not indigenous to Gambella Region. For 3 days, civilian mobs, with police and military present, killed more than 100 members of the Anuak tribe in retaliation. Parliament appointed a commission to investigate the killings and the possible involvement of the military in killing civilians. The parliamentary commission found that 65 persons had died, and that government soldiers killed 13 of them. Other accounts, including from a Parliament member from Gambella who witnessed the incident, indicated the number killed by the military was considerably higher.

Sporadic episodes of violence in the Gambella region between armed indigenous Anuaks on one side, and government forces and settlers from highland areas on the other, continued throughout the first half of the year. Some incidents were severe: Fighting between soldiers and Anuaks near Fugnido in late January reportedly resulted in 50 deaths, including civilians, and clashes near Dimma on January 29 and 30 left 196 persons dead. Many schools and clinics in the area outside Gambella were looted and burned; and farming was all but abandoned.

On June 9 and 10, 54 persons died in clashes between the Ogaden and Mejerti tribes in Warder Zone, Somali Region. The cause of the clashes remained unclear at year's end.

By year's end, there were no further developments in cases of ethnic violence from previous years. According to SEPDC, 12 of 127 members detained in connection with the 2003 violence in Tepi were released from jail in October. The rest were charged with inciting a riot and their cases remained pending at year's end.

Unlike in previous years, there were no reports of ethnic conflicts between refugees and local residents.

Unlike in previous years, there were no official reports of discrimination against Eritreans.

*Other Societal Abuses and Discrimination.*—Homosexuality is illegal and punishable by simple imprisonment and in defined aggravated cases for not less than 3 months or more than 5 years. Where children under 13 years of age are involved, imprisonment of 5 to 25 years is provided. While homosexuality was not widely accepted by society, there were no reports of violence against homosexuals.

Societal discrimination against persons with HIV/AIDS continued during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides most workers with the right to form and join unions; however, the law specifically excludes teachers and civil servants, including judges, prosecutors, and security service workers, from organizing unions. There was government interference in unions during the year.

The minimum number of workers required to form a union was 20. All unions had to be registered; however, the Government retained the authority to cancel union registration. There were no reports that the government used this authority during the year. The law stipulates that a trade organization may not act in an overtly political manner. Approximately 300,000 workers were union members.

Seasonal and part-time agricultural workers were not organized. Compensation, benefits, and working conditions of seasonal workers were far below those of unionized permanent plantation employees.

The independent ETA was a target for government harassment. Although the Government recognized ETA, all public school teachers were required to subsidize the government-created and controlled teacher's union (also called ETA) with mandatory monthly contributions of \$0.23 (2 Birr) that were automatically withheld from their monthly salaries.

In late 2003, the Federal High Court settled a 10-year-old court case, ruling that the Government's ETA had no legal standing or claim on the property of the independent ETA, and that the assets of the independent ETA's should be returned to it and its offices reopened. The new ETA appealed to the Supreme Court early in the year. The Supreme Court instructed the federal High Court to reinvestigate the case, and that investigation continued at year's end.

Complete government control of the Confederation of Ethiopian Trade Unions (CETU)'s executive committee continued throughout the year.

The law prohibits anti-union discrimination by employers against union members and organizers; however, unions reported that union activists frequently were fired. Unlawful dismissal legal suits often took years to resolve because of case backlogs

in the labor courts. According to labor leaders, a number of court cases in which workers were terminated for union activities were pending after 4 or 5 years. There were grievance procedures for hearings on allegations of discrimination brought by individuals or unions. Employers found guilty of anti-union discrimination were required to reinstate workers fired for union activities.

*b. The Right to Organize and Bargain Collectively.*—The Constitution protects the right of collective bargaining for most workers, and in practice the Government allowed citizens to exercise this right freely. Labor experts estimated that more than 90 percent of unionized workers were covered by collective bargaining agreements. Wages were negotiated at the plant level. Some efforts to enforce labor regulations were made within the formal industrial sector. There are no export processing zones.

In November 2003, the Parliament ratified amendments to Labor Proclamation 42, the main body of labor laws in the country that strengthen workers' positions in the event of termination; allow for multiple unions in the same undertaking; and restrict the definition of "essential services" as concerns the right of workers in those professions to strike.

Labor Proclamation 42 explicitly gives workers the right to strike to protect their interests; however, it contains detailed provisions that make legal strike actions difficult to achieve, such as a minimum of 130 days advance notice before striking. There has not been a legal strike since 1993. The law requires aggrieved workers first to make efforts at conciliation before striking and includes a lengthy dispute settlement process. These applied equally to an employer's right to lock out workers. Strikes must be supported by a majority of the workers affected.

Workers nonetheless retain the right to strike without resorting to either of these options, provided they give at least 10 days notice to the other party and to the Ministry, make efforts at reconciliation, and provide at least a 30-day warning in cases already before a court or Labor Relations Board.

The law also prohibits workers who provide essential services from striking, including air transport and railway service workers, electric power suppliers, bus operators, gas station personnel, hospital and pharmacy personnel, bank employees, firemen, postal and telecommunications personnel, and urban sanitary workers.

The ILO has noted that the complex regulations of the proclamation and the insufficient resources of the judicial system caused labor disputes to drag on for months and years.

The law prohibits retribution against strikers, but labor leaders said that most workers were not convinced that the Government would enforce this protection. Labor officials said that due to high unemployment and long delays in the hearing of labor cases, some workers were afraid to participate in strikes or other labor actions.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports such practices occurred (*see* Sections 5 and 6.d.) Forced labor could be used by court order as a punitive measure.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws against child labor; however, child labor remained a serious problem, both in urban and rural areas. Under the law, the minimum age for wage or salary employment is 14 years; this age is consistent with the age for completing primary school educational requirements. Special provisions cover children between the ages of 14 and 18, including the prohibition of hazardous or night work. By law, children between the ages of 14 and 18 years were not permitted to work more than 7 hours per day, work between the hours of 10 p.m. and 6 a.m., work on public holidays or rest days, or perform overtime work. The Government defined hazardous work as work in factories or involving machinery with moving parts, or any work that could jeopardize children's health.

The Ministry of Labor and Social Affairs is designated to enforce child labor laws. While the Government made some effort to enforce these regulations within the formal industrial sector, social welfare activists, civic organizers, government officials, and employers agreed that child labor was pervasive throughout the country, particularly in agrarian areas and in the informal sector. In urban areas, numerous children worked in a variety of jobs, including shining shoes, sewing clothes, hustling passengers into cabs, working as porters, selling lottery tickets and other small items, and herding animals. In rural areas, children worked on family and commercial farms and as domestic laborers.

In February 2003, the Ministry of Labor and Social Affairs released the findings of a 2001 ILO-funded survey on child labor. The survey found that 40 percent of children start work before the age of 6. It also found the average number of hours

worked by children ages 5 to 17 during a 1-week reference period was 32.8 hours. Approximately 13 percent of boys and girls between the ages of 5 and 9 worked from 58 to 74 hours a week. More than two-thirds of all children surveyed were giving either all or part of their earnings to their parents or guardians. Reduced household income from poor crop harvests and school dropouts were two contributing factors for the increased incidence of child labor.

Child laborers often were abused. A 1999 study concluded that physical and emotional abuse were twice as common among child workers compared with non-workers, sexual abuse was five times as common, and neglect was eight times as common. Among child workers surveyed, rapes occurred exclusively among child domestic laborers.

The Government's definition of worst forms of child labor included prostitution and bonded labor. During the year, there were reports of forced or bonded labor of children who had been trafficked from the Southern and Oromiya Regions to other regions of the country, to work as domestic servants (*see* Section 5). Young girls reportedly were forced into prostitution by family members (*see* Section 5).

*e. Acceptable Conditions of Work.*—The law mandates a minimum wage of approximately \$14 (120 Birr) per month for all wage earners in both the private and public sectors; in addition, each industry and service sector established its own minimum wage. For example, public sector employees, the largest group of wage earners, earned a minimum wage of approximately \$20 (175 Birr) per month; employees in the banking and insurance sector had a minimum wage of \$23 (200 Birr) per month. According to the Office of the Study of Wages and Other Remuneration, these wages did not provide a decent standard of living for a worker and family. Consequently most families needed to have at least two wage earners to survive, which forced many children to leave school early. In addition, only a small percentage of the population was involved in wage labor employment, which was concentrated largely in urban areas.

Labor Proclamation 42 stipulates a 48-hour legal workweek, consisting of 6 days of 8 hours each, with a 24-hour rest period. In practice, most employees worked a 40-hour workweek of five 8-hour days.

The Government, industry, and unions negotiated to set occupational health and safety standards; however, the inspection department of the Ministry of Labor and Social Affairs enforced these standards ineffectively due to a lack of resources. Enforcement also was inhibited by a lack of detailed, sector-specific health and safety guidelines. Workers had the right to remove themselves from dangerous situations without jeopardizing their employment; however, most workers feared losing their jobs if they were to do so.

Labor laws also protect legal foreign workers.

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## GABON

Gabon is a republic dominated by a strong presidency. The Gabonese Democratic Party (PDG) has remained in power since 1968 and has circumscribed political choice. PDG leader El Hadj Omar Bongo Ondimba, President since 1967, was re-elected for a 7 year term in a 1998 election marred by irregularities. In 2002, legislative by elections were held and resulted in 107 National Assembly seats for the PDG and allied parties and 13 for the opposition. In February 2003, the PDG won a majority of Senate seats. The judiciary remained inefficient and subject to government influence.

The national police, subordinate to the Interior Ministry, and the Gendarmerie, subordinate to the Defense Ministry, were responsible for domestic law enforcement and public security. Elements of the armed forces and the "Republican Guard," an elite, heavily armed unit that protects the President, sometimes performed internal security functions; both were subordinate to the Defense Ministry. The civilian authorities maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The country's mixed economy lacked diversity and depended heavily on foreign trade in oil, manganese, and wood; the population was approximately 1.2 million. The Government dominated the economy through oil refining, telecommunications, and timber export parastatals. Government financial mismanagement and corruption contributed to significant arrears in domestic and external debt payments. Revenues from oil production, which increased slightly in 2003, contributed more than half of the budget of the country. The estimated per capita income was \$4,580; however, the distribution of wealth and social services was extremely uneven.

The Government's human rights record remained poor; although there were improvements in a number of areas, problems remained. The Government continued to limit the ability of citizens to change their government. Security forces sometimes beat and tortured prisoners and detainees, prison conditions remained harsh, and security forces sometimes violently dispersed demonstrations. Arbitrary arrest and detention were problems. Authorities routinely infringed on privacy rights. The Government continued to restrict freedom of the press and movement. Violence and societal discrimination against women and noncitizen Africans continued to be problems. Forced labor, child labor, and trafficking particularly in children remained problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, police forcibly dispersed demonstrations, which resulted in one death during the year (*see* Section 2.b.).

A small number of ritualistic killings reportedly were committed during the year. No official connection to the murders was established, and the Government publicly criticized such practices.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, security forces sometimes beat or tortured prisoners and detainees to extract confessions. Unconfirmed reports from the African immigrant community asserted that police and soldiers occasionally beat noncitizen Africans during operations to round up and deport illegal immigrants. During the year, the U.N. High Commission for Refugees (UNHCR) confirmed that it received reports from its regional offices that security forces continued to harass and extort from refugees.

In November, there were unconfirmed press reports that police at the Ministry of Foreign Affairs allegedly raped a girl after detaining her for an identity card check. The girl reportedly was afraid to file a complaint, and no action was taken against the perpetrators.

Police violently dispersed demonstrations, which resulted in injuries (*see* Section 2.b.).

There continued to be reports that practitioners of certain traditional indigenous religions inflicted bodily harm on other persons.

Conditions in most prisons were harsh. Food, sanitation, and ventilation were poor, and medical care was almost nonexistent. Women were held separately from men, juveniles were held separately from adults, and pretrial detainees were held separately from convicted prisoners. There were no known visits by human rights monitors to prisons during the year; however, there were no reports that the Government impeded such visits.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the Government did not always observe these prohibitions.

The police, who are responsible for law enforcement and public security, were inefficient, and police response times were slow. The national Gendarmerie is responsible for internal security and setting up checkpoints. Corruption was a serious problem, and security forces often used bribes at checkpoints to supplement their salaries.

The law provides up to 48 hours for initial detention, during which police must charge a detainee before a judge; however, in practice, police rarely respected this timetable. Charges often were not filed expeditiously, and persons often were detained arbitrarily for short periods and occasionally detained for long periods. At arraignments, bail may be set if further investigation is required.

During the year, police arbitrarily arrested demonstrators (*see* Section 2.b.).

The Government occasionally arrested opposition leaders (*see* Section 2.b.). For example, in January, security forces detained Gerard Ella Nguema, the leader of the National Gathering of Republicans Party, and several of his colleagues on charges of counterfeiting, coup plotting, and attempting to blow up government buildings; all were subsequently released, and Nguema reportedly agreed to support the PDG during the 2005 presidential election. No further information was available.

Members of the security forces frequently detained individuals at roadblocks under the guise of checking vehicle registration and identity papers. Security forces frequently used such operations to extort money.

Pretrial detainees have the right to free access to their attorneys; this right was generally respected. Detainees have the right to an expeditious trial; however, in

practice, overburdened dockets resulted in prolonged pretrial detention. Pretrial detention, limited to 6 months for a misdemeanor and to 1 year for a felony charge, may be extended for 6 months by the examining magistrate. Approximately 40 percent of persons in custody were pretrial detainees.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary remained susceptible to government influence. The President appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is responsible. The judiciary was inefficient.

The judicial system includes regular courts, a military tribunal, and a civilian High Court of Justice. The regular court system includes trial courts, appellate courts, and the Supreme Court. The Constitutional Court is a separate body charged with examining constitutional questions, including the certification of elections. The High Court of Justice is constituted by the Government as required to consider matters of security.

Systemic resource and personnel shortages in the judiciary often contributed to prolonged pretrial detention (*see* Section 1.d.).

The Constitution provides the right to a public trial and the right to legal counsel, and the Government generally respected these rights. Nevertheless, a judge may deliver an immediate verdict of guilty at the initial hearing in a state security trial if the Government presents sufficient evidence.

Minor disputes may be taken to a local chief, particularly in rural areas; however, the Government did not recognize such decisions.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not respect these prohibitions in practice. As part of criminal investigations, police may request search warrants from judges, which they obtained easily, sometimes after the fact. The Government sometimes used search warrants to gain access to the homes of opposition figures and their families (*see* Section 2.b.).

During the year, security forces conducted warrantless searches for illegal immigrants and criminals using street stops and identity checks.

Authorities reportedly routinely monitored private telephone conversations, personal mail, and the movements of citizens.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and although citizens generally continued to speak freely and to criticize the Government, the Government continued to restrict press freedom. Legislators in the National Assembly openly criticized government policies, ministers, and other officials. The Government did not restrict academic freedom.

The only daily newspaper was the government affiliated *L'Union*. Approximately nine privately owned weekly or monthly newspapers represented independent views and those of various political parties; however, most appeared irregularly due to financial constraints or in some cases, government suspension of their publication licenses. All newspapers, including *L'Union*, criticized the Government and political leaders of all parties, but not the President. Foreign newspapers and magazines were available widely.

The Government owned and operated two radio stations that broadcast throughout the country. Much of their news coverage concerned the activities of government officials; however editorials sometimes criticized specific government policies or ministers. Seven privately owned radio stations were operating at year's end; most were apolitical. International radio stations, including Voice of America and Radio France International, broadcast locally.

The Government owned and operated two television stations, RTG 1 and RTG 2. Four privately owned television stations transmitted 8 hours per day. Satellite TV reception was available.

On March 8, security forces arrested and detained Alfred Ngamba, a journalist for *Le Nganga*, for defamation, "telephone harassment," and "attempting to extort money"; Ngamba had published an article alleging that an NGO president was having an affair. On March 19, Ngamba was acquitted of all charges and released.

Unlike in the previous year, the National Communications Council did not suspend the publication of newspapers that criticized the Government; however, the 2003 suspensions of satirical weeklies *Misamu* and *Sub Version* and the bi monthly newspaper *Sagaie* remained in effect. None of the three newspapers had resumed operation by year's end.

The Communications Code stipulates that penalties for libel and other offenses include a 1- to 3-month publishing suspension for a first offense and a 3- to 6-month

suspension for repeat offenses. Editors and authors of libelous articles can be jailed for 2 to 6 months and fined \$700 to \$7,000 (500,000 to 5 million CFA francs). Libel can be either a criminal offense or a civil matter. The law authorizes the Government to initiate criminal libel prosecution against persons for libeling elected government officials; it also authorizes the State to criminalize civil libel suits.

The Government did not restrict access to the Internet.

In January, the Government closed a secondary school in Libreville after students rioted to protest the Government's failure to provide free bus transportation; the school subsequently reopened.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, on occasion, security forces violently dispersed demonstrations and strikes. The law requires that groups obtain permits for public gatherings in advance, and the Government usually granted them.

In September, gendarmes in Ngounié province shot five protesters, including a student, during a demonstration to demand the return of electricity to Mandji-Dibangwui village; the student died, and numerous demonstrators were injured. After learning of the death, residents of the town attacked the Lebamba gendarmerie brigade headquarters and beat to death two gendarmes, including the brigade chief. The alleged killers of the gendarme officers were detained, charged, and awaiting trial at year's end; however, no action was taken against those responsible for the student death. There were unconfirmed reports that police used torture to extract information from the villagers regarding the identity of those responsible for the gendarme deaths.

On November 15, police shot into the air and used tear gas to disperse a demonstration led by Herve Patrick Opiangah, a local businessman who founded the Democratic Union for Social Integration (JDIS) in 2002; several demonstrators were injured. The demonstrators were protesting the Interior Ministry's refusal to register the party despite three legitimate applications and a ruling in the party's favor by the Constitutional Court. Security forces subsequently searched Opiangah's house and allegedly discovered weapons; Opiangah was detained on weapons charges and awaiting trial at year's end.

No action was taken against security forces who forcibly dispersed demonstrations in 2003.

The Constitution provides for the freedom of association; however, the Government did not always respect this right in practice.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respected this right in practice.

Some Protestant denominations alleged that the government television station accords free broadcast time to the Catholic Church but not to minority religious groups. Others alleged that the armed forces favor Roman Catholics and Muslims in hiring and promotions.

The Ministry of the Interior maintained an official registry of religious groups; however, it did not register traditional religious groups. The Government did not require religious groups to register but recommended that they do so to assemble with full constitutional protection.

The Government has refused to register approximately 10 religious groups, including Jehovah's Witnesses. A decree banning Jehovah's Witnesses remained in effect; however, the Government did not enforce the decree.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government frequently restricted them in practice. There were no legally mandated restrictions on internal movement; however, police and gendarmes continued to stop travelers frequently to check identity, residence, or registration documents, and members of the security forces harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. Some members of the security forces extorted bribes and demanded services with threats of confiscation of residency documents or imprisonment. Residency permits cost up to \$150 (100,000 CFA francs), and first time applicants also must provide the cost of a one way air ticket to their country of origin. In theory, but usually not in practice, the Government refunds the cost of the air ticket when the individual departs the country permanently.

The Government intermittently enforced an internal regulation requiring married women to obtain their husbands' permission to travel abroad. During the year, there were numerous reports that authorities refused to issue passports for travel abroad with no explanation. There also were reports of unreasonable delays in obtaining passports, despite a government promise in 2003 to process passports within 3 days.

During the year, opposition leader Pierre Manboundou, President of the Union of the Gabonese People Party, repeatedly was denied a passport, allegedly for political reasons.

The law prohibits forced exile, and the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. However, refugees have complained about widespread harassment, extortion, and detentions by security forces. At year's end, approximately 13,500 refugees remained in the country, including 12,000 from the Republic of the Congo.

Following an alleged coup attempt in Equatorial Guinea in June that originated from Gabonese territory, refugees and émigrés from Equatorial Guinea were reportedly deported at the request of the Equatorial Guinean Government without due process or a confirmed link to the coup attempt.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, mismanagement and serious irregularities in both the 1998 presidential elections and the 2001 legislative elections limited this right in practice. A single party, the PDG, has remained in power since its creation by President Bongo Ondimba in 1968, and political choice has remained limited.

The country is dominated by a strong Presidency. While the legislature is not in session, the President can veto legislation, dissolve the national legislature, call new elections, and issue decrees that have the force of law. The legislature generally approved legislation presented to it by the President. The President appoints ministers of government and heads of parastatals.

President Bongo Ondimba, who has been President since 1967, was re elected for another 7 year term in a 1998 election marred by irregularities that generally favored his incumbency, including incomplete and inaccurate electoral lists, and the use of false documents to cast multiple votes. In July 2003, the Constitution was amended to remove all term limits.

In 2002, legislative by elections were held to fill seats nullified in the 2001 legislative elections, which resulted in the PDG and allied parties holding 107 and the opposition holding 13 seats in the National Assembly.

Senatorial elections were held in February 2003, and the PDG won a majority of the 91 seats. There were widespread reports of irregularities, and the elections were considered neither free nor fair. Municipal and regional government officials elect the senators, who serve 6-year terms. All the senators were either members of the PDG or of political parties linked to the PDG.

The ability of citizens to choose provincial governments remained limited in practice. Provincial governors, prefects, and sub prefects were officers of the central Government responsible to and appointed by the President. Mayors and municipal councils were elected; however, municipal governments had limited financial autonomy and depended heavily on funding from the central Government.

In 2002, countrywide municipal elections were held. The PDG party won 85 percent of all seats; however, the level of voter participation was low, below 10 percent in some precincts.

Opposition parties included the Union for Gabonese People (UPG) and the Gabonese Progressive Party (PGP). The PGP was supported in Port Gentil, the center of the country's petroleum industry, and among the Myene ethnic group; however, ideological splits and rivalries limited its effectiveness. During the year, several UPG leaders left the party and joined the ruling PDG party.

Official corruption was widespread. During the year, the Government completed appointments to the 10-member anti-corruption commission in the Ministry for the Fight Against Corruption, which was established in 2003; however, the Commission issued no reports and took no action against corrupt officials during the year.

At year's end, 11 of 120 members of the National Assembly, 12 of 91 senators, and 5 of 43 government ministers were women.

Members of all major ethnic groups continued to occupy prominent positions; however, members of the President's Bateke ethnic group and other ethnic southerners held a disproportionately large number of key positions in the military and security forces. The General Chief of Staff, the Minister of Defense, the Chief of the Repub-

lican Guard, and the Minister of Interior were from the same region as the President or from the same ethnic group.

Indigenous Pygmies rarely participated in the political process, and the Government has made only limited efforts to include them (see Section 5).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few independent human rights groups generally operated without government restriction, investigating and publishing their findings. Governmental officials took no actions on the recommendations of such groups.

During the year, the Vice Prime Minister in charge of human rights released a white book that detailed past human rights violations in the country, including graphic pictures. President Bongo wrote a supportive preface to the book, which sharply criticized the country's human rights record.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution forbids discrimination based on national origin, race, gender, or opinion; however, the Government did not enforce these constitutional provisions uniformly, and there was considerable discrimination against women, especially in domestic affairs. Security forces also discriminated against noncitizens. The Government provided a lower level of health care and educational services to children of other African nationalities than it provided to citizens.

*Women.*—Domestic violence against women was believed to be common, especially in rural areas; however, there were few reports of such violence during the year. Police rarely intervened in such incidents, and women virtually never filed complaints with civil authorities. Only limited medical and legal assistance for rape victims was available.

Rape is against the law; however, rape cases were seldom prosecuted.

Female genital mutilation (FGM) was believed to occur among the resident population of noncitizen Africans; however, there were no reports of such practices during the year.

The law prohibits prostitution; however, it was a problem.

The Government and nongovernmental organizations (NGOs) reported cases of female domestic workers (often victims of child trafficking) who were sexually molested by employers.

The law provides that women have rights to equal access in education, business, and investment; however, women continued to face considerable societal and legal discrimination, especially in rural areas. Women owned businesses and property, participated in politics, and worked throughout the Government and the private sector.

By law, couples must stipulate at the time of marriage whether they intend to adhere to a monogamous or a polygynous relationship; polygynous marriages were more common. For monogamous married couples, a common property law provides for the equal distribution of assets after divorce. In a polygynous marriage, a husband is obligated to give all wives the same level of financial support; however, he may marry additional wives without permission from his existing wives.

Wives who leave polygynous husbands received half of their existing support as a one time payment. In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property.

Common law marriage, which was accepted socially and practiced widely, afforded women no property rights.

A regulation requires that a woman obtain her husband's permission to travel abroad; this requirement was not enforced consistently.

*Children.*—The Government publicly expressed its commitment to youth, provided 4,000 academic scholarships during the year, and has used oil revenues to build schools, pay teacher salaries, and promote education, even in rural areas; however, the upkeep of schools and payment of teachers continued to decline. Education is compulsory until age 16 and generally is available through sixth grade; however, fewer than half of secondary school age children attended school. Secondary school attendance rates for immigrant children were lower, although public schools accepted immigrant children, and the Government encouraged them to attend. Students were required to pay for books, uniforms, and other school supplies, which precluded numerous children from attending school. Despite low enrollment, a U.N. agency estimated that 64 percent of women and 78 percent of men were literate.

The country's infant mortality rate was 5.4 percent; at last report, only approximately 16 percent of children had been vaccinated. Although international donors worked to improve the situation, the Government allocated few resources for vaccines or logistical support to administer them. Children remained the responsibility

of the extended family. There was little evidence of physical abuse of children, although there were occasional reports that family members sexually abused girls who had passed puberty. The law provides for protection against child labor and sexual and physical abuse; however, there were no known prosecutions of individuals involved in such activities during the year.

During the year, there were no reports of FGM; however, the practice was believed to continue in the resident population of expatriate Africans.

Concerns about the problems facing the large community of children of noncitizen Africans persisted. Almost all enjoyed far less access to education and health care than did citizen children; some were victims of child trafficking and abuses (*see* Sections 5, Trafficking and 6.d.).

Child labor remained a serious problem (*see* Section 6.d.).

*Trafficking in Persons.*—During the year, the President signed into law a 2003 bill to criminalize child trafficking; however, the country was a destination for trafficked persons, particularly children. The Government did not actively investigate cases of trafficking and has not prosecuted any cases against traffickers; however, individuals accused of trafficking have been deported from the country. There were reports that some trafficked women and children were sexually abused.

According to several local NGOs, children (especially girls), primarily from Benin and Togo, were used as domestic servants or in the informal commercial sector. Nigerian children, also victims of trafficking, reportedly worked in the informal commercial sector as mechanics. Trafficked children generally worked long hours, were subjected to physical abuse, received inadequate food, and received no wages or schooling.

There have been unconfirmed reports that some government officials employed trafficked foreign children as domestic workers, and that individual police and immigration officers were involved in facilitating child trafficking.

UNICEF and the Government sponsored a toll-free assistance hotline for child trafficking victims that provided 24 hour response assistance and arranged free transport to a victims' shelter. The Government also ran a shelter for trafficking victims.

An inter-ministerial committee comprised of representatives from the Labor, Justice, Foreign Affairs, and Family Ministries was involved in anti trafficking efforts. The Government also cooperated with UNICEF. In 2002, the Government and the International Labor Organization (ILO) launched a 3 year project on the prevention of child trafficking and child labor in the country.

*Persons With Disabilities.*—There are no laws that prohibit discrimination against persons with disabilities or provide for access to buildings or services; however, there were no reports of official discrimination against persons with disabilities. There was some societal discrimination against persons with disabilities, and employment opportunities and treatment facilities were limited.

*Indigenous People.*—The Baka (Pygmies) are the earliest known inhabitants of the country. Several thousand Pygmies lived in large tracts of still intact rain forest in the northeast. The law grants them the same civil rights as other citizens; however, Pygmies remained largely independent of formal authority, keeping their own traditions, independent communities, and local decision making structures. Pygmies did not participate in government instituted programs that integrated many small rural villages into larger ones along major roads.

Pygmies suffered societal discrimination, often lived in extreme poverty, and did not have easy access to public services. There were no specific government programs or policies to assist Pygmies.

In 2001, an NGO study of the Bukoya Pygmy population in the northeast found that most Pygmies lived in conditions tantamount to slavery, working on plantations for "Gabonese masters" for one plate of rice and a few cents per day. The NGO described the children born to Pygmy families in these situations as the "property" of the master. A typical family lived on 13 cents per day. According to the NGO, Pygmies who complained about their situation faced the possibility of being beaten.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution places no restrictions on the right of association and recognizes the right of citizens to form trade and labor unions, and workers exercised this right in practice. The small private sector workforce was unionized. Unions must register with the Government to be recognized officially.

While no laws specifically prohibit anti union discrimination, the court may require employers who are found guilty by civil courts of having engaged in such discrimination to compensate employees.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code provides for collective bargaining by industry, not by firm; collectively bargained agreements set wages for whole industries. Labor and management met to negotiate differences, and the Ministry of Labor provided observers. Agreements negotiated by unions also applied to non union workers. There are no export processing zones.

The Labor Code provides for the right to strike after an 8 day notice advising that outside arbitration failed. Public sector employees' their right to strike is limited if a strike could jeopardize public safety. A 2003 social truce signed by the Government, employers, and the country's main trade unions provided for a 3 year hiatus on strikes and the creation of a 35 member mediation committee to negotiate disputes; however, trade unions threatened to strike during the year, charging that the Government and employers had not complied with the social truce agreement.

The Labor Code prohibits direct government action against individual strikers who abide by the arbitration and notification provisions.

After a parastatal palm oil company was privatized during the year, the workers went on strike after being denied promised separation bonuses and learning that government deductions for social security had not been forwarded to the government bureau handling the accounts for decades. The Government, which has not accounted for the funds, informed the workers that they were not eligible for retirement benefits. The dispute was settled peacefully, but at least one union leader reported that he was the recipient of death threats and police intimidation.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, including by children (*see* Sections 5 and 6.d.).

Some Pygmies reportedly lived in conditions tantamount to slavery (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Children below the age of 16 may not work without the express consent of the Ministries of Labor, Education, and Public Health; however, child labor was a serious problem. The Legal Code stipulates fines and prison sentences for violations of the minimum age for work. The ministries rigorously enforced this law in urban areas with respect to citizen children, and few citizens under the age of 18 worked in the formal wage sector; however, child labor occurred in rural areas, where the law was seldom enforced.

An unknown number of children primarily foreign worked in marketplaces or performed domestic duties; many of these children were reportedly the victims of child trafficking (*see* Section 5). Such children generally did not go to school, received only limited medical attention, and often were exploited by employers or foster families. Laws forbidding child labor theoretically extended protection to these children, but abuses often were not reported. A 2001 ILO study estimated that the number of economically active children between the ages of 10 and 14 years was 19,000 to 20,000, but the actual number was probably considerably higher since most children worked in the informal sector.

The Ministry of Justice is responsible for implementing and enforcing child labor laws and regulations. Inspectors from the Ministry of Labor are responsible for receiving, investigating, and addressing child labor complaints. However, the inspection force was inadequate, complaints were not investigated routinely, and consequently, violations were not systematically addressed.

*e. Acceptable Conditions of Work.*—The Labor Code governs working conditions and benefits for all sectors and theoretically provides a broad range of protection to workers; however, the Government sometimes did not respect these protections in practice. According to law, representatives of labor, management, and the Government meet annually to examine economic and labor conditions and to recommend a minimum wage rate to the President, who then issues an annual decree; however, this procedure had not been followed since 1994, in part because the Government was following a policy of wage austerity recommended by international financial institutions. The monthly minimum wage was approximately \$120 (60,000 CFA francs); government workers received an additional monthly allowance of \$40 (20,000 CFA francs) per child. Government workers also received transportation, housing, and family benefits. The law does not mandate housing or family benefits for private sector workers. The minimum wage did not provide a decent standard of living for a worker and family.

The Labor Code stipulates a 40 hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. All companies in the formal sector paid competitive wages and granted the fringe benefits required by law, including maternity leave and 6 weeks annual paid vacation.

The Ministry of Health established occupational health and safety standards, but it did not enforce or regulate them. The application of labor standards varied from company to company and between industries. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The Government reportedly did not enforce Labor Code provisions in sectors where the majority of the labor force was foreign. Foreign workers, both documented and undocumented, may be obliged to work under substandard conditions; dismissed without notice or recourse; or mistreated physically, especially in the case of illegal aliens. Employers frequently required longer hours of work from noncitizen Africans and paid them less, often hiring on a short term, casual basis to avoid paying taxes, social security contributions, and other benefits.

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## THE GAMBIA

The Gambia is a republic under multiparty democratic rule. President Alhaji Yahya A.J.J. Jammeh was re-elected for a 5-year term in 2001 in an election considered free and fair, despite some shortcomings. The main opposition coalition initially accepted the results of the presidential elections but later changed its position and boycotted the legislative elections in 2002. President Jammeh's political party, the Alliance for Patriotic Reorientation and Construction (APRC), won majorities in the National Assembly and most local councils. The multiparty opposition remained weak, but efforts were underway to unify them. Although the courts have demonstrated their independence on occasion, the judiciary, especially at lower levels, was at times corrupt and subject to executive branch pressure.

The Gambian Armed Forces reports to the Secretary of State (Minister) for Defense, a position held by the President. The police report to the Secretary of State for the Interior. The National Intelligence Agency (NIA), responsible for protecting state security, collecting intelligence, and conducting covert investigations, reports directly to the President. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country's market-oriented economy encouraged growth through the development of the private sector. Much of the country's population of 1.4 million was engaged in subsistence farming. The high population growth rate diminished the effects of modest economic expansion in recent years. During the year, per capita gross domestic product increased slightly to \$341.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Despite some election deficiencies, citizens generally were able to exercise their right to change their government through periodic elections. Security forces harassed or otherwise mistreated journalists, detainees, prisoners, opposition members and in some cases, ordinary civilians. Arbitrary arrest and detention were problems; and there were reports of a case of incommunicado detention. Prolonged pretrial detention was a problem. Detainees were denied fair and expeditious trials by a slow, inefficient, and corrupt court system. The country's only known political prisoner was freed in January. The Government at times infringed on citizens' privacy rights. The Government limited freedom of speech and of the press by intimidation and restrictive legislation. Some journalists practiced self-censorship. The Government generally did not restrict freedom of assembly. Violence and discrimination against women were problems. The practice of female genital mutilation (FGM) remained widespread and entrenched. Child labor persisted, mainly on family farms, and there were reports of child prostitution and sexual exploitation. There were reports of trafficking.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were reports that security forces, notably soldiers acting outside the chain of command, beat persons and mistreated civilians. There were occasional reports of torture (*see* Section 2.a.).

The Indemnity Act stipulates that “the President may, for the purpose of promoting reconciliation in an appropriate case, indemnify any person he may determine, for any act, matter or omission to act, or things done or purported to have been done during any unlawful assembly, public disturbance, riotous situation or period of public emergency.” This law continued to prevent victims from seeking redress in some cases. The army requested that victims file formal complaints so that the cases could be investigated; however, there were no known prosecutions in civil courts of soldiers accused of torturing individuals during the year.

On January 28, soldiers shot and injured a driver at a checkpoint. The police reported that the driver failed to stop for a routine check and that the soldiers fired warning shots into the air, then fired at the vehicle shooting the driver in the shoulder. No action was taken against those responsible by year’s end.

On June 23, soldiers playing for the Armed Forces football team beat and handcuffed their rivals’ head coach over accusations of unfairness by the referee.

On October 3, according to the press, a soldier severely beat a 20-year old-woman unconscious. The woman claimed that the soldier beat her for failing to greet him and other soldiers. The soldier who was involved immediately was detained while the Military Police investigated the matter. There were no developments in the investigation at year’s end.

On October 17, a soldier escorting the Vice President’s convoy shot at a motorist for “failing to make way for the convoy” after a delayed vehicle, carrying some soldiers, drove up behind him. A Armed Forces spokesman confirmed the incident and said the matter was under investigation. There were no developments in the investigation at year’s end.

In the following 2003 cases, the soldiers involved were charged, fined, and/or reprimanded by military authorities: The March beating of Karamo Marong, the April beating and detainment of Lamin Cham and Ebrima Ceesay, and the beating of Hassan Jobe, the Chief of the Sanchaba Sulay Jobe village, and members of his family.

Prison conditions at Mile 2, Janjanbureh, and Jeshwang prisons generally met international standards, and the Government permitted visits by independent human rights observers. However, an opposition politician, Lamin Waa Juwara, who was held spent 6 months at Mile 2 Central Prison, criticized the poor diet given to the inmates.

Local jails continued to experience overcrowding. Inmates, including detainees awaiting trial, occasionally had to sleep on the floor; they were provided with mats or blankets. Prison guards were reluctant to intervene in fights between prisoners, and some of the prisoners were injured.

Women were held separately from men. Juveniles were held separately from adults, and pretrial detainees were held separately from convicted prisoners. There was no separate section or facility for political prisoners.

The Government permitted independent monitoring of prison conditions by local and international human rights groups.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, police and security forces at times arbitrarily arrested and detained citizens. Periods of detention generally ranged from a few hours to 72 hours, the legal limit after which detainees must be charged or released.

The police served under the Secretary of State for the Interior. The police generally were corrupt and on occasion acted with impunity and defied court orders.

The law requires that authorities obtain a warrant before arresting a person; however, on occasion individuals were arrested without a warrant. Detainees generally were permitted prompt access to family members and legal counsel.

The Government has not formally revoked military decrees enacted prior to the Constitution that give the NIA and the Secretary of State for the Interior broad power to detain individuals indefinitely without charge “in the interest of national security.” The Constitution provides that decrees remain in effect unless inconsistent with constitutional provisions. These detention decrees appeared to be inconsistent with the Constitution, but they have not been subject to judicial challenge. The Government stated that it no longer enforced these decrees; however, in some instances, the Government did not respect the constitutional requirement that detainees be brought before a court within 72 hours. Detainees often were released after 72 hours and instructed to report to the police station or NIA headquarters periodically until their case went to trial.

During the year, there were cases of detentions that exceeded the 72-hour limit. Former National Assembly Majority Leader Baba Jobe, who was standing trial on charges of economic crimes, and several of his associates, were detained at various police stations in the country between 3 weeks and 2 months without charge. There

were reports that, during part of his detention at the Police Training School, Baba Jobe was held incommunicado.

In October, three senior government officials were dismissed from their jobs for various reasons and detained for more than 72 hours. On October 13, Andrew Sylva was arrested and held for 8 days at the Mile 2 central prison and at the Serious Crime Unit at police Headquarters. Sylva had testified before the Anti-Corruption Commission of Inquiry that President Jammeh had taken a government-owned generator from a government-owned hotel for use at his private residence. On October 21, he was charged with perjury and granted bail. The trial was in progress at year's end.

On October 13, Tamsir Jasseh, the former Director of Immigration, was arrested and held for 5 days before being released without charge.

On October 15, Adama Deen, the former Managing Director of the Ports Authority, was arrested and held for 6 days. There were no charges brought against Deen by year's end.

In November, Kawsu Gibba, National Assembly Member for Foni Kansala; Momodou Lamin Nyassi, Chief of the same district; and seven others were arrested and accused of allegedly selling part of President Jammeh's supposed Ramadan gift of rice and sugar to the people of Foni Kansala. They were detained for more than 72 hours at the Serious Crime Unit and at Mile 2 Central Prison. On December 22, the charges were dropped.

There was a functioning bail system. However, on several occasions, the courts released accused offenders on bail, while the police or other law enforcement agencies rearrested the offenders upon their leaving the court. In November, police ignored a granting of bail in the case of businessman Momodou Jobe. Security guards at the State House arrested Jobe shortly after an audience with the President and took him to prison. He was held for several days before being brought to court to face charges of robbery and fraud. After Magistrate Mbotto set Jobe free on bail, police re-arrested Jobe as he left the courthouse. There were no developments in this case by year's end.

Security forces at times briefly detained journalists and persons who publicly criticized the Government or who expressed views in disagreement with the Government (see Section 2.a.).

On July 30, the high court acquitted Momodou Ousman Saho (known as Dumo), Ebrima Yarbo, and Ebrima Barrow of treason. They were the last of six persons, including two military officers, who were accused of plotting to harm the President and overthrow the Government.

The slow pace of the justice system resulted in detainees waiting long periods in pretrial detention. Approximately 40 of Mile 2 Prison's 230 inmates were in detention pending trial. Some have been incarcerated for more than 4 years without trial.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice, the courts, especially at the lower levels, were corrupt and subject to executive branch pressure at times. Nevertheless, the courts demonstrated independence on several occasions, including in significant cases.

The Constitution provides for a fair trial; however, the judicial system suffered from corruption, particularly at the lower levels, and from inefficiency at all levels. Many cases were not heard for months or years because the court system was overburdened and lacked the capacity to handle the high volume of cases. To alleviate the backlog and reduce the possibility of undue influence and corruption, the Government continued to recruit judges and magistrates from other Commonwealth countries who share a similar legal system. The Attorney General oversees the hiring of foreign judges on contract. The Government reserves the right not to renew a judge's contract. Foreign judges were generally less susceptible to corruption and executive branch pressure. Despite these steps, corruption in the legal system persisted.

The judicial system is composed of the Supreme Court, the Court of Appeal, high courts, and eight magistrate courts. Village chiefs presided over local courts at the village level.

Trials are public, and defendants have the right to an attorney at their own expense. Defendants are presumed innocent, have the right to confront witnesses and evidence against them, present witnesses on their own behalf, and appeal judgment to a higher court.

The judicial system recognizes customary, Shari'a (Islamic law), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was observed primarily in Muslim marriage and divorce matters; it favored men in

its provisions (*see* Section 5). General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

Persons have been held for extended periods pending trial (*see* Section 1.d.).

The trial involving the leader of opposition United Democratic Party (UDP), Lawyer Ousainou Darboe, and four others charged with the murder of ruling APRC party supporter Alieu Njie in 2000 began during the year. It was ongoing at year's end.

On January 26, the only known political prisoner, Lieutenant Sana Sabally, was freed from prison after completing a 9-year jail term for allegedly conspiring to assassinate the President in 1995.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such abuses; although the Government generally respected these prohibitions, there were some exceptions. The Government has not repealed Decree 45, which abrogates constitutional safeguards against arbitrary search and permits search and seizure of property without due process. This decree formally remained in effect, pending a judicial finding that it is unconstitutional; however, in practice, the Government did not use it. In some instances, security forces forcibly entered homes to arrest citizens without warrants.

Observers believed the Government monitored citizens engaged in activities that it deemed objectionable.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, the Government limited these rights by intimidation and restrictive legislation. Journalists practiced a degree of self-censorship. The Government did not restrict academic freedom.

On occasion, security forces detained persons who publicly criticized or who expressed views in disagreement with the Government. For example, Lamin Waa Juwara, leader the National Democratic Action Movement (NDAM) spent 6 months in jail after being convicted of sedition for views expressed in a newspaper interview in September 2003, in which he allegedly called for a public protest against the Government. On June 25, Juwara was released.

On July 1, Brikama Police arrested Seedy Fanneh of Brikama Madina and charged him with insulting the President. Fanneh accused the police of torture and showed a newspaper journalist signs of a severe beating on his back. Fanneh's trial was in progress at the Brikama Magistrate Court at year's end.

The Government published one newspaper, The Gambia Daily. The Daily Observer, although privately owned, tended to favor the Government in its coverage. There were four other independent newspapers, including one published by an opposition political party. There was one independent weekly magazine.

The Government generally did not restrict the publication, importation, or distribution of written material. English, French, and other foreign newspapers and magazines were available.

During the year, one government-owned and four private radio stations broadcast throughout the country. There were at least two independent radio stations. Local stations rebroadcast the British Broadcasting Corporation, Radio France Internationale, the Voice of America, and other foreign news reports, and all were available via short-wave radio. Both the government-owned GRTS television and foreign cable and satellite television channels were available in many parts of the country. The Government allowed unrestricted access to satellite television, and residents who could afford to do so received independent news coverage via a satellite dish or antenna.

Citizen FM, known in the past for its civic education and political programming, remained closed at year's end.

During most of the year, government-owned television and radio gave very limited coverage to opposition activities, but some statements by opposition parliamentarians in the National Assembly were reported.

During the year, the Government detained, questioned, and otherwise harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive. For example, on February 2, Alhaji Yorro Jallow, the managing editor of The Independent newspaper, and editor-in-chief Abdoulie Sey, were arrested and questioned for several hours regarding a story on the ownership of the Kairaba Beach Hotel and Resort.

There were other attacks and threats on the independent media during the year, although these have not been definitively attributed to the Government or the security forces. For example, on April 13, six unidentified persons illegally entered the offices of The Independent newspaper in Kanifing and burned the newspaper's new printing press. The Government criticized the attack and launched an investigation.

In August, the leader of the opposition National Reconciliation Party, Hamat Bah, told the National Assembly that he had information that two officers of the National Guard were among those who attacked *The Independent*. The police condemned Bah for making such statements in the National Assembly, and stated that the investigation was underway. There were no developments in the investigation by year's end.

On August 12, the President of the Gambia Press Union, Demba A. Jawo, received an anonymous threat at his house warning him about his critical writing against President Jammeh and the APRC Government. The letter promised to teach a lesson to journalists who persisted in their negative reporting about the Government. There were no further actions at year's end.

On August 15, unidentified persons set the house of BBC stringer Ebrima Sillah on fire; Sillah escaped unharmed. The Government condemned the arson attack and appealed to members of the public who may have information that could lead to the arrest of the attackers to work with the security forces. Police were not able to identify the arsonists by year's end.

On December 16, an unidentified assailant shot and killed journalist and newspaper publisher of *The Point*, Deyda Hydara. Two female members of Hydara's staff also were injured. The Government condemned the attack and promised to bring the culprits to justice. There were no developments by year's end.

The National Media Commission was a state-appointed committee with the power to license and register journalists and force them to disclose their sources of information. On two occasions, the Government extended the deadline for all journalists and media houses to register or face closure by 90 days to allow the Department of State for Justice time to study the media chief's proposed amendments to the law.

On December 13, the National Assembly repealed the 2002 National Media Commission Act as well as the clause in the Constitution that provided for the establishment of the Commission. However, on the same day, the Assembly passed an amendment to the Newspaper Act requiring independent journalists and broadcasting outlets to establish their own code of conduct and a regulatory body to enforce it. The amendment increased the bond deposited by nongovernment newspaper publishers and managers of broadcasting institutions from \$3,448 (100,000 dalasi) to \$17,240 (500,000 dalasi). On December 14, the Assembly passed amendments to the Criminal Code that broadened the definition of libel and imposed mandatory prison sentences of 6 months to 3 years for offenders without the option of a fine. By year's end, President Jammeh had not signed these bills into law.

Although the nongovernment press practiced a degree of self censorship, the press frequently voiced strong, direct criticism of the Government, and opposition views regularly appeared in the independent press.

The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. However, on December 22, the Government restricted others from joining journalists who participated in a demonstration held in response to the killing of journalist Deyda Hydara (see Section 2.a.). The Government further discouraged members of the public from joining the march by positioning National Guard soldiers along the demonstration route in Banjul.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The AFPRC's Decree 81 requires nongovernmental organizations (NGOs) to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs. The Government did not take action against any NGOs during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights but allows for "reasonable restrictions," which the Government at times enforced. The Government prohibited those under investigation for corruption or security matters from leaving the country.

The Constitution prohibits forced exile, and the Government did not use it.

The Constitution provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the Organization of African Union's Convention Governing the Specific Aspects of Refugee Problems in Africa, and the

Government has established a system for providing such protection. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The country hosted approximately 600 Senegalese refugees from the troubled Casamance region, as well as approximately 1,500 additional refugees from the Republic of the Congo, the Democratic Republic of the Congo, Eritrea, Ethiopia, and Liberia.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their Government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the democratic elections of the President and National Assembly every 5 years. The APRC remained the dominant political party.

International observers described the 2001 presidential electoral process as generally free and fair, despite some shortcomings. President Jammeh won approximately 53 percent of the vote. The opposition political parties initially conceded the elections but then accused the Government of bribing voters and issuing threats, both explicit and veiled, against individuals and communities that did not support the incumbent. Observers agreed there probably were some irregularities in the registration process but on a much smaller scale than the UDP/People's Progressive Party (PPP)/Gambia People's Party coalition alleged. The post-election period was marred when Jammeh fired more than 20 village heads and civil servants who had not expressed public support for him during the campaign or who had been accused of corruption or incompetence; security forces also arrested and detained many opposition supporters throughout the country.

The major opposition coalition boycotted the 2002 National Assembly elections accusing the Independent Electoral Commission of allowing fraudulent voter registrations and mismanaging both the presidential and legislative elections. The boycott was criticized widely as unjustified and as an inappropriate response to the alleged fraud and left many of the opposition's own candidates unfunded and unsupported during the elections. The APRC won the majority for the National Assembly. The People Democratic Organization for Independence and Socialism (PDOIS) won two seats and the National Reconciliation Party won one seat. The President appointed 4 members of his own party and 1 former opposition presidential candidate to the 48-member National Assembly.

Throughout the year, there were efforts to bring together the five main opposition parties: NDAM, National Reconciliation Party (NRP), PDOIS, PPP, and UDP in a coalition to contest the 2006 presidential elections. At year's end, the parties said they had reached an agreement.

In July, while negotiations on the proposed coalition were still in progress, the parties involved backed the UDP candidate in the Jarra West by-election, who went on to win the National Assembly seat left vacant after the conviction of the former Majority Leader.

Corruption was a serious problem. In October 2003, the President launched an anti-corruption program, "Operation No Compromise," to rid the government system of corruption and help restore the confidence of the international community. A number of once influential government officials and businesspersons have been affected by the campaign. Immediately following the start of the campaign, the Government ended open speculation on the national currency by black-market foreign exchange dealers.

On March 29, the former majority leader of the National Assembly, and a very influential figure within the ruling party, Baba Jobe, was sentenced to 9 years and 8 months' imprisonment and ordered to reimburse the Port Authority \$3 million (91.1 million dalasi) for economic crimes stemming from corruption (see Section 1.d.).

On July 1, the President established a Commission of Inquiry to investigate the assets and properties of all senior public officials who served his administration over the past 10 years, including ministers, permanent secretaries, central bank and customs officials, as well as senior intelligence and military officers. By year's end, the commission was still sitting.

On July 16, the President appointed a special commission of inquiry to investigate alleged corruption surrounding a \$3 million fiber optic cable deal by the national

telecommunications company GAMTEL. At year's end, the commission was still sitting.

During the year, a number of senior government officials also lost their jobs, some of them for suspected corrupt practices.

In October 2003, the Director General of the Civil Aviation Authority, his deputy, and the Director of Finance, were dismissed for alleged misuse of funds. Also, several senior officials of the Central Bank, including the Foreign Exchange Manager, were removed from their positions over allegations of fraud, especially in foreign currency transactions.

The law does not provide for public access to government information. Under Official Secrets Act, civil servants are not allowed to divulge information about their department or even to speak to the press without prior clearance with their head of department. In some cases, journalists from certain independent newspapers have been refused access to public events, apparently because of the dislike by certain government officials of their editorial stance.

There were 6 women in the 48-seat National Assembly; 3 were elected, 4 were appointed by the President. There were 3 women in the 15-member Cabinet, including the Vice President. In July, as reported in the local media, the President relieved one woman, Ramzia Diab, of her appointed National Assembly seat for her open support of ousted Majority leader Baba Jobe and replaced her with a man.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and some members of his administration were from the previously marginalized minority Jola ethnic group.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking In Persons*

The Constitution prohibits discrimination based on race, religion, sex, disability, language, or social status, and the Government generally enforced these prohibitions.

*Women.*—Domestic violence, including spousal abuse, was a problem. It was reported occasionally, and its occurrence was believed to be common. Police considered these incidents to be domestic issues outside of their ordinary jurisdiction. Rape, spousal rape, and assault are crimes under the law; rape was not common. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

The practice of FGM remained widespread and entrenched, although there were efforts by several NGOs to discourage the practice through public education. Between 60 and 90 percent of women have undergone FGM. Approximately seven of the nine major ethnic groups practiced FGM at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban segments of those groups. There were unconfirmed reports of incidences of health related complications, including deaths, associated with the practice of FGM; however, no accurate statistics were available. The Government publicly supported efforts to eradicate FGM and discouraged it through health education; however, authorities have not passed legislation against FGM, which was not considered a criminal act. President Jammeh stated that the Government would not impose a ban on FGM, but his administration worked to convince traditional village leaders to abandon the practice. Practitioners of FGM and other types of circumcision in the country believed that Islam mandates it; however, at least one influential imam declared that Islam forbids such harmful customs.

Prostitution is illegal but was a problem, especially in the tourist areas. The Government expelled numerous foreign prostitutes. The 2003 Tourism Offences Act was passed to deal with increasing incidents of tourism-related offences, including sex tourism. The Act prohibits child prostitution, trafficking and pornography.

There are no laws against sexual harassment. Although individual instances have been noted, sexual harassment was not believed to be widespread.

Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds of employment; however, women generally were employed in such places as food vending or subsistence farming.

Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did male relatives. The appropriate church and the Office of the Attorney General settled Christian and civil marriage and divorce matters.

Marriages often were arranged and, depending on the ethnic group, polygyny was practiced. Women in polygynous unions have property and other rights arising from the marriage. They have the option to divorce but not a legal right to approve or be notified in advance of subsequent marriages.

The Department of Women's Affairs, under the direction of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

*Children.*—The Government was committed to children's welfare. The Department of Education and the Department of Health and Social Welfare were the two most generously funded government departments; however, lack of resources limited state provision of both education and health services.

The Constitution mandates free, compulsory primary education up to 8 years of age, but the state of the educational infrastructure prevented effective compulsory education, and children still must pay school fees. The Government estimated that in 2000, 60 percent of children were enrolled in primary school. Girls constituted approximately 40 percent of primary school students and roughly one-third of high school students. The enrollment of girls was low, particularly in rural areas where a combination of poverty and socio-cultural factors influenced parents' decisions not to send girls to school. The Government implemented a countrywide program to pay school fees for all girls.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subject to criminal penalties.

FGM was performed primarily on young girls (*see* Section 5, Women). There were no developments in the 2002 case of forcible circumcision of a 13-year-old girl in Tanji village.

Trafficking of children for prostitution was a problem (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

The Child Protection Alliance (CPA), a consortium of various organizations (national and international) that promote the protection of children from abuse, conducted countrywide workshops for teachers on alternatives to corporal punishments, and awareness campaigns against sexual exploitation of children for community and religious leaders. In September, it held a 1-week police training on combating child sexual abuse and exploitation in travel and tourism for security officers.

*Trafficking in Persons.*—The law does not comprehensively prohibit trafficking in persons, and trafficking occurred. The Government considered trafficking in persons to be a serious problem, initiated anti-trafficking legislation, and established a multi-agency trafficking in persons taskforce. The Government had not prosecuted anyone for trafficking by year's end.

In January, a joint UNICEF-government study reported that children engaged in prostitution in the main tourist resort areas were predominantly underage, some as young as 12. The report stated that the country has become an attraction for suspected or convicted European pedophiles that entered the country as tourists and committed their crimes against children silently and with impunity. Victims of trafficking were children of both sexes, normally younger than 16 to 18 years old, and included both citizens and immigrants or refugees from Sierra Leone, Liberia, Senegal, and Guinea-Bissau. The foreign children were war migrants without proper family support.

Some child prostitution victims stated they worked to support their families, or because they were orphans and their guardian/procurer supported them. The guardian/procurer often assumed the role of the African uncle, allowing the children to live in his compound with their younger siblings or paying school fees on their behalf in return for their servitude.

The country was a destination for trafficking victims. The number of persons, mostly children, trafficked for commercial sexual exploitation was small but growing. In February, the authorities rescued approximately 30 Ghanaian children trafficked for commercial labor and as domestic servants. Twelve of the children were sent back to Ghana, but the rest were returned to their biological parents in the country with whom they lived. The parents of the children may or may not have

been themselves victims of trafficking. Most trafficking victims became prostitutes and beggars; a few became domestic servants. Trafficking victims mostly came from conflict-ravaged countries, such as Liberia and Sierra Leone. Victims from Senegal, Guinea Bissau, and Sierra Leone told CPA that foreign residents obtained permission from their home country families to employ them as bar waitresses or domestic maids. After their arrival, the local employers informed them their duties entailed commercial sex work.

The country was also a point of origin and transit for trafficking. In previous years, there were reports of a few citizens being trafficked to Western Europe, as well as some Senegalese and Bissau-Guineans reportedly trafficked through the country to Western Europe, mostly to Scandinavia; however, there were no such reports during the year.

There was no evidence of government involvement at any level in trafficking in persons.

The Government had no established victim care and health facilities for trafficked persons; however, the Government provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

The Government's Task Force on Trafficking in Persons consisted of members that represented various government agencies including Immigration, Police, National Intelligence Agency, Justice, Foreign Affairs, Social Welfare, and Trade and Industry as well as UNICEF, the National Assembly, and the CPA.

*Persons With Disabilities.*—There were no statutes or regulations requiring accessibility for persons with disabilities. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services; however, some societal discrimination existed towards those with disabilities. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they physically were capable. Very few buildings in the country were specifically accessible to persons with disabilities.

*Other Societal Abuses and Discrimination.*—There was evidence of societal discrimination against persons infected with the HIV/AIDS virus. Stigma and discrimination hindered disclosure and led to rejection from partners and relatives. In some cases, persons infected with HIV/AIDS were prevented from meeting visitors.

The Government committed itself to protecting the rights of persons living with HIV/AIDS by developing a 5-year National Strategic Plan that includes the provision of care, treatment, and support to persons living with, or affected by, HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Act, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and workers exercised this right in practice. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The Labor Act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

In February, the International Confederation of Free Trade Unions issued a report alleging that the Government had not implemented the eight International Labor Organization conventions known as “core labor rights” and criticized the Government for prohibiting civil servants from forming unions. The Government responded that it is updating the Labor Act to incorporate the ILO conventions; however, no new labor legislation was in place at year's end.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the Government intervened to assist workers who were fired or discriminated against by employers.

*b. The Right to Organize and Bargain Collectively.*—The Labor Act allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Unions were able to negotiate without government interference; however, in practice, the unions lacked experience, organization, and professionalism, and often turned to the Government for assistance in negotiations. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. The act also sets minimum contract standards for hiring, training, terms of employment, and provides that contracts may not prohibit union membership.

The Labor Act authorizes strikes but requires that unions give the Commissioner of Labor 14 days' written notice before beginning an industrial action (28 days for essential services); however, because of certain provisions of the Labor Act and the weakness of unions, few strikes occurred. There were no strikes during the year. The Labor Act specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. It prohibits retribution against strikers who comply with the law regulating strikes.

In April, the Government introduced two Industrial Tribunals in Banjul and Kanifing to handle all labor related disputes and claims arising out of work. The tribunals are provided for in the Labor Act but had never been established.

There is a government-established export-processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The Labor Code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The statutory minimum age for employment is 14 years; however, child labor was a problem. There was no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading. In rural areas, most children assisted their families in farming and housework. In urban areas, many children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a low, but growing level of child prostitution (see Section 5). Employee labor cards, which include a person's age, were registered with the Labor Commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The Department of Labor under the Department of State for Trade and Employment was responsible for implementing the provisions of the ILO Convention 182 on the worst forms of child labor; however, the Government generally was ineffective in enforcing those provisions.

*e. Acceptable Conditions of Work.*—Minimum wages and working hours were established by law through six joint industrial councils, comprised of representatives from labor, management, and the Government. The lowest minimum wage was approximately \$0.41 (12 dalasi) per day for unskilled labor. The national minimum wage did not provide a decent standard of living for a worker and family. The minimum wage law covers only 20 percent of the labor force, essentially those workers in the formal economic sector. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families.

The basic legal workweek was 48 hours within a period not to exceed 6 consecutive days. Nationwide, the workweek included four 8-hour workdays and two 4-hour workdays (Friday and Saturday). A 30-minute lunch break was mandated. Government employees were entitled to 1 month of paid annual leave after 1 year of service. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service.

The Labor Act specifies safety equipment that an employer must provide to employees working in designated occupations. The Factory Act authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the Labor Department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice workers who do so risk loss of employment.

The law protects foreign workers employed by the Government; however, it only provides protection for privately employed foreigners if they have a current valid work permit. Illegal foreign workers without valid work permits do not enjoy protections under the law. Legal foreign workers may join local unions.

## GHANA

Ghana is a constitutional democracy with a strong presidency and a unicameral 230-seat Parliament. In December, eight political parties contested parliamentary elections, and four parties, including the ruling New Patriotic Party (NPP), contested presidential elections. Despite a few incidents of intimidation and minor irregularities, domestic and international observers judged the elections generally free and fair. John Agyekum Kufuor of the ruling NPP was reelected president with 52.45 percent of the vote against three other presidential candidates, including former Vice-President John Atta Mills of the National Democratic Congress (NDC). The judiciary was subject to influence and corruption and lacked adequate resources.

The police, under the jurisdiction of an eight-member Police Council, are responsible for maintaining law and order. The military continued to participate in law enforcement activities during the year. A separate department, the Bureau of National Investigations, handles cases considered critical to state security and answers directly to the executive branch. While civilian authorities generally maintained effective control over security forces, there were some instances in which elements of the security forces acted independently of government authorities. Some members of the police and other security forces committed numerous serious human rights abuses.

The market-based economy remained dependent on agriculture, which accounted for approximately 39.8 percent of gross domestic product and 49 percent of employment, according to government statistics. The country's population was approximately 21 million. The economy grew at a rate of 5.2 percent during 2003. Inflation decreased from a high of 30 percent in April 2003 to 12.9 percent by August, and wages kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Police use of excessive force resulted in some unlawful killings and injuries. There continued to be credible reports that police beat suspects in custody, and that police arbitrarily arrested and detained persons. Prison conditions remained harsh and life threatening. Police corruption and impunity was a problem. Prolonged pretrial detention remained a serious problem. Corruption in all branches of the Government remained a serious problem, although some initiatives were taken to correct this. At times the Government infringed on citizens' privacy rights. There were occasional reports that government officials pressured government media outlets to minimize coverage of opposition politicians. Police set up barriers, ostensibly to patrol illegal smuggling, but motorists often complained that they used these barriers to demand bribes from motorists. A nighttime curfew in the north was lifted in August. Violence against women and children was a serious problem; however, the Government continued to prosecute sexual abuse against underage girls and courts gave lengthy sentences and remanded several individuals in custody for such abuse. *Trokosi*, a traditional form of ritual servitude that is prohibited by law, was practiced on a limited scale in one region of the country. Female genital mutilation (FGM), although illegal, still was practiced. Societal discrimination against women, persons with disabilities, homosexuals, and persons with HIV/AIDS was a problem. Trafficking in women and children was a problem. There were some incidents of politically and ethnically motivated violence, and some ethnic groups complained of discrimination. Child labor, including forced child labor, was a problem in the informal sector. Vigilante justice also was a problem.

On October 12, the National Reconciliation Commission (NRC) submitted its final report and recommendations to the Government based on hearings held between January 2003 and July on human rights abuses for the periods of unconstitutional government since independence in 1957.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There was one report of a political killing. Security forces committed some unlawful killings of criminal suspects and innocent bystanders using excessive force. During national elections in December, a regional chairman of a small opposition party, the Convention People's Party (CPP), who was also the branch chairman of the Ghana Private Road Transport Union, was arrested for alleged possession of illegal weapons. Although no weapons were recovered, police handed him over to the military, where he later died on December 9. Following the incident, the Inspector-General of Police ordered a commission to investigate the cause of death. An autopsy was conducted and revealed clear

signs of physical abuse during custody. A military investigation into the same incident was also ongoing at the year's end.

Incidents of police brutality, negligence, and corruption contributed to low public confidence in police, mob attacks on police stations, and a widespread desire to deal with suspected criminals through vigilante justice (*see* Section 1.c.). For example, on March 29 in Nsuaem, Western Region, a 16-year-old student was killed while in police custody. A mob attacked the police vehicle transferring the student, who was accused of selling body parts, from the local police station to the regional station. The police claim the student was killed by a stray bullet; however, the student's father disputed the claim and said that the police had intentionally killed him. There was no further action on this case by year's end.

A police investigation into the July 2003 incident in which a bystander was killed when police officers fired warning shots to disperse a crowd was ongoing at year's end.

Unlike in the previous year, there were no reported cases that police shot and killed armed robbers while trying to apprehend them during the year. The court trial of an officer who killed one man and injured another while attempting to arrest them for illegal logging in Kintampo, Brong-Ahafo Region, in 2003 was completed during the year. The police officer had been discharged on a court order so that he could participate in the trial. He was found innocent and reinstated for duty.

Political clashes also led to several deaths, injuries, and property damage (*see* Section 1.c.).

On December 6, the night before Election Day, there was a dispute between opposing political party activists in Kwamekrom in the Volta Region; two persons were shot, and one later died.

On December 7, Election Day, groups of political party activists in the north monitored polling stations in an unofficial capacity and without observation credentials from the Electoral Commission, and there were some reports of harassment and intimidation by these groups. In the Tolon/Kumbungu district of the Northern Region, NPP supporters went into a constituency known to be an NDC stronghold to investigate allegations of underage voting. The two groups clashed, resulting in the death of two persons, one from each side of the debate.

The trials of those charged with unlawful harm during the 2003 clashes between NPP and NDC supporters in Tamale, Northern Region, have not been officially dropped from the docket but have been "abandoned," and no one from either side has pursued further action. Opposition NDC party members called for an official inquiry into the situation, alleging that security forces abused, harassed, and discriminated against their party supporters during the incident; however, no judicial inquiry occurred by year's end, and the Government denied the allegations.

During the year, chieftancy disputes continued to result in tensions; however, there were no reports of deaths during the year (*see* Section 5).

In March, there were two cases in which unknown assailants killed Fulani herdsmen in the Eastern Region. These clashes were connected with traditional land rights disputes between indigenous locals and the migrant herdsmen. Clashes were also sparked when herdsmen allowed their cattle to graze openly on local farmlands. Some of these disputes were prosecuted under the law while others were resolved through chieftancy resolution, and other cases were not prosecuted at all. In April, the Government reminded chiefs that they should not allow illegal grazing practices by herdsmen.

The press reported numerous cases of vigilante style "instant justice" conducted by angry citizens and mobs on suspected criminals and suspected witches, which led to a number of deaths and injuries (*see* Section 5). For example, in July, four suspected robbers were killed by mobs in three separate incidents in Kumasi, the capital of the Ashanti Region. In several instances, security forces intervened to save the lives of suspected criminals.

The investigation into the 2003 case of a man accused of lynching a Malian man was ongoing at year's end.

No arrest had been made in a 2003 case in which a mob attacked and killed a fetish priest. An investigation was ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there continued to be credible reports that police beat prisoners and other citizens. It generally was believed that severe beatings of suspects in police custody occurred throughout the country but largely went unreported. In many cases in which suspects alleged maltreatment, the police denied the allegation or claimed that the force was justified.

One local press source reported several incidents of beatings by police throughout the year, although the police alleged the use of force in these cases was necessary. In June, a police officer reportedly beat an employee of the electricity company for disconnecting the power supply to a police station that had failed to pay its bill. Police and security officers also beat a group of political party activists and prevented their travel to a regional capital to protest a decision made at their party's headquarters in Accra (*see* Section 2.d.). Investigations in these cases were ongoing at year's end.

On May 24, police in the eastern region arrested a man suspected of stealing tractor parts from his former employer. The suspect was escorted through town with no clothing, prompting public taunting. The suspect claimed that they tore off his clothing during arrest, but the police said that the suspect removed his own clothing while resisting arrest. No further inquiry into the matter was made during the year.

On December 18, a police officer in Accra reportedly shot a taxi driver for failing to heed orders to stop after committing an illegal driving offense. The police alleged that he tried to shoot the vehicle's back tire, but instead shot the driver in the ribs. An investigation was ongoing at year's end.

Unlike in previous years, there were no reports of injuries from warning shots fired by police. Police Administration opened an internal investigation into the use of excessive force in riot situations. The investigation was completed during the year.

There were reports of inter- and intra-party clashes. A dispute between the ruling NPP and opposition NDC parties turned violent in Tamale, Northern Region, in May, which resulted in several injuries and the destruction of property (*see* Section 1.a.).

At year's end, the trial continued of the four suspects involved in a 2003 bombing outside the residence of the regional NPP organizer in Ho, Volta Region.

A commission of inquiry into the cause of the 2001 clash between a group of NPP activists and NDC supporters in Asutuare, Greater Accra Region, continued its work during the year. The mandate required the commission to submit a report to the President within 8 weeks of its first meeting; however, no report had been submitted by year's end. The case had not been called to court by year's end.

"Machomen" (party thugs) and land guards, private security enforcers hired by citizens to settle private disputes and vendettas, caused injury and property damage during the year. The machomen were organized privately and operated outside the law. There were some allegations of police complicity with these extralegal security agents. In January, the national organizer of the NDC said that all political parties in the country were guilty of using machomen to intimidate their opponents during election periods. On August 4, the Government declared a ban on land guards. In October, police in Tema arrested 23 land guards following their persistent harassment of developers on a disputed piece of property.

The press reported numerous cases of vigilante style "instant justice" conducted by angry citizens and mobs against suspected criminals and suspected witches that led to a number of deaths and injuries (*see* Sections 1.a and 5).

The 2003 case in which a mob severely beat four men who were falsely accused of theft was still under investigation at year's end.

Prison conditions in most cases were harsh and sometimes life threatening, despite government efforts during the year to improve them. The 2003 Prisons Service Annual Report revealed that prisons remained overcrowded and under-financed. According to the report, there was a monthly average of 11,038 prisoners serving in prisons meant for a total population of 6,500. The report also noted that the President granted amnesty in 2003 to 1,823 prisoners to help relieve the congestion in prisons.

The Government also sought to address the unsafe and unsanitary conditions of the prisons during the year. Much of the prison population was held in buildings that were originally old colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, dilapidated construction, and limited space. In April, the Government committed \$25 million to transform the Prisons Service to construct a new prison complex in the Greater Accra region. Additionally, the Government secured a \$19.2 million loan from the South African Government to procure training materials and vehicles for Prisons Service officers.

Prisoners relied on families or outside organizations for additional food, medicine, and other supplies. A shortage of bedding and clothing for prisoners continued. Medical facilities were inadequate, and the prisons supplied only the most basic medicines. Overcrowding contributed to a high prevalence of communicable diseases. Some suspects allegedly pleaded guilty to be sent to prison and leave the unsanitary conditions in police remand cells.

According to the 2003 Prisons Service Report, 115 prisoners died in prisons in 2003 from diseases such as tuberculosis, HIV/AIDS, and anemia.

At a prison in the Central Region, four wardens faced disciplinary action in June for covering up information regarding the escape of inmates in 2002. The prisoners were able to escape because they were hired out to work for local farmers by some prison officials, who then pocketed the money paid for the prisoners' labor.

Female prisoners were held separately from male prisoners. The Criminal Code stipulates that, regardless of the offense, all women convicts should be tested for pregnancy upon incarceration. If a convict is pregnant, the convict should be kept at a place where her health needs can be met. In spite of this directive, there were 42 pregnant convicts and 20 babies serving time with their convict mothers in 2003, according to the Prisons Service Annual Report.

Juvenile offenders were held separately in the Borstal Institute, a juvenile correction center. Juveniles who inflated their ages to avoid lengthy rehabilitation sentences in the Borstal Institute made the problem of overcrowding worse. During the year, the Department of Social Welfare and Prison Services collaborated to transfer any known juveniles in adult cells to juvenile correction centers.

Pretrial detainees were held with convicted prisoners.

The Prisons Service is governed by a Prisons Council, appointed by the President, with members from the Interior and Justice Ministries, the Department of Social Welfare, the Medical and Bar Associations, and other members of civil society. During the year, members of the Prisons Council, as well as the Commission for Human Rights and Administrative Justice (CHRAJ), foreign diplomats, nongovernmental organizations (NGOs), and the media inspected prison conditions. In the past, the Director General of Prisons has allowed cameras into some prison inspections to educate the population on the conditions; however, there were no reports during the year that the media was denied access. According to the 2003 Prisons Service Annual Report, members of the NRC, led by the chairman, visited select prison sites to assist in the work of the NRC.

*d. Arbitrary Arrest or Detention.*—The Constitution provides for protection against arbitrary arrest and detention; however, arbitrary arrest and detention were problems.

The police service come under repeated criticism following incidents of police brutality, corruption, and negligence. Public confidence in the police remained low, and mobs attacked several police stations due to perceived police inaction, delays in prosecuting suspects, rumors of collaboration with criminals, and the desire to deal with suspects through instant justice (*see* Section 1.a.). According to the police service's Monitoring and Inspections Unit, there were 590 complaints or petitions received against the police, compared with 455 cases reported in 2003. The number of complaints during the year of harassment or unlawful arrest and detention with human rights violations was 48 cases, compared with 22 in 2003.

A 2003 survey conducted by the Center for Democratic Development (CDD) on Police-Community Relations found that many of those arrested believed that they were not treated according to the law; there was a strong belief that police often violated the human rights of those arrested. Of those who stated that they were arrested, 46 percent were not informed of the charges against them, 51 percent were not read their rights, 67 percent reported they were not given the opportunity to contact a lawyer, and 44 percent believed they were presumed guilty from the onset.

Government officials publicly stated that the Government's "zero tolerance for corruption" policy applied to police and other security officials; however, the 2003 Police-Community Relations survey also found that 68 percent of respondents believed extortion or bribery occurred frequently within the Police Service. Of the small number of respondents who admitted having offered a bribe, 92 percent reported that police officers accepted the bribe. Similarly, a public opinion survey that CDD released in 2003 found that, among public figures, citizens were most suspicious of the police (79 percent responded that at least some police personnel were corrupt), followed by customs officials (74 percent), and judges/magistrates (70 percent).

There were credible reports that police extorted money from local businesses by acting as private debt collectors and arresting citizens in exchange for bribes from detainees' disgruntled business associates.

The Constitution provides that an individual detained should be informed immediately, in a language that the detained person understands, of the reasons for the detention and of his or her right to a lawyer and an interpreter, at state expense. The Constitution requires judicial warrants for arrest and provides for arraignment within 48 hours. The Constitution requires that a detainee who has not been tried within a "reasonable" time be released either unconditionally or subject to conditions necessary to ensure that the person appear in court at a later date.

In practice, while the incidence of abuse lessened, many abuses still occurred, including detention without charge for longer than 48 hours, failure to obtain a warrant for arrest, and remand of prisoners into investigative custody for indefinite periods by renewing warrants or simply allowing them to lapse. On June 8, the Director of Operations for the Prisons Service stated that 1,270 remand prisoners whose warrants had expired were still in prison custody. In addition, at times persons were detained for trivial offenses or on unsubstantiated accusations. Authorities routinely failed to notify prisoners' families of their incarceration; such information often was obtained only by chance. The court has unlimited discretion to set bail, which may be prohibitively high. The court may refuse to release prisoners on bail and instead remand them without charge for an indefinite period, subject to weekly review by judicial authorities. Police also demanded money from suspects as a precondition for their release on bail.

In November, seven active and retired military personnel were arrested for allegedly plotting a coup against the Kufuor Government. Although one person was found in possession of illegal weapons, the remaining six were released after being detained for longer than the lawful period of 48 hours.

Security forces used checkpoints and mass arrests while searching for criminals (*see* Section 2.d.).

Large numbers of long-term remand prisoners remained a serious problem. During inspections of prison facilities, the Director-General of Prisons met numerous remand prisoners who had been detained for up to 10 years without a trial. Some detainees served longer periods of time in remand cells than the allotted time for the crime committed. In May, the Kumasi Central Prison, which also housed many remand prisoners, reportedly threatened to release prisoners whose warrants had expired to prompt a response from the local authorities. Later that month, the Prisons Service and the Attorney General's office announced that all remand prisoners with expired warrants should have their cases referred to court for a speedy trial. The Prisons Service also recommended that the courts expedite the cases of, or else grant bail to, persons accused of minor offenses. As a result, two circuit courts on June 17 renewed the remand warrants of 23 prisoners, all of whom were facing armed robbery charges.

On April 3, 34 persons, including several chiefs, were remanded into police custody for allegedly rioting, causing damage, stealing, and arson. Two juveniles among the group were remanded to a children's home. CHRAJ made a public complaint on April 18, saying that the police had violated the law in detaining the suspects for longer than 48 hours. On April 26, 10 of the 34 suspects were released on bail and ordered to reappear before the court at a later date. There was no further update on the case at year's end.

Judicial officials made a number of efforts to improve the efficiency of the courts, such as implementing a pilot alternate dispute resolution program (*see* Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was subject to influence, and corruption remained a serious problem. The Government took steps during the year to address corruption.

There were numerous allegations of corruption within the judicial system. On August 2, the Chief Justice said that some judges had not heard a single case or written a decision all year. A 2003 report adopted by the Parliamentary Select Committee on the Judiciary provided details on corruption in the judiciary, including accounts of extortion; misuse of remand, bail, and contempt of court charges for bribery; and acceptance of gifts or money in exchange for expedited or postponed cases, or losing records. The Committee recommended establishing and enforcing codes of conduct, transparent complaint procedures, and disciplinary mechanisms; however, none of these recommendations had been implemented by year's end. The Chief Justice continued his campaign to end corruption and increase transparency of the Service by fulfilling his promise when he took the position in 2003 to create an annual report that accounted for the Service's activities and addressed grievances.

A Complaints Unit of the Judicial Service continued to receive and investigate complaints of corruption, delays, and unfair treatment. According to the Annual Report of the Judicial Service, the Complaints Unit of the Judicial Service received 258 complaints and petitions between July 2003 and July. Of these, 63 cases were disposed of, 74 came under investigation, and 121 were pending at the end of the period under review.

There was no formal action taken in the 2003 judge bribing investigation, and the judge retired during the year.

During the year, the accused submitted a series of appeals in the Supreme Court to drop the case. The trial of the former head of the Ghana National Petroleum Corporation on charges of causing financial loss to the state was ongoing at year's end.

The Constitution provides for a Superior Court of Judicature, consisting of the High Court and Regional Tribunals, the High Court of Appeals, and the Supreme Court. Parliament may establish lower courts by decree. The Constitution allows the Government to nominate any number beyond a minimum of nine members to the Supreme Court, subject to parliamentary approval. The Chief Justice is empowered to impanel the justices of his choice to hear cases. These provisions, along with a lack of resources, limited the court's ability to balance the power of the executive branch and contributed to the perception that the judiciary occasionally was subject to executive influence.

The Constitution establishes two basic levels of courts: Superior and lower. The superior courts include the Supreme Court, the Appeals Court, the High Court, and regional tribunals. Fast Track Courts, a division of the High Court of Judicature, are authorized to hear cases involving banks and investors, human rights, electoral petitions, government revenue, prerogative writs, defamation, specified commercial and industrial cases, and criminal cases that involve substantial public money or are a matter of extreme public importance. The majority of cases filed before the Fast Track Court were for banking and commercial matters, and human rights and defamation. These courts tried cases to conclusion within 6 months.

Legal safeguards are based on British legal procedures. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. In practice, authorities generally respected these safeguards.

There were frequent reports that large numbers of prisoners were held in detention for extended periods, sometimes years, without going to trial (*see* Section 1.d.). In July, the Chief Justice inaugurated a National Center for Arbitrators. This center was established following the success of the government-sponsored alternate dispute resolution pilot (ADR) program in Accra and Tema, during which 185 cases were resolved in 2003.

The Chieftancy Act gives village and other traditional chiefs power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, the authority of traditional rulers has steadily eroded and been vested in civil institutions, such as courts and district assemblies. In January, chiefs in Tema took part in a 3-day ADR training, and the training resulted in the recommendation that traditional councils should have their own constitutions, apart from the Chieftancy Act, to help institutionalize the role of local leaders in settling cases. The recommendation had not been implemented by year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, in practice the Government infringed on privacy rights at times. Although the law requires judicial search warrants, police did not always obtain them in practice.

Opposition party activists claimed the Government engaged in surveillance and harassment of those it perceived to be opposed to the ruling party.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the opposition parties occasionally complained that state-owned media outlets minimized media coverage of opposition politicians. The Government did not restrict academic freedom.

There were 50 newspapers including 3 state-owned dailies, 2 state-owned weeklies, and many privately owned newspapers. Two of the state-owned dailies had national circulation. Most newspapers circulated only in regional capitals, and many of the smaller private newspapers were available only in Accra. The President did not appoint chief executives to the state-owned media, and the Government did not finance any newspaper.

According to the National Communications Authority (NCA), the body responsible for allocating bandwidth and broadcast media licenses, Accra had 1 state-owned and 17 private FM radio stations, and there were approximately 11 state-owned and 100 private FM stations across the country. Most stations were independent and aired a wide range of viewpoints. There was one state-owned television station that broadcast nationwide; three semi-private television stations that broadcast in the Greater Accra, Eastern, and Ashanti regions; and three cable networks broadcasting in the Greater Accra Region, two of which also broadcast in Kumasi.

The NCA is independent. In 2003, the President appointed a new chairman of the NCA. Previously, the Minister of Communications served as chairman, which media organizations saw as a conflict of interest. Complaints persisted regarding delays in

obtaining bandwidth and licenses for broadcast media, particularly in Accra; however, the number of radio stations across the country increased significantly during the year. Complaints against the NCA were not restricted to the broadcast media. One telecommunications company filed for international arbitration during the year after several years of disagreement with the NCA over the allocation of spectrum for its wireless operations.

Foreign media operated freely in the country, including the British Broadcasting Corporation, Radio France International, and Voice of America. Foreign periodicals were available in major cities and circulated freely even when they contained articles critical of the Government.

The state-owned media reported extensively on charges of corruption or mismanagement by both current and past government and administrative officials. During the year, the state-owned media gave some coverage to opposition politicians and printed occasional editorials critical of government policies; however, direct criticism of the President was avoided. The opposition NDC claimed that government media denied it equal access and coverage on numerous occasions, and in practice the state-controlled media gave greater exposure to government officials.

In October, the Northern Regional Security Council imposed a temporary ban prohibiting inflammatory political content on radio call-in shows following a flare-up of violence in the region. However, the ban was not legally binding and was regarded by media outlets as a plea from local authorities to report on election-related news in a responsible manner. The ban was lifted prior to the elections. Although the media did not cease talk shows, they generally respected the occasional temporary bans imposed by local district governments.

Some privately owned newspapers were harshly critical of the Government's policies and of President Kufuor, his ministers, and advisors. The Government at times alleged that some reporters and editors failed to abide by professional ethical guidelines. For example, in April, the President's brother sued a newspaper for libel and was awarded \$4500 (400 million cedis). Several other libel cases were also filed during the year by key political figures. There were frequent calls for more discipline by the media from government officials, professional journalist organizations, and citizens, especially for restrictions on live radio call-in shows. Call-in shows were often portrayed as a possible source of political tension.

The National Media Commission (NMC), a constitutionally mandated independent government body, is charged with maintaining journalistic standards, including the investigation, mediation, and settlement of complaints made against or by the media; however, it did not have legally binding authority to implement its recommendations. The NMC has published standards and guidelines, and voluntary use of its alternative dispute resolution offices continued to increase. Resolutions recommended by the NMC included retraction, apology, and the printing of rejoinders. During the year, the NMC received 24 cases, 6 were withdrawn by the complainant after an apology or retraction, 4 cases were resolved outside the jurisdiction of the NMC, 4 complainants had not yet communicated their response from the media to the commission, 3 cases were released through press statements, and 7 cases were awaiting judgments at the year's end.

Unlike in the previous year, there were no reports that journalists were arrested during the year.

The Government does not restrict access to the Internet. There were more than 10 operating Internet service providers (ISPs) in the country at year's end.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, at times the Government restricted this right. The Government does not require permits for demonstrations; however, police can deny use of a particular route. There were no reports that the police arbitrarily canceled demonstrations. In July, during a forum held by the National Commission for Civic Education, a district police commander reminded the public in the Eastern Region that the law requires that all organizers of "special events" or "processions" inform the police of their intentions at least 5 days in advance so that the police can institute precautionary measures. The forum was held as part of a series to enable citizens to learn about their rights and responsibilities concerning public rallies. In March, photocopies of the Public Order Act were given to the three main political parties—the NPP, NDC, and CPP—in an election-year effort to get political parties to inform their own supporters about the laws concerning public rallies.

Political parties held national congresses and labor organizations held demonstrations without hindrance during the year. Unlike in the previous year, no political party rallies were postponed or cancelled at the request of police.

The Government permitted peaceful demonstrations and rallies during the year. Unlike the previous year, police did not use force to disperse any demonstration.

According to local press reports, in September, police and soldiers assaulted and beat supporters of the NPP in the Upper East region. They were driving to the regional capital to protest the party's national headquarters decision not to hold a local election to select a candidate for parliamentary elections. Police alleged that the protesters did not have permission to demonstrate in the capital.

There were no developments in the 2002 cases in which security forces forcibly dispersed demonstrations.

Periodically throughout the year, the Northern Regional Security Council imposed temporary bans on outdoor political activities following violent clashes between supporters of the two major political parties in Tamale. In each case, the bans were eventually lifted.

On August 18, the ban on demonstrations in the Dagbon Traditional area due to a state of emergency was lifted (*see* Section 2.d.).

There were verifiable reports from the north that political party thugs beat individuals during the election campaign season. In at least one of these cases, a non-political rally was mistaken for a pro-NDC political gathering and NPP party thugs severely beat a rally participant. The northern office for the CHRAJ continued to investigate this case and other formal complaints at year's end.

The ban on campus demonstrations remained in effect during the year; however, it has never been challenged nor enforced.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Members of security forces are prohibited from joining political assemblies or groups within the security services, but they are allowed to participate outside police or military grounds.

NGOs are required to register with the Registrar General's office and the Department of Social Welfare, but this registration was routine.

The Electoral Commission (EC) accredits political parties. The parties must show evidence of a "national character," such as official representation in all 10 of the country's regions. The EC evaluates whether the party showed evidence of a viable national support base before granting accreditation and may annul the registration of a party that failed to meet the criteria for being a viable party.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious institutions that wanted formal recognition were required to register with the Registrar General's Department; however, there were no reports that the Government denied registration to any group. Most traditional religions, with the exception of the Afrikania Mission, did not register.

Although the law prohibits involuntary servitude, *Trokosi*, a form of religious servitude usually lasting no more than a few months, existed on a limited scale (*see* Section 5). Government agencies, like CHRAJ, have campaigned actively against *Trokosi* for years, and supporters of traditional African religions, such as the Afrikania Renaissance Mission, have stated that these activities constituted discrimination against indigenous religious beliefs.

There were occasional reports of interreligious and intrareligious incidents, but no violent incidents based on religious affiliation occurred during the year.

There were occasional and isolated anti-Semitic sentiments expressed in a bi-weekly independent newspaper, which had an annual circulation of about 48,000 and generally supports the opposition political party.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Citizens and foreigners were free to move throughout the country. Security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours. The Police Administration continued to erect security checkpoints and conducted highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches were a normal part of nighttime travel in larger cities. The police administration acknowledged that some officers occasionally erected illegal barriers to solicit bribes from motorists. The Regional Police Commanders monitored the activities of police personnel working at the checkpoints.

The Constitution prohibits forced exile, and the Government did not employ it. The Government encouraged citizens, including dissidents living abroad, to return to the country. Some former Armed Forces Revolutionary Council and Provisional National Defense Council officials returned during the year to testify before the NRC (*see* Section 4).

Traditional village authorities can punish rural women with banishment for being pregnant out of wedlock or for suspected witchcraft. The press reported that hundreds of women accused of witchcraft were sent to penal villages in the Northern Region by traditional authorities such as shamans (*see* Section 5). During the year, 46 women were sent to 7 witch camps in the north. After passing through customary rituals to 'render them powerless' 11 were permitted to return home. In 2003, the CHRAJ estimated that there were approximately 1,090 persons living in 3 main witch camps in the area of Gambaga, Ngani, and Kukuo. Various organizations provided food, medical care, and other support to the residents of the camps. The CHRAJ and human rights NGOs had little success in their efforts to end this traditional practice.

In August, the Government lifted a state of emergency in Yendi, in the Northern Region, which began in 2002 following intra-tribal violence.

The law provides for the granting of refugee status or asylum to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a refugee board to adjudicate claims for refugee status and ensure they receive all appropriate protections. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The law also incorporates the broadened refugee definition under the African Union Convention Governing Specific Aspects of Refugee Problems in Africa. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The country generally had a liberal policy of accepting refugees from other West African nations, although this did not extend to granting work permits or permanent residence. The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 U.N. Convention 1967 Protocol; there were no individuals granted temporary protection during the year.

The political crisis in Cote d'Ivoire and Liberia led to an inflow of approximately 3,000 refugees during 2003. At year's end, the Government and the UNHCR confirmed that there were 48,144 total refugees and asylum seekers resident in the country, of whom 40,315 were Liberian, 5,389 Togolese, and 2,440 from other nations.

Although armed security forces continued to conduct periodic searches for armed rebels at the Buduburam Refugee Camp, U.N. officials stated that the Government acted responsibly and that the UNHCR had received no complaints about harassment or intimidation from camp residents during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. Despite a few incidents of intimidation and election irregularities, domestic and international observers judged the December national elections to be free and fair. However, there were reported problems in the presidential and parliamentary national voter registration exercise.

The country continued its transition from a one-party state to a more established multiparty constitutional system. The political system includes recognized opposition parties, which express their views freely within Parliament and won a near majority of the parliamentary seats. All registered political parties operated freely within the country and held peaceful rallies in preparation for the December elections.

The Electoral Commission, an independent body, created a new voter registration for the presidential and parliamentary elections held in December. This process required each citizen to register and possess a valid registration card to vote in the national elections. Although the registration process generally went according to plan, there were some problems, such as shortages of registration materials, defective materials, a failure to capture all eligible voters due to internal migration patterns during the registration period, and isolated incidents of violence between opposing party supporters.

On December 7, Presidential and parliamentary elections were held nation-wide. John Agyekum Kufuor of the NPP was reelected with 52.45 percent of the vote. Despite some irregularities, international observers reported the elections to be generally free and fair. There were reports of a shortage of ballot papers at some polls and minor problems with the voter register, such as misspelled names or photos not matching names. A police officer or other civilian security person was present at most polling stations across the country; however, there were no allegations of intimidation by the security officers at polling stations. In some areas of the country,

military police and other security forces maintained a low profile at polling stations and appeared when serious problems occurred (*see* Section 1.a.). There was unrest in Bawku when someone in a crowd fired gunshots into the air, resulting in injury to a military soldier. In other isolated areas of the country, security forces stepped in to stem potentially violent clashes at polling stations. The NPP won 128 seats; the NDC 94; the CPP 3; the PNC 4; and there was 1 independent candidate who won a seat.

The Constitution calls for a system of checks and balances, with an executive branch headed by the President, a unicameral parliament, an independent judiciary, and several autonomous commissions, such as the CHRAJ. In practice, the system of checks and balances was limited by a system-wide lack of resources that affected all three branches. Parliament still sought effective oversight of the workings of the executive branch. Although all Members of Parliament (M.P.s) have the power to introduce bills, no one has ever done so; however, some M.P.s have introduced motions.

Corruption in the executive and legislative branches continued to be a problem. In June, a 3-day workshop was held in Accra with participants from all over Africa to promote transparency in government procurement. At the workshop, the Minister of Finance stressed the need for procurement (which constitutes a significant portion of government spending) to be as transparent as possible. The Public Procurement Act promotes competition and transparency by publishing lists of competitive bidders for government contracts in public bulletins and daily newspapers.

In a report on political party financing released in September, the CDD found that 42 percent of those surveyed felt that kickbacks were the strongest manifestation of political corruption, followed by political appointment and extortion.

The opposition NDC continued to claim that the Government used anticorruption investigations to intimidate and harass its members. The Government continued to question former officials about allegations of corruption during the year, and some trials were ongoing (*see* Section 1.e.).

Opposition parties and some persons in private business, continued to allege that some government contracts were awarded on the basis of ruling party membership and that government officials pressured businesses to steer contracts toward favored companies and individuals.

In the December elections, female candidates won 25 of 230 parliamentary seats, and there were 13 female ministers and Council of State members out of 92.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

At least 20 domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views. Prominent NGOs that operated in the country included the International Committee of the Red Cross (ICRC), Amnesty International, the International Federation of Woman Lawyers (FIDA), as well as local NGOs such as the African Center for Human Development and Ghanalert. In addition to cooperating with these NGOs, the Government cooperated with international humanitarian organizations, including the ICRC and the International Organization for Migration (IOM).

The CHRAJ was charged with investigating alleged violations of human rights, including corruption of public officials, and taking action to remedy proven violations. The CHRAJ continued to hold workshops to educate the public, traditional leaders, police, and the military on human rights issues. It mediated and settled cases brought to it by individuals with grievances against government agencies or private companies. On average the CHRAJ received between 4,000 and 5,000 new petitions per year, with steady increases each year. In July, the Acting Commissioner of CHRAJ stated that since its inception in 1993, CHRAJ had received over 60,000 cases, and 75 percent of these had been resolved. He stated that the number of cases continued to increase during the year.

The CHRAJ operated with no overt interference from the Government. Its biggest obstacle was a lack of adequate funding. Low salaries and poor working conditions resulted in the loss of many CHRAJ-trained personnel to other government agencies that were able to pay their employees more.

In January 2003, the NRC, established to create a historical record of human rights abuses for the periods of "unconstitutional government" between 1957 and 1993 and to make recommendations for redress, began conducting public hearings. The Commission's 12-month mandate was extended by 6 months in 2003 to accommodate the volume of complaints and allow thorough investigation. The NRC closed the public hearings on July 13 and received a total of 4,311 petitions. The NRC heard 2,129 cases that fell within the commission's mandate, including ill treat-

ment, detention, torture, seizure of property, unlawful killing, abductions, disappearance, and others. The NRC submitted its final report to the Government on October 12; however, by year's end, the report had not been made public, nor had the Government issued a formal response.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, sex, disability, language, or social status; however, enforcement by authorities was generally inadequate, in part due to limited financial resources. The courts were empowered to specifically order enforcement of these prohibitions.

*Women.*—Violence against women, including rape and domestic violence, remained a significant problem. According to FIDA, one in three women experienced domestic violence, and most abuses went unreported and seldom came before the courts. The Women and Juvenile Unit (WAJU) of the police service was established specifically to handle cases of domestic violence, child abuse, and juvenile offenses as well as researching patterns and types of crimes against women and children. During the year, 11,984 cases were reported to WAJU. The majority of these were cases of child neglect (7,421) and assault (2,059), most frequently in the form of domestic violence. Of these cases, there were 181 rape cases reported during the year. The Director of WAJU stated the increase in reported cases was due to an increase in victim rights awareness programs. The media also increasingly reported cases of assault and rape. WAJU worked closely with the Department of Social Welfare, FIDA, the Legal Aid Board, and several human rights NGOs.

Unless specifically called upon by the WAJU, police tended not to intervene in domestic disputes. Prosecution of domestic violence cases remained still difficult. On average, of the cases prosecuted, approximately one-quarter received convictions. Many victims did not have access to appropriate medical assistance to record the abuse, which hampered prosecution efforts. During the year, WAJU, international donors and NGOs collaborated to operate a medical trust fund for victims of domestic violence. A domestic violence bill was pending at year's end.

The Criminal Code bans the practice of customary servitude, makes the age of criminal responsibility 12 years, criminalizes indecent assault and forced marriages, and imposes punishments for defilement, incest, and prostitution involving children.

A strong belief in witchcraft continued in many parts of the country. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. Many of these women were banished by traditional village authorities or their families and went to live in "witchcamps," villages in the north populated by suspected witches (see Section 1.d.). The women did not face formal legal sanction if they returned home; however, most feared that they could be beaten or lynched if they returned to their villages. The law provides protection to alleged witches, and the WAJU continued to prosecute violence and societal abuses related to allegations of witchcraft.

There were several cases of lynching and assault of accused witches during the year. For example, on August 24, a 35-year-old man was prosecuted and sentenced to death by a fast-track high court for murdering his wife on the suspicion that she was a witch.

The case against four men accused of beating a woman to death on suspicion of witchcraft in July 2003 remained pending at year's end.

There were several traditional discriminatory practices that were injurious to the health and development of young girls. In particular FGM was a serious problem. According to a recent study conducted by the Ministry of Health, the prevalence rate among women ages 12 to 19 in the north was approximately 14 to 15 percent. Although the study did not include some females who had not yet reached the typical circumcision age of 15, the prevalence rate indicated a steep drop from the previous study. Often it was performed on girls under the age of 15. Research conducted by the Ministry of Health in the northern regions indicated that intervention programs have been somewhat successful in reducing the prevalence. Some observers believed that in the Northern Region, there was a 15 percent FGM prevalence rate, while others believed that education on the illegality of FGM has driven the practice underground and the real rate was as high as 30 percent. Officials at all levels, including traditional chiefs, have spoken against the practice, and local NGOs continued their educational campaigns to encourage abandonment of FGM and to retrain practitioners. In some cases in which FGM was performed, the victims actively sought out practitioners, sometimes without their parents' knowledge, to become ready for marriage. One NGO in the Northern Region reported that mothers frequently failed to return to the hospitals where they delivered their babies for immunizations and

to attend postnatal clinics, allegedly because they did not want the hospitals to discover that they were engaging in FGM.

The law prohibits FGM; however, members of the legal community advocated for legislation to close loopholes in the law and extend culpability to those who aid in carrying out FGM and to citizens who commit the crime outside the country's borders. In January, a 70-year-old woman in the Upper East was imprisoned for 5 years for circumcising seven girls who needed medical attention after the practice.

There were no laws that specifically protect women from sexual harassment; however, some sexual harassment cases were prosecuted under the existing Criminal Code. Women's advocacy groups reported that sexual harassment was a problem.

There is a Ministry of Women and Children's Affairs to address gender and children's issues; however, women continued to experience societal discrimination. Women in urban centers and those with skills and training encountered little overt bias, but resistance to women entering nontraditional fields persisted. Women, especially in rural areas, remained subject to burdensome labor conditions and traditional male dominance. Traditional practices and social norms often denied women their statutory entitlements to inheritances and property, a legally registered marriage (and with it, certain legal rights), and the maintenance and custody of children.

Women's rights groups were active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. The Government was active in educational programs, and many officials were active, outspoken advocates of women's rights.

*Children.*—Within the limits of its resources, the Government was committed to protecting the rights and welfare of children. In 2003, the Government finalized the design of its long-term development plan—the Education Sector Plan (ESP) 2003–2015. The ESP establishes an operational framework and indicates the Government's long-term commitment to achieving universal primary education. The Government was in the process of implementing this plan at year's end.

Education is compulsory through primary and junior secondary school (the equivalent of grades 1 through 9); however, education is not free. In practice, District Assemblies imposed levies of up to \$50 (455,000 cedis) per term, despite government regulations that these charges should not be more than \$10 (91,000 cedis). Parents are required to purchase uniforms and books, as well as extra items listed in schools' prospectuses. In addition, teachers often imposed extra classes for an additional fee to supplement their incomes. During the year, the Minister of Education directed all levies above \$10 (91,000 cedis) to be refunded and required bills of secondary schools to be vetted by District Directors of Education before being sent to parents. The Minister continued to advocate the refund policy; however, it was not implemented, and no refunds were made during the year. The Government abolished the payment of any type of charges in 40 deprived districts as part of its overall goal of making education accessible to all children by 2015.

In 2003, the gross enrollment rate was 81.3 percent at the primary level with 84.6 percent of boys enrolled compared with 78 percent girls. Enrollment was lower in the northern three regions than in the rest of the country (69.6 percent). At the Junior Secondary School (JSS) level, 67.1 percent of eligible children were enrolled, with 71.7 percent of eligible boys and 62.4 percent of eligible girls enrolled.

The Government strongly supported the U.N.'s Education for All goals. During the year, the Ghana Education Service (GES) actively campaigned for expanded education of girls by providing scholarships at the JSS and Senior Secondary School levels and providing incentives for female teachers to teach in rural areas. For example, the GES placed Girls Education Officers at the regional and district levels. There were Community Participation Coordinators in every district office, which mobilized communities to increase girls' school enrollments. In terms of in-school programs, the Government established Science and Math Clinics at the JSS level to encourage more girls to pursue careers in science and technology.

These efforts have been accompanied by increased government support of "informal" schools, which target children that must work to help support their families. The Government also increased educational opportunities for students with disabilities by increasing grants to primary schools serving these students during the year. Some children were unable to attend school because they worked to supplement their family's income (*see* Section 6.d.), they had to travel long distances to reach the school, or there was a lack of teachers, especially in more rural areas. In addition, authorities did not enforce children's attendance at school regularly, and parents rarely, if ever, were sanctioned for keeping their children out of school.

GSE formed a committee for the Quality Improvement in Primary Schools program to implement quality education in basic schools. According to an International

Labor Organization (ILO) representative, 1,789 teachers and circuit supervisors benefited from in-service training through this program. The program also provided training in basic management skills for staff in all 86 districts in the southern part of the country.

There were frequent reports that male teachers sexually assaulted their female students. The girls often were reluctant to report the attacks to their parents, and social pressure often prevented parents from going to authorities. A 2003 survey reported that 27 percent of school girls interviewed stated their teacher had pressured them for sex, 25 percent stated they knew at least one teacher having an affair with a school girl, and 79 percent stated they were sexually harassed by male classmates. Reliable data for the entire country was unavailable, so the overall scale of this problem was unknown. There were several press reports of teachers and headmasters/headmistresses either arrested for sexual harassment of female students or dismissed for ignoring reported problems.

WAJU and regular police units increasingly investigated and prosecuted sexual abuse of minors, and press reports of court cases ending in lengthy prison sentences became routine. Teachers also played a significant role in reporting cases of abuse to the authorities. For example, schoolteachers reported to WAJU two cases of forced marriages during the year. According to WAJU, there was an increase during the year of teachers referring girls and families to WAJU for help.

“Defilement,” or sexual abuse against minors, remained a problem. WAJU announced in June that between 1999 and May, there were 1,756 cases reported in which men victimized children between the ages of 2 and 15. WAJU also reported that, during the same period, 397 girls over the age of 16 had reported cases of rape and 44 incestuous relationships were reported.

WAJU reported that during the year, there were 63 cases of exposing a child to harm and 7,421 cases of child neglect. At year’s end, WAJU reported a total of 734 cases of defilement that were reported during the year.

In April, a farmer in the Ashanti Region was sentenced to 12 years in jail for sexually abusing a 3-year-old girl in 2003. In June, a district court remanded a 22-year-old man into custody for sexually abusing a 13-year-old girl with disabilities. In July, a 24-year-old man was remanded into custody for sexually abusing a 7-year-old girl in the Central Region.

Trokosi is a religious practice involving a period of servitude among the ethnic Ewe group in the Southern Volta Region. A virgin girl, sometimes under the age of 10, but often in her teens, is given by her family to work and be trained in traditional religion at a fetish shrine for a period lasting between several weeks and 3 years to atone for an allegedly heinous crime committed by a family member. In exceptional cases, when a girl of suitable age or status is unavailable, a boy can be offered. The girl, who is known as a Trokosi or a Fiashidi, becomes the property of the shrine god and the charge of the shrine priest for the duration of her stay. While instances of sexual abuse may occur on a case-by-case basis, there was no evidence that sexual or physical abuse was an ingrained or systematic part of the practice. The practice explicitly forbids a Trokosi or Fiashidi to engage in sexual activity or contact during her atonement period. After she completed her service to the shrine, the girl’s family must provide material items such as drinks, cloth, money, or livestock to the shrine for a final release ritual. After the release ritual, the girl returns to her family. In the vast majority of cases, there is no particular stigma attaching to her status as a former Trokosi shrine participant. Generally the women continued to voluntarily associate themselves with the shrine, often when a Trokosi woman dies, years if not decades after she has completed her service, her family was expected to replace her with another young girl, continuing the association of the family to the shrine from generation to generation. In very rare cases, the family abandons the girl or cannot afford the cost of the final rites, in which case she may remain at the shrine indefinitely. She also may leave the shrine and return to her village; however, her family’s reputation with the shrine, and possibly with the community, may be tarnished. Reports on the number of women and girls bound to Trokosi shrines vary; however, shrines rarely have more than four girls serving their atonements at any one time. According to credible reports from international observers, there were no more than 100 girls serving at Trokosi shrines throughout the Volta Region at year’s end.

Comprehensive legislation protects women’s and children’s rights and includes a ban on ritual servitude, which many activists interpreted to include Trokosi. According to human rights groups, the practice has decreased in recent years because other belief systems have gained followers, and fetish priests who died have not been replaced. Adherents of Trokosi describe it as a practice based on traditional African religious beliefs; however, the Government does not recognize it as a religion.

Forced childhood marriage, which is illegal, remained a problem. In August, the Acting Commissioner for CHRAJ declared forced marriage as the major human rights abuse issue in the Northern Region. In June, a 16-year-old girl committed suicide to protest an abusive marriage she had been forced into. In September, a chief in the Ashanti Region was arrested and remanded for allegedly defiling a 14-year-old girl. The investigation continued at year's end.

There were no further developments in the attempt of Ghana National Commission on Children (GNCC) and the CHRAJ to effect the prosecution of a chief who married a 14-year-old and impregnated her.

There were no updates in the investigations into the 2002 case of a 15-year-old girl forced to marry a 60-year-old man and the 2002 kidnapping of a 5-year-old girl for ritual purposes.

FGM was performed primarily on girls (*see* Section 5, Women).

Child prostitution, although illegal, also existed. The ILO International Program to Eliminate Child Labor (ILO/IPEC) organized workshops throughout the year to create awareness of increasing child prostitution in the tourism industry and create a strategy to combat the problem.

There were reports that trafficking in children occurred, for forced labor or sexual exploitation including children being sold into various forms of involuntary servitude (*see* Section 5, Trafficking).

Child labor was a serious problem (*see* Section 6.d.).

The migration of children from rural to urban areas increased, due to economic hardship. Children were driven to the streets to fend for themselves, increasing both the occurrence of child labor and the school dropout rate (*see* Section 6.d.). In 2003, the Ghana Statistical Service and ILO/IPEC surveyed 2,314 street children throughout the country, most of whom lived in the urban areas of the Greater Accra and Ashanti Regions and had migrated from northern rural areas. Of those surveyed, 45.7 percent had never attended school, 98.1 percent were engaged in economic activity within the last 12 months, and 80 percent said the work was demanding. Over three-quarters of street children surveyed said that both parents were alive, indicating poverty was the main cause of the problem.

The GNCC, a policymaking and coordinating body established to improve the lives of children, administered training programs for law enforcement and judicial officials to familiarize them with the Children's Act and other pertinent child labor legislation.

Local and international NGOs worked in conjunction with the Government to promote children's rights and were somewhat successful in sensitizing communities to protecting the welfare of children.

*Trafficking in Persons.*—No laws specifically addressed trafficking in persons, and trafficking in persons was a problem. The Government can prosecute traffickers under laws against slavery, prostitution, abduction, and underage labor. However, these laws do not adequately provide for victim assistance and rehabilitation, nor do they specifically penalize trafficking. The country was a source and a destination country for trafficked persons. WAJU reported that there were 190 cases of abduction and 19 cases of child stealing during the year.

Law enforcement authorities were not given sufficient resources to deal with the problem and had a difficult time identifying persons who were being trafficked because of the fluid nature of family relations in the country. For example, children were often trafficked into the custody of someone referred to as a "cousin" or an "aunt" even if there was no blood relation. The Government, the ILO, and NGOs trained security forces, immigration authorities, customs and border officials, and police on the problems of trafficking.

Police officials claimed that the lack of legislation criminalizing trafficking hampered their efforts. The trial of a woman arrested in the Upper East Region in 2001 for trafficking eight boys and three girls to the Gambia was ongoing at year's end. The case of traffickers intercepted in 2002 with 50 children was pending in court at year's end.

In April, 12 girls who had been trafficked to the Gambia for prostitution were repatriated under the custody of the Department of Social Welfare.

Various ministries worked with the ILO/IPEC, the IOM, and NGOs to address trafficking. The Ministry of Manpower Development and Employment, in conjunction with ILO/IPEC, continued to implement a National Plan of Action for the Elimination of Child Labor (*see* Section 6.d.). The IOM, the African Center for Human Development, and the Ministry of Women and Children's Affairs worked to identify and repatriate children trafficked to fishing villages.

Trafficking was both internal and international, with the majority of trafficking in the country involving children from impoverished rural backgrounds. The most

common forms of internal trafficking involved boys from the Northern Region going to work in the fishing communities along the Volta Lake or in small mines in the west, and girls from the north and east going to Accra and Kumasi to work as domestic helpers, porters, and assistants to local traders (*see* Section 6.d.). Local NGOs reported these children were subjected to dangerous working conditions and sometimes were injured or killed as a result of the labor they performed.

Children between the ages of 7 and 17 also were trafficked to and from the neighboring countries of Cote d'Ivoire, Togo, and Nigeria to work as farm workers, laborers, or household help.

Much of the recruitment of children was done with the consent of the parents, who sometimes were given an advance payment or promised regular stipends from the recruiter and were told the children would receive food, shelter, and often some sort of training or education. Some parents sent their children to work for extended family members in urban areas. Treatment of children sent to work in relatives' homes varied. Many children were given to professional recruiters, usually women, who placed the children with employers in cities. A child in these circumstances usually was paid between \$2.20 and \$3.30 (20,000 and 30,000 cedis) per month. In many cases, the children never received the education or vocational training the recruiters promised. Girls could be forced into prostitution and were sometimes sexually abused by their employers.

Women also were trafficked to Western Europe, mostly Italy, Germany, and the Netherlands. International traffickers promised the women jobs; however, the women often were forced into prostitution once they reached their destination. The women were sent sometimes directly to Europe, while others were trafficked through other countries. Some young women were trafficked to the Middle East, particularly Lebanon, where they worked in menial jobs or as domestic help. There also was a growing trade in Nigerian women transiting through the country on their way to Western Europe and reportedly the Middle East to work in the sex industry. Traffickers from other countries reportedly used Accra as a transit point to Europe and reportedly the Middle East. Reportedly, there was some trafficking in persons from Burkina Faso, mostly transiting through the country on the way to Cote d'Ivoire.

The Government coordinated anti-trafficking efforts with NGOs and called meetings of its Human Trafficking Task Force occasionally during the year to discuss draft antitrafficking legislation; however, an ILO/IPEC Steering Committee, which included many government officials, provided the major focus for antitrafficking activities (*see* Section 6.d.).

Several NGOs, both local and international, worked with trafficking victims. These organizations, as well as the University of Ghana's Center for Social Policy Studies, conducted studies into trafficking as part of their broader agenda, performed some rescue operations for street kids, provided training and education for victims of trafficking and abuse, and in some cases, assisted with family reunification. An antitrafficking in persons bill was pending at year's end.

*Persons With Disabilities.*—The Constitution specifically provides for the rights of persons with disabilities, including protection against exploitation and discrimination. While the Government did not systematically or overtly discriminate against persons with disabilities, in practice, such persons often experienced societal discrimination. The Constitution also provides persons with disabilities access to public buildings "as far as practicable;" however, in practice this provision was not implemented. In 2003, the Department of Social Welfare officials estimated that 10 percent of the population had some form physical disability.

In June, the Interim Chairman of the Ghana Union of Physically Disabled Workers accused the GES of not paying workers with disabilities their entitled disability allowance. In 1999, the Government established a policy whereby blind and wheelchair-bound persons would receive a disability allowance. According to the Ghana Union of Physically Disabled Workers, approximately 60 persons of persons with disabilities were denied this allowance and the main offender was the GES.

There were multiple government agencies involved in addressing discrimination against persons with disabilities, including the Ministry of Health, the Department of Social Welfare, and the Ministry of Education.

With international donor funding, the Ghana Association for the Blind and the Electoral Commission provided tactile ballots and poll worker training to enable visually impaired citizens to vote in presidential and parliamentary elections in December.

A man with disabilities in the Brong Ahafo Region was reelected to Parliament in the December national elections.

During the year, the Mental Health Law was under review for the first time in 32 years. The Ministry of Health and the World Health Organization collaborated to identify areas of the law that need revision and create a strategy for implementing a new law.

*National/Racial/Ethnic Minorities.*—Although the Government played down the importance of ethnic differences, its opponents have complained that the Government is dominated by Ashantis and other Akans at the expense of Ewes and northerners. The President and some of his ministers and close advisors were Ashanti, but the Vice President and many ministers were of other ethnic origins.

Following the December national elections, there were reports of some ethnically motivated taunting in the Central Region. Some NDC supporters allegedly harassed Fantes (an ethnic group prominent in the region) for not voting for the NDC's candidate, who came from the Central Region and was himself a Fante.

Efforts by NGOs to encourage reconciliation continued during the year; however, there were several violent confrontations within ethnic groups related to chieftancy issues, particularly involving succession and land. The trial of four persons charged with rioting, conspiracy, attempted murder, and murder from an August 2003 clash in Brekusu, Eastern Region, was ongoing at year's end.

The state of emergency that was enforced following the 2002 clashes between rival factors of royal families in Yendi, Northern Region, was lifted on August 18. A three-person team of traditional leaders, appointed by the President, and several local NGOs, continued to conduct various peace-building and reconciliation activities between the factions, which led to progress in reducing tensions.

*Other Societal Abuses and Discrimination.*—The law is discriminatory toward homosexuals, and homosexuality is criminalized in the country. There is a minimum misdemeanor charge for homosexual activity, and homosexual men often are subjected to abuse in prison. In May, the Acting Commissioner for CHRAJ publicly suggested that the Government consider decriminalizing homosexuality to conform to international standards of human rights. Homosexuality was socially taboo in the country, and many persons continued to erroneously link the prevalence of HIV/AIDS only with a homosexual orientation.

Discrimination against persons living with HIV/AIDS was a problem, and the fear of being stigmatized continued to discourage persons from being tested. In April, the Inspector General of Police publicly urged all police officers to be tested voluntarily through a free service available to the police. During the year, several key government representatives publicly denounced discrimination against persons living with HIV/AIDS. The Cabinet approved a policy to protect persons living with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association, and workers exercised this right in practice. The percentage of workers belonging to unions appeared to be decreasing as more of the workforce entered the informal sector where there was no union activity. The Ministry of Employment and Manpower Development estimated that 80 percent of the work force was employed in the informal sector, and the number was expected to increase.

In the past, all unions had to be affiliated with the Trade Union Congress (TUC). Under the 2003 labor law, unions, may operate independently of the TUC, and several groups have established independent unions.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference and their right to organize and administer their unions and workers exercised this right in practice. The law also provides a framework for collective bargaining, and trade unions engaged in collective bargaining for wages and benefits for both private and state-owned enterprises without government interference. However, the Government, labor, and employers negotiated together to set the daily minimum wage through a National Tripartite Committee. The labor law, enacted in late 2003, gives the Committee a formal role to determine and set the national daily wage, consult on matters of social and economic importance, and advise on employment and labor market issues.

The 2003 legislation repealed a law restricting the right to bargain collectively to only those groups that apply for a Collective Bargaining Certificate through the TUC, essentially giving the TUC a monopoly and breaching the right to establish and choose organizations. The 2003 law allows any trade union to apply for a Collective Bargaining Certificate through the Chief Labor Officer; however, the Chief Labor Officer grants a Collective Bargaining Certificate only to the union that represents the majority of workers at a given company.

The law recognizes the right to strike; however, the 2003 labor law restricts that right for workers who provide essential services. The Minister of Manpower Devel-

opment and Employment had not formally designated the list of essential services by the year's end. The right to strike can also be restricted for workers in private enterprise whose services were deemed essential to the survival of the enterprise by a union and an employer. A union may call a legal strike if parties fail to agree to refer the dispute to voluntary arbitration or if the dispute remains unresolved at the end of arbitration proceedings. No union has ever gone through the complete dispute resolution process, and there were numerous unsanctioned strike actions during the year. There have been no legal strikes since independence.

There is legislation authorizing export processing zones (EPZs), and a few EPZs are in operation. Existing labor law applies in any EPZ, including the right to organize.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

The 2003 labor law provides for fines to employers found guilty of forced labor; however, by year's end, the law had not been used. During the year, the ILO continued to urge the Government to revise various legal provisions that permitted imprisonment with an obligation to perform labor for offenses that were not allowed under ILO Convention 105.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets a minimum employment age of 15 years and prohibits night work and certain types of hazardous labor for those under 18 years of age; however, child labor was a serious problem in the informal sector. The Children's Act establishes a minimum age for employment, prohibits night work and hazardous labor, and provides for fines and imprisonment for violators. In addition, the legislation allows for children age 15 years and above to have an apprenticeship whereby the craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. However, child labor laws were not enforced effectively or consistently, and law enforcement officials, including judges, police, and labor officials, often were unfamiliar with the provisions of the law protecting children. Observance of minimum age laws was eroded by local custom and economic circumstances that encouraged children to work to help support their families.

An ILO/IPEC-Ghana Statistical Service survey of child labor released in 2003 found that 2.47 million children were engaged in some economic activity, and 64.3 percent of those children attended school. Of those children engaged in economic activity, 1.27 million children were found to be engaged in child labor as defined by age and hazardous working conditions. Children as young as 7 years worked as domestic laborers, porters, hawkers, miners, quarry workers, fare collectors, and in agriculture. The fishing industry on Lake Volta had a particularly high number of child laborers engaged in potentially hazardous work, such as deep diving. According to an ILO representative, child labor in the tourism industry also increased. Child laborers were poorly paid and subjected to physical abuse; they received little or no health care and generally did not attend school. According to government labor officials and the Ghana Employers Association, child labor problems did not exist in the formal labor sector because the formal sector was better regulated.

The law prohibits forced and compulsory labor performed by children; however, during the year, children were reportedly sold, leased, or given away by parents to work in agriculture, fishing villages, quarry mines, shops, or homes. It was difficult to determine the extent to which forced and bonded labor by children was practiced. Some children were connected to Trokosi shrines, although the practice has declined in recent years (see Sections 5).

There were newspaper reports of children being sold into various forms of involuntary servitude for either sexual exploitation or labor, such as 10- to 12-year-old boys working for fisherman in exchange for a yearly remittance to their families. The practice often involved the consent of their generally impoverished parents. Reliable data was not available on the number of children who were working in fishing villages along Lake Volta; nevertheless, NGOs who worked on this issue estimated the number to be well into the thousands (see Section 5).

Inspectors from the Ministry of Labor and Social Welfare are responsible for enforcement of child labor regulations, and district labor officers and the Social Services sub-committees of District Assemblies are charged with seeing that the relevant provisions of the law are observed. They visited each workplace annually and made spot checks whenever they received allegations of violations. All law enforcement and judicial authorities in the country were hampered by severe resource constraints and a lack of public awareness about the problem.

When Ministry of Manpower Development and Employment inspectors found infractions of child labor laws during their routine monitoring of companies' labor

practices, they generally informed the employers about the provisions of the law and asked them to make changes. There were no prosecutions for child labor resulting from these inspections. Officials only occasionally punished violators of regulations that prohibited heavy labor and night work for children. In addition, the inspectors' efforts were concentrated only in the formal sector, which was not where most child labor was performed.

ILO/IPEC, government representatives, the TUC, the media, international organizations, and NGOs continued to build upon the 2001–02 “National Plan of Action for the Elimination of Child Labor in Ghana,” by increasing institutional capacity to combat child labor. Education and sensitization workshops were conducted with police, labor inspectors, local governments, and communities. Forums were held throughout the country to develop and implement an ILO/IPEC Time-Bound Program, which aimed to eliminate all forms of child labor under specified time periods and benchmarks.

*e. Acceptable Conditions of Work.*—A National Tripartite Commission composed of representatives of the Government, labor, and employers set daily minimum wages. In April, after lobbying by trade unions, the Tripartite Commission raised the daily minimum wage to \$1.20 (11,200 cedis), which did not provide a decent standard of living for a worker and family. Furthermore, there was widespread violation of the minimum wage law. In most cases, households had multiple wage earners, and family members engaged in some family farming or other family-based commercial activities.

The law sets the maximum workweek at 40 hours, with one break of at least 48 consecutive hours every 7 days. The Government compensated extra duty hours only for overtime actually worked, in accordance with labor equity, rather than as an automatic salary supplement.

Occupational safety and health regulations exist, and the Labor Department of the Ministry of Health and Social Welfare occasionally imposed sanctions on violators. However, safety inspectors were few and poorly trained. They took action if matters were called to their attention but lacked the resources to seek out violations. Workers have the right to withdraw themselves from dangerous work situations without jeopardy to continued employment, although they rarely exercised this right.

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## GUINEA

Guinea is a constitutional republic in which effective power is concentrated in a strong presidency. President Lansana Conte has ruled since 1984, first as head of a military junta and, since 1994, as a civilian president. Despite openly acknowledged health problems, the President ran for re-election in December 2003, winning against a candidate who was virtually unknown. All major opposition parties boycotted the election due to questions over the fairness of the electoral system. The election was peaceful although turnout was lower than previous presidential elections, despite government claims of a high participation rate. The country's second legislative election, originally scheduled for 1999, was held in 2002. President Conte's Party of Unity and Progress (PUP) and associated parties won 91 of the 114 seats; the majority of the opposition boycotted the election. An increasingly disproportionate number of appointed public sector positions, including senior military and cabinet posts, were held by members of the President's own minority ethnic Soussou group, even after a major post-election cabinet shuffle in February. The judiciary was subject to executive influence, particularly in politically sensitive cases.

The Gendarmerie, a part of the Ministry of Defense, and the national police, under the Ministry of Security, share responsibility for internal security and sometimes played an oppressive role in the daily lives of citizens. The Presidential Guard, or Red Berets, are accountable to virtually no one except the President. There was no effective civilian control of the security forces. Some members committed serious human rights abuses.

The country's economy is largely market-based, although the Government intervenes to control prices of sensitive commodities such as rice and fuel. Approximately 85 percent of the country's population of 9.2 million was engaged in subsistence agriculture. Economic growth stagnated during the year as foreign aid declined. The cost of living, including the rising price of staple foods and of transportation fuels as well as frequent and severe power blackouts and water shortages has led to increased hardship for a majority of citizens. Wages have not kept pace with the rising inflation rate; food prices have risen by 30 percent. The Government, which had

enforced a fuel price cap, raised fuel prices by 66 percent in August. Government collaboration with donors was jeopardized by an increasing debt burden, deficit, widespread corruption, particularly at the port and customs offices; and limited transparency in the Government, which blocked efforts at economic and fiscal reform.

The Government's human rights record remained poor; although there were improvements in several areas, serious problems remained. The Government's tight control of the electoral process, its refusal to create an independent electoral oversight mechanism, and its prohibition of nongovernmental broadcast media effectively restricted citizens' right to change their government. There were four unlawful killings by security forces during the year. Civilian and military security forces beat and otherwise abused civilians, often with impunity. Prison conditions were inhumane and life threatening. Arbitrary arrest and prolonged pretrial detention were problems. The Government infringed on citizens' privacy rights. The Government restricted freedom of speech, the press, assembly, and association and infringed on freedom of movement. Violence and societal discrimination against women, prostitution of young girls, female genital mutilation (FGM), ethnic discrimination, child labor, and reports of trafficking of women and children continued.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings by the Government or its agents; however, security forces killed several persons during the year, and there were reports of deaths in custody due to torture, abuse, and neglect. There were four confirmed reports that security forces killed persons during the year.

In February, security forces beat to death a man detained for burglary.

In May, policemen shot and killed two taxi drivers. One victim refused to pull over for a routine traffic check; the other overtook and passed a policeman in traffic. No charges were filed against these policemen.

In October, the Anti-Gang Brigade shot and killed a man who verbally objected to his neighbor's arrest.

Police killed one person with a stray bullet during a demonstration (*see* Section 2.b.).

At year's end, there was no information available on the trial of the gendarme arrested for killing a man in Donka.

There were no developments in the April 2003 police killing of a man in Yimbaya.

There were no developments in the reported 2002 killings by security forces.

Government authorities continued to block efforts by human rights groups and nongovernmental organizations (NGOs) to investigate political killings that took place in the 1970s under then-President Sekou Toure.

Many victims of crime feared that they might never receive justice because of judicial corruption and at times resorted to exacting their own form of retribution through vigilante violence. Although there were no reports during the year that suspected criminals were beaten or burned to death in public executions, a group burned down the house of a policeman who killed a man attempting to defend a neighbor (*see* Section 1.c.).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code and the Constitution prohibit torture and cruel, inhuman, or degrading treatment; however, both civilian and military security forces beat and otherwise abused civilians. There also were reports that security forces used torture and beatings to extract confessions and employed other forms of brutality, including holding prisoners incommunicado without charges under inhumane conditions. There were no developments or investigations conducted in the June 2003 cases of extortion by the Anti-Criminal Brigade in Kamsar.

Police injured several persons while using force to disperse demonstrations during the year (*see* Section 2.b.).

There were no developments in the May 2003 police shooting of a man in Conakry; the June 2003 police beating of two men in Ratoma; or the July 2003 police beating of four persons in Gonomanota.

Unlike in previous years, there were no reports that authorities stopped refugees and searched them for signs that they were dissidents.

No action was taken against security forces responsible for abusing refugees in 2003 or 2002.

Prison conditions were inhumane and life threatening. Neglect, mismanagement, and lack of resources were prevalent. The basic diet for prisoners was inadequate, and most inmates relied on supplemental assistance from families or friends to maintain their health. Guards often demanded bribes in exchange for allowing delivery of food to those incarcerated. During the year, an NGO cited cases of dangerously low body weight and initiated a program to improve the health of critically malnourished inmates.

Standards of sanitation remained poor, which resulted in several dozen deaths due to malnutrition and disease in previous years. During the year, there were two confirmed reports of deaths of prisoners due to lack of medical attention. Some prisoners reported sleeping on their knees because their cells were so small. Prisoners reported threats, beatings, and harassment by guards, and some reported being denied food and a place to lie down. Some prisoners wielded more power than the guards, offering more sanitary cells and conditions to new prisoners who were able to pay.

Conditions in the N'Zerekore prison improved in 2003. The prison was built in 1932 to house 70 prisoners and housed 155 prisoners during the year. Installation of indoor plumbing and better ventilation improved overall conditions for prisoners in 2003; however, no improvements in the prisons were noted during the year. Men and women were housed separately, but juveniles generally were housed with adults, and first-time offenders were not separated from common criminals. There were credible reports from prisoners that female inmates were subjected to harassment and sexual assault by guards. Pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest. Prisoners of political importance usually were held in the main prison in Conakry with the general prison population; however, they were housed in separate cells.

The Government permitted prison visits by the International Committee of the Red Cross (ICRC) and other local humanitarian and religious organizations, which offered medical care and food for those in severe need. The ICRC reported that it was allowed regular access to all 33 official detention facilities and 2,500 prisoners during the year. The ICRC continued to initiate partnership programs with prison and security authorities to improve prison conditions. A former prisoner reported that without this assistance, those who did not have families or friends would have starved to death.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, security forces regularly used arbitrary arrest and detention.

The Code of Penal Procedure permits only the Gendarmerie to make arrests, but the army, the Presidential Guard (Red Berets), and the state police often detained persons as well. In addition, a quasi-police unit, called the Anti-Crime Brigade (BAC), was formed in 2002 to fight criminal gangs and bandits. BAC units began in Conakry and were being extended to other prefectures. In practice, administrative controls over the police were ineffective, and security forces rarely followed the Penal Code. There were no reported judicial proceedings against officers suspected of committing abuses. Many citizens viewed the security forces as corrupt, ineffective, and even dangerous. Police ignored legal procedures and extorted money from citizens at roadblocks (*see* Section 2.d.).

The Penal Code stipulates that the arrest of persons in their home is illegal between 9 p.m. and 6 a.m.; nevertheless, midnight arrests took place. The Penal Code also requires that the Government issue a warrant before an arrest can be made and that detainees be charged before a magistrate within 72 hours; however, many detainees were incarcerated for longer periods before being charged. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. The Constitution proscribes incommunicado detention; however, at times it occurred in practice. The law provides for access by attorneys to their clients, but authorities frequently did not respect this provision. Release on bail was at the discretion of the magistrate who had jurisdiction. The Penal Code strictly forbids the detention of civilians at military camps, but such detentions occurred.

Police detained opposition members several times during the year. For example, in March, authorities prevented former mayor and prominent member of the Union of Democratic Forces (UFR) opposition party Rougui Barry from leaving the country. Police detained and jailed Barry, along with another UFR member and an army officer. Police claimed the three were involved in efforts to subvert the Government. Charges against the two of the accused were later dismissed, while the legal situation for the army officer remained unclear at year's end.

In April, police arrested three members of the Union for Guinea's Progress (UPR) opposition party on unspecified charges.

On April 25, UFR opposition President and former Prime Minister Toure was detained for 1 night and then released for plotting against the Government; charges were dismissed on July 22. When charges against him were dropped, all freedom of speech and movement restrictions were dropped.

In November 2003, gendarmes detained an unknown number of active and ex-military personnel for unspecified reasons. Several, including the son of the former head of the National Assembly, were released in December 2003, although others continued to be detained. Unlike in previous years, there were no reports that the army or gendarmerie detained refugees during the year.

Prolonged pretrial detention was a problem. At times, detainees remained in prison for up to 2 years without trial.

On October 25, 12 military officers who were accused of a military coup in December 2003 and were held in military prison for 10 months without trial and access to lawyers were released. During their stay in prison, they reportedly slept on the ground and on straw mat or rags.

In October 12 political detainees—2 military officers and 10 civilians—who were held without trial in a military prison on suspicion of plotting a coup in December 2003 were released on probation after their families petitioned the Government in September requesting the prisoners' immediate release.

Bar Association attorneys, the independent press, and government sources described a parallel and covert system of justice run by unidentified uniformed personnel who conducted midnight arrests, detained suspects, and used torture in secret prisons to obtain confessions before transferring detainees to prosecutors (*see* Section 1.c.).

*e. Denial of Fair Public Trial.*—The Constitution provides for the judiciary's independence; however, judicial authorities routinely deferred to executive authorities in politically sensitive cases. Magistrates were civil servants with no assurance of tenure. Because of corruption and nepotism in the judiciary, relatives of influential members of the Government often were, in effect, above the law. Judges often did not act independently, and their verdicts were subject to outside interference.

The judiciary includes courts of first instance, the two Courts of Appeal, and the Supreme Court, which is the court of final appeal. In practice, the two Courts of Appeal for Kankan and Conakry that handle serious crimes barely functioned due to lack of resources and organizational problems, and many prisoners were detained for lengthy periods without trial (*see* Section 1.d.). A military tribunal prepares and adjudicates charges against accused military personnel, to whom the Penal Code does not apply. Civilians were not subject to military tribunals.

The State Security Court is comprised of magistrates directly appointed by the President, and the verdict is open to appeal only on a point of law, not for the re-examination of evidence.

The judicial system was plagued by numerous problems, including a shortage of qualified lawyers and magistrates and an outdated and restrictive penal code. The Penal Code provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision; however, these rights were not consistently observed in practice. Although in principle the Government is responsible for funding legal defense costs in serious criminal cases, in practice it rarely disbursed funds for this purpose. The attorney for the defense frequently received no payment.

Many citizens wary of judicial corruption preferred to rely on traditional systems of justice at the village or urban neighborhood level. Litigants presented their civil cases before a village chief, a neighborhood leader, or a council of "wise men." The dividing line between the formal and informal justice systems was vague, and authorities may refer a case from the formal to the traditional system to ensure compliance by all parties. Similarly, if a case cannot be resolved to the satisfaction of all parties in the traditional system, it may be referred to the formal system for adjudication. The traditional system discriminated against women in that evidence given by women carried less weight (*see* Section 5).

During the year, there were political prisoners held in connection with the December 2003 coup plotting. On October 12, military officers had their first appearance before the First Instance Court of Conakry on charges of plotting to overthrow the President in December 2003.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home, and the law requires judicial search warrants; however, police and paramilitary police often ignored legal procedures in the pursuit of criminals. Unlike in previous years, the degree to which po-

lice and the military detained persons at nighttime roadblocks for purposes of security but also to extort money or goods declined (*see* Section 2.d.).

Security officials were widely believed to monitor the mail. Local businesses, including foreign companies, often complained of intimidation and harassment by public officials and authorities.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression, subject to certain limitations; however, despite government statements in support of free speech and a free press, the Government broadly restricted these rights. The Government prohibited talk or chants in public that it considered seditious; established defamation and slander as criminal offenses; and prohibited communications that insulted the President, incited violence, discrimination, or hatred, or disturbed the public peace. Sanctions include fines, revocation of press cards, imprisonment, and banishment.

Unlike in the previous year, the Government did not detain persons for criticizing the President, although in March, a journalist was detained briefly for publishing a photograph of the President looking thin and leaning on an aide.

The Government published an official newspaper, the daily *Horoya*, and operated the official television and radio stations. The state-owned media provided extensive and favorable coverage of the Government and ruling party, while providing little coverage of opposition party activities. Journalists for the official press practiced self-censorship and avoided reporting on politically controversial issues.

There was a vocal private press that openly criticized the President and the Government. For example, the weekly satirical newspaper *Le Lynx* published front-page cartoons lampooning the President and senior government officials. Ten private newspapers were published weekly in Conakry, and up to 10 other publications appeared sporadically, although technical difficulties and high operating costs impeded regular publication. One newspaper, *L'Espoir*, was affiliated with the governing political party, and several other newspapers openly supported opposition parties. Other newspapers offered news and criticism of both the Government and the opposition. Foreign publications, some of which criticized the Government on a regular basis, were available. Despite the limited reach of the print media due to low literary rates and high prices of newspapers, the Government continued to occasionally criticize and harass print journalists.

The Government owned and operated all domestic broadcast media including radio, which was the most important source of information for the public. Although the law permits private electronic media, the Government has never approved license requests for private radio and television stations, on the grounds of national security. Many citizens listened regularly to foreign-origin short-wave radio. The Government did not restrict access to or distribution of foreign television programming via satellite or cable; however, relatively few citizens could afford these services.

In May, the Ministry of Local Government refused to allow the magazine *Jeune Afrique L'intelligent* permission to distribute the May 2–8 edition. Some observers believe the Government banned it because it featured an article about the country's recently resigned Prime Minister. It also banned the sale of the May 9–15 edition of the magazine, which featured a story about the President's efforts to persuade the Prime Minister to return to his position.

During the year, the National Communications Council (CNC) suspended the newspapers *L'oeil* and the *Leconomiste*, for defamation and false information. The newspapers have since resumed publication. In November, the CNC also seized *Le Quotidien*, a privately owned daily newspaper. The CNC ruled that an article violated ethics and rules for professional journalism established by law and "threatened the peace and tranquility."

In September, the Minister of Security seized a weekly publication, *Le Petit Matin*, following an article that criticized him. The Minister claimed the paper had no license; however, the publishers insisted that their license was current.

The Ministry of Security has no jurisdiction over publication issues. *Le Quotidien* resumed publication at year's end.

The Government did not restrict access to the Internet.

The Ministry of National Education and Scientific Research exercised limited control over academic freedom through its influence on faculty hiring and control over the curriculum. In general, teachers were not subject to classroom censorship.

*b. Freedom of Peaceful Assembly and Association.*—The law restricts freedom of assembly, and the Government exercised its power to restrict unwanted political activity. The Penal Code bans any meeting that has an ethnic or racial character or any gathering "whose nature threatens national unity." The Government requires

a 72-hour advance notification of public gatherings; otherwise, the events are considered illegal. In July 2003, the Government notified all political parties that their leadership was required to provide advance notification of their attendance at funerals, weddings, or any other gathering with a large number of citizens; this was enforced during the year.

The Government continued to enforce a 2003 ban that prohibits all street marches except funerals. The law permits local authorities to cancel a demonstration or meeting if they believe it poses a threat to public order. They may hold event organizers criminally liable if violence or destruction of property ensues. The Governor of Conakry requires written permission from his office for public meetings of all associations, NGOs, groups, cooperatives, and political parties, and the requirement continued to be enforced during the year.

In August, the Government cancelled the public celebration of a holiday celebrating a market women's revolt in 1977 and denied the marching permit for the event.

During the year, the country experienced several demonstrations to protest rising food prices, some of which were broken up by force. For example, on September 13 and 14, students at the Agricultural College in Faranah boycotted classes to demand better living conditions and protest the rising cost of food. Police and the BAC beat demonstrators and used tear gas to disperse the demonstrators. Military forces held 135 students at an army base. An NGO negotiated their release. The school was closed for 1 month by school authorities in conjunction with the Ministry of Higher Education. Five students were expelled permanently.

On September 18, police used tear gas to break up groups traveling on foot to a rally called by an opposition party, Union of Democratic Forces in Guinea (UDFG), to protest the rising cost of food. The Government permitted the UDFG to rally at a stadium; however, a request for a street demonstration was not granted. It was unclear whether the group tried to march in defiance of the Government, or whether several supporters were walking to the stadium.

In November, elected student representatives staged a strike at the University of Conakry to protest the Government's decision to eliminate dormitories. The Gendarmerie and the BAC were called to restore order. Twenty-one students were arrested and released after 4 days.

On November 2, residents in the town of Pita rioted to protest the increase in electricity prices. Police killed one youth with a stray bullet and injured several persons in an attempt to stop the unrest. Reportedly, employees of the electric company going from house to house with the latest electric bills fueled the unrest.

On December 29 and 30, workers of foreign-owned bauxite mines staged a protest in Fria, demanding unpaid salaries. One man died when police opened fire on the demonstration.

The law provides for freedom of association; however, the Government restricted this right in practice. The Government imposed cumbersome requirements to obtain official recognition for public social, cultural, religious, or political associations. Most of the restrictions focused on political associations as opposed to nonpolitical associations. For example, political parties had to provide information on their founding members and produce internal statutes and political platforms consistent with the Constitution before the Government recognized them.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and permits religious communities to govern themselves without state interference, and the Government generally respected these rights in practice.

The Government requires that all recognized Christian churches join the Association of Churches and Missions to benefit from certain government privileges, such as tax exemptions and energy subsidies.

The Ministry of the National Islamic League, formerly the National Islamic League, represented the country's Sunni Muslim majority, which comprised 85 percent of the population. Government support of the powerful, now official Ministry of the National Islamic League led some non-Muslims to complain that the Government used its influence to favor Muslims over non-Muslims, although non-Muslims were represented in the Cabinet, administrative bureaucracy, and the armed forces. The Government refrained from appointing non-Muslims to important administrative positions in certain parts of the country in deference to the particularly strong social dominance of Islam in these regions.

Missionary groups were required to make a declaration of their aims and activities to the Ministry of Interior or to the Ministry of the National Islamic League.

Relations among the various religions generally were amicable; however, in some parts of the country, Islam's dominance was such that there was strong social pressure that discouraged non-Muslims from practicing their religion openly.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens with the right to travel freely within the country and to change their place of residence and work; however, authorities at times infringed on these rights. The Government requires all citizens to carry national identification cards, which they must present on demand at security checkpoints. To a lesser extent than in previous years, police and security forces detained persons—particularly late at night, at military roadblocks and extorted money from them. The private press and local NGOs reported that travelers often were pressured to pay bribes to allow passage. Some roadblocks remained on Conakry's outskirts, rural areas, and in the Forest Region close to international borders. Government officials stated that a few rogue soldiers were corrupt; however, abuse at official checkpoints was systemic.

In May, authorities banned Union of Democratic Forces of Guinea opposition party leader Ba Mamadou from leaving the country. Authorities accused him of plotting a coup. The travel ban was lifted several months later.

The Constitution does not prohibit forced exile; however, the Government did not practice forced exile. Several soldiers who fled the country in 1996 after a mutiny attempt remained in self-imposed exile, according to their families.

During the year, U.N. High Commission for Refugees (UNCHR) and International Organization of Migration IOM and the Government confirmed that all displaced persons have been reintegrated.

The law provides for the granting of asylum and refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees of its 1967 Protocol, and the Government has established a system of providing protection to refugees through an advisor on Territorial Issues within the Ministry of Territorial Administration. In practice, the Government did not always provide protection against refoulement, the return of persons to a country where they feared persecution, and did not always grant refugee status or asylum. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The border with Liberia was officially reopened during the year; however, border authorities were warned to screen out possible rebels. The Government continued to accept refugees during the year. There was a pattern of accepting refugees from neighboring countries, such as Cote d'Ivoire and Liberia, while denying access to any other nationals suspected to be rebels. The border with Sierra Leone was no longer closed; local, commercial, and personal travel between the countries was permitted, and Sierra Leonean refugees residing in the country officially were allowed to return to Sierra Leone both on their own and under the auspices of the UNHCR.

The UNHCR stated that as of August, more than 78,000 refugees received UNHCR assistance: 1,732 Sierra Leoneans, 3,822 Ivoirians, and 72,700 Liberians. Other refugees lived in Conakry or villages and towns in the forest region. In November, the UNHCR repatriated 517 Liberians refugees in 2 convoys; UNHCR considered repatriation of refugees from Sierra Leone complete in July.

Unlike in the previous year, there were no reports that refugees were forced to pay bribes to get past checkpoints or that security forces continued to arrest suspected rebels at the border as they tried to enter the country. There also were no reports that security forces searched and stripped refugees in public. There were no developments in the 2003 case of refugees awaiting trial for attacking a UNHCR official. Unlike in the previous year, there were no reports of forcible recruitment of refugees by the Liberians United for Reconciliation and Democracy (LURD) at camps in the country. During the year, the relocation of refugees from Kouankan to camps near Kissadougou that were farther from the Liberian border was officially canceled.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 U.N. Convention or 1967 Protocol, and provided it to approximately 200 persons of different West African nationalities during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for a popularly elected President and National Assembly; however, the ability of citizens to exercise this provision effectively was restricted. The Government tightly controlled the electoral process, and there was no independent electoral oversight mechanism.

The Government retained exclusive control of all registration and election procedures, including the casting and counting of votes. The Government controlled the

1998 multiparty presidential elections and the multiparty legislative elections in 2002, limiting the opposition to a subordinate role. The Constitution allows the President to run for an unlimited number of terms; presidential terms are 7 years. There were approximately 46 legally recognized political parties; deputies of 5 different parties were represented in the National Assembly. Government employees are required to campaign for the ruling party in each election.

In December 2003, President Conte was re elected to a third term in a race boycotted by all major opposition parties due to concerns over the electoral system. The President's only opposition was a relatively unknown candidate previously allied with the ruling PUP party. The election was peaceful with few reports of violence.

In June 2002, legislative elections were held, and observers judged the results to be questionable due to a lack of transparency and neutrality in the electoral process.

The President continued to hold the power to appoint the governors, prefects, and their deputies to administer regions and subregions respectively. Most of these officials were members of the PUP or of parties allied with it. Local governments generally had limited autonomy. Although they had some financial resources with which to fund local programs, most of their funds were controlled by the central Government.

Corruption was widespread in the executive and legislative branches of government. The President had powers to overrule legislative decisions and did so. Connection to the President or his powerful associates sometimes conferred exemptions from taxes and other fiscal obligations. Public funds were diverted to private use or to illegitimate public uses, such as buying expensive vehicles for the use of government workers. Land sales and business contracts lacked transparency. The Government announced a reformulated Committee to Combat Corruption within the Ministry of Economic and Financial Control, but it was minimally active.

There is no law providing for access to information.

In August, the President dismissed 100 elected Conakry officials from their posts; he was reportedly displeased with their corruption of an emergency rice distribution program.

There were 20 female deputies in the 114-member National Assembly. Five women held seats in the 26-member Cabinet: The Minister of Commerce; the Minister of Tourism; the Minister of Social Affairs and Promotion of Women; the Minister of Information; and the Minister of Energy. There were few women at senior levels below minister, and there were no women in the senior ranks of the armed forces. Women generally played a minor role in the leadership of the major political parties; however, in September the UPR opposition party elected Assiatou Bah, the wife of the deceased former UPR leader Siradiou Diallo. The opposition party Guinean People's Rally (RPG) named Fatou Bangoura to the post of political secretary.

Members of the three main ethnic groups as well as all smaller groups in the country (Gerze, Toma, Kisse, Koniake, and Mano) served in the National Assembly. The Cabinet and armed forces leadership included representatives of all major ethnic groups. However, a disproportionate number of senior military officers were Soussou, the President's ethnic group.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of local NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, some local organizations alleged that government officials tried to intimidate them, and that they often met resistance when trying to investigate abuses or engage in civil education. Various government officials continued to block private efforts to memorialize victims of the Sekou Toure regime that ruled the country from independence until 1984.

The Government cooperated with both the UNHCR and the ICRC. In June 2003, a report by a U.N. Security Council mission criticized the Government for complicity in abuses of Liberian refugees through its support of LURD rebels. LURD rebels were accused of forced recruitment of Liberian refugees, as well as infiltration of refugee camps such as Kouankan. Allegations that the Government was complicit with the LURD continued during the year.

A human rights office within the Ministry of Defense, the Office of International Humanitarian Rights, in conjunction with the ICRC, conducted human rights seminars during the year to teach military personnel about human rights recognized by international and regional agreements.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the Government did not enforce these provisions uniformly.

*Women.*—Domestic violence against women was common, although estimates differed as to the extent of the problem. Wife beating is a criminal offense and constitutes grounds for divorce under civil law; however, police rarely intervened in domestic disputes. Rape is a criminal offense; however, social beliefs prevented most rape victims from reporting incidents of rape. Several local NGOs were working to increase public awareness of the nature of these crimes and to promote increased reporting. The Government did not pursue vigorously criminal investigations of alleged sexual crimes.

FGM was practiced widely in all regions and among all religious and ethnic groups. FGM is illegal, and senior officials and both the official and private press spoke against the practice; however, there were no prosecutions. FGM was performed on girls and women between the ages of 4 and 17, but exact figures on this procedure were difficult to establish. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, cited a continuing decline in the percentage of women and girls subjected to FGM. The CPTAFE estimated the figure to be between 60 and 65 percent. Infibulation, the most dangerous form of FGM, was still performed in the Forest Region, but less frequently than in previous years. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continued, seriously affecting many women's lives. FGM also increased the risk of HIV infection, since unsterilized instruments were shared among participants.

The Government continued efforts to educate health workers on the dangers of this procedure, and it supported the CPTAFE's efforts. The CPTAFE reported high rates of infant mortality and maternal mortality due to FGM. The Government continued its plan to eradicate FGM, and government ministers, health officials, and the media discussed FGM more frequently; however, there were no statistics evaluating the success of the program.

A growing number of men and women opposed FGM. Urban, educated families were opting increasingly to perform only a slight symbolic incision on a girl's genitals rather than the complete procedure. During the year, the CPTAFE held large public ceremonies celebrating the "laying down of the excision knife" in which some traditional practitioners of FGM pledged to discontinue the practice; however, most of those who performed FGM opposed its eradication since the practice was lucrative. CPTAFE stressed the health consequences, while supporting the customary observance of the transition regarding excision to womanhood through traditional dances and songs. Nevertheless, in August, the Islamic League issued a sermon to all mosques stating that FGM was a good thing and should be legalized.

Although the Government made regular statements in the media against sexual harassment, women working in the formal sector in urban areas complained of frequent sexual harassment.

The Constitution provides for equal treatment of men and women, and the Ministry of Social Affairs and Women's Promotion worked to advance such equality; however, women faced discrimination throughout society. Women faced discrimination particularly in rural areas where opportunities were limited by custom and the demands of childrearing and subsistence farming. Women were not denied access to land, credit, or businesses, but inheritance laws favor male heirs over females. Government officials acknowledged that polygyny was a common practice. Divorce laws generally tended to favor men in awarding custody and dividing communal assets. Legal evidence given by women carries less weight than testimony by men, in accordance with Islamic precepts and customary law. The Government affirmed the principle of equal pay for equal work; however, in practice, women received lower pay than men.

There were increasing signs that conservative Islamic beliefs, imported by students returning from educational sojourns in northern African and Arabic countries, posed a threat to the traditionally active role of women in society.

*Children.*—The Constitution provides that the Government should support children's rights and welfare, and the Government allocated a significant percentage of the budget to primary education; however, the Government did not spend the allocated funds. The Minister of Youth was charged by the President with defending women's and children's rights, and a permanent committee dedicated to defending the rights of the child, with members chosen from different ministries, NGOs, and other sectors, continued to work.

The Government provided tuition free, compulsory primary school education for 6 years; however, enrollment rates were low due to school fees and lax enforcement of laws mandating school attendance. Approximately 47 percent of all eligible students were enrolled in primary school, including 66 percent of eligible boys compared with 37 percent of eligible girls. Girls often were taken out of school and sent to work to help pay for their brothers' education.

FGM was performed commonly on girls (*see* Section 5, Women).

The legal age for marriage is 21 years for men and 17 years for women; however, underage marriage was a problem. Parents contract marriages for girls as young as 11 years of age in the Forest Region. The CPTAFE, in conjunction with the Government, local journalists, and international NGOs, continued to promote an education campaign to discourage underage marriage and reported lower rates than in previous years. According to CPTAFE, some families that sanctioned early marriages nevertheless kept their married daughter in the family home until she had at least completed secondary school.

There were reports that girls were trafficked for prostitution and other labor (*see* Section 5, Trafficking.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were some reports of trafficking. The law carries a penalty of 5 to 10 years imprisonment and confiscation of any money or property received as a result of trafficking activities; however, some NGOs reported that women and children were trafficked within the country, as well as internationally, for the sex trade and illegal labor. Trafficking in persons from rural areas to urban centers increasingly was recognized as a problem. Accurate statistics were difficult to obtain, because victims did not report the crime fear for their personal safety.

A UNICEF official reported in 2003 that trafficking in children was common in the country. In August, persons involved in a Sierra Leonean child trafficking ring were apprehended, and an investigation was ongoing by Stat-View International at year's end. NGOs claimed that the country was frequently a transit route for a West African trafficking network, and children were then sent to destinations in Europe.

During the year, authorities discovered seven Malian girls who were brought to the country to work for a trafficking ring based in Conakry. The girls were found when police investigated a traffic accident. Some journalists alleged that the traffickers had ties to individuals in the Government.

In 2001, the Children's Protection Division and UNICEF reported that trafficking of children was a problem among the Sierra Leonean and Liberian refugee populations in the prefectures of Guekedou, Macenta, N'Zerekore, and Forecariah; girls were exploited for domestic labor, and boys were exploited as street sellers and agricultural workers. The International Rescue Committee and UNICEF reported that children living in foster families often did not receive adequate food, shelter, and clothing, and were compelled to work in the streets, sometimes as prostitutes, for their subsistence.

Girls under the age of 14 were involved in prostitution. The Government did not take action when prostitution of minors was brought to its attention, and it did not monitor actively child or adult prostitution.

Several government agencies, particularly the Ministry of Social Affairs and the Promotion of Women and Children, were involved in antitrafficking efforts. The Ministry of Social Affairs headed a committee of several government ministries that was formed during the year to increase coordination and communication on child trafficking problems.

*Persons With Disabilities.*—There are no special constitutional provisions for persons with disabilities. The Government has not mandated accessibility for persons with disabilities, and few persons with disabilities worked, although some developed opportunities in the informal sector in small family-run businesses. Persons with disabilities did not face social or governmental discrimination.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically and regionally diverse, and no single ethnic group constituted a majority nationwide. The largest ethnic groups were the Puhlar, also called Peuhl or Fulani (approximately 40 percent of the population), the Malinke (approximately 30 percent), and the Soussou (approximately 20 percent). Each group spoke a distinct primary language and was concentrated in a distinct region: The Soussou in lower Guinea; the Peuhl in middle Guinea; and the Malinke in upper Guinea.

While the Constitution and the Penal Code prohibit racial or ethnic discrimination, ethnic identification was strong.

Mutual suspicion, both inside and outside the Government, affected relations across ethnic lines. Widespread societal ethnic discrimination by members of all major ethnic groups was evident in private sector hiring patterns, in the ethnic seg-

regation of urban neighborhoods, and in the relatively low levels of interethnic marriage. The proportion of public sector positions occupied by Soussous, particularly at senior levels, was widely perceived as exceeding their share of the national population.

The ruling PUP party, although generally supported by Soussous, transcended ethnic boundaries more effectively than the major opposition parties, which have readily identifiable ethnic and regional bases; the UPR's main base are the Peuhls, while the RPG's main base are the Malinke. Soussou preeminence in the public sector and Malinke migration into the traditional homelands of smaller ethnic groups in the Forest Region were major sources of political tensions that sometimes have erupted into violence.

On June 16, in N'Zerekore, a Guerze youth on a motorcycle collided with a crowd leaving a mosque, causing ethnic fighting between predominantly Christian Guerze and predominantly Malinke groups. The Government, which declared a ban on large gatherings and a curfew to lesson tensions, temporarily detained over 200 persons.

*Other Societal Abuses and Discrimination.*—There have been reports that various hospitals in the country have refused to treat patients with AIDS; hospital workers fear contracting the disease.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of employees to form and join independent labor unions, and the Government generally respected this right in practice. The Labor Code requires elected worker representatives for any enterprise employing 25 or more salaried workers. Approximately 160,000 workers were reported as unionized, although inadequate labor statistics made it difficult to estimate the exact percentage of workers in unions. Approximately 52,000 were government workers and thus automatically members of the government union. The rest were engaged in private, mixed, and informal sectors. The largest independent union, Union of Workers of Guinea, claimed 66,000 members, 20,000 of which were women. Union delegates represented individual and collective claims and grievances with management.

The Labor Code prohibits military and paramilitary personnel from creating or participating in unions.

The Constitution and Labor Code also prohibit antiunion discrimination; however, at regional and prefecture levels, unionized labor faced strong opposition from government officials. Union officials were selected on the basis of nepotism and patronage; these individuals were not sensitized to the rights of workers and often viewed unions as an enemy of the Government. As a result, union activities in the interior of the country faced harassment and interference from many governors and prefects. Union activities in Conakry faced less harassment and interference. Individual workers threatened with dismissal or other sanctions had the right to a hearing before management with a union representative present and, if necessary, to take the complaint to the Conakry Labor Court, which convened weekly to hear such cases. In the interior, civil courts heard labor cases.

The Government continued to pay the travel and lodging expenses of National Confederation of Guinean Workers representatives to International Labor Organization (ILO) conferences. Other independent unions had to fund their own attendance at ILO conferences.

*b. The Right to Organize and Bargain Collectively.*—Under the Labor Code, representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations, and workers exercised this right in practice. The law protects the right to bargain collectively concerning wages and salaries without government interference. Employers established rules and hours of work in consultation with union delegates. There are no export processing zones.

The Labor Code grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike; strikes were sometimes met with intimidation from security forces and, as a result, often did not take place. The law prohibits strikes in sectors providing "essential services," which include hospitals, radio and television, army, police, communications, and transport services.

On September 24, hundreds of former employees of the government-owned railway company staged a demonstration in Conakry to protest the bouncing of their long-awaited paychecks. The railway company reportedly has owed money to 187 former railway pensioners for 14 years. Demonstrators stated that the World Bank provided the Government with the money to pay the arrears. Police arrested nine persons, who were held for 1 day and released.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code specifically prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor. Violations carried a penalty of 6 months to 5 years' imprisonment and a fine of approximately \$25 to \$150 (50,000 to 382,500 GF francs). Submitting a vulnerable or dependent person to inhumane working or living conditions carries a sentence of 1 month to 5 years' imprisonment and a fine of approximately \$25 to \$250 (50,000 to 500,000 GF francs). The Government did not enforce these provisions of the law in practice.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code has specific policies that pertain to child labor; however, child labor was a serious problem. According to the Labor Code, the minimum age for employment is 16 years. Apprentices may start to work at 14 years of age. Workers and apprentices under the age of 18 were not permitted to work at night, for more than 10 consecutive hours, or on Sundays. The Labor Code also stipulates that the Minister of Labor and Social Affairs must maintain a list of occupations in which women and youth under the age of 18 cannot be employed. In practice, enforcement by ministry inspectors was limited to large firms in the modern sector of the economy. Overall, approximately 48 percent of children under age 15 were employed, accounting for approximately 20 percent of the total working population and 26 percent of agricultural workers. Child labor in factories was not prevalent because of the low level of manufacturing. Working children were mostly in the informal sector areas of subsistence farming, and small-scale commerce and mining. Girls as young as age 14, engaged in prostitution (see Section 5).

Many young Muslim children sent to live with a Koranic master for instruction in Arabic, Islam, and the Koran worked for the teacher as payment. Children often were sent from rural areas to Conakry to live with family members while they attended school. However, if the host family was unwilling or unable to pay school fees, the children sold water or shined shoes on the streets, and the host family took the money in exchange for their room and board or simply used the child as a cheap source of domestic labor (see Section 5).

The worst forms of child labor were found in the artisanal mining sector, where children hauled granite and sand for little or no money.

There were reports that forced and compulsory child labor occurred (see Section 5).

The Government has spoken out against child labor, but it lacked the resources, enforcement mechanisms, and the legislative will to combat the problem. As a result, child laborers did not have access to education or health care and suffered from chronic malnutrition, traumatic stress, and depression.

*e. Acceptable Conditions of Work.*—The Labor Code allows the Government to set a minimum hourly wage; however, the Government has not exercised this provision nor does it promote a standard wage. Prevailing wages often did not provide a decent standard of living for a worker and family. There also were provisions in the Code for overtime and night wages, which were fixed percentages of the regular wage.

The Labor Code mandates that regular work should not exceed 10-hour days or 48-hour weeks, and it also mandates a period of at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least 2 workdays per month of work. In practice, the authorities enforced these rules only in the relatively small modern urban sector.

The Labor Code contains general provisions regarding occupational safety and health, but the Government has not elaborated a set of practical workplace health and safety standards. Moreover, it has not issued any ministerial orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the Labor Code. The Ministry of Labor and Social Affairs is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health; however, enforcement efforts were sporadic. Labor inspectors acknowledged that they did not have adequate resources to cover even Conakry, much less the entire country.

Under the Labor Code, workers have the right to refuse to work under unsafe conditions without penalty; however, many workers feared retaliation should they refuse to work under unsafe conditions.

The law applies to all workers in the country, regardless of nationality; however, the law does not define whether it applies to persons working in the country illegally.

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## GUINEA-BISSAU<sup>1</sup>

Guinea-Bissau is a multiparty republic. In September 2003, former president Kumba Yala, who had undermined the country's transition to democracy since his election in 2000, was deposed in a military coup. In October 2003, military, political, and civil society leaders appointed Henrique Pereira Rosa as the president of a civilian transition government. On March 28, free and fair legislative elections were held for the 100-seat National Popular Assembly (ANP), which the former president had dissolved in 2002. The African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC) won with a plurality of 45 seats, and Carlos Domingos Gomes Junior was appointed Prime Minister. President Rosa remained head of state, and presidential elections were scheduled for March 2005. On October 6, a military mutiny to protest salary arrears and living conditions resulted in two deaths, including that of the Chief of Defense, and numerous injuries. In an October 10 memorandum of understanding, the Government agreed to ask Parliament to: Grant amnesty to those involved in eight military uprisings since 1980; and to request that the President commute the penalties of individuals charged with attempting coups in November 2001 and December 2002. No action had been taken on the memorandum by year's end. The judiciary, which had been subject to strong executive influence since former president Yala dismissed and imprisoned the former Chief Justice in November 2002, made major strides in establishing its independence; however, corruption remained a problem.

The police, under the direction of the Ministry of the Interior, have primary responsibility for the country's internal security. The armed forces are responsible for external security and can be called upon to assist the police in internal emergencies. In 2002, the Government began a comprehensive program to restructure the armed forces, improve military living conditions, and demobilize approximately 4,000 active duty military personnel; however, living conditions remained poor, salary arrears had not been paid, and the reinsertion and reintegration phases of the program had not been completed by year's end. The October 6 mutiny was the fourth time since the country's independence in 1974 that the military intervened and acted independently of government authority. Some members of the security forces committed serious human rights abuses.

The population of approximately 1.3 million relies largely upon subsistence agriculture and the export of cashew nuts in a market economy. The formal economy broke down in 1998, and most of the country reverted to barter. In 2002, the country suffered a substantial slowdown in economic activity, and gross domestic product declined 4.2 percent, primarily as a result of significantly lower levels of foreign assistance and a drop of approximately 30 percent in cashew prices in the international market. The country remained burdened by heavy external debt and pervasive underemployment. Prior to the September 2003 coup, most public servants had not been paid for up to 2 years; however, during the year, the Government resumed paying salaries of non-military public servants.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Army mutineers committed unlawful killings and beat and abused senior officers. Police arbitrarily arrested a human rights leader during the year. Impunity and corruption remained problems, although less so than in previous years. Prison conditions remained poor. Some journalists continued to practice self-censorship. Violence and discrimination against women were problems. Female genital mutilation (FGM) was practiced widely. Child labor, including some forced labor, and child trafficking occurred.

During the year, the Transition Government took significant steps to improve human rights, take control of public finances, renew relations with the international community, and restore political participation. Unlike in previous years, there were

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<sup>1</sup>In June 1998, the United States Embassy suspended operations in the midst of heavy fighting in Guinea-Bissau, and all official personnel in the country were evacuated. This report is based on information obtained by U.S. embassies in neighboring countries, especially Senegal, from other independent sources, and regular visits to Guinea-Bissau by U.S. officials assigned to the U.S. Embassy in Dakar. The U.S. Ambassador to Senegal, resident in Dakar, is also accredited to Guinea-Bissau.

no reports that security forces mistreated detainees; arbitrarily arrested and detained opposition leaders, journalists, and labor leaders; used incommunicado detention; infringed on citizens' privacy rights; or restricted freedom of speech and the press to intimidate the media.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed political killings during the year. On October 6, military mutineers killed former Defense Chief General Verissimo Correia Seabraor, who led the coup against former president Yala, and Colonel Domingos de Barros, the head of human resources for the military; the soldiers responsible for the killings had not been identified by year's end. The mutineers, who reportedly beat and abused other officers, demanded payment of salary arrears and improved living conditions (*see* Section 3).

There were no developments in the March 2003 case of Army Second Lieutenant Mussa Cassama, who died in detention from injuries inflicted during torture.

There were three deaths from landmines and one from unexploded ordnance during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and evidence obtained through torture or coercion is invalid. In the past, the Government often ignored these provisions, and security forces beat, mistreated, and otherwise abused persons; however, there were fewer reports of such activity than in previous years. The Government rarely enforced provisions to punish members of the security forces who committed abuses.

On October 6, military mutineers beat and abused senior officers; two officers were killed (*see* Section 1.a.).

In June, Lieutenant General Emilio Costa, then Deputy Chief of Defense, was accused of beating a motorist in a road rage incident; Costa did not occupy the position of Deputy Chief of Defense at year's end. No further information was available; however, an investigation was being conducted at year's end.

The officers and enlisted men who were arrested in 2002 for allegedly plotting to overthrow the Government of former President Yala were released during the year. No action was taken against security forces who in 2003 beat, bound, and held the detainees incommunicado.

There also were no developments in the 2002 beating by security forces of Rui Ferreira, a National Assembly Deputy of the opposition Resistencia Guinea Bissau Party, or in the case of Victor Mandinga.

Demining operations continued; however, landmines and unexploded ordnance resulted in deaths and one injury during the year.

Prison conditions remained poor but generally were not life threatening. The country does not have formal prisons. Most prisoners were detained in makeshift detention facilities on military bases in Bissau and neighboring cities. Unlike in previous years, there were no reports that security forces beat and abused civilian prisoners or used incommunicado detention. Detention facilities generally lacked running water or adequate sanitation. Detainees' diets were poor, and medical care was virtually nonexistent. Men and women were held in separate facilities, and juveniles were held separately from adults. Pretrial detainees were not held separately from convicted prisoners.

The Government generally permitted independent monitoring of prison conditions by local and international human rights groups. During the year, the Office of the Representative of the U.N. Secretary General (UNOGBIS) regularly visited prisoners. Beginning in late 2003 and during the year, the International Committee of the Red Cross and UNOGBIS were allowed to visit the seven remaining military personnel who had been held incommunicado since December 2002.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and, in the past, security forces arrested and detained persons without judicial authority or warrants. Unlike in the previous year, there were no reports of the arbitrary arrest of opposition politicians, journalists, and union leaders; however, a human rights activist was arrested (*see* Section 2.a.). All persons detained without charge or trial during the former Kumba Yala presidency were released following the September 2003 military coup.

The country is divided into 37 police districts, each with its own police station; there were an estimated 600 police in the country. Since the 1998 civil war, police recruitment has not kept pace with attrition. Unlike in the previous year, police were paid regularly; however, they have not been compensated for up to 24 months

of salary arrears. Impunity and corruption were rampant, and police generally were ineffective. There was a severe lack of resources and training.

The law provides for procedural rights, such as the right to counsel, the right to release if no timely indictment is brought, and the right to a speedy trial. In the past, the judicial system, which was heavily backlogged and under strong executive influence, failed to provide these rights; however, there were some improvements during the year (*see* Section 1.e.).

In late 2003, Supreme Court judges and officials who were detained by former president Yala in 2001 were released and allowed to resume their positions.

The four Senegalese detained in 2002 were among those released following the September 2003 coup.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in the past, the judiciary was subject to executive influence and control, and members of the Supreme Court were appointed and often replaced by the former President. During the year, the judiciary made major strides in establishing its constitutional independence: The Supreme Court elected Maria do Ceu Silva Monteiro as its Chief Justice, and in conjunction with regional courts, began hearing case backlogs; and the Ministry of Justice and the legal professional association reactivated the public defender program. Despite this, judges continued to be poorly trained and paid and sometimes were subject to corruption.

Civilian courts conduct trials involving state security. Under the Code of Military Justice, military courts only try crimes committed by armed forces personnel. The Supreme Court is the final court of appeal for both military and civilian cases. The President has the authority to grant pardons and reduce sentences.

Trials do not use juries; however, the accused are presumed innocent and have the right to timely access to an attorney, to question witnesses, to have access to evidence held by the Government, and to appeal. Citizens who could not afford an attorney have the right to a court-appointed lawyer.

Traditional practices still prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. The police often resolved disputes.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, in the past, the Government did not always respect these prohibitions in practice, and the police did not always use judicial warrants. During the year, there were no reports of such practices.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, in the past, the Government frequently restricted these rights, and opposition politicians had little or no access to government-controlled media. There were no reports of such restrictions during the year. In previous years, journalists practiced self-censorship; however, there were no reports of such activities during the year. The Government did not restrict academic freedom.

During the year, persons continued to be arrested for exercising their right of free speech. On March 8, security forces arrested and released Joao Vaz Mane, the Vice President of the Guinean Human Rights League (LGDH), after Mane denounced police for beating a young man.

No action was taken against security forces who beat Indjai Dabo, the United Social Democratic Party representative in Sao Domingos.

In addition to the government-owned newspaper *No Pintcha*, several private newspapers published without restriction, including *Diario de Bissau*, *Fraskera*, *Gazeta de Noticias*, *Kansare*, and *Baloba*. All newspapers published only sporadically during the year due to financial constraints and dependence on the state-owned printing house. The national printing press, the only facility for publishing newspapers in the country, often lacked the necessary raw materials.

There were several independent radio stations. National television broadcast from 7 p.m. to midnight on weekdays and 5 p.m. to midnight on weekends. Unlike in previous years, there were no reports that government-controlled stations practiced self-censorship.

Unlike in the previous year, there were no reports that the Government dismissed or arbitrarily arrested radio journalists, closed down private radio stations, or harassed judicial authorities who defended such stations.

Unlike in the previous year, there were no reports that the Government ordered all media organizations to cease publication of information relating to the LGDH, which received significant and fair media coverage during the year.

The Internet was available in the country, and the Government did not restrict its use.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Permits were required for all assemblies and demonstrations. Unlike in the past, there were no reports that the Government banned assemblies.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. In 2003, the Ahmadiya, an Islamic religious group expelled from the country in 2001, was permitted to return after the Government determined that former President Yala's decision to expel them had been an illegal breach of due process. Although the Government must license religious groups, there were no reports that any applications were refused.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and unlike in the previous year, there were no reports that the Government limited them in practice.

The Constitution did not specifically prohibit forced exile; however, the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. During the year, the UNHCR reported that approximately 7,700 refugees, mostly Senegalese citizens, were in the country. More than 6,000 of these refugees lived in villages along the country's northern border where they were integrated into the local economy and largely self-sufficient. Another 1,000 Senegalese refugees lived in camps and received assistance from UNHCR. There also were approximately 500 Senegalese, Liberian, and Sierra Leonean urban refugees. The UNHCR reported that the Government was tolerant of these refugees and permitted them to engage in economic activities to support themselves.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully. Unlike in the previous year, when the Government was changed by military coup, citizens exercised their right to peacefully elect a legislature through elections on March 28.

In September 2003, the military deposed former President Kumba Yala, who, since his election in 2000, had postponed new legislative elections, refused to veto or promulgate a new draft constitution, dismissed the Prime Minister, and dismissed two Supreme Court Presidents. In October 2003, military, political, and civil society leaders appointed Henrique Pereira Rosa as the President of a civilian transition government. During the year, the Transition Government took control of public finances, renewed relations with the international community, and restored free speech and political participation.

On March 28, legislative elections were held for the 100-seat ANP, which had been dissolved in 2002 by former president Yala. The PAIGC won with a plurality of 45 seats, and Carlos Domingos Gomes Junior was appointed Prime Minister. International observers deemed the elections free and fair. On May 12, Prime Minister Gomes Junior, as head of government, appointed a cabinet of 16 ministers and 7 state secretaries. President Rosa remained head of state; presidential elections were scheduled for March 2005.

On October 6, a battalion of 600 soldiers returning from a peacekeeping mission in Liberia staged a mutiny to protest salary arrears and poor living conditions; two officers were killed, and several were injured (see Section 1.a.). The mutiny was launched on the day that eight officers were due to go on trial for their alleged part in a December 2002 coup attempt against former president Yala; the trial was postponed. In an October 10 memorandum of understanding, the Government agreed to ask Parliament to: Grant amnesty to those involved in eight military uprisings since 1980; and ask the President to commute the penalties of individuals charged with attempting coups in November 2001 and December 2002. The memorandum, which specified no timeline for proposed actions, also provided for payment of salary ar-

rears and improved living conditions for the military; no action had been taken on the memorandum by year's end.

In 2000, voters elected former president Yala with a 72 percent electoral majority in a runoff election following multiparty elections in 1999. International observers, foreign diplomats, and local NGOs considered both elections, which included candidates from 13 parties as well as several independents, to be generally free and fair.

The 1991 Constitution remained in effect. Unlike in previous years, when former president Yala ruled by decree, the Government generally respected the Constitution and the separation of powers it provides. A draft constitution to limit certain presidential powers was under discussion; however, no action was taken on it during the year.

Government corruption was widespread at all levels.

There were no laws providing access to government information.

There were 14 women in the 100-seat ANP. The Supreme Court Chief Justice, 3 of the country's 16 government ministers, and 2 of 7 state secretaries also were women.

All ethnic groups were represented in the Government.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views; however, the Government arrested LDGH Vice President Joao Vaz Mane during the year for criticizing the Government (*see* Section 2.a.).

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and law prohibit discrimination on the basis of sex and race; however, in practice, the Government did not enforce these provisions effectively.

*Women.*—Domestic violence, including wife beating, was an accepted means of settling domestic disputes. Although police intervened in domestic disputes if requested, the Government had not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

There were laws against rape; however, government enforcement of those laws was limited, in large part because of lack of resources.

FGM was practiced widely within certain ethnic groups, especially the Fulas and the Mandinkas. The practice has increased as the Muslim population has grown and was being performed not only on adolescent girls, but also on babies as young as 4 months old. The Government has not outlawed the practice; however, a national committee continued to conduct a nationwide education campaign to discourage FGM. Both international and domestic NGOs continued working through the national committee to eliminate FGM.

Sinim Mira Nassique, a local NGO, has initiated alternative FGM summer camps for young girls throughout the country. During the summer, girls attended camps in Farim, Buba, and Gabu, where they experienced all traditional initiation rights except excision. The camps, which taught the dangers of FGM, also provided training in hygiene, sewing, embroidery, and other skills.

The law prohibits prostitution; however, enforcement was weak.

The law treats men and women equally and prohibits official discrimination; however, such discrimination was a problem, particularly in rural areas, where traditional and Islamic law were dominant. Women were responsible for most work on subsistence farms and had limited access to education, especially in rural areas. Women did not have equal access to employment. Among certain ethnic groups, women cannot own or manage land or inherit property.

*Children.*—The Government allocated only limited resources for children's welfare and education; however, unlike in previous years, primary and secondary schools operated for most of the year, and the Government generally paid teachers' salaries. Public schooling was universal, compulsory until 7 years of age, and free through the 4th grade. A 2003 UNDP study indicated that 60 percent of school-age children did not attend school, in large part, because schools were closed for most or all of 2003 as a result of the Government's failure to pay teachers' salaries.

FGM was performed commonly on young girls and sometimes even infants (*see* Section 5, Women).

Child trafficking occurred (*see* Section 5, Trafficking).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that children were trafficked from or within the country. Some boys sent from rural areas to attend Koranic schools in Senegal reportedly were exploited and forced to work as street beggars to earn money for the school leadership. The practice of buying and selling child brides also reportedly occurred on occasion.

There were reports that customs, border guards, immigration officials, labor inspectors, or local police may have been bribed to facilitate such trafficking; however, no specific information was available.

The Government has not prosecuted any cases against traffickers.

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities, and the Government did not mandate building access for them or provide for equal access to employment and education; however, there were no reports of overt societal discrimination. The Government has made some efforts to assist military veterans with disabilities through pension programs, but these programs did not adequately address veterans' health, housing, and food needs.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides all civilian workers with the freedom to form and join independent trade unions, and workers exercised this right in practice. The vast majority of the population worked in subsistence agriculture. Most union members were government or parastatal employees; only a small percentage of workers were in the wage sector and were organized.

The law does not prohibit antiunion discrimination; however, no workers have alleged antiunion discrimination, and the practice was not believed to be widespread.

Unlike in the previous year, there were no arrests of union leaders.

*b. The Right to Organize and Bargain Collectively.*—The Constitution does not provide for or protect the right to bargain collectively; however, the tripartite National Council for Social Consultation conducted collective consultations on salary issues and draft legislation concerning labor issues. Most wages were established in bilateral negotiations between workers and employers.

The Constitution provides for the right to strike and protection for workers from retribution for strike activities. The only legal restriction on strike activity was the requirement for prior notice. Unlike in the previous year, there were no widespread strikes by public employees.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were no specific laws that protected children from exploitation in the workplace, and child labor occurred. The legal minimum age is 14 years for general factory labor and 18 years for heavy or dangerous labor, including all labor in mines. These minimum age requirements generally were followed in the small formal sector, but the Ministry of Justice and the Ministry of Civil Service and Labor did not enforce these requirements in other sectors.

Children in cities often worked in street trading, and those in rural communities did domestic and fieldwork without pay; children generally performed such labor to help support families or because of a lack of educational opportunities. The Government did not take action to combat such practices by year's end.

*e. Acceptable Conditions of Work.*—The Government's Council of Ministers annually establishes minimum wage rates for all categories of work; however, it did not enforce them. The lowest monthly wage was \$29.60 (14,800 CFA) per month plus a bag of rice. This wage did not provide a decent standard of living for a worker and family, and workers had to supplement their incomes through other work, reliance on the extended family, and subsistence agriculture.

The law provides for a maximum 45-hour workweek; however, the Government did not enforce this provision. During the year, the Government resumed regularly paying its teachers, civil servants, and medical practitioners; the Government had not paid such salaries since 2000.

With the cooperation of the unions, the Ministry of Justice and Labor establishes legal health and safety standards for workers, which then are adopted into law by the National Assembly; however, these standards were not enforced, and many persons worked under conditions that endangered their health and safety. Workers do not have the right to remove themselves from unsafe working conditions without losing their jobs.

**KENYA**

Kenya is a republic dominated by a strong presidency. In December 2002, citizens elected Mwai Kibaki of the opposition National Rainbow Coalition (NARC) as the country's third president. Kibaki succeeded Daniel Arap Moi, who led the former ruling party, the Kenya African National Union (KANU), and who served as President from 1978 to 2002. During the 2002 general elections, KANU, which had controlled both the presidency and the Parliament continuously since 1963, lost its parliamentary majority to NARC, a coalition of more than a dozen political parties, some of whose members included defectors from KANU. Observers concluded that the elections broadly reflected the popular will and were free and fair. The judiciary is constitutionally independent but was at times subject to executive branch influence. Judiciary reforms initiated in 2003 reduced corruption but also increased case backlogs.

In addition to the armed forces, there is a large internal security apparatus that includes the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the National Police, the Administration Police, and the paramilitary General Services Unit (GSU), which detail members on a rotating basis to staff the 700-person Presidential Escort. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. These security forces are under the authority of the Minister of State for Provincial Administration and National Security in the Office of the President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which the security forces acted independently of government authority. Because of a spiraling crime wave and a public perception that police were often either involved or complicit in criminal activity, in April, an active duty army officer replaced the police commissioner. Some members of the security forces committed serious human rights abuses.

The economy is market-based, with the agricultural sector employing more than 70 percent of the country's population of approximately 32 million. The economic growth rate for the year was projected to be 2.6 percent, up from 1.8 percent in 2003. While the Government's estimate of the unemployment rate was 28 percent, other sources placed unemployment at more than 40 percent. In an effort to keep pace with inflation, during the year, the Government increased public sector salaries by an average of 11 percent. Most private sector employers also attempted to revise compensation to reflect changing economic conditions. Although many sectors continued to be dominated by state-owned monopolies, the nonagricultural economy included large privately owned light manufacturing, commercial, and financial firms. Following the Government's adoption of two anti-corruption measures in 2003, major international financial institutions, which had suspended assistance in previous years, began to provide assistance, while other donors postponed flows of official development assistance after reports of renewed corruption surfaced. Approximately 56 percent of the population lived at or below the poverty level on less than \$1 per day. The incidence of HIV/AIDS infection in adults fell to 7 percent from the previous year's estimate of 14 percent; although this 1-year decline was due more to a re-evaluation of previous data than to an actual decline in prevalence, it showed that prevalence was substantially lower than its estimated peak of 23 percent in the mid-1990s. In July, President Kibaki declared a drought disaster affecting more than 10 percent of the population and appealed to international donors to provide food and non-food assistance through the end of the year. Security problems, as well as unreliable power and telecommunication systems and dilapidated roads, exacerbated economic problems and fueled disinvestment.

The Government's human rights record remained poor, largely due to the abuses of its security forces; although there were a number of improvements, serious problems remained. Police committed unlawful killings, tortured and beat detainees, arrested citizens arbitrarily, and used excessive force. Despite some improvements, prisons remained seriously overcrowded, and conditions often were life threatening. Pretrial detention was a serious problem. There were fewer reports that authorities infringed on citizens' privacy rights. The Government occasionally attempted to restrict freedom of press and assembly; however, there were fewer reports of this than in previous years. Parliamentary and civic elections that took place during the year were generally free and fair, although some political parties attempted to bribe and intimidate voters. Vigilante justice, as well as mob and interethnic violence, continued to be problems. Violence and discrimination against women and abuse of children by citizens remained serious problems. Female genital mutilation (FGM), domestic violence, and child prostitution remained widespread. Child labor remained a problem, and there were instances of forced child labor. Trafficking of persons, in-

cluding the theft of newly born children, was a problem that gained significant attention from the Government and media during the year.

The Government instituted a number of reforms during the year to improve human rights. There were no politically motivated arrests or disappearances during the year. For prisons, the Government outlawed corporal punishment and liberalized regulations for family visitations. The Government allowed prisoners to vote and to sit for the Primary School Certificate examination. The Government also allowed human rights organizations to inspect prisons, although some organizations continued to have problems actually doing so. The Government arrested and prosecuted a number of police officers for abuses; however, most police who committed abuses were neither investigated nor punished. The Government created and activated a new institution to root out corruption, although, by year's end, the Government had not arrested or prosecuted any high-level government officials on corruption charges. Unlike in previous years, the Government did not harass NGOs. The Government began to equip public buildings with wheelchair ramps, elevators, and sanitary facilities and to broadcast some news programs in sign language. The Government generally protected the rights of workers to join unions and engage in collective bargaining.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents reported during the year; however, security forces committed a number of unlawful killings. In its 2003 report, the Independent Medico Legal Unit (IMLU), a leading human rights nongovernmental organization (NGO), investigated 34 allegations of unlawful killings by the security forces; of these, 15 showed evidence of torture. During the year, IMLU reported that police officers killed 27 persons (compared with 117 in 2003); another 6 were killed while in police custody (compared with 11 in 2003). IMLU reported that at least 15 of these deaths were unlawful killings.

There were reports that police summarily executed persons. For example, in March, police officers summoned a senior officer to Nairobi's industrial area after arresting three men in a mini-bus; upon arrival at the scene, the senior officer allegedly executed the three suspects. The Government declined to open an investigation into the case for lack of witnesses.

In July, the police shot and killed seven persons in Kisii. The police released the names of the seven, claiming that all were well-known criminals, that they were planning a robbery, and that they were killed in an exchange of gunfire with police. However, eyewitnesses said that a CID officer executed the seven after ordering them to lie down. Sources claimed that one or more of the victims planned to reveal the names of officers engaged in crime and were executed to keep them quiet. Two weeks after the seven were killed, two of those on the police list of those killed, Evans Omari Siano and James Kang'ethe, came out of hiding. This appeared to confirm the allegation that the police had the list before the seven victims were killed and that the two who came out of hiding had gotten word of their pending executions. IMLU and the Kenya National Commission on Human Rights (KNCHR), the Government's human rights watchdog agency, concluded that the killings were summary executions.

Law enforcement officials maintained that security forces usually were justified in their use of deadly force because of the heavily armed, violent criminals they often encountered. Police claimed that criminals' more frequent use of sophisticated weapons had increased the risks faced by police in performing their duties. However, in responding to continuing high levels of crime, some police used excessive and deadly force, sometimes without apparent provocation. For example, in February, an Administration police officer shot and killed a secondary school student in Kisii while the student was fleeing from a riot. At year's end, the District Criminal Investigations Officer was conducting an inquest into the shooting.

During the year, a number of persons died while in, or shortly after being in, police custody; however, there were fewer reports than in previous years. For example, in April, police arrested a man in Eastern Province on suspicion that he was about to break into a shop; police tied the man to a tree overnight, then took him the next day to a police station where he subsequently died. In July, an inmate at the Kitale prison died a few hours after guards beat him. The prison authorities said the inmate died of natural causes, but hospital authorities said he was beaten to death after trying to escape the prison.

Also in July, a government pathologist, Moses Njue, testified he had been suspended from his job after releasing a postmortem examination report concluding

that the police had tortured a prisoner to death in March 2002. Njue said police had threatened him with death if he did not rescind the report, but after Njue threatened to sue the Government, he was reinstated to his job in January.

On September 27, five prisoners at Meru G.K. Prison died in their cell, and a sixth prisoner died en route to the hospital. According to an Amnesty International statement, the District Medical Officer said the prisoners, George Kimathi, Festus Ntombura, Bafa Gitonga, Joseph Thuku, Patrick Muriungi, and an unidentified sixth individual, died of suffocation and sustained injuries consistent with congestion. The 5 were among 12 detained in a 3-by 6-foot cell. Prison officials at first attributed the deaths to "a drunk-related illness." IMLU conducted an investigation, including autopsies, into the five deaths and concluded that four of the five died from blunt force trauma, the fifth from strangulation. According to IMLU's interviews, prisoners had been fighting for space in the cell, and prison guards beat the prisoners who died when they refused to re-enter the congested cell. In the course of its investigation, IMLU discovered that six other inmates in Meru prison had died under suspicious circumstances. IMLU's autopsies on these six revealed that four of the six had sustained head injuries consistent with blunt force trauma while the two others died of natural causes. Authorities suspended two senior Meru Prison officials, and Vice President Moody Awori, who is also the Minister for Home Affairs responsible for prisons, ordered an investigation into allegations that guards and other inmates beat the five deceased men. The investigation was ongoing at year's end.

During the year, police at times used excessive force to disperse demonstrations and strikes, which resulted in deaths (*see* Section 2.b.). In August, police shot and killed one man and injured others when they dispersed a mob in Nairobi's Kibera slum. Authorities did not investigate the incident.

During the year, the Government took some steps to curb abuses by security forces. According to an IMLU report at the beginning of the year, out of 45 unlawful killings committed by police in recent years, the Attorney-General had ordered an inquest into only 3 of the cases. However, during the year the Government opened several more investigations into allegations of unlawful killings, some of which resulted in the arrest of police officers. For example, in February, police opened an investigation into the police shooting of Purity Mburu; police had opened fire on the vehicle in which Mburu was riding on the mistaken assumption that the car had been hijacked. In March, the Government opened a murder trial against six prison guards accused of killing six prisoners in the central part of the country in 2000. In May, nine policemen who beat to death a man with mental disabilities in Mwingi District were arrested and charged with murder. Also in May, Justice Minister Kiraitu Murungi ordered police to arrest, rather than kill, persons suspected of crimes. Police took a fellow officer into custody in connection with the shooting death of a rioter in Kisumu in early July. The Commissioner of Police opened an investigation into the conduct of the police during the Kisumu demonstrations, including specifically why it was necessary to use live, rather than rubber, bullets to disperse the crowds. Despite these efforts, most police who committed abuses were neither investigated nor punished.

In July, Francis Kimanzi Mbaiya, an Administration police officer, was convicted of manslaughter and jailed for 10 years for having killed a Catholic monk 7 years previously.

There were no developments in the 2003 case of Njuguna Kaboi, who had been found dead and handcuffed in a river after being held in police custody; in the March 2003 killing of Nixon Wanjala; or the June 2003 deaths of William Guto and Thomas Osiago; all of whom reportedly died while in police custody; or in the investigation of the August 2003 death of Alice Mwetu, who died 1 day after being released from jail.

At year's end, five police officers accused of torturing to death Paul Kimani Wambiru in 2002 were standing trial in Nyeri High Court.

At year's end, six police officers were on trial on charges that they tortured three suspects accused of the September 2003 killing of Crispin Odhiambo Mbai, the chairman of the Devolution Committee of the National Constitutional Conference (*see* Section 2.a.).

During the year, there were numerous instances of mob violence and vigilante justice. The great majority of victims killed by mobs were suspected of criminal activities, including robbery, cattle rustling, and membership in terror gangs. Only a very few of these involved the Government.

In May, police and civilians killed three men who allegedly had earlier robbed a bread van in Murang'a District. Also in May, villagers in Naivasha killed a man who had been released from prison on presidential clemency in December 2003 and burned down the house of one of the victim's alleged accomplices. In another May

incident, villagers killed a man in Meru North District whom they suspected of killing a 9-year-old herdsboy the previous week and of intending to assault sexually two other boys. In November, villagers killed a man in Kirinyaga District whom they accused of raping and killing a 14-year-old girl. Most perpetrators of mob violence went unpunished, and there were no developments in cases reported in previous years.

There were reports that mobs killed members of their communities on suspicion that they practiced witchcraft. For example, in May, villagers in Meru District burned to death a man they suspected to be a sorcerer; the villagers also razed the house of the deceased man's parents. In September, police said that unknown persons killed a 70-year-old man in Coast Province for allegedly practicing witchcraft. In November, secondary school students attacked, but did not kill, a couple in their home in Kisumu District on suspicion that the woman had used witchcraft to cause the death of one of their classmates.

Human rights observers attributed mob violence to a lack of public confidence in police and the judicial process. The social acceptability of mob violence also sometimes provided cover for apparent personal vengeance and the settling of land disputes.

The Mungiki, a banned cultural and political movement based in part on Kikuyu ethnic traditions, was responsible for numerous attacks and killings during the year. Observers believed that as many as 14 killings or disappearances of former Mungiki between February and June were meant to punish Mungiki defectors. In March, the police arrested 30 Mungiki members, including the alleged kidnapper of a Mungiki defector, and charged them with various crimes, including the killings of a group of defectors. Later, police arrested an additional 100 Mungiki, including 2 police officers, on charges of belonging to a banned organization. Police subsequently released 83 of those arrested. In May, unknown assailants beheaded one of the released prisoners, allegedly for having disclosed Mungiki secrets to police. In June, unknown assailants also killed a young woman with connections to Mungiki.

In September, Central Province Commissioner Peter Raburu issued a shoot-to-kill order against Mungiki following a new wave of violence allegedly unleashed by the Mungiki in Maragua District; within days, higher authorities rescinded the order. Also in September, police in Nakuru District arrested a 78-year-old Mungiki member for the rape and beheading of a 13-year-old girl; the suspect allegedly administered oaths to new Mungiki recruits and killed the girl to cover up the rape. In December, police undertook a manhunt for alleged Mungiki who had been terrorizing public minibuses and other residents over a 2-day period in a Nairobi.

In December, a judge set free, due to lack of evidence, former Member of Parliament (M.P.) David Manyara and 12 alleged Mungiki. The 13 had been in detention since January 2003 on charges they had killed 10 persons in connection with the 2002 elections.

Interethnic violence continued to cause numerous deaths (*see* Section 5).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, while the Government has declared that torture is not acceptable and has taken steps to eliminate prisoner abuse, security forces continued on numerous occasions to use physical violence and torture during interrogation and as punishment both of pretrial detainees and convicted prisoners.

Detainees frequently claimed that they had been tortured or abused, making it difficult to separate real from fabricated incidents; however, human rights organizations, churches, and the press highlighted and criticized numerous cases of torture and several cases of indiscriminate police beatings. During the year, IMLU received 304 cases alleging torture at the hands of security officers, which represented an increase from the 230 allegations IMLU received in 2003. There were numerous cases of police torture that resulted in death (*see* Section 1.a.).

In May, Agriculture Minister Kipruto Kirwa accused home guards in Trans Nzoia District of building torture cells and of chaining detainees to trees overnight in the rain; subsequently, police dismissed from employment 17 home guards from the area. In June, forest officers in Mount Elgon tortured a student by forcing him to sit on hot charcoal and also broke the legs of a herdsman, accusing the two of illegal grazing.

There were no developments in the investigation of Maithya Kivuli, who died in 2003 after having been confined all night in a tiny room infested with ants, or in the case of Arwings Odera, a freelance journalist allegedly injured in 2002 by police.

Police occasionally used excessive force to disperse demonstrations and strikes, which resulted in injuries (*see* Section 2.b.).

Police occasionally abused street children (*see* Section 5, Children).

Allegations of rape by security forces surfaced periodically (*see* Section 5). Late in 2003, 650 Maasai and Samburu women filed charges of rape against British soldiers who had, over the past 30 years, been involved in periodic training exercises near Mt. Kenya. The women also filed a multi-million dollar compensation suit against the British government. In April, an M.P. from the area, Mwangi Kiunjuri, claimed that 600 of the 650 cases were fraudulent and that a local organization called Impact urged local prostitutes to file false charges for money. Human rights groups, including the Federation of International Women Lawyers (FIDA), pressed the Government to continue its investigation, which was ongoing at year's end.

Acts of violence, including rape, banditry, and shootings, occurred frequently near refugee camps (*see* Sections 2.d. and 5).

Prison conditions continued to be harsh and life threatening. Prisoners were subjected to severe overcrowding, deficient health care, and unsanitary conditions, and received inadequate water, diet, and bedding. In September, jails housed 52,000 inmates, despite a capacity of 16,000. Meru Prison, built in 1950 with a capacity for 500 persons, held 1,600, of whom 200 were women. There were also 43 children belonging to women prisoners. During the year, some prisoners died (*see* Section 1.a.) of suspect causes. The courts partly were responsible for prison overcrowding, as the backlog of cases in the judicial system continued to fill the prisons with pretrial detainees.

Police, prison guards, and inmates continued to subject prisoners to torture and inhumane treatment. However, unlike in previous years, there were no reports of particularly egregious abuses, such as the application of electrical shocks to genitalia, subjecting inmates to artificial light from a 150-watt bulb continuously for up to 24 hours, and female inmates being stripped and placed in solitary confinement in a flooded cell for up to a week.

Rape of both male and female inmates, primarily by fellow inmates, was a serious problem, as was the increasing incidence of HIV/AIDS. Disease in prisons was widespread and a number of prisoners died due to life threatening prison conditions, including inadequate food and medical treatment. According to government statistics, 536 prisoners died in 2002, primarily as a result of pulmonary tuberculosis, gastroenteritis, pneumonia, and malaria. Dysentery, anemia, malaria, heart attack, typhoid fever, and HIV/AIDS also were common causes of death among prisoners. In March, IMLU said that government negligence was to blame for the increasing number of deaths among inmates.

Prisoners generally received three meals per day; however, portions were inadequate, and prisoners were sometimes given half rations as punishment. Water shortages continued to be a problem in some prisons, particularly at the Kakamega Prison, where running water has not been available to prisoners for the last 5 years. In a change from 2003, the Government provided women with sanitary napkins.

Prisoners sometimes were kept in solitary confinement far longer than the maximum 90 days allowed by law. Prisoners and detainees frequently were denied the right to contact relatives or lawyers. Family members visiting prisoners faced numerous bureaucratic and physical obstacles, each requiring a bribe.

In August, the People Daily reported that prison officers at Thika Prison routinely released prisoners and colluded with them to commit crimes. The newspaper added that torture, illegal sales of hard drugs, and sexual abuse were routine in the prison. In September, 3 prison guards at a facility in Naivasha went on trial for helping 28 pretrial detainees accused of capital offenses escape from that prison; the escapees were captured in possession of all their personal effects, which normally would have been confiscated when they entered the prison. The trial was ongoing at year's end.

Nearly all prisoners serving more than 6 months in prison worked in prison industries and farms. The Government reported that prisoners could earn approximately \$0.62 (50 shillings) per year or \$0.20 (16 shillings) per item produced. Prisoners could, with permission, work beyond the 8-hour day to produce goods, from which they earned two-thirds of the profits. Prisons were unable to invest the estimated annual profits of \$826,600 (67 million shillings) in the prisons because income generated was sent directly to the Government Consolidated Fund. Prisoners complained of being overworked; however, many inmates left prison with a valid trade certificate. Unlike in the previous year, there were no allegations that prison officials used the free prison labor for personal profit.

The Government made efforts to reduce understaffing and overcrowding at youth detention centers. Unlike in previous years, there were no reports that juvenile detainees were subjected to corporal punishment.

Men, women, and children officially were kept in separate cells. There were no reports that men and women were placed in the same cells. However, teenagers frequently were kept in cells with adults in overcrowded prisons and detention centers.

During the year, pretrial detainees were housed in the same facilities as convicts in some prisons. In Kamiti Prison, detainees were housed with patients having mental disabilities.

The Government implemented several reforms in prisons, including allowing inmates to receive education and improved medical treatment, to wear shoes and to vote, and to have greater visitation rights, including inspections by human rights groups. In April, the Government began providing instruction in human rights to prison staff. The Government also outlawed corporal punishment of prisoners and began allowing conjugal visits. In addition, the Government continued its Community Service Order, allowing prisoners to serve out their sentences in community service rather than in prisons; however, magistrates did not fully utilize community service as an alternative to custodial sentences for petty offenders, and there were delays in releasing petty offenders already committed to the community service program.

The KNCHR, as well as the International Committee of the Red Cross (ICRC), had the authority to inspect prison facilities on demand at any time; however, the Government did not permit consistent independent monitoring of prison conditions, and the ICRC did not visit the country during the year. In February, an IMLU official was ordered to leave Kamiti Maximum Security Prison even though he was on an official visit in the company of two KNCHR commissioners. In August, police denied a KNCHR commissioner and other human rights monitors access to Laikipia police station cells and refused to allow the team to conduct interviews with 100 herdsmen who had been arrested on charges of cattle rustling. Later, police stopped the human rights group along the road, threatened to kill them, and confiscated a videotape that contained evidence of human rights abuses. The Government occasionally granted permission to domestic NGOS to visit prisons; however, obtaining such permission was difficult.

Some independent NGOs worked with the Government in evaluating torture cases and performing autopsies on deceased prisoners. In June, IMLU and another human rights NGO, People Against Torture, organized a clinic that provided medical, legal, and psychological counseling services to inmates (about two-thirds convicts and one-third pretrial detainees) at Kerugoya Prison in Kirinyaga District. In December, IMLU visited 16 prisons throughout the country. On one occasion, the Government allowed access to the media and permitted the use of television cameras in a prison.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arrest or detention absent a court order unless there is reasonable suspicion of a suspect having committed, or being about to commit, a criminal offense under the law; however, police occasionally arrested and detained citizens arbitrarily.

There is a large internal security apparatus that includes the police's CID, the NSIS, the National Police, the Administration Police, and the paramilitary GSU. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. There was a public perception that police often were involved or complicit in criminal activity. During the year, an active duty army officer replaced the police commissioner.

Police corruption was systematic and widespread. A December survey by Transparency International found that the police force was viewed as the most corrupt entity within the country. Police often arrested citizens arbitrarily, sometimes with the sole purpose of extorting bribes. Police, in conjunction with prosecutors, resorted to unexplained illegal confinements, extortion, torture, and the preferring of highly questionable and fabricated non-bailable charges as a cover-up for malpractice. Police often held detainees for lengthy periods without trial.

Impunity was a serious problem. Officers were rarely prosecuted for using excessive force. Authorities sometimes attributed the absence of an investigation into an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public skepticism of a process that assigned the investigation of police abuse to the police themselves.

During the year, the Government took some steps to curb abuses of authority by police (*see* Sections 1.a. and 1.c.). The Government arrested and charged several police officers for various offenses, including corruption; however, the Government did not provide details on how many of these indicted police officers were tried, acquitted, convicted, or imprisoned. To reduce incentives for corruption, the Government provided the police with a 115 percent increase in salaries, beginning in January.

During the year, police officially adopted and began using the FIDA curriculum on gender-based violence.

The Constitution provides that persons arrested or detained be brought before a court within 24 hours in non-capital offenses and within 14 days in capital cases. The Penal Code specifically excludes weekends and holidays from this 14-day period. For those who were charged, it often was possible to be released on bail with a bond or other assurance of the suspect's return, but many indigent pretrial detainees could not afford even the lowest bail.

The law does not stipulate the period within which the trial of a charged suspect must begin. Police from the arresting location were responsible for serving court summons and for picking up detainees from the prison each time the courts heard their cases. Police often failed to show up or lacked the means to transport the detainees, who then were forced to await the next hearing of their case.

The law provides that families and attorneys of pretrial detainees are allowed access to them; however, this right often was not honored (*see* Section 1.c.). Family members and attorneys may visit convicted prisoners only at the discretion of the authorities, and permission to do so frequently was denied.

Arbitrary arrest was a problem. In May, administration police officers arrested Elijah Irungu Muthoni in Nairobi; Irungu claimed that police beat him, planted an illegal drug on his body, and demanded a bribe of \$40 (approximately 3,270 shillings) for his release. There was no information on his release. Also in May, police arrested 17-year-old Margaret Muthoni Murage on theft charges; the day after her arrest, Murage, who was 6 months pregnant, miscarried; she claimed that police beat her. In June, police arrested and beat David Ndegwa Kimemia on allegations that he had abused an area chief; Ndegwa suffered a broken leg and was charged with creating a disturbance. In both the Murage and Kimemia cases, the Litigation Fund Against Torture has retained counsel to represent the accused, and the cases were ongoing at year's end. According to IMLU, none of these arrests was made with a proper warrant.

Police continued to conduct massive searches ("sweeps") for illegal immigrants, criminals, and firearms; citizens frequently accused police officers of soliciting bribes or falsely arresting individuals to extract bribes during such searches. The Litigation Fund Against Torture claimed that innocent persons in low-income areas of Nairobi were caught in these sweeps and arrested frequently for failing to carry identification cards, or simply for loitering, idling, or looking suspicious. In April, M.P.s criticized Internal Security Minister Chris Murungaru over continued allegations of police harassment of civilians, including the arrest of innocent persons to extract bribes in exchange for their release.

Unlike in previous years, there were no reports that police arrested journalists or NGO members.

Lengthy pretrial detention continued to be a serious problem. The Government reported that approximately 33 percent of the prison population consisted of pretrial detainees. The Government claimed the average time spent by suspects in pretrial detention on capital charges was approximately 16 months; however, many detainees spent more than 3 years in prison before their trials were completed. Very few could afford attorneys. The Government acknowledged cases in which persons were held in pretrial detention for several years.

In March 2003, the media reported that Joseph Kamau Njoroge had served 18 years in prison awaiting the outcome of his trial and that Wanjiku Kamandere had served 17 years in prison on pretrial detention; both men continued to remain in custody at year's end.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch often influenced the judiciary. The President has extensive powers over appointments, including those of the Attorney General, the Chief Justice, and Appeal and High Court judges. The President also can dismiss judges and the Attorney General upon the recommendation of a special tribunal appointed by the President. Although judges have life tenure (except for the very few foreign judges hired by contract), the President has extensive authority over transfers.

Reforms begun in 2003 reduced corruption in the judiciary during the year. In 2003, the anti-corruption authority cited credible evidence of corruption against 5 of 9 Appeal Court judges and proof of graft and misconduct against 18 of 36 High Court Judges and 82 of 254 magistrates; 38 magistrates were suspended (although by year's end most had resumed work to alleviate the caseload backlog), and 44 others were transferred. However, by year's end no legal charges had been filed against any of the judges suspended or transferred in 2003.

The court system consisted of a Court of Appeals, a High Court, and two levels of magistrate courts, where most criminal and civil cases originated. The Chief Justice was a member of both the Court of Appeals and the High Court. Military personnel were tried by military courts-martial, and verdicts may be appealed through military court channels. The Chief Justice appointed attorneys for military personnel on a case-by-case basis.

Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and defendants have the right to attend their trial, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the High Court and ultimately to the Court of Appeals. Judges hear all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the High Court judge. The assessors are taken from all walks of life and received a sitting allowance for the case. Although the assessors render verdicts, their judgments are not binding. Lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel, except in capital cases. For lesser charges, free legal aid rarely was available, and then only in Nairobi and other major cities where some human rights organizations, notably FIDA, provided legal aid. As a result, poor persons may be convicted for lack of an adequate defense. Defense lawyers do not always have access to government-held evidence in advance of a trial. The Government can plead the State Security Secrets law as a basis for withholding evidence, and local officials sometimes classified documents to hide the guilt of government officials. Court fees for filing and hearing cases were high for ordinary citizens. The daily rate of at least \$25 (approximately 2,040 shillings) for arguing a civil case before a judge was beyond the reach of most citizens.

The Constitution provides for Islamic courts that use Shari'a law and states that the "jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion." There were no other customary or traditional courts in the country. However, the national courts used the customary law of an ethnic group as a guide in civil matters as long as it did not conflict with statutory law. This occurred most often in cases that involved marriage, death, and inheritance issues and in which there was an original contract founded in customary law. Citizens may choose between national and customary law when they enter into marriage or other contracts; however, thereafter the courts determine which kind of law governs the enforcement of the contract. Some women's organizations sought to eliminate customary law, arguing that it was biased in favor of men (*see* Section 5).

The Government significantly reduced the use of the legal system to harass government critics. Observers believed that most of those held at the end of 2003 had been released on bail and that the Government did not intend to pursue the charges against them.

Unlike in past years, the Attorney General's constitutional power to discontinue proceedings in private prosecution cases was not a problem.

There were no reports of political prisoners. Unlike in years past, there were no reports that police arrested and jailed political and human rights activists on spurious charges to curb their activities. Human rights activists Nicodemus Mutuki and Alois Mwaiwa Muia continued to have an appeal pending in connection with their acquittal in 2002 on murder charges.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, except "to promote public benefit"; however, authorities sometimes infringed on citizens' privacy rights. The Police Act permits police to enter a home forcibly if the time required to obtain a search warrant would "prejudice" the investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed stolen (*see* Section 1.d.). Unlike in the previous year, there were no complaints that police confiscated personal items when conducting occasional "sweeps" of suspected criminals.

There was a marked decrease in the monitoring of dissident activities by security forces.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government sometimes restricted these rights, and there were some reports that security forces harassed, beat, or arrested members of the media during the year. The regulatory framework for broadcast media allowed abuse and manipulation in the issuing, withholding, and revoking of broad-

cast permits and frequencies. Despite these pressures, the press, civic organizations, and opposition parties continued to present their views to the public, both in the print and electronic media. Journalists practiced self-censorship.

The Government broadly interpreted existing laws to restrict freedom of expression. Both the Constitutional prohibition of debates on issues under consideration by the courts and a ruling by the Speaker of the House against parliamentary debate of certain aspects of presidential conduct limited the scope of deliberation on a number of political issues.

In general, the media remained candid and independent. The mainstream print media included four daily newspapers that reported on national politics: *The Nation*, an independent daily that has long published articles generally critical of government policies; the *East African Standard*, which previously reflected KANU party views, but became more independent after the December 2002 elections; the *People Daily*, owned by an opposition politician and highly critical of the Government; and the *Kenya Times*, which generally reflected opposition KANU party views. There also were numerous independent tabloid periodicals, which appeared irregularly and were highly critical of the Government. Reporting in these tabloids ranged from revealing insider reports to unsubstantiated rumor mongering.

The government-owned Kenya Broadcasting Corporation (KBC), the country's oldest broadcaster, was the only station with a national network of broadcast and cable television, AM and FM radio, and short-wave broadcasts. In the past, KBC generally did not criticize the Government; however, under its current, more independent managing director, KBC coverage was more balanced. KBC's monopoly on national broadcasting continued to limit the ability of opposition leaders and other critics of the Government to communicate with the electorate outside the capital. Stations operated by other media companies, including 12 radio stations, operated primarily along the country's central corridor and more densely populated adjacent regions, the areas most commercially viable for private broadcast media.

Kenya Television Network, which was owned by KANU supporters, aired news programs with more balanced political coverage than KBC and remained the leading private television broadcaster. Stellavision, which also was owned by KANU supporters, rebroadcast SKY TV and British Broadcasting Corporation world news. Other television stations operating in Nairobi were Nation-TV, associated with the Nation media group, and Family, a Christian-oriented broadcaster. Citizen TV and Citizen Radio broadcast pro-government news and information programs.

Representatives of the international media remained free to operate; 120 international correspondents worked in the country, and approximately 100 media organizations reported out of Nairobi.

Kenyan journalists continued to be susceptible to harassment, intimidation, and arrest; however, there were fewer reports of harassment than in previous years. One such incident occurred on September 24, when approximately 20 masked gunmen claiming to be police ransacked the offices of 2 newspapers, the *Weekly Citizen* and the *Independent*. The gunmen, who showed no identification, seized or destroyed computers, disks, scanners, printers, and other office equipment, allegedly to prevent publication of a government investigation into land-grabbing. Reporters Without Borders called on police to identify the individuals who carried out the raids and asked the Government to punish those responsible and compensate the newspapers. At year's end, no progress has been made in the investigation of this incident.

Police occasionally dispersed demonstrators to prevent criticism of the Government, and journalists covering such events often were present during the dispersal (see Section 2.b.).

The court case against *East African Standard* journalist David Makali for the alleged theft of a police tape containing the confession of suspects in the killing of University of Nairobi professor Crispin Odhiambo Mbai (see Section 1.a.) continued at year's end.

No further action was taken against those responsible for assaulting journalists in 2003 and 2002.

The Government reduced its selective prosecution of journalists under a colonial-era section of the Penal Code criminalizing the publication of information likely to cause fear or alarm.

The Media Bill requires publishers to purchase a bond of \$12,800 (approximately 1 million shillings) before printing any publication and to deposit copies of their newspapers and books with a registrar within 2 weeks of publication. The law makes it a crime to sell or distribute publications not deposited or bonded, under penalty of a fine of \$256 (approximately 21,000 shillings) or 6 months' imprisonment. Some members of the media were concerned that the Government would use this law, as well as the Books and Newspapers Act and the Official Secrets Act, to stifle freedom of expression; however, the law generally was not enforced.

The regulatory framework for broadcast media continued to allow abuse and manipulation in the issuance, withholding, and revoking of broadcast permits and frequencies. However, the Government revised regulations and procedures during the year to streamline and regularize cumbersome licensing procedures. The Government issued additional licenses during the year, including an additional frequency to owners of the popular but controversial KISS FM radio station.

Despite licensing the East African Television Network (EATN) to broadcast, because of a dispute, the Government continued to block EATN from using the frequencies, and the case was pending in the courts at year's end.

In the early months of the year, Citizen Radio jammed broadcasts of its competitor, KISS FM, over a management dispute. Authorities established that the broadcasts that had jammed the frequencies of KISS over 2 1/2 days originated from Citizen Radio's studios. As a result, the Government confiscated some of Citizen Radio's transmitters and fined Royal Media.

In April, after KISS FM made critical comments about Water Minister Martha Karua, the Minister sued two of the station's announcers. The Minister of Information and Communications, Raphael Tuju, subsequently created a media review board to decide what was acceptable on the public airwaves. The Kenyan Union of Journalists and civil society organizations criticized the establishment of the review board as an attempt to restrict freedom of the press. The board, headed by the chair of the KNCHR, recommended regulations of the media related to violence or sexually explicit content, but not other types of expression. The Government reportedly rejected the report. Neither the lawsuit nor the work of the media review board resulted in any concrete changes.

Toward the end of the year, there were reports of an increased use of criminal libel laws by individuals closely associated with government officials to intimidate journalists and publications. There were no developments in previous cases brought by M.P. Nicholas Biwott and State Comptroller Matere Keiri. Printers and distributors, as well as retail stores, were equally responsible with publishers and authors for libelous content.

Individual journalists practiced self-censorship because they experienced pressure or received bribes from government officials and other influential persons to avoid reporting on issues that could harm the interests of these persons or expose their alleged wrongdoings. There also were credible reports that journalists accepted payments to report or withhold certain stories, some of which were fabricated.

Sedition was not grounds for censorship of publications; however, the Prohibited Publications Review Board reviewed publication bans. A number of publications remained banned, including such works as "The Quotations of Chairman Mao Zedong" and Salman Rushdie's "Satanic Verses."

The Government did not restrict access to the Internet.

There were fewer reports during the year that the Government and school administrators limited academic freedom. In the past, lectures involving outside speakers and public audiences were routinely banned; however, such lectures occurred frequently during the year. Most notable were those of the writer Ngugi wa Thiong'o, who returned to the country after 22 years of self-imposed exile and delivered lectures at universities throughout the country. In addition, a previously banned teacher's union was reinstated and engaged in salary negotiations.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government occasionally restricted this right in practice. Organizers must notify the local police in advance of planned public meetings, and authorities may cancel such gatherings only if there are simultaneous meetings previously scheduled for the same venue, or if there are specific security threats; however, authorities sometimes disrupted public demonstrations and meetings even when the police had been informed in advance, often characterizing them as "illegal" gatherings. There were fewer reports than in previous years.

Police attempted to prevent some political and civil society activities from occurring during the year, but, in the end, allowed almost all to occur.

On May 14, police halted one fund-raising event and attempted to break up another near the town of Eldoret in Rift Valley Province. The following day, police halted a fund-raising event in Keiyo District, also in Rift Valley Province. In two of the three incidents, the police used some violence, although no one was seriously injured. All three events were organized by KANU, the opposition political party, and were intended to raise money for two secondary schools and a medical clinic. KANU officials claimed they had properly informed the police of all three events but that the police had nevertheless broken up the rallies on instructions from the Government.

During the year, police occasionally used excessive force to disperse demonstrations; however, there were fewer reports than in previous years. On July 3, police used tear gas, high pressure hoses, horses, helicopters and, reportedly, rubber bullets to disperse groups that were demonstrating against the failure of the Government to enact a new constitution by June 30 as had been promised by President Kibaki. Some demonstrators damaged property and engaged in looting, acts that police said justified their use of force. The group organizing the demonstrations had been granted permits to hold the demonstrations (even though technically no permits were needed) earlier in the week, but the Government had rescinded the permits on July 2. The following week, police used live ammunition, killing two persons and injuring several dozen others, to disperse demonstrators and rioters in the Western Province town of Kisumu; the demonstration in Kisumu was also held to protest the Government's failure to enact a new constitution (*see* Section 1.a.).

A police officer was taken into custody in connection with one of the shooting deaths in Kisumu in early July, and the Commissioner of Police announced that he had opened an investigation into the conduct of the police during the demonstrations, including specifically why it was necessary to use live, rather than rubber, bullets to disperse the rioters.

No action was taken against security forces who used excessive force to disperse demonstrations in 2003 and 2002. The investigation into the 2002 violent dispersal of a demonstration organized by the Center for Human Rights and Civic Education in Mwingi District was ongoing at year's end, and no developments were expected.

There were some violent incidents between progovernment supporters and opposition supporters during the year (*see* Section 3).

The Constitution provides for freedom of association, and the Government generally allowed this in practice. The Societies Act requires that every association be registered or exempted from registration by the Registrar of Societies. Approximately 40 political parties were registered. The only party denied registration was the Islamic Party of Kenya (IPK); however, the IPK had not resubmitted an application to register since NARC came to power in 2002.

The Mungiki, whom the Moi government outlawed along with a number of other groups in 2002, remained banned. The Mungiki espoused political views and cultural practices that were controversial in mainstream society; many of its members engaged in criminal activities and harassed and intimidated residents in areas where the group was active (*see* Section 1.a.). The number of Mungiki members was unknown, but the group had a significant following among the unemployed and other marginalized segments of society. Other groups that remained banned included the Kamjesh, Chinnololo, Sanina Youth, Baghdad Boys, Jehila Embakai, Jeshi la Mzee, Nmachuma, and the Taliban.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Unlike in previous years, the Government generally did not interfere with any activities of religious groups, although some Muslim leaders charged that the Government was hostile toward Islam.

The Government required religious organizations to register with the Registrar of Societies, which reported to the Office of the Attorney General. The Government allowed traditional indigenous religious organizations to register, although many chose not to do so. Religious organizations generally received equal treatment from the Government; however, some small splinter groups found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization.

There generally was considerable tolerance among religious groups; however, some Muslims believed they were treated as second-class citizens in a predominantly Christian country. Muslims continued to complain that non-Muslims received better treatment when requesting citizenship documents. According to Muslim leaders, government authorities scrutinized more rigorously the identification cards of persons with Muslim surnames and sometimes required them to present additional documentation of their citizenship, such as birth certificates of parents or grandparents. In the past, the Government had singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members were required to carry an additional form of identification to prove citizenship; however, this policy was no longer enforced.

The Government and Muslim and Christian groups remained engaged in a long-standing debate over whether special Islamic courts should be recognized in the country's Constitution. Muslims and human rights groups also voiced concerns over a proposed antiterrorism bill, claiming it would be used to target Muslims, and over government assistance to Islamic schools, fearing a dilution of Islamic teachings.

In May, police arrested a Nigerian pastor, a prominent doctor, and six other members of Winners Chapel International in the Western Province town of Kitale and charged them with torturing a church member. Local newspapers alleged that the man was tortured to force him to give up his child as a human sacrifice. The Nigerian-based religion, which has 10 churches in the country, denied the allegations.

Also in May, members of the Seventh-day Adventist Church claimed that they were among hundreds of workers fired by private companies operating in Nairobi's export processing zone (EPZ). The church members claimed that they lost their jobs because they refused to work on Saturdays.

At year's end, an inquest continued into the 2000 death of Father John Anthony Kaiser, a Catholic priest working in the country for more than 30 years. Although there was much public speculation to the contrary, an investigative report released by a foreign government in 2001 concluded that the evidence was most consistent with suicide and that it was unlikely that Father Kaiser had been killed.

There have been no developments in the March 2003 killing of Joseph Okech, who died in a fight during Sunday services between two factions of St. Stephen's Church in Dandora.

There were no further developments in incidents from previous years regarding disputes over land ownership and institutional conflicts between rival religious factions.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights and generally respected them in practice.

Police routinely stopped vehicles and checked vehicle safety and driver documents on roads throughout the country. Police often demanded bribes at such checkpoints. Ethnic Somalis were no longer required to provide additional identification.

The Government did not restrict foreign travel or emigration. Civil servants and M.P.s must get government permission for international travel, which generally was granted.

The Constitution prohibits forced exile, and the Government did not use it in practice.

Some of the several thousand persons displaced by ethnic clashes have not returned to their homes due to fear of renewed violence (*see* Section 5).

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government worked closely with the United Nations High Commissioner for Refugees (UNHCR) to provide protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The UNHCR granted refugee status to Somali refugees at the Dadaab camps and to Sudanese refugees at the Kakuma camp. A UNHCR eligibility committee in Nairobi performed a similar function for individuals of other nationalities.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 U.N. Convention or its 1967 Protocol. The Government provided temporary protection to the approximately 200,000 refugees registered by UNHCR who lived in official UNHCR camps. An undetermined number of refugees lived outside the camps in cities and rural areas. Somalis accounted for approximately 65 percent of the total refugee population, followed by large numbers of Sudanese and smaller numbers of other nationalities from across the region.

The Government required that all refugees reside at designated camps, most of which were located near the Somali and Sudanese borders, unless granted permission to live elsewhere in the country. Such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps. However, many refugees lived illegally outside the camps, especially in Nairobi.

Incidents of rape of women and girls in refugee camps continued to occur. Many rapes occurred when women and girls collected firewood and building materials outside the camps; however, reported rapes declined during the year.

Acts of violence, including banditry and shootings, occurred frequently near the camps. Refugees were mistreated and abused by citizens and by residents of different refugee camps because of ethnic and religious differences. Interclan violence frequently erupted among rival Somali clans at the camps (*see* Section 5); family members also may subject to abuse Somali refugees who marry non-Muslims.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens the right to change their government through free and fair multiparty elections; citizens only fully realized this right in December 2002, when they chose a new president through an election for the first time since former President Moi was elected in 1978. The December 2002 elections were the country's third multiparty elections for presidential, parliamentary, and civic seats. Five presidential candidates contested the elections, but the main contestants were KANU candidate Uhuru Kenyatta and NARC candidate Mwai Kibaki, a Vice-President and Minister of Finance in former President Moi's government. NARC was a coalition of more than a dozen political parties, including former members of KANU, who formed a united front to contest the December general elections. Since independence in 1963, KANU had continuously controlled both the presidency and the national legislature. President Kibaki won 61.9 percent of the vote in the 2002 election, which was largely peaceful and determined by international observers to reflect the will of the people.

In the 2002 elections for the 222-member National Assembly, 210 seats were elected and 12 were nominated. Three by-elections—two in 2003 and two during the year—did not change the representation of the political parties in the national legislature. The NARC coalition held 132 seats (7 nominated); KANU held 68 seats (4 nominated); Ford-P held 15 seats (1 nominated); Safina, Ford-A, and Sisi held 2 seats each; and Shiriksho held 1 seat. Observers concluded that the two by-elections also broadly reflected the popular will, although both were marred by voter intimidation and bribery.

The Liberal Democratic Party (LDP), whose M.P.s hold 6 positions as ministers and 10 as assistant ministers in the Government, was widely seen as an opposition party within the Government. In June, President Kibaki named three M.P.s as ministers and four as assistant ministers from the principal opposition party, KANU; one KANU Assistant Minister resigned in September. Both LDP and KANU filed lawsuits alleging that the Constitution prohibits the President from naming ministers or assistant ministers without the consent of the parties through which the nominees were elected to Parliament. Both cases were pending at year's end.

Police or organized youth gangs disrupted or forced the cancellation of some opposition meetings and rallies during the year, and politicians and public servants routinely warned political rivals against campaigning in their areas. On March 22, a gang of youths attacked Cabinet Minister Raila Odinga and LDP Secretary General Joseph Kamotho in Coast Province. The two politicians accused their nominal allies within the Government of hiring the youths to attack them. In April, assailants in Kisumu stoned the vehicle of Orié Rogo Manduli, who was the KANU candidate in a by-election for a seat in the National Assembly. Manduli blamed her opponent, Reverend Ken Nyagudi, for the attack; Nyagudi, who eventually won the seat as the candidate for the ruling NARC coalition, denied involvement. In December, unknown persons stoned vehicles and attacked politicians campaigning for various candidates in a by-election in Coast Province.

At the local level, President Kibaki released some funding for provincial and district governments through the Local Constituency Fund; however, he continued to exercise tight control over local administrations. The President appoints both the powerful provincial and district commissioners and numerous district and village officials. Elected local councils exist, but the central Government continued to restrict their functions. For example, early in the year the Minister of Local Government dismissed all the municipal councilors in the port city of Mombasa. Although rural and municipal councils are authorized by law to provide a wide range of health, education, and infrastructure services, in practice, their functions were limited to partial oversight of schools, secondary and tertiary roads, markets, and natural resources such as forests. Most councils lacked sufficient financial autonomy and revenues to perform adequately even these limited functions.

At the national level, the Constitution authorizes the President to dissolve the legislature and prohibits parliamentary debate on issues under consideration by the courts. M.P.s were entitled to introduce legislation, but, in practice, it generally was the Attorney General who did so. President Kibaki exercised considerably less influence over the legislative agenda than did former President Moi. For example, during the year, KANU and LDP M.P.s combined to defeat a government bill dealing with forestry protection. The National Assembly had the power to hire its own staff and to vote its own budget.

In March, the Constitution of Kenya Review Commission completed work on the drafting of a new constitution, but the Government refused to accept the draft. At year's end, the fate of the draft constitution remained subject to legal and political debate.

Frequent press reports fueled a widespread public perception that large-scale corruption at the highest levels of government and in Parliament continued unabated. The Anti-Corruption and Economic Crimes Bill, which sets rules for transparency and accountability, and the Public Officer Ethics Bill, which requires high government officials and their spouses to declare their wealth, were enacted. The Government also established an anticorruption authority to investigate and prosecute cases of corruption and appointed an anticorruption czar. Some anticorruption institutions began actively to pursue their mandates. In April, police arrested opposition M.P. William Ruto on charges of corruption that had occurred during the Moi administration; his case was ongoing at the end of the year. In August, the courts sentenced a prominent businessman and the former general manager of the National Bank of Kenya to 2 years in prison in connection with a corruption scandal that occurred 10 years ago. In September, the courts sentenced Dr. Margaret Gachara, the former director of the National AIDS Control Council, to 1 year in jail for misappropriation of funds; President Kabaki released Gachara, along with some 600 other prisoners, in December. The Government also suspended a number of high-ranking officials during the year pending corruption investigations; however, no ministers or assistant ministers were arrested or suspended.

During the June Cabinet reshuffle, John Githongo, the Permanent Secretary for Governance and Ethics, often referred to as the Government's anticorruption czar, was temporarily moved from the Office of the President to the Ministry of Justice and Constitutional Affairs. After local human rights NGOs and Western missions criticized the move as an attempt to decrease Githongo's authority, his office was moved back into the Office of the Presidency. In August, Parliament confirmed the appointment of former High Court Justice Aaron Ringera as Director of the Anti-Corruption Commission. In 2003, Ringera headed a special committee that concluded that 152 of 300 judges and magistrates were corrupt; his finding triggered the suspension of 38 magistrates and the transfer of 40 others (*see* Section 1.e.).

At year's end, there were 15 female M.P.s, (7 elected and 8 nominated) in the 222-seat National Assembly, 3 female ministers (out of 29), and 3 female assistant ministers (out of 40).

The 5 largest ethnic groups represented 70 percent of the population and held 167 of the 222 National Assembly seats. The remaining 37 ethnic groups represented 30 percent of the population and held 55 seats; 4 of the 29 ministers and 6 of the 40 assistant ministers were from the smaller ethnic groups.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views; however, there were some reports that government officials intimidated and threatened to disrupt NGO activities, and that less-established NGOs, particularly those in rural areas, were subjected to interference from provincial administrators and security forces.

Approximately 15 domestic NGOs actively advocated for human rights in the country. Several NGOs maintained comprehensive files on human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance, and were concentrated chiefly in Nairobi and other large cities. The Government allowed human rights organizations to witness some autopsies of persons who died in police custody. The Attorney General's Office generally responded in detail to foreign embassies' human rights inquiries. Some local human rights NGOs complained that the Attorney General's office and other government offices often were not responsive to their inquiries; however, there were fewer such complaints than during the previous government.

Unlike in previous years, members of the Government did not publicly criticize NGOs, nor did the Government use the governmental NGO Coordination Board to put pressure on the nongovernmental National NGO Council.

Unlike in previous years, there were no reports that NGO employees were arrested.

The Kenya Human Rights Commission, a leading human rights NGO, produced a "Quarterly Human Rights Report" that cataloged the human rights situation in the country, as well as special reports on pressing human rights problems. The Institute for Education in Democracy and other NGOs monitored elections in cooperation with the Electoral Commission and diplomatic missions.

The KNCHR created by an act of Parliament in 2002 was able to perform its duties without government interference. Its 10 commissioners have the status of ap-

peals court or high court judges; the Commission can issue summons, order the release of prisoners, and require compensation for human rights abuses. The KNCHR completed its recruitment of commissioners in 2003. During the year, although the Commission was still hiring staff, it launched an active program of prison visits and other human rights investigations.

According to its charter, the KNCHR has unfettered access to prisons, police stations, and to all information it needs to conduct investigations of human rights abuses; however, some authorities did not cooperate fully in human rights investigations (*see* Section 1.c.). NGO personnel accompanying KNCHR commissioners on official visits have the same access. In August, the KNCHR Chairman and another commissioner were briefly prevented from holding a procession in Nanyuki at the start of the Laikipia Human Rights Forum, even though the KNCHR had informed police in advance of its intention to hold the procession.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of a person's "race, tribe, place of origin or residence or other local connection, political opinions, color, or creed"; however, government authorities did not enforce effectively many of these provisions. There was also evidence that some government officials at least tolerated and, in some instances, instigated ethnic violence.

*Women.*—In 2003, the Government outlawed all forms of violence against women; however, domestic violence against women was a serious and widespread problem. The Kenya Demographic and Health Survey, released in August, revealed that more than half of women had experienced domestic violence after the age of 15 years. Data available in mid-year revealed an increase in rape cases. According to police statistics, there were 1,653 rape cases between January and July, which projected an annual rate of 2,800 cases, compared with 2,308 rape cases in 2003. Police attributed the upsurge to increased reporting by rape victims; however, available statistics probably underreported the problem since social mores discouraged women from going outside their families or ethnic groups to report sexual abuse. According to a 2003 study by the Center for Human Rights and Democracy, women in Eldoret did not report 60 percent of rape cases in the North Rift region for fear of unfair treatment by police. In contrast to these reports, FIDA-Kenya reported in September that gender violence had declined.

The law carries penalties of up to life imprisonment for rape, although actual sentences usually were no more than 10 years. The rate of prosecution remained low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, wife beating was prevalent and largely condoned by much of society. Traditional culture permitted a husband to discipline his wife by physical means and was ambivalent about the seriousness of spousal rape. There was no law specifically prohibiting spousal rape.

There continued to be incidents of rape of refugee Somali women at the Dadaab refugee camps (*see* Section 2.d.). The majority of the rapes were perpetrated by Somali bandits crossing over the border, and a small number of the rapes may have been committed by security forces and police. During the year, there were 16 reported rapes and 9 defilements of Somali refugees in refugee camps, according to the UNHCR.

The law prohibits FGM for girls under 18 and forced FGM on girls or women of any age; however, FGM remained widespread, particularly in rural areas. In September, an international conference on FGM in Nairobi reported that, of the country's 42 ethnic groups, only 4—Luo, Luhya, Teso and Turkana—did not practice FGM. A women's rights workshop in October 2003 reported that at least 90 percent of women in North Eastern Province underwent FGM. According to Maendeleo Ya Wanawake (Development of Women), the percentage of girls undergoing the procedure was 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley Provinces. FGM usually was performed at an early age.

Various communities have instituted "no cut" initiation rites for girls as an alternative to FGM. The Family Planning Association of Kenya (FPAK) established such a rite, called Ntanira na Kithomo (initiate me through education) in Nyambene in Meru; some Marakwet and Maasai communities also instituted similar rites of passage. According to the FPAK, its program contributed to a 13 percent decline in the prevalence of FGM in Meru North District.

Prostitution is illegal; however, it was a problem and was perpetuated by poverty. Prostitution contributed to the spread of HIV/AIDS, which affected approximately 7 percent of the working age population. In 2002, the U.N. Program on HIV/AIDS reported that 30 percent of pregnant women in Embu District in Eastern Province

were HIV-positive, making it the area with the highest rate of infection in the country.

Sexual harassment in EPZs was a problem (*see* Section 6.e.).

Women experienced a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second-class citizenship. The Constitution provides equal rights to men and women and specifically prohibits discrimination on grounds of gender; however, it allows only males to transmit citizenship automatically to their wives and children.

Women continued to face both legal and de facto discrimination in other areas. The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children; however, it terminates the inheritance rights of widows if they remarry, but does not do so for widowers. Moreover, a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. Most women have little awareness of their legal rights to property and inheritance and accede to customary law on these issues. Under the customary law of many ethnic groups, a woman cannot own or inherit land, and she must live on the land as a guest of males who are relatives by blood or marriage. Wife inheritance, which restricts a woman's right to choose her mate and heightens her risk of contracting a sexually transmitted disease such as HIV/AIDS, was practiced in some communities. Although poor, uneducated women were more likely to suffer from property and inheritance discrimination than are educated women, even prominent women sometimes were victims. Following the death of Vice President Michael Wamalwa in 2003, male members of his family in Western Kenya laid claim both to his property and to his widow. Forced marriages were also common.

Women made up approximately 75 percent of the agricultural work force and have become active in urban small businesses. Nonetheless, the average monthly income of women was approximately two-thirds that of men, and women hold only 6 percent of land titles. Women had difficulty moving into nontraditional fields, were promoted more slowly than men, and were more likely to be laid off than men. Societal discrimination was most apparent in rural areas.

During the year, Parliament passed a bill creating a national commission on gender and gender development and also created a gender department within the Ministry of Gender, Sports, Culture, and Social Services. A growing number of women's organizations were active in the field of women's rights, including FIDA, the National Council of Women of Kenya, the National Commission on the Status of Women, the Education Center for Women in Democracy, and the League of Kenyan Women Voters. The Women's Political Caucus continued to lobby over matters of concern to women and to increase the influence of women on government policy.

*Children.*—The Government was generally committed to the rights and welfare of children and has passed legislation and developed policies to promote education and protect children's rights; however, it lacked the resources to implement its policies fully.

The Government's Free Universal Primary Education Program, which began in January 2003, raised primary school enrollment from 6.1 million in 2002 to 7.2 million in 2003, according to Ministry of Education data. The 2003 figure constituted about 78 percent of the primary school age group. Most citizens welcomed tuition-free education; however, the policy also resulted in overcrowded classes because of insufficient teachers and an inadequate budget. About 79 percent of enrolled children completed the 8-year primary school education cycle. The law mandates compulsory schooling for all children through grade 12, but fewer than half of primary school graduates went on to secondary school. Approximately 79 percent of secondary school students completed the 4-year secondary cycle.

Levels of education for boys and girls differed widely. Although the number of boys and girls in school roughly was equal at the primary level, boys substantially outnumbered girls in higher education. Rural families were more reluctant to invest in educating girls than in educating boys, especially at the higher levels. According to FIDA-K, 8,000 to 13,000 girls drop out of school each year due to pregnancy. Women constituted 70 percent of the country's illiterate population.

Corporal punishment of students was banned formally in 2001 but has not ceased completely in practice. In March, the police arrested two teachers for caning several schoolchildren, seriously injuring one of them.

The health care system for school children, which once provided periodic medical checkups and free milk, was defunct.

Child rape and molestation continued to be a serious problem. In March, The People Daily reported that 38 percent of children under 18 were sexually abused. Newspapers contained frequent reports of molestation or rape of children by school-teachers, police, clergy, and others. For example, in February, five men raped an

11-year-old girl in Kiambu. In May, four street girls in Nairobi said that police had demanded sex in return for not arresting them. Also in May, a school inspector rescued a 13-year-old schoolgirl who had been kidnapped and defiled for 3 days by an adult male.

Legally, a man is not considered to have raped a girl under age 14 if he has sexual intercourse with her against her will; instead, he commits the lesser offense of defilement. The penalty for the felony of rape can be life imprisonment, while the penalty for defilement is usually less. In July, a man in Bondo District was sentenced to 10 years in prison for defiling a 14-year-old girl the previous month. Also in July, a Mombasa judge sentenced a man to 20 years in prison for defiling an 8-year-old girl in 2003.

Newspapers frequently highlighted the problem of child marriages. In July, a head teacher rescued a 14-year-old schoolgirl in Samburu District who had been forced by her parents to marry a 40-year-old man against her will.

Certain ethnic groups commonly practiced FGM on young girls, particularly in rural areas (see Section 5, Women).

Trafficking in children was a problem, as was child prostitution. Child prostitution has grown considerably due both to economic contraction and to the increase in the number of children orphaned because of the spread of HIV/AIDS (see Section 5, Trafficking). According to the International Labor Organization (ILO), approximately 30,000 girls under the age of 19 years were engaged in prostitution in the country.

Child labor was a problem (see Section 6.d.).

Economic displacement and the spread of HIV/AIDS continued to affect the problem of homeless street children. In 2002, the East African Standard reported an estimated 250,000 children living on the streets in urban areas—primarily Nairobi, Mombasa, Kisumu and Nakuru—a figure that it said was a conservative estimate. These children often were involved in theft, drug trafficking, assault, trespassing, and property damage. Street children faced harassment as well as physical and sexual abuse from police and within the juvenile justice system.

The Government provided programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and shelter for girls abused by their employers.

*Trafficking in Persons.*—The law does not explicitly prohibit human trafficking, and there were reports that persons were trafficked to, from, and within the country. Various laws can be used to prosecute trafficking-related offenses. The Penal Code prohibits detaining females against their will for the purposes of prostitution as well as child labor, the transportation of children for sale, and the commercial sexual exploitation of children.

The country was one of origin, destination, and transit for victims trafficked for the purposes of sexual exploitation and forced labor. Victims were trafficked from South and East Asian countries and the Middle East and transited the country to European destinations for sexual exploitation. Asian nationals, principally Indians, Bangladeshis, and Nepalese, were trafficked into the country and coerced into bonded labor in the construction and garment industries. Unlike in the previous year, women were not trafficked to Lebanon and other Middle Eastern countries for labor, and children were not trafficked to Uganda to work. Internal trafficking was also a problem. In August, the police charged several persons with participating in an international child trafficking ring involving the abduction and foreign sale of infants and young children. At year's end, the accused were awaiting trial, and the investigation was ongoing.

During the year, the Government assigned 12 individuals to a newly created Criminal Intelligence Unit within the police to lead the operational elements of the Government's human trafficking efforts. Government assistance to NGOs to combat human trafficking was minimal due to resource constraints. The Ministry of Home Affairs established an office to assist its citizens working in Saudi Arabia. It also implemented an employment program, partially aimed at trafficking victims, that targeted orphaned and abandoned youth. In response to reports of citizens being victimized by fraudulent employment schemes in the Middle East, the Ministry of Labor operated a program of education, awareness, and inspection for agencies that facilitated the employment of citizens overseas. The program sought to educate citizens of their rights, to decrease the possibility of citizens becoming trafficking victims, and to crack down on the use of illegal smuggling firms. Citizens using legitimate employment agencies received information on their legal rights, and their contracts were filed with the Government. The Government began a registration program for coastal guesthouses, in part to deter sex tourism. The KPS, in conjunction

with the Ministry of Information, conducted media programs to increase public awareness of trafficking.

*Persons With Disabilities.*—The Persons With Disabilities Act, passed in 2003, prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government made progress during the year in its implementation. The Government began to equip public buildings with wheelchair ramps, lifts, and sanitary facilities.

*National/Racial/Ethnic Minorities.*—The country's population was divided into more than 40 ethnic groups, among which there were frequent allegations of discrimination and occasional violence. Unofficial results of the 1999 census indicated that the Kikuyu constituted 21 percent of the population, the Luhya 16 percent, the Kalenjin 12 percent, the Luo 11 percent, and the Kamba 10 percent of the population. The Kikuyu and the closely related Kamba, Meru, and Embu groups made up more than one-third of the country's population; members of these groups dominated much of private commerce and industry.

In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group. Neighborhoods in large cities tended to be segregated ethnically, although inter-ethnic marriage has become fairly common in urban areas. Political disputes tended to correlate with ethnic differences.

Members of the coastal Bajuni, Mijikenda, and Digo communities accused the Government of denying them their rights to land and of favoring members of inland "up-country" ethnic groups, who migrated to the coast largely during the period when Kenyatta was president. Clashes also broke out between various clans during the fall in Trans Nzoia, Rift Valley Province, over land disputes. In December, an M.P. and 11 others, including municipal councilors, were arrested for having incited the M.P.'s Pokot constituents to invade private non-Pokot land; the 12 were later released on bail, and their trial was pending at year's end. Land ownership was the most important issue in the December parliamentary by-election in Mombasa (*see* Section 3).

Attacks and revenge counterattacks continued between ethnic groups throughout the country. Many factors contributed to interethnic conflicts, including the proliferation of guns, the commercialization of traditional cattle rustling, the development of a modern warrior/bandit culture (distinct from the traditional culture), irresponsible local political leadership, shrinking economic prospects for affected groups, a regional drought, and the inability or unwillingness of security forces to stem the violence.

In February, armed men from the Pokot tribe attacked members of the Turkana tribe, resulting in the deaths of 13 persons, including 3 children. In February, Maasai warriors killed a farmer and injured five others in a raid on an area in Laikipia District where land had been allocated to influential persons from the former KANU government. In April, flyers appeared in predominantly Kalenjin areas of the Rift Valley threatening to forcibly expel Kikuyu residents from the area. In December, clashes between 2 ethnic Somali clans, allegedly over access to a water source, claimed 24 lives in North Eastern Province.

In August, the Maasai said that a 99-year lease of Maasai land to the British colonial government had expired and that they were, therefore, reclaiming the land. Some Maasai invaded the land they claimed as their own. Police killed one man and arrested others.

Members of the Nubian community, most of whom were Muslim, claimed that the Government discriminated against them by trying to eliminate their ethnic identity. They also claimed that despite living in the country for generations, they were frequently denied identity cards, work permits, passports, and the right to own land because they could not prove that their grandparents or great-grandparents were citizens of the country. These measures, they claimed, hampered their access to education and employment opportunities, resulting in the impoverishment of their community, which numbered about 200,000. In June, the Nubian Community petitioned the High Court for redress of grievances related to their rights as citizens; the High Court had not rendered judgment on this suit by year's end.

The continued presence of and, at times, criminal activities by Somali refugees have exacerbated the problems faced by citizens of Somali ethnicity (*see* Section 2.d.).

Unlike in previous years, there were no reports of violence or discrimination among citizens of African ethnicity toward Asians living in the country. The Asian community constituted between 0.5 and 1 percent of the total population and consisted of second and third generation Asians with full citizenship and a smaller body of recent immigrants.

*Other Societal Abuses and Discrimination.*—A lingering stigma toward people with HIV/AIDs made it difficult for many families to admit that their members were HIV positive. However, the Government worked in cooperation with international donors on programs of HIV/AIDs prevention and treatment.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, even those in the EPZs, are free to join unions of their choice, and workers exercised this right in practice. The Police Act prohibits members of the national police force from joining unions.

There were 42 unions representing approximately 600,000 workers, approximately one-third of the country's formal-sector work force. All but 5 of these unions, representing approximately 300,000 workers, were affiliated with the 1 approved national federation—the Central Organization of Trade Unions (COTU). The largest non-COTU union was the 240,000-member Kenya National Union of Teachers.

The law prohibits employers from intimidating workers; however, some anti-union discrimination still existed, specifically in the EPZs in Mombasa. Employees wrongfully dismissed for union activities were able to take their cases to the Industrial Court, and many were awarded damages in the form of back pay; reinstatement was not a common remedy. More often, aggrieved workers found alternative employment in the lengthy period prior to the hearing of their cases. The Government voiced its support for union freedom, but was unable to enforce it fully.

*b. The Right to Organize and Bargain Collectively.*—While not having the force of law, the Industrial Relations Charter, executed by the Government, COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities, and the Government protected these rights in practice. Both the Trade Disputes Act and the Charter authorize collective bargaining between unions and employers, and wages and conditions of employment were established in negotiations between unions and management. The Government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the Industrial Court to ensure adherence to these guidelines.

The law, with some restrictions, permits workers to strike, and workers exercised this right in practice. Unlike in previous years, police did not use excessive force to disperse strikes.

Workers must submit a letter to the Minister of Labor and wait 21 days before a strike can occur. Members of the military services, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants, like their private sector counterparts, can strike following the 21-day notice period (28 days for essential service workers, such as water, health, education, or air traffic control). During this interim period, the Minister may mediate the dispute, nominate an arbitrator, or refer the matter to the Industrial Court, a body of up to five judges appointed by the President, for binding arbitration. Once a dispute is referred to mediation, fact-finding, or arbitration, any subsequent strike is illegal. Moreover, the act gives the Minister of Labor broad discretionary power to determine the legality of any strike.

With the exception of the Factories Act, all labor laws apply in the EPZs (*see* Section 6.e.); however, the EPZ Authority and the Government granted many exemptions to applicable laws. For example, the Government waived a provision of the law that prevents women from working in industrial activities at night. There were reports that persons lost their jobs in EPZs because of their refusal to work on Saturdays (*see* Section 2.c.).

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution proscribes slavery, servitude, and forced and bonded labor, including by children; however, there were reports such practices occurred (*see* Section 6.d.). Under the Chiefs' Authority Act, a local authority can require persons to perform community services in an emergency; however, there was no attempt to use the law during the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The employment in industry of children under the age of 16 is illegal; however, the law does not apply to the agricultural sector, where approximately 70 percent of the labor force was employed, or to children serving as apprentices under the terms of the Industrial Training Act, and child labor was a problem. Ministry of Labor and Human Resources Development officers nominally enforced the minimum age statute, and the Government worked closely with COTU and the ILO's International Program for the Elimination of Child Labor to eliminate child labor. The Govern-

ment's Free Universal Primary Education Program resulted in the return to school in 2003 of approximately 1 million children who formerly were working; more than 1 million children were believed still to be working.

Children often worked as domestic servants in private homes, and during the year, there were reports of abuse of children serving as domestic employees. Children worked primarily in the informal sector, mostly in family businesses and usually assisted parents on family plots. A significant number of workers on tea, coffee, sugar, and rice plantations were children, who usually worked in family units. However, deteriorating economic conditions and the effects of the HIV/AIDS pandemic gave rise to more child labor in the informal sector, which was difficult to monitor and control. In addition, a large number of underage children were active in the sex industry (see Section 5). In view of the high levels of adult unemployment and underemployment, the employment of children in the formal industrial wage sector in violation of the Employment Act was less common.

The law establishes definitions of child labor, and, in June, the Government prepared a National Plan of Action to Eliminate the Worst Forms of Child Labor. A practical guide to labor inspection has been developed, and the Government trained labor inspectors and occupational health and safety officers to report on child labor. Many NGOs also were active in child labor issues and assisted in the return to school of child laborers. Unlike in previous years, there were no reports that children, especially in the rural areas, were loaned out as workers to pay off family debts.

*e. Acceptable Conditions of Work.*—The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level; however, in many industries, the minimum wage equaled the maximum wage. On May 1, the Government announced an 11 percent increase in the minimum wage for workers in both urban and rural areas; the inflation rate was 10 percent. These increases were implemented immediately. The lowest minimum wage was approximately \$50 (3,908 shillings) per month in the largest urban areas and approximately \$42 (3,252 shillings) in rural areas. The minimum wage did not provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

Workers covered by a collective bargaining agreement generally received a better wage and benefit package than those not covered. For instance, the average covered worker received \$100 (approximately 8,170 shillings) per month in addition to a housing and transport allowance, which often constituted 25 to 50 percent of a worker's compensation package.

The law limits the normal workweek to 52 hours, although nighttime employees may be employed for up to 60 hours per week. Some categories of workers had a shorter workweek. As is the case with respect to minimum wage limitations, the law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to 1 rest day per week, and there are provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (regular time plus overtime) in any 2-week period not exceed 120 hours (144 hours for night workers). The Ministry of Labor and Human Resources Development was responsible for enforcing these regulations; however, there were reports of violations during the year. Workers in some enterprises claimed that employers forced them to work extra hours without overtime pay.

The law sets forth detailed environmental, health, and safety standards; however, the law was not always followed in practice, and fines generally were too low to serve as a deterrent to unsafe practices. EPZs are excluded from these legal provisions (see Section 6.b.). The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites; however, the DOHSS lacked statutory authority to inspect factories in the EPZs. Labor and NGOs continued to criticize health and safety conditions in the EPZs and around the country. For example, the unions highlighted problems of sexual harassment in the EPZs since a large majority of EPZ workers were women. The Tailors and Textile Workers Union filed a complaint with the Ministry of Labor on behalf of 15 women from the EPZs who reportedly were fired because they were pregnant.

DOHSS health and safety inspectors may issue notices enjoining employers from practices or activities that involved a risk of serious personal injury. Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a High Court judge. The law stipulates that factories that employ at least 20 persons have a health and safety committee with representation from workers; however, according to the Government, fewer than half of even the very largest factories had instituted health and safety committees. Workers were not

forced by law to remain in hazardous conditions; however, many were reluctant to remove themselves because of the high unemployment problem and the resulting risk of job loss.

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## LESOTHO

Lesotho is a constitutional monarchy with King Letsie III as head of state. Under the Constitution, the King fills a ceremonial role, has no executive authority, and is proscribed from actively taking part in political initiatives. In May 2002, Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, was re-elected in free and fair elections. In the 2002 elections, the LCD won 79 of 80 constituency-based seats, and the opposition Lesotho Peoples Congress (LPC) won the remaining constituency seat; the 40 proportionally elected seats were divided among 9 opposition parties. Local government elections scheduled for November were postponed indefinitely, although the Government stated they would be held before April 2005. The judiciary was independent in law and practice.

The security forces consist of the Lesotho Defense Force (LDF), the Lesotho Mounted Police Service (LMPS), and the National Security Service (NSS). The Prime Minister is the Minister of Defense and National Security, with direct authority over the LDF and the NSS. The police force is under the authority of the Minister of Home Affairs and Public Safety. The LDF continued to be the subject of a national debate on the structure, size, and role of the armed forces. The NSS and the LMPS also continued to undergo comprehensive restructuring. Civilian authorities maintained effective control of security forces. Some members of the security forces committed human rights abuses.

The country, which has a population of approximately 2.2 million, is landlocked and surrounded by South Africa. Approximately 26 percent of the adult male work force worked in South Africa. Between 20 and 23 percent of the resident population was engaged in subsistence agriculture. Private sector activity dominated in the small manufacturing and construction sectors. Privatization and liquidation of formerly state-owned enterprises in the agro-industrial and agribusiness sectors was completed by the beginning of the year. Manufacturing sector employment exceeded that of government employment. Textile manufacturing employment exceeded 50,000. The high HIV/AIDS rate (almost 30 percent) and corresponding low life expectancy (less than 37 years), along with severe drought during planting season, negatively affected economic growth.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were unconfirmed allegations of torture by security forces and credible reports that the police at times used excessive force against detainees. Prison conditions were poor, and lengthy pretrial detention was a problem. There were long delays in trials. Domestic violence was common, and women's rights continued to be restricted severely in some areas. Societal discrimination against persons with disabilities was common. Some worker rights were restricted. Child labor was a problem in traditional agriculture and in the informal sector.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In August, the trials for the 25 members of the LDF accused of killing the Deputy Prime Minister in 1994 concluded. In 2003, 19 of the 25 persons initially arrested were released due to lack of evidence, and 1 died. The remaining 5 persons were convicted and received prison sentences ranging from 4 to 12 years.

An internal police investigation into the fatal shooting of two demonstrators in 2003 resulted in the opening and transmission of dockets to the office of the Director of Public Prosecutions for consideration and advice. This investigation remained ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits such practices; however, there were allegations that security forces tortured persons and credible reports that the police at times used excessive force.

There was no action taken against security forces who reportedly tortured Theko Lerotholi and Malefa Maphleba in 2003. Lerotholi, an LDF member arrested for suspicion of armed robbery, lodged a torture claim against the LMPS with the High Court. No date was set for the case to begin. There were a number of civil claims against the police for unlawful detention and assault stemming from this incident.

Prison conditions were poor, and facilities were overcrowded and in disrepair. Women were housed separately from men, and juveniles were housed separately from adults. Pretrial detainees often were held with convicted prisoners.

Prison regulations provide for visiting committees that were made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees may visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committee reports its findings to the prison director.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The LMPS is nationally managed, with the country divided into three regional police districts: North (Berea, Leribe, Butha-Buthe, and Mokhotlong), Central (Maseru, and Thaba Tseka Districts), and Southern (Qacha's Nek, Mohale's Hoek, Mafeteng, Quthing). Each district is headed by an Assistant Commissioner of Police (equivalent rank of Colonel). The LMPS suffered from a significant shortage of resources, which sometimes limited the effectiveness of the police. Corruption was a problem; however, the Government continued its reform efforts. A Police Complaints Authority investigated public complaints against members of the Police Service.

Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel; however, there was no system to provide public defenders. The Ministry of Justice and the nongovernmental community (NGO) maintained a few legal aid clinics. The law provides for granting bail, which the authorities granted regularly and generally fairly.

Because of serious backlogs of court caseloads, pretrial detainees were a significant portion of the prison population, and pretrial remand could last months or even years.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consisted of the Court of Appeal (which meets semi-annually), the High Court, magistrates courts, and customary or traditional courts, which existed largely in rural areas to administer customary law. The High Court also provided procedural and substantive guidance on matters of law and procedure to military tribunals; however, it did not participate in judgments.

The authorities generally respected court decisions and rulings. There was no trial by jury. A single High Court judge normally adjudicated criminal trials with two assessors who served in an advisory capacity. In civil cases, judges normally heard cases alone. There was a large case backlog, which led to lengthy delays in trials (*see* Section 1.d.).

In the magistrates courts, some accused persons were not advised of their right to legal representation. Some cases proceeded without legal representation for the accused.

In civil courts, women and men were accorded equal rights; however, in traditional and customary courts, certain rights and privileges accorded to men were denied to women (*see* Section 5). When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgments by a principal chief rather than a civil court, and the judgment was binding legally. This system greatly disadvantaged women.

Military tribunals have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which was composed of two judges from the High Court, one retired military officer with a legal background, and the registrar of the High Court.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law does not fully protect citizens' privacy rights; however, there were no reports that authorities infringed on citizens' privacy rights during the year. Although search warrants were required under normal circumstances, the law provided police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There were several independent newspapers that routinely criticized the Government. The official state-owned or state-controlled media consisted of one radio station, a 1½ hour daily newscast on a local television channel, and two weekly newspapers. All reflected official positions of the ruling party. There were seven private radio stations, but no private television station. South African and global satellite television and radio broadcasts were widely available.

Government ministers and other officials initiated a number of libel and defamation suits against members of the independent media. Some of these led to out of court settlements. The Mirror, an English language weekly, settled a case with a former cabinet minister and member of Parliament. In March, a Member of Parliament sued the Sesotho language paper Mololi. The case was still pending at year's end.

Internet services were freely available from a number of private Internet service providers.

The Government did not restrict academic freedom. Although the Government owned and administered the country's only university, the academic staff represented the full political spectrum and was free to express its views.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Unlike in the previous year, there were no reports that police killed demonstrators.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not use it.

The law provides for the granting of refugee status or asylum in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government continued to cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government also has designated a Commissioner for Refugees. The Government has provided temporary protection to individuals who may not qualify as refugees under the 1951 U.N. Convention/1967 Protocol; however, the issue did not arise during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In the 2002 elections, the LCD party won 79 of the 80 constituency-based seats, the opposition LPC party won the remaining constituency seat, and the 40 proportionally elected seats were divided among 9 opposition parties; Prime Minister Mosisili, the leader of the LCD party, was re-elected. Domestic and international observers concluded that the elections were free, fair, peaceful, lawful, and transparent. The Basotho National Party has taken its seats in the National Assembly and participated in Parliamentary proceedings.

Although there are no laws providing for access to information and access to government information was incomplete, websites of government ministries, parastatals, and private organizations provided significant information.

There were 14 women in the 120-member National Assembly and 12 women in the 33-member Senate. Four women were government ministers, and two women were assistant ministers. The Speaker of the National Assembly was a woman.

Approximately 98.5 percent of the population is Basotho. There were no members of minorities in the 120-member National assembly and none in the 33-member Senate. There were no members of minorities in the cabinet.

A provision in the Constitution requires that members of Parliament be able to speak; however, to date, this provision has not been invoked. The Minister of Justice, Human Rights, Rehabilitation, Law and Constitutional Affairs is blind.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

An independent Ombudsman institution exists to protect citizens against infringement of their rights by public sector agencies. The Ombudsman's office has intervened on several occasions against the government and private sector on issues such as: demanding the release of salary checks of employees withheld unlawfully, reinstatement of employees illegally suspended from work, compensation for people relocated to new areas, and compensation and repair of houses for communities living close to construction sites, such as result from large-scale development projects.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth, or other status, and the Government generally respected these prohibitions in practice; however, the Constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were severely restricted under the traditional chieftainship system.

*Women.*—Domestic violence against women occurred frequently, and, although dependable statistics were not available, it was believed to be widespread. In Basotho tradition, a wife may return to her "maiden home" if physically abused by her husband. Under common law, wife beating is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. Beatings and violence against women perpetrated by husbands or other male relatives occurred frequently but was increasingly considered socially unacceptable behavior.

The law prohibits rape, which is punishable by a minimum sentence of 5 years imprisonment, with no option for a fine. Prostitution is illegal and was a problem; police seldom prosecuted offenders. The law also prohibits sexual harassment; however, in most cases, it was difficult to prove.

Both traditional law and custom under the traditional chieftainship system severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary law, a married woman is considered a minor during the lifetime of her husband. She cannot enter into legally binding contracts, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in civil court and may not sue or be sued without her husband's permission. Government officials have publicly criticized this customary practice. The tradition of paying a bride price (*lobola*) was common. Polygamy was practiced by a very small percentage of the population.

Women's rights organizations took a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation funded efforts by women's groups to sensitize society to the status and rights of women.

*Children.*—The Child Protection Act of 1980 (CPA) provides for the protection of children; however, limited resources hampered the Government's ability to accord children the level of attention they demand. During the year, Members of Parliament criticized the CPA as insufficient, and Parliament began work on a new law to replace the CPA.

The Government devoted substantial resources to primary and secondary education. Primary education was free. Education was not compulsory even at the primary levels; however, the Minister of Education announced plans to make primary education mandatory by 2007. This proposal had not been acted on at year's end. A substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsistence activities in support of their family's welfare, or where families could not afford the costs associated with school attendance, such as fees for the purchase of uniforms, books, and materials. UNICEF estimated that in 2002, 62 percent of boys and 68 percent of girls attended primary school. The problem of school nonattendance affected boys disproportionately more than girls. In traditional rural Basotho society, livestock herding by young boys frequently interfered with their school enrollment (*see* Section 6.d.).

Familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children.

Child prostitution was a problem. Young girls, many of whom were orphans, reportedly moved to urban areas to work as prostitutes. A 2001 UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather than a commercial enterprise and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the Government agreed that while the numbers remained small, the trend toward commercial prostitution by children under age 18 was a growing problem in the country. There is little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports by NGOs, the media, or the Government that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—Discrimination against persons with physical disabilities in employment, education, or provision of other government services is unlawful, and the Government enforced these laws within its limited means. However, societal discrimination was common. Laws and regulations stipulate that people with disabilities have access to public buildings, and buildings completed after this law entered into force generally complied with the law. The election law does provide for assisted voting for persons with disabilities. The Minister of Justice, Human Rights, Rehabilitation, Law, and Constitutional Affairs is blind; he was appointed to this position in 2001.

*National/Racial/Ethnic Minorities.*—Economic and racial tension between the Chinese business community and the Basotho remained a problem. Unlike in the previous year, there were no reports of looting of Chinese-owned shops.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the law, workers have the right to join and form trade unions without prior government authorization, and workers exercised this right in practice. The Labor Code prohibits civil servants from joining or forming unions; however, the law allows them to form staff associations. The Government regarded all civil servants as essential employees. Under the Labor Code, prepared with the assistance of the International Labor Organization, all trade union federations must register with the Government. The Department of Labor found that 20 of 43 registered trade unions functioned during the year, with a total membership of 26,198. There were four registered trade union federations: The Lesotho Trade Union Congress, the Lesotho Federation of Democratic Unions, the Lesotho Trade Union Congress, and the Lesotho Congress of Democratic Unions. The labor and trade union movement was weak and fragmented. Several small unions functioned in the public and industrial sectors. The textile sector, which employed over 50,000 persons, had four trade unions.

The Mounted Police Service Act prevents members of the police service from belonging to trade unions but has enabled them to establish a staff association charged with promoting the professional efficiency and interest of members of the service.

Overall unionized workers dropped from approximately 10 percent of the work force in 2002 to approximately 2 percent by the end of 2003, in part because of a dispute between the Lesotho Clothing and Allied Workers Union and the Factory Workers Union (FAWU). Approximately 8 percent of the male labor force worked in the coal and gold mines of South Africa, a number that has fallen in recent years due to retrenchment and mine mechanization. The majority of those who did not work in mining were engaged primarily in traditional agriculture. A majority of Basotho mineworkers were members of the South African National Union of Mineworkers (NUM). While the NUM, as a foreign organization, was not allowed to engage in union activities in the country, it provided training, constructed agricultural projects, and performed other social services.

The law prohibits antiunion discrimination; however, there was credible evidence that some employers prevented union organizers from accessing factory premises to organize workers or represent them in disputes with owners or managers. Some employees were threatened with expulsion and loss of employment if they joined unions. There were reports that some employers harassed union organizers, intimidated members, and frequently fired union activists, particularly in domestic industries, such as guard forces; however, there were fewer such reports than in previous years. During the year, 32 cases of unfair labor practice were referred to the independent Directorate of Dispute Prevention and Resolution (DDPR) by unions against employers. The Commission of Labor, which operated as part of the Labor Ministry, was charged with investigating allegations of labor law violations (see Section 6.e.).

*b. The Right to Organize and Bargain Collectively.*—The law provides for these rights, and the Government generally respected them in practice; however, some private sector employers tried to restrict them. There was credible evidence that most employers in the textile and garment sector used blacklists to deny employment to workers who had been fired by another employer within that sector. There are no export processing zones.

The law provides for the right to strike; however, civil servants were not allowed to strike, and, by definition, all public sector industrial actions were unauthorized. In the private sector, the Labor Code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized. Legal protection for strikers from retribution has not always been enforced in cases of illegal strikes.

In April, three FAWU officials were acquitted of charges stemming from a November 2003 protest march by garment workers demanding better wages and working conditions. During that protest, police fired into the crowd, allegedly for marching on an unauthorized route; 2 persons were killed and over 100 were injured. An internal police investigation was conducted following the incident; however, no report had been made public by year's end. Dockets are with the Deputy for Public Prosecutions for consideration and advice.

The Labor Code establishes the DDP within the Ministry of Employment and Labor to provide dispute prevention and resolution mechanisms; the DDP was independent of government, and maintained a record of handling cases promptly.

The Industrial Peace, Advisory, and Promotion Unit of the DDP held 30 training workshops on topics such as work discipline and grievance procedures for trade union officials, shop stewards; and management supervisors drawn from the textile, retail, security, construction, catering, and telecommunications industries throughout the country. The training program resulted in a significant reduction of disputes referred for resolution, down from 2,260 in 2003 to 1,988 during the year. Of the disputes referred, 1,865 were resolved by year's end.

The Labor Department also handled employee grievances, and there were no significant backlogs of cases during the year. The Labor Commission was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages, but it did not have the authority to impose criminal fines.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are statutory prohibitions against the employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions; however, child labor was a problem in the informal sector. The Ministry of Labor and Employment's Inspectorate conducted quarterly inspections during the year.

The legal minimum age for employment in commercial or industrial enterprises is 15 years, and the legal minimum age for hazardous employment is 18 years; however, children under 14 years of age reportedly were employed in family-owned businesses. Children under 18 years of age may not be recruited for employment outside of the country. Child labor laws covered all sectors except the agricultural sector.

Many urban street children worked in the informal sector. Most jobs performed by children were gender-specific: Boys (as young as ages 4 and 5) were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus taxis; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution; and both boys and girls worked as street vendors.

In traditional society, rigorous and occasionally dangerous working conditions for young livestock herdboys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth.

*e. Acceptable Conditions of Work.*—A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity consisting of the Government, trade unions, and employers. The monthly minimum wage for unskilled laborers was \$105 (684 maloti) and \$189 (1,129 maloti) for heavy vehicle operators. Minimum wages for workers in lower skilled jobs did not provide a decent standard of living for a worker and family. Most wage earners supplemented their income through subsistence agriculture or remittances from relatives employed in South Africa.

The Labor Code provides for basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid sick and public holidays; however, employers did not always respect these

rights in practice. Required overtime was legal as long as overtime wages were paid for work in excess of the legally mandated 45-hour workweek, and workers in the garment industry were paid the proper overtime rate for overtime hours worked.

The Labor Code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize the risk of injury; employers generally followed these regulations. The law provides for a compensation system for industrial injuries and diseases related to employment. The Labor Code also empowers the Minister of Labor to make regulations pertaining to work safety in specific areas, and the Ministry has exercised this right. The Labor Code does not protect explicitly the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections on safety in the workplace and dismissal implied that such a dismissal would be illegal.

Labor inspectors generally conducted unannounced inspections in factories four times a year.

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## LIBERIA

Liberia is a republic. The Constitution provides for three branches of government—executive, legislative, and judicial—but there has been no effective system of checks and balances, and presidents traditionally have wielded extraordinary power. In August 2003, the former government of Liberia and the country's two rebel groups—Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL)—signed the Comprehensive Peace Agreement (CPA), which ended the 1999–2003 civil war. Prior to the signing of the CPA, the Economic Community of West African States (ECOWAS) provided peacekeeping forces (ECOMIL) to separate the warring parties. In October 2003, U.N. Mission in Liberia (UNMIL) peacekeepers were deployed to further assist the peace process and provide stability during the post-conflict transition. In October 2003, the National Transitional Government of Liberia (NTGL), headed by Chairman Charles Gyude Bryant and Vice Chairman Wesley Johnson, replaced the government of former President Charles Taylor, who fled into exile after being indicted for war crimes. By June, UNMIL had deployed more than 14,000 peacekeepers and 1,100 international police (CIVPOL) throughout the country. By October, more than 100,000 former combatants and camp followers had been disarmed and demobilized under the Disarmament, Demobilization, Rehabilitation, and Reintegration Program (DDRR). During the year, the NTGL, which governed under a power sharing agreement with the CPA and remained highly centralized, extended its influence into rural areas; however, former LURD, MODEL, and government combatants retained some influence in those areas, even in areas with an UNMIL presence. During the year, the country's transition to democracy was hindered by widespread corruption, a severely damaged infrastructure, and continuing instability that delayed the return of thousands of refugees and internally displaced persons (IDPs). Elections to restore a constitutional government were scheduled for October 2005. The judiciary was subject to political influence, economic pressure, and corruption.

The country's security forces include the Armed Forces of Liberia (AFL), which are responsible for external security but also have domestic security responsibilities, the interim Liberian National Police (LNP), which have primary responsibility for law enforcement, the National Bureau of Investigation (NBI), which investigates crime, the Special Security Service (SSS), which provides executive protection, the National Security Agency (NSA), which is responsible for internal and external intelligence, and the Ministry of National Security, which assists the NSA and is responsible for investigating financial crimes. The AFL is under the Ministry of Defense, the LNP and NBI are under the Ministry of Justice, and the SSS, NSA, and Ministry of National Security are under the Office of the NTGL Chairman. There also were numerous irregular security services attached to certain key ministries and parastatal corporations that did not belong to a permanent, organized military force and whose responsibilities appeared to be poorly defined. Unlike in the previous year, civilian authorities maintained effective control of the security forces; however, there were some instances in which elements of the security forces acted independently of government authority. Under the NTGL, a few members of the security forces committed isolated human rights abuses.

The country, with an estimated population of approximately 3.4 million, was very poor with a market-based economy ravaged by the civil war. Few statistics were available; however, economic activity, particularly in the informal sector, visibly increased following the 2003–04 deployment of UNMIL forces throughout the country

and the initiation of disarmament exercises. An estimated 80 percent of the population lived on less than \$1 per day, and the country had an unemployment rate of at least 70 percent. Most of the population survived on income generated through the informal sector, predominantly consisting of buying and selling clothing and household effects, and on remittances from relatives abroad. There was little industry, and agricultural production remained low due to security concerns in rural areas; however, unlike in the previous year, the Government generally paid civil servant salaries. The internal displacement of thousands of civilians throughout the countryside, particularly in Lofa, Bong, and Nimba Counties, the absence of police security, an increase in crime as former combatants sought alternative means of income, and the absence of infrastructure throughout the country continued to depress the economy, despite the country's rich natural resources and potential self-sufficiency in food. Persons controlling former fighters continued to exploit the country's natural resources for personal profit. Extortion was widespread in all levels of society.

Prior to the resignation of President Taylor, the Government's human rights record remained poor, and security forces committed numerous, serious abuses; however, during the year, the Government generally respected the human rights of its citizens, although problems continued in some areas. Interim LNP officers sometimes abused, harassed, and intimidated persons. Prison conditions remained harsh and sometimes life threatening. Corruption and official impunity were problems, and there was little investigation into abuses committed during the war. The LNP continued to use arbitrary arrest and detention, and lengthy pretrial detention was common. The judicial system was unable to ensure citizens' rights to due process and a fair trial. During the year, the National Transitional Legislative Assembly (NTLA) threatened to arrest persons who criticized the NTLA. In some rural areas where the judiciary had not been reestablished, clan chieftains administered criminal justice through the traditional practice of trial-by-ordeal; however, unlike in the past, authorities did not tacitly condone the practice. Incidents of ritualistic killings persisted. Violence and discrimination against women were problems. The welfare of children widely remained neglected, and female genital mutilation (FGM) continued to be practiced. Societal ethnic discrimination remained widespread, and ethnic differences continued to generate violence and political tensions. Forced labor persisted in rural areas. Child labor remained widespread, and there were reports of forced child labor. There were reports of trafficking, and the Government obstructed the prosecution of a trafficking case during the year.

Some former rebel combatants continued to commit human rights abuses, including the arbitrary detention, extortion, theft, rape, and battery of civilians, particularly IDPs, forcible conscription, including of children, and the blocking of humanitarian assistance.

UNMIL peacekeepers, DDRR exercises, and CIVPOL's support for the interim LNP and training of a new police service improved security throughout the country and helped facilitate governmental efforts to improve human rights. Since the NTGL assumed power, there have been no reports that government security forces were responsible for unlawful killings, summary executions, disappearances, or torture. There have also been no reports that the Government restricted freedom of speech and of the press, detained and intimidated journalists, restricted freedom of movement, harassed human rights monitors, or discriminated against particular ethnic groups.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary and Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports of political or unlawful killings. In 2003, former government and rebel combatants killed an undetermined number of civilians, who were suspected of being rebel or government sympathizers respectively, by shooting them, burning them alive, or cutting their throats; numerous IDPs were killed during repeated raids on their camps. The NTGL took no steps to investigate any of the summary executions, killings, or other crimes committed during the 1999–2003 civil war.

During the year, CIVPOL investigators and human rights organizations uncovered evidence of serious human rights abuses committed by security forces in 2003. The bodies of 20 persons who appeared to have been executed were discovered at 7 locations in River Gee and Maryland counties. Government forces were believed to be responsible for the executions in six of the locations; MODEL forces were believed to be responsible in one. Six human skulls were found at a military base in Tubmanburg that was used by both LURD and MODEL forces. In February, the Catholic Justice and Peace Commission reported evidence that in 2002, former gov-

ernment forces had massacred hundreds of civilians near Tubmanburg; men, women, and children reportedly were herded into trucks, killed, and dumped into a river.

General Benjamin Yeaten, who was believed to have executed or supervised the 2003 execution of former Deputy National Security Minister John Yormie and former Deputy Public Works Minister Isaac Vaye, remained in self-imposed exile at year's end; Yormie and Vaye were arrested in 2003 for alleged coup plotting against former President Taylor.

There were no developments in any of the following 2003 cases: The February AFL stabbing and killing of First Lieutenant Francis Sumo; the March ATU killing of Alex Boye; the alleged May killings by security forces of Sierra Leone rebel leader Sam "Mosquito" Bockarie and his family; and the May killing of SSS Officer Richard Taylor.

There were no developments in any of the 2002 reported cases of killings by security forces.

During the year, former government and rebel combatants were responsible for civilian deaths. For example, on March 20, a former MODEL fighter in Buchanan reportedly beat a civilian who refused to hand over his food; the civilian subsequently died.

On May 17, numerous former soldiers from the Taylor administration set up roadblocks, smashed cars, and looted shops during a demonstration to demand immediate payment of the remaining money from their resettlement grants; one person was killed, and four were injured.

The NTGL conducted no investigations into summary executions and other killings committed by MODEL, LURD, or other rebel elements during the civil war.

Incidents of ritualistic killings, in which human body parts used in traditional rituals were removed from the victim, occurred during the year (*see* Section 2.c.).

Mob violence exacerbated by ethnic conflict, religious differences, political divisions, vigilantism, and high unemployment resulted in deaths. For example, on September 13, a dispute between marketeers and criminals erupted into mob violence that resulted in at least one death, numerous injuries, and the looting and burning of buildings.

On October 28, a land dispute in Monrovia between Muslim Mandingos and Christian non-Mandingos erupted into a riot that resulted in 19 deaths, hundreds of injuries, and the looting and burning of businesses, mosques, and churches. UNMIL forces arrested approximately 250 persons on charges ranging from murder and arson to breaking an NTGL-imposed curfew. It was unclear whether the violence was triggered by religious conflict, ethnic differences, or other factors.

*b. Disappearance.*—Unlike in the previous year, there were no reports of politically motivated disappearances. During the civil war, government security forces and rebels were responsible for numerous disappearances.

The welfare and whereabouts of former Chief of Intelligence Peterson Marbiah, who disappeared when John Yormie and Isaac Vaye were arrested in June 2003, remained unknown at year's end (*see* Section 1.a.).

The 15 persons abducted in September 2003 from Todee by former government militia remained missing at year's end.

Most of the ethnic Mandingo youths abducted between September 2002 and March 2003 by former government security forces for suspected involvement with LURD remained unaccounted for at year's end.

There were no developments in the numerous 2002 abductions by former government militiamen.

During the year, LURD claimed to have investigated the 2003 disappearance of foreign citizen Nabil Hage and uncovered no information surrounding the incident; Sekou Kamara, the LURD member who reportedly had been seen wearing Hage's army uniform, remained in self-imposed exile in Guinea at year's end. In December, UNMIL opened an investigation into the incident.

There were no developments in other 2003 and 2002 abductions by LURD.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, in the past, police and security forces frequently tortured, beat, raped, and otherwise humiliated persons, particularly during interrogations of LURD detainees at Gbatala security training base. During the year, there were no reports of torture; however, interim LNP officers sometimes abused, harassed, and intimidated persons (*see* Section 1.d.).

Unlike in the previous year, security forces did not target or abuse critics of the Government, including journalists, students, and human rights activists.

During the year, former government and rebel combatants were responsible for civilian deaths and injuries (*see* Section 1.a.). During the first half of the year,

former combatants with the Taylor administration, LURD, and MODEL harassed travelers, displaced persons, and humanitarian aid workers in areas not under UNMIL control. Demonstrations by former combatants to protest disarmament, UNMIL deployments, or the Government's failure to complete payment of resettlement grants resulted in deaths, injuries, and the looting of property (*see* Section 1.a.).

Former combatants who had reorganized as gangs subjected IDP populations to rape, battery, extortion, and theft (*see* Section 2.d.).

Sexual violence and rape were common during the civil war. According to Amnesty International, 73 percent of women over 18 who registered for DDDR reported some kind of sexual abuse. During the year, NGOs working in IDP camps reported incidents of rape, including the rape of children.

Unlike in the previous year, there were no reports of civilian deaths and injuries as a result of violent clashes among rival security personnel.

The law prohibits trial-by-ordeal—commonly the placement of a heated metal object on a suspect's body in an attempt to determine whether the defendant is telling the truth; however, the practice reportedly continued in rural areas.

Mob violence during the year resulted in deaths and injuries (*see* Section 1.a.).

Prison conditions were harsh and in some cases life threatening; however, unlike in the previous year, there were no reports that the Government operated unofficial detention facilities where detainees were tortured. The Government did not provide detainees or prisoners with adequate food or medical care. Cells at Monrovia Central Prison were overcrowded, mostly with detainees awaiting trial; however, during the year, international organizations began providing food and hygiene to the prison. In some counties, the structure that served as a jail was a container with bars at one end. There also were reports that local officials forced prisoners to work for them.

Women were held in separate cells in conditions comparable to those of the male prisoners and detainees. There were no separate facilities for juvenile offenders. Women and particularly juveniles were subject to abuse by guards or other inmates. Convicted prisoners and detainees awaiting trial were not held in separate facilities.

The Government permitted the independent monitoring of prison conditions by local human rights groups, the media, and the International Committee of the Red Cross (ICRC). Some human rights groups, including the ICRC, paid regular visits to detainees at police headquarters and prisoners at the Monrovia Central Prison.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, security forces continued to arrest and detain persons arbitrarily, although less frequently than in previous years.

During the year, CIVPOL assisted with the restructuring, recruitment, training, and equipping of an interim police force until a full replacement force could be trained. This interim LNP was staffed with police officers who served under the former Taylor administration, excluding those who were hired during that administration. The interim LNP operated independently and retained arrest authority; however, CIVPOL accompanied LNP officers in joint patrols around Monrovia.

There were reports of police brutality, particularly during demonstrations. Police handling of mob violence resulted in deaths (*see* Section 1.a.). Police had limited logistics and forensic capabilities and did not adequately investigate many crimes, including murder cases. When the courts released known criminals for lack of evidence, police officers often arrested them again on false charges. During the year, CIVPOL and UNMIL investigated some alleged abuses by the LNP, including reports that the Deputy Chief of the interim LNP was taking bribes; the Deputy Chief subsequently was dismissed. However, corruption remained widespread, and abusers were seldom charged or disciplined. Public confidence in the police remained low.

The Constitution provides for the rights of the accused, including warrants for arrests and the right of detainees either to be charged or released within 48 hours; however, warrants were not always based on sufficient evidence, and detainees, particularly those without the means to hire a lawyer, often were held for more than 48 hours without charge. The law also provides for bail, which was determined primarily by the severity of the alleged crime. The law provides for prompt access to counsel; however, the Government did not ensure such access for all detainees. In the past, security forces sometimes refused to produce suspects being held in detention without charges even after the courts issued writs of habeas corpus on the application of human rights organizations.

Unlike in the previous year, there were no reports that security forces arbitrarily arrested and detained journalists, NGO members, human rights activists, religious

leaders, and students; however, there were a few arbitrary arrests, and the NTLA threatened to arrest persons who criticized the NTLA (*see* Section 2.a.).

Former rebel combatants arbitrarily arrested civilians and IDPs during the year. For example, in June, former LURD combatants in Tubmanberg detained a man for 3 days in a small metal cage and denied him food or water. In a separate incident, LURD combatants on August 1 reportedly assaulted one of five persons they had bound and left overnight on the Guthrie rubber plantation; the five were released the following day.

The Constitution provides for the right of a person who is charged to receive an expeditious trial; however, lengthy pretrial and pre-arraignment detention remained serious problems. In some cases, the length of the pretrial detention equaled or exceeded the length of sentence for the crime.

Unlike in the previous year, there were no reports that the Government used house arrest or held political detainees.

*e. Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary, judges were subject to political, social, familial, and financial pressures, and the judiciary was corrupt. Courts regularly received bribes or other illegal gifts out of damages that they awarded in civil cases. Defense attorneys often suggested that their clients pay a gratuity to appease judges, prosecutors, and police officers to secure favorable rulings. Some judges and magistrates were not lawyers. By statute members of the bar must be graduates of a law school and pass the bar examination; however, the judiciary determined that it was not feasible to retire all judicial personnel who were not legally trained. There were frequent reports of executive branch influence over the judiciary.

The judiciary is divided into four levels, with the Supreme Court at the apex. Unlike in the previous year, all levels of the court system in Monrovia, including the Supreme Court, operated regularly. The Government was unable to revitalize the court system outside of Monrovia due to the war and a lack of trained personnel, a lack of infrastructure, and inadequate funding. Although judges were assigned throughout the country, in some cases they were unable to hold court due to lack of security, supplies, or equipment. Traditional forms of justice administered by clan chieftains remained prevalent in some localities (*see* Section 1.c.).

Under the Constitution, defendants have due process rights; however, in practice these rights were not always observed. Defendants in criminal trials enjoy a presumption of innocence and have the right to an attorney, to confront witnesses in a public trial, and to appeal adverse decisions; however, many of these protections were not available to defendants who could not pay bribes. There was no effective system to provide public defenders, especially in rural areas. Some local NGOs provided legal services to indigents and others who had no representation. There continued to be long delays in deciding cases involving juveniles.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right of privacy and the sanctity of the home and requires that police obtain a warrant or have a reasonable belief that a crime is in progress, or is about to be committed, before entering a private dwelling; unlike in the previous year, when police and paramilitary officers entered private homes, churches, and newspaper offices without warrants, the Government generally respected these rights.

Unlike in the previous year, there were no reports that security forces conducted cordon and search operations or entered homes and compelled local communities to provide food, shelter, and labor; however, security forces on occasion extorted money and goods from citizens. Former rebel combatants continued to compel communities to provide for them. For example, on January 25, approximately 50 former MODEL combatants entered the homes of the inhabitants of Timbo village and stole their food and money.

Unlike in the previous year, there were no reports that the Government surveilled opposition figures or monitored private communication.

Unlike in the previous year, there were no reports that former government security forces forcibly conscripted men and boys, including IDPs; however, former rebel combatants continued the practice (*see* Sections 2.d. and 5).

Unlike in the previous year, there were no reports that the Government arrested family members to persuade suspects to turn themselves in.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice, although less frequently than in previous years. Unlike in the past, there were no re-

ports that security agents detained or assaulted journalists or that cabinet ministers forced journalists to drop or modify critical articles; however, during the year, the NTLA threatened to arrest persons who criticized the legislative body or refused to appear before it. In the past, there were reports of journalistic self-censorship; however, there were no such reports during the year. Unlike in previous years, the Government did not restrict academic freedom. The University of Liberia reopened in March.

In Monrovia, there were 18 newspapers that published during the year, with varying degrees of regularity. Two were independent dailies and five usually appeared at least once a week. Their political orientation ranged between criticism and support of the Government. All newspapers were printed through one printing facility; however, unlike in previous years, the Government did not pressure facility managers not to print critical articles.

Due to the high price of newspapers, the high rate of illiteracy (estimated at 75 percent), high transportation costs, and the poor state of roads elsewhere in the country, newspaper distribution generally was limited to the Monrovia region. As a result, radio was the primary means of mass communication.

There were at least five FM stations that regularly broadcast in Monrovia. Most stations broadcast daily from 5:00 a.m. to midnight. Call-in radio talk shows were popular and frequently a forum for both government and opposition viewpoints. Interviews with prominent persons were broadcast frequently. Unlike in the previous year, the Government did not pressure radio stations that broadcast critical views.

There were three local television stations; however, television was limited to those who could purchase sets, generators, and fuel to provide electricity. For those persons and businesses with satellite capability, CNN and BBC generally were available.

Unlike in the previous year, there were no reports that the Government harassed, arbitrarily arrested, or assaulted journalists who criticized the Government; closed or vandalized media outlets; threatened advertisers who did business with such outlets; required journalists to apologize in writing prior to releasing them; censored local reporting on the insurgency; or harassed international correspondents by suspending their credentials or imposing irregular accreditation fees.

No action was taken during the year against ATU forces responsible for the January 2003 torture of Throble Suah, a reporter for the *Liberian Inquirer* newspaper.

During the year, journalists reportedly extorted money from citizens by threatening to publish negative articles about them and accepted bribes from politicians to publish negative articles about their opponents.

The Government did not restrict access to the Internet.

Unlike in the previous year, there were no attacks on journalists by unknown persons, rebel abductions of journalists, or looting and burning of the homes of journalists.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice; however, government security forces and UNMIL troops forcibly dispersed several violent demonstrations during the year (see Section 1.a.). In November, the NTGL announced that demonstrators would be required to seek permits from the Justice Ministry 72 hours before planned demonstrations; however, the policy was not enforced.

Interim LNP and UNMIL troops frequently used tear gas to disperse demonstrations during the year. There were reports of police brutality, particularly during demonstrations, and reports that UNMIL troops beat demonstrators.

In January and early March, violent student protests erupted when the University of Liberia, which had been closed since early 2003, failed to reopen, as promised; there were no reported injuries, and the University reopened in March.

No action was taken against security forces who forcibly dispersed and beat demonstrators in 2003.

The Constitution provides for the right of association, and the Government generally respected this right in practice. There were 18 registered political parties. Dozens of civil society organizations, organized around themes such as human rights, women's issues, development objectives, poverty alleviation, health concerns, and worker's associations, were active.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. During the year, respect for religious freedom improved. Since taking office, the NTGL at all levels worked to protect this right in full and did not tolerate its abuse, either by governmental or private actors. Unlike the former Taylor government, the NTGL did not harass,

marginalize, or attempt to intimidate the Muslim population; however, religious differences between Muslims and Christians contributed to mob violence during the year.

All organizations, including religious groups, must register with the Government; however, traditional indigenous religious groups were not required to register, and generally did not do so. Registration was routine, and there were no reports that the registration process was burdensome or discriminatory in its administration.

Although the law prohibits religious discrimination, Islamic leaders complained of discrimination against Muslims. During the year, an increased number of Muslims held senior government positions; however, many Muslims believed they were bypassed for lower-level civil service positions. Many Muslim business proprietors believed that the Government's decision to enforce an old statute prohibiting business on Sunday discriminated against them.

Some tensions existed between the major religious communities. The private sector in urban areas, particularly in the capital, gave preference to Christianity in civic ceremonies and observances, and discrimination against followers of other organized religions affected areas of individual opportunity and employment. There was an interfaith council that brought together leaders of the Christian and Islamic faiths.

Ethnic, religious, and other differences between Muslim Mandingos and Christian non-Mandingos in Monrovia contributed to mob violence (*see* Section 1.a.). Ethnic tensions continued in Lofa County between the predominantly Muslim Mandingo ethnic group and the Lorma ethnic group.

Incidents of ritualistic killings increased during the year due to the breakdown of law and order in rural counties, including Maryland County. Little reliable information was readily available about traditions associated with ritualistic killings in which body parts used in traditional indigenous rituals were removed from the victim; however, they continued to occur. The number of such killings was difficult to ascertain, since police often described deaths as accidents even when body parts were removed. It was believed that practitioners of traditional indigenous religions among the Grebo and Krahn ethnic groups concentrated in the southeastern counties most commonly engaged in ritual killings. The victims were usually members of the religious group performing the ritual, and body parts removed from a member whom the group believed to be powerful were considered to be the most effective ritually. Ritual killings for the purpose of obtaining body parts traditionally were committed by religious group members called "heart men;" however, since the 1990–96 civil war, common criminals also may have sold body parts.

During the first 3 months of the year, there was an increase in the number of mysterious deaths in and around Monrovia, and residents blamed such deaths on ritualistic killers; however, no evidence was found to support their claim.

Nyema Brooks, Ma-Gbanni, and Dio Tyre Dennis, who were arrested and jailed in 2002 at the Harper Central Prison in Maryland County for the alleged ritualistic killing of 11th grade student Dio Dennis, disappeared from the jail after MODEL captured Harper in May 2003; they were believed to have escaped and fled.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government sometimes did not respect these rights in practice. As of year's end, government forces effectively controlled most of the country, including all major border crossings. A few small areas remained under the control of former LURD and MODEL combatants. There were reports that government officials harassed, delayed, and extracted bribes from ethnic Mandingos.

At year's end, there were reports that LNP officers had resumed the practice of subjecting travelers to arbitrary searches and petty extortion at checkpoints in and around Monrovia; however, unlike during the previous year, there were no reports that government forces raped travelers or beat and robbed IDPs.

After October riots, the Government imposed a curfew in Monrovia (*see* Section 1.a.); the curfew was lifted in November.

The Constitution prohibits forced exile, and the Government did not use it. Numerous student activists, opposition figures, and human rights activists who fled the country during the civil war due to fear for their personal safety or that of their families returned during the year.

Relief agencies estimated that at year's end, more than 300,000 IDPs remained in camps, settlements, and communities throughout the country as a result of the 1999–2003 civil war. Conditions at most camps were poor, and food, sanitation, and security were inadequate. During the year, the Government worked with inter-

national organizations to return IDPs to their homes; however, delays in disarmament, insufficient resources, and lingering perceptions that the Government was unable to provide security beyond Monrovia and major towns hindered these efforts. Thousands of IDPs from Grand Kru, Sinoe, Maryland, and Rivercess counties in the southeast and Lofa and Gbarpolu counties in the northwest had not returned to their homes by year's end due to security concerns, lack of transport, and inadequate support. IDP populations were subject to rape, battery, arbitrary arrest, extortion, and theft perpetuated primarily by former government and rebel combatants who had reorganized as gangs.

Unlike in the previous year, government and rebel militias did not forcibly conscript IDPs to fight against LURD.

Between 250,000 and 300,000 refugees from the country remained in neighboring countries, primarily in Sierra Leone, Guinea, Cote d'Ivoire, and Ghana. Approximately 50,000 refugees have returned to the country without UNHCR assistance; however, many remained in IDP camps due to continuing instability in the country, particularly in rural areas. On September 22, the NTGL, the Government of Ghana, and the UNHCR signed an agreement for the progressive voluntary repatriation of 42,000 Liberian refugees living in Ghana; approximately 450 had been repatriated by year's end.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government generally cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

Refugees were also subject to abuse, primarily by former government and rebel combatants who had reorganized as gangs.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in 1997 elections that international observers deemed administratively free and transparent; however, the elections were conducted in an atmosphere of intimidation, because most voters believed that military forces loyal to Taylor would have resumed the 1990–1996 civil war if he had lost. Because the legislative elections were held on the basis of proportional representation, Taylor's NPP won control of the former legislature by the same 75 percent majority that he received in the popular vote for the presidency. Elections to restore constitutional government were scheduled for October 2005.

The CPA, negotiated between the warring parties, the registered political parties, and representatives from civil society, was designed to end several years of active conflict primarily between the Government and LURD. As a political compromise, the CPA suspends certain articles of the Constitution temporarily, but states that articles not in conflict with the CPA remain in effect. The roles of president and vice president were replaced by a chairman and vice chairman, and ministries were apportioned based on political affiliation. The executive branch is headed by a Chairman and Vice Chairman. Ministerial positions are apportioned between members of the former warring parties, the registered political parties, and civil society. The NTGL has a unicameral legislature, the National Transitional Legislative Assembly (NTLA), which replaced the Congress in October 2003; Bryant assumed the role of Chairman.

The NTLA was sometimes susceptible to executive branch influence; however, the legislative branch exercised considerably more independence than it did during the Taylor administration.

The State is highly centralized. The chairman of the NTGL appoints the superintendents (governors) of the 15 counties in consultation with the former warring parties; however, the parties frequently complained that they were not consulted. Municipalities and chieftaincies were supposed to elect their own officials; however, elections—postponed in 1998 and 2003 due to lack of funds and disorganization—were rescheduled for no later than October 2005. Local governments had no independent revenue base and relied entirely on the central Government for funds. As a result, the Government effectively did not function outside of Monrovia and one or two larger towns. Education, health services, and public works were provided by

international organizations and NGOs. Local officials served mainly to lobby the central Government.

Unlike in the previous year, the Government generally paid civil service salaries; however, corruption and impunity in the executive and legislative branches were serious problems. Political groups reportedly used bribery to buy the loyalty of various constituencies in anticipation of the scheduled 2005 elections.

The law provides for “no limitation on the public right to be informed about the Government and its functionaries”; however, no procedures for obtaining such information had been established.

Several women held ranking positions in the Government and the NTGL. There were 4 women in the 76-seat legislature, 3 female cabinet Ministers, and 1 woman on the 5-person Supreme Court.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Unlike in previous years, government officials were somewhat cooperative and responsive to their views; however, former rebel combatants blocked the delivery of humanitarian supplies.

Domestic human rights organizations were underfunded and understaffed, and their personnel lacked adequate training. There were three coalitions of human rights groups: The National Human Rights Center of Liberia had nine member organizations; eight other groups comprised the Network of Human Rights Chapters; and four belonged to the Federation of Human Rights Organizations. These organizations sought to increase public discussion of human rights problems. During the year, several domestic human rights organizations established branches outside of the capital to visit detainees and prisoners.

During the year, the Government worked to facilitate the free and safe passage of relief supplies by international NGOs and permitted visits by the U.N. Security Council, the ICRC, and various U.N. agencies (*see* Section 1.c.). However, early in the year, there were several incidents in which former combatants blocked humanitarian assistance or otherwise jeopardized humanitarian relief efforts. In May, a foreign medical relief agency closed its mission after former security forces of the Taylor administration robbed and intimidated the agency.

There were no developments in the 2003 case in which unidentified assailants assaulted and sexually abused three nieces of Ishmael P. Campbell, a human rights advocate and Vice President of the Liberia Bar Association.

During the year, the Government created the Independent National Commission on Human Rights (INCHR) to monitor compliance with human rights provided for in the CPA and to promote human rights education in the schools, media, police, and military; however, the INCHR was largely ineffective due to insufficient funding.

The CPA created a Truth and Reconciliation Commission (TRC) to provide a forum for the perpetrators and victims of human rights abuses and to promote reconciliation and rehabilitation; however, the TRC took few actions during the year and was largely ineffective.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on ethnic background, race, sex, creed, place of origin, or political opinion; however, the Government did not effectively enforce these provisions. There were no laws against gender discrimination, ethnic discrimination, or FGM. Differences involving ethnic groups, notably the Krahn, Mano, Gio, Lorma and Mandingo ethnic groups, continued to contribute to serious political violence and abuses.

*Women.*—Domestic violence against women was widespread; however, neither the Government, the courts, nor the media seriously addressed the problem. Several NGOs in Monrovia and Buchanan continued programs to treat abused women and girls and to increase awareness of their rights.

Rape is illegal; however, the Government did not enforce the law, and rape was common, especially in IDP camps (*see* Section 2.d.). No perpetrators were prosecuted during the year.

FGM traditionally was performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. Because social structures and traditional institutions, such as the secret societies that often performed FGM as an initiation rite, were undermined by the war, many experts believed that the incidence of FGM had dropped to as low as 10 percent. However, since the end of the civil war, traditional societies were reestablishing themselves throughout the country, and the

practice of FGM continued. The most extreme form of FGM, infibulation, was not practiced. The Government took no action against FGM during the year, and on July 18, the head of the INCHR publicly condoned FGM on cultural grounds; however, he subsequently attempted to retract his statements.

Prostitution is illegal; however, it was widespread.

Women never recovered from the setbacks caused by the 1990–96 war, when many schools were closed and they were prevented from maintaining their traditional roles in the production, allocation, and sale of food. In the wake of the 1999–2003 civil war, thousands of women remained displaced and prevented from pursuing livelihoods or education.

Women married under civil law can inherit land and property; however, women married under traditional laws are considered the properties of their husbands and are not entitled to inherit from their husbands or retain custody of their children if their husbands die. The Government prohibits polygyny; however, traditional laws permit men to have more than one wife. Women's organizations, particularly AFELL, continued to press for legislation on behalf of inheritance rights in traditional marriages.

During the year, professional women's groups—including lawyers, market women, and businesswomen—remained vocal about their concerns regarding government corruption, the economy, security abuses, rape, domestic violence, and children's rights. Government officials often responded negatively to public criticism.

*Children.*—The Government generally was unable to provide for the education and health of children. Due to the poor condition of government schools, many children who attended school, particularly in Monrovia, went to private institutions. Since many private schools still needed to be refurbished due to wartime damage, school fees remained relatively high, thereby making education unattainable for many school-age children. In both public and private schools, families of children often were asked to provide their own books, pencils, paper, and even desks. According to a 2003 UNICEF report, more than half of school-age children did not attend school.

FGM was performed primarily on young girls (*see* Section 5, Women).

Child prostitution and trafficking were problems (*see* Section 5, Trafficking).

More than 11,000 children were disarmed and demobilized during UNMIL's DDRR program. ICRC efforts to reunite children who had been separated from their families during the war, including child soldiers, continued during the year. At year's end, approximately 145 children had been reunited with their families; an estimated 300 children remained scattered within the country and in refugee camps outside of the country. Former child soldiers who turned over their weapons were entitled to a 3-month stay in an Interim Care Center (ICC), which offered medical aid, counseling, reading lessons, and help tracing families. Many children refused to leave the ICCs due to concerns for their personal safety and lack of schools or other support in their communities.

Former rebel combatants continued to forcibly conscript persons, including children, to serve as porters, laborers, and sex slaves; however, unlike in the previous year, there were no reports that government forces or former government militias conducted such conscriptions.

Child labor was a problem (*see* Section 6.d.).

There were thousands of children living on the streets of Monrovia; however, it was difficult to tell who were street children, former combatants, or IDPs. Nearly all youths witnessed atrocities, and some committed atrocities themselves. Approximately 100 underfunded orphanages operated in and around Monrovia; however, many orphans lived outside these institutions. These institutions did not receive any government funding and relied on private donations. In December, the Government closed two orphanages due to "deplorable conditions" and listed another 32 for potential closure.

*Trafficking in Persons.*—The law does not expressly prohibit trafficking in persons, and there were reports that trafficking occurred. During the year, the Government obstructed the prosecution of suspected traffickers.

Penal Code provisions against kidnapping, forced labor, and prostitution could be used to prosecute traffickers; however, the Government did not prosecute anyone for trafficking during the year. In March, members of the Ukrainian state security services repatriated several Ukrainian nationals who they claimed had been trafficked to a local nightclub. In May, LNP and UNMIL's trafficking-in-persons unit arrested the proprietress of the same nightclub on charges of kidnapping three Moroccan women; however, the proprietress was released on bail, and the case was indefinitely suspended due to obstruction by the Magistrate and Criminal Courts, which delayed the presentation of evidence and then the trial by not placing the case on

the docket. The Government also refused to prosecute the case unless UNMIL, which does not pay court fees as a matter of policy, paid such fees; UNMIL charged that the Government's refusal was an attempt to avoid action on the case.

NGO estimates of the number of persons trafficked to the country during the year ranged between 20 and several hundred. Victims were trafficked from Morocco, Ukraine, and neighboring countries.

There were reports of forced labor, including by children, and the recruitment of child soldiers (*see* Section 5, Children, 6.c., and 6.d.). Citizens, including children, reportedly have been trafficked to the Cote d'Ivoire and Sierra Leone, in some cases for commercial sexual exploitation.

*Persons With Disabilities.*—It is illegal to discriminate against persons with disabilities; however, in practice, they did not enjoy equal access to public buildings or government services, and no laws mandate such access. As a result of the civil wars, a large number of persons had permanent disabilities, in addition to those disabled by accident or illness. Persons with disabilities faced discrimination, particularly in rural areas. Babies with deformities often were abandoned. Some NGOs provided services to persons with disabilities.

*National/Racial/Ethnic Minorities.*—Although the Constitution prohibits ethnic discrimination, it also provides that only “persons who are Negroes or of Negro descent” may be citizens or own land. Many persons of Lebanese and Asian descent who were born or have lived most of their lives in the country were denied full rights as a result of this racial distinction.

The country has 16 indigenous ethnic groups; each spoke a distinct primary language and was concentrated regionally. No ethnic group constituted a majority of the population.

During the year, ethnic, religious, and other differences between Mandingos and non-Mandingos contributed to mob violence (*see* Section 1.a.). During the Taylor administration, many Mandingo citizens fled their homes as a result of discrimination, arbitrary arrests, and violence; however, during the year, some Mandingos returned to Lofa, Bong, and Nimba counties, which were controlled by the Mandingo-dominated LURD.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers, except members of the military and police, the right to associate in trade unions, and workers exercised this right in practice. The Constitution also prohibits unions from engaging in partisan political activity; however, government interference in union activities, especially union elections and leadership struggles, was common both before and during the civil war.

The actual power that the unions exercised was extremely limited. Since the country's work force largely was illiterate, economic activities beyond the subsistence level were very limited, and the labor laws tended to favor management.

The law does not prohibit anti-union discrimination; however, there were no reports of such discrimination during the year.

*b. The Right to Organize and Bargain Collectively.*—With the exception of civil servants, workers have the right to organize and bargain collectively; these rights largely were unused during the year because of the lack of economic activity. There are no export processing zones.

A 1984 People's Redemption Council decree nullified labor laws that provided for the right to strike, but that decree has not been enforced for years. Due to the destruction of the economy and the estimated 70 percent unemployment rate, strikes were infrequent; however, work stoppages related to salary arrears from the former Taylor administration occurred during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, this prohibition was ignored widely in many parts of the country, and there were reports that such practices occurred (*see* Sections 5 and 6.d.). Unlike in the previous year, there were no reports that logging and mining companies forcibly recruited workers; however, in some rural areas, farmers were pressured into providing free labor on “community projects” that often benefited only local leaders. There also were reports that local officials forced convicts to work for them.

During the year, there were reports that former LURD and MODEL combatants used forced labor to serve as porters, sex slaves, and to dig gold and diamonds in their controlled territories.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16 during school hours in the

wage sector; however, enforcement was lax, and child labor was a serious and widespread problem. The Ministry of Labor frequently lacked the resources to carry out its mandate. Throughout rural areas, particularly where there were no schools, small children continued to assist their parents as vendors in local markets or on the streets, to take care of younger brothers and sisters, and to work on family subsistence farms.

Unlike in the previous year, there were no reports that government security forces forced children to work in the alluvial mining industry; however, some former government and rebel combatants continued the practice. Human rights groups reported instances of forced child labor in some rural areas, particularly in alluvial diamond mining.

There were no developments in the 2002 defamation suit filed by legislators against human rights advocates who published a report on child labor in the southeastern counties.

Rebel combatants continued to forcibly conscript persons, including children, to serve as porters, forced laborers, and sex slaves.

*e. Acceptable Conditions of Work.*—The law requires a minimum wage of approximately \$0.20 (10 ld) per hour not exceeding 8 hours per day, excluding benefits, for unskilled laborers. The law requires that agricultural workers be paid \$1.20 (60 ld) for an 8-hour day, excluding benefits. Skilled labor has no minimum fixed wage, but industrial workers usually received three or four times the wage paid to agricultural workers. The highly competitive minimum wage jobs provided a minimal standard of living for a worker and family; however, there were very few such jobs. Families dependent on minimum wage incomes also engaged in subsistence farming, small-scale marketing, petty extortion, and begging. Unlike in the previous year, the Government generally paid civil service salaries.

The law provides for a 48-hour, 6-day regular workweek with a 30-minute rest period per 5 hours of work. The 6-day workweek may extend to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours.

The law provides for paid leave, severance benefits, and safety standards, but enforcement was targeted solely against profitable firms that generally observed these standards. There were government-established health and safety standards that the Ministry of Labor was responsible for enforcing; however, the Ministry rarely enforced them. The law does not give workers the right to remove themselves from dangerous situations without risking loss of employment.

Due to the country's continued economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions. The Ministry of Labor claimed it lacked the resources to monitor compliance with labor laws.

The law protects legal, but not illegal, foreign workers.

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## MADAGASCAR

The country is a multiparty democracy in which the President and a bicameral legislature share power. President Marc Ravalomanana, who was elected in 2001, and his party, Tiako-I-Madagasikara (TIM), dominated political life. Until May 2002, when President Ravalomanana was declared President, incumbent President Didier Ratsiraka and his party, Alliance for the Rebirth of Madagascar (AREMA), disputed the results of the 2001 election, which resulted in widespread violence and numerous deaths. The December 2002 legislative elections, which international observers judged as generally free and fair, resulted in an overwhelming victory for TIM and its alliance partners, the pro-Ravalomanana National Alliance. In the November 2003 municipal elections, TIM won a majority of both rural and urban mayoral seats. The judiciary was inefficient and remained susceptible to corruption and executive influence.

The Minister for Public Security heads the national police and is responsible for law and order in urban areas. The Gendarmerie Nationale, part of the Ministry of National Defense, is responsible for security in all other areas of the island. Regular army units occasionally provided logistical support for law enforcement operations. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country was very poor with a population of 17.5 million; the economy was largely market-based. Services accounted for 58 percent of the gross domestic product (GDP), while agriculture employed four-fifths of the population. Approximately 70 percent of the population was below the Government's poverty level of approximately 45 cents a day in income. Cyclones, inflation, and the depreciation of the

local currency affected the economy during the year. Real GDP grew by 5.3 percent during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Prison conditions were harsh and life threatening. Security forces arbitrarily arrested a journalist, demonstrators, and church members during the year. Suspects often were held for periods that exceeded the maximum sentence for the alleged offenses, and lengthy pretrial detention remained a serious problem. Some government officials limited freedom of speech and of the press, and journalists practiced self-censorship. Police forcibly dispersed demonstrations. Local government officials banned a religious group. Women continued to face some societal discrimination, and child labor, including forced labor, was a problem. There were reports of trafficking in women and girls. During the year, the Government took major steps to combat trafficking and child labor.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. Unlike in the previous year, security forces did not use lethal force to disperse demonstrations.

During the year, no investigation was conducted into the 2002 death of Roland Ravalomasoa, a supporter of former President Ratsiraka, who died from injuries sustained during interrogation by security forces. Despite a 2003 public request by Ravalomasoa's family for an investigation, the Government maintained no formal request had been made.

The results of an investigation into the 2002 killing of a Canadian missionary by suspected pro-Ratsiraka militias were not released by year's end.

No action was taken in other 2002 killings by security forces.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

Several members of the Indo-Pakistani community were kidnapped, generally by Indo-Pakistani assailants; the motives appeared to be criminal, and the victims generally were released after payment of ransom.

No action was taken against the perpetrators of 2002 abductions attributed to pro-Ravalomanana forces.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for the inviolability of the person; however, security forces subjected prisoners to physical abuse. During the year, a gendarme in Antanimora Prison kicked a female prisoner in the genitals during questioning; the prisoner was unable to stand or walk for 7 months as a result of her injuries. The gendarme was arrested and subsequently released after serving an unspecified period of time.

Unlike in the previous year, there were no reports that security forces raped female prisoners.

Police forcibly dispersed demonstrations (*see* Section 2.b.).

During the year, there were several grenade explosions throughout the country that appeared to target the homes and property of government officials and, occasionally, of members of the opposition. In June, approximately 60 persons were injured when grenades and Molotov cocktails were thrown at the houses of an opposition party member and prominent members of President Ravalomanana's TIM party in Antananarivo, Tamatave, Toliara, Fianarantsoa, and Mahajanga. The Government arrested 21 persons, 4 of whom were released on bail. The remaining detainees were still in pretrial detention at year's end. On November 21, three suspects were arrested after grenades exploded at various sites in Tamatave. Speculation about the motive of the attacks ranged from widespread discontent about the price of rice to opposition attempts to destabilize the Government. None of the suspects had been charged by year's end.

Prison conditions were harsh and life threatening. The country's 99 facilities, which were built for approximately 13,000 prisoners, held 19,971, according to the Ministry of Justice. Prison cells averaged less than 1 square yard of space per inmate, and a prisoner's diet consisted of 100 grams of cassava per day. Families and nongovernmental organizations (NGOs), including the Catholic Prison Chaplains, supplemented the daily rations of some prisoners. There were reports of rapes by other prisoners. Medical care was inadequate. Malnutrition, malaria, tuberculosis, and pneumonia resulted in an unknown number of deaths during the year. Prisoners could be used as forced labor, and the Government acknowledged that this occurred during the year (*see* Section 6.c.).

The Justice Ministry reported that between January 1 and June 30, 99 prisoners died from various causes, including disease and neglect; two prisoners held in connection with the 2002 political crisis died from natural causes.

Women were held separately from men; however, some preschool-age children shared cells with their incarcerated mothers. Approximately 399 of the country's 19,971 prisoners were under 18; juveniles were not always held separately from the adult prison population. Pretrial detainees were not always kept separate from the general prison population.

The Government generally accepted requests for independent monitoring of prison conditions. The International Committee of the Red Cross (ICRC) has permanent offices in the country and was permitted access to detention centers throughout the country and ongoing access to detainees held in connection with the 2002 political crisis.

*d. Arbitrary Arrest or Detention.*—The Constitution provides for due process for persons accused of crimes and prohibits arbitrary arrest and detention; however, the Government did not always respect these provisions in practice.

There are two national police forces in the country: The National Police, which has jurisdiction in cities; and the Gendarmerie Nationale, which is part of the armed forces and has jurisdiction in all other areas. Corruption persisted throughout both police forces.

The law provides that arrest warrants be obtained in all cases except those involving hot pursuit; however, often a person was detained and jailed on no more than an accusation by another person. Unlike in the previous year, there were no reports that the Government used reservists, who operated outside the normal armed forces chain of command, to make arrests.

The law provides defendants with a general right to counsel and the right to be informed of the charges against them; however, the Government was only required to provide counsel in cases in which indigent defendants faced charges carrying sentences greater than 5 years. A system of bail exists; however, in practice, it was not available to many defendants. Magistrates often resorted to an instrument known as a retaining writ (“mandat de depot”) by which defendants were held in detention for the entire pretrial period or for periods longer than the maximum sentence on the charges faced.

Security forces detained a journalist, demonstrators, and church members during the year (see Sections 2.a., 2.b., and 2.c.).

In January, political activist Liva Ramahazomanana, sentenced in 2003 to 2 years' imprisonment for threatening state security and plotting a coup d'etat, was released after appealing directly to the President.

Also in January, President Ravalomanana pardoned former Minister of Public Security Ben Marofo Azaly and his son, who in 2003 were sentenced to 5 years' imprisonment for compromising the internal security of the state and inciting tribal hatred.

Long pretrial detention was a serious problem. The law mandates that a criminal suspect be charged or released within 48 hours of arrest; however, during the year, the Government detained individuals for significantly longer periods of time before charging or releasing them. In October, the Ministry of Justice reported that 13,548 persons, or approximately two-thirds of the entire prison population, were in pretrial detention. Poor record keeping, lack of resources, and the difficulty of access to remote parts of the island hindered the monitoring of pretrial detainees. Despite legal protections, investigative detentions often exceeded 1 year. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, at all levels, the judiciary was susceptible to the influence of the executive and at times corrupt.

During the year, the Government charged 12 magistrates in its continuing campaign against widespread judicial corruption: 1 magistrate was acquitted, 2 were given warnings, 3 were demoted, 2 lost a year of service, 1 was suspended for a year, 2 were sanctioned but retained their positions, and the case against 1 was postponed until 2005. During the year, the Government took action against the 12 magistrates indicted for corruption in 2003: 3 were demoted, 2 of whom faced ongoing legal action; 4 were reprimanded, 2 of whom faced ongoing legal action; 2 were suspended for 1 year, 1 of whom was subsequently acquitted and 1 of whom faced ongoing legal action; 1 was suspended for 2 years; and 2 were cleared of all charges.

The judiciary is under the control of the Ministry of Justice and has four levels. Courts of First Instance hear civil cases and criminal cases carrying limited fines and sentences. The Court of Appeals includes a criminal court of first instance for

cases carrying sentences greater than 5 years. The Supreme Court of Appeals hears appeals of cases from the Court of Appeals. The High Constitutional Court (HCC) reviews the constitutionality of laws, decrees, and ordinances. The judiciary also includes specialized courts designed to handle matters such as cattle theft.

The Constitution provides defendants with the right to a full defense at every stage of the proceedings, and trials were public. Defendants have the right to be present at their trials, to be informed of the charges against them, to confront witnesses, and to present evidence. The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. A 2003 CRS report stated that the human rights of a person charged with a crime were often violated, and that there was a “large gap between the laws that served to protect the rights of the accused and the implementation of these laws in fact.”

Military courts are reserved for the trial of military personnel and generally followed the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases have access to an appeals process. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The Constitution provides traditional village institutions with the right to protect property and public order. An informal, community-organized judicial system called Dina was used in some rural areas to resolve civil disputes between villages over such issues as cattle rustling. The law limits Dina remedies to monetary damages. The Dina process does not ensure internationally recognized standards of due process; however, there were no reports that Dina resorted to sentences involving physical force or loss of liberty. Dina decisions may be appealed through formal judicial channels to a court of general jurisdiction or to the Office of the Mediator, which investigated and sought redress through formal judicial authorities.

Of the prisoners detained for their role in the 2002 political crisis, 18 were still in pretrial detention at year’s end, 74 with sentences of 3 years’ imprisonment or less were pardoned, and 2 died (*see* Section 1.c.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these provisions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government limited these rights in practice. There were reports that some government officials pressured the media to curb its critical coverage of alleged government malfeasance and intimidated journalists. Journalists practiced self-censorship. The Government did not restrict academic freedom.

There were eight privately owned major daily newspapers and many other privately owned national and local news publications that published less frequently. The Government owned the only nationwide television and radio networks. Widespread illiteracy and a poorly developed system for distributing publications printed in the capital limited the effect of print media.

In June, the Government closed Radio Say in Toliara for demonstrating a “lack of respect for the President of the National Assembly” and “inciting tribal hatred.” The station was not permitted to resume broadcasting by year’s end.

In July, the Betongolo gendarmerie detained without charge Rolly Mercia, a journalist for the Madagascar Tribune who had published an article that implicated several government officials in the illicit export of rosewood; Mercia was released after questioning.

On December 10, security forces seized broadcasting equipment at Radio Feon’i Toamasina, Radio Sky FM, and Radio ny Antsika after the stations broadcast opposition criticism of the President; the seizures were ordered by the Regional Chief and the Ministry of Communications. The stations, which were subsequently closed for “insulting President Ravalomanana” and “inciting tribal hatred,” remained closed at year’s end.

Many journalists privately admitted practicing self-censorship, particularly at the local level, and there were reports that journalists were threatened with imprisonment, libel suits, or harm to their families if they criticized government and opposition officials.

Government agencies and private companies sometimes bribed journalists, who generally received minimum or below minimum wages, to ensure positive coverage of certain events.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government at times limited this right in prac-

tice. The Government routinely issued permits for public meetings and demonstrations.

In June, the Government used tear gas to disperse three demonstrations by reservists demanding additional payment for their service during the 2002 political crisis; five reservists were arrested and awaiting trial at year's end. During one demonstration, a grenade carried by a demonstrator exploded, resulting in the death of the demonstrator and injury to 28 others.

No investigation was conducted into any of the 2003 or 2002 cases in which security forces used live ammunition, teargas, or other force to disperse demonstrations.

The Constitution provides for the right of association and permits citizens to organize political parties and associations; however, the Constitution also explicitly forbids associations that "call into question the unity of the Nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were numerous political parties.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious organizations were not required to register with the Ministry of Interior; however, they were urged to do so. There were no penalties for failure to register.

In August, the Fianarantsoa Prefecture suspended the Universal Church of the Kingdom of God for inciting public disorder by allegedly burning a copy of the Bible during a ceremony in which "Satan's materials" were burned. In September, 2 pastors and 15 church members who participated in the burning were sentenced to 6 months' imprisonment.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The fear of crime restricted travel in some areas, especially at night. Unlike in the previous year, there were no curfews.

The Constitution does not specifically prohibit forced exile; however, the Government did not use it. Former President Ratsiraka and other members of his administration remained in self-imposed exile at year's end.

The law does not include provisions for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum and cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting the small number of refugees in the country.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens the right to change their government peacefully; however, some degree of turmoil accompanied the three changes of government that occurred over the last 13 years.

The country nominally was a democracy in which power was divided between the executive, a bicameral assembly, an independent judiciary, and 6 provincial and 22 regional administrations. The President appoints one-third of the senators.

Political and business leaders disproportionately influenced the administration of the country. Political parties coalesced around a single powerful person, usually the president. "Pensee Unique," a national belief in which dissent was viewed as an attack on societal harmony, made an effective opposition difficult in practice. Representatives of the president's political party usually controlled the National Assembly. The 2002 legislative elections and 4 follow-up contests held in March 2003 resulted in a substantial majority (106 of 160) of deputies elected from the President's TIM party and the pro-Ravalomanana National Alliance; only 6 of the country's 160 political parties were represented in the National Assembly. International observer teams found the 2002 election process to be transparent and the results credible, despite some organizational problems.

In the 2001 presidential elections, which were conducted amid widespread allegations of fraud, former President Ratsiraka received 40.69 percent of the vote, while his main challenger, the then-Mayor of Antananarivo Marc Ravalomanana received 46.49 percent. From January 2002 to June 2002, both Ravalomanana in Antananarivo and Ratsiraka in the port city of Toamasina claimed to be the legitimate head of state. Following mediation by the Organization of African Unity in April 2002, the HCC gave Ravalomanana the victory, and the Armed Forces, until

then largely neutral, began shifting their support to Ravalomanana. Ratsiraka and his supporters tightened the blockade around the capital Antananarivo by attacking its infrastructure, particularly the bridges; however, the Ravalomanana forces steadily gained control over the entire country, ultimately forcing Ratsiraka into exile in July 2002. Widespread, politically motivated conflict resulted in approximately 100 deaths; blockades and infrastructure attacks by pro-Ratsiraka forces severely disrupted the economy.

A series of grenade attacks during the year may have been politically motivated (see Section 1.c.).

Corruption in the executive and legislative branches remained a serious problem. In 2003, the Government established an anti-corruption council and took significant steps to curb corruption, including the suspension of 18 mayors for alleged fiscal and administrative improprieties; however, none of the suspensions led to criminal charges. During the year, the Government continued to investigate and prosecute magistrates (see Section 1.e.). In July, the President announced a national anti-corruption strategy to make the country “one of the least corrupt African countries by 2015.” The strategy included the establishment of an investigative Independent Anti-Corruption Bureau, a new anti-corruption tribunal, compliance cells in each ministry, and a network of drop boxes for public complaints in each of the country’s 111 districts; however, apart from education and publicity activities, few efforts were conducted during the year to enforce anti-corruption provisions or to sanction those who violated them.

Soon after the suspension of the 18 mayors, the Government announced that municipal elections would be held in November 2003. The Government claimed the suspensions would not bar the 18 from running; however, the suspensions complicated preparations for the election, as did August 2003 legislation that established two different processes for municipal elections—one for large cities and the other for the remainder of the country. In cities, the candidate with a plurality won; in rural communities, a party list system (in which the winner is the first name on the party list receiving the plurality of votes) was used. Municipal councils in both urban and rural communities were chosen using party lists. Logistical problems, including a shortage of transparent ballot boxes, resulted in the elections being held on two different dates: November 9 and 23, 2003. The TIM party received 56 percent of rural and 60 percent of urban mayoral seats.

There are no laws that provide for public access to government information; however, President Ravalomanana has publicly stated that his three main priorities are “good governance, transparency, and rule of law.”

There were 8 women in the 160-member National Assembly elected in December 2002. Two of the 22 regional administrators appointed in September were women.

There were six Muslims, one Hindu, and two Chinese-Malagasy members in the National Assembly. Chinese Malagasy and Muslims also held civil service positions. Residents of Indian origin were not represented in the Government because few had citizenship (see Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of local and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Government permitted visits during the year by NGOs, including the ICRC.

The Constitution requires the Government to create apolitical organizations that promote and protect human rights. However, the governmental National Commission for Human Rights has been inactive since 2002, when its members’ terms expired. The Government has offered no explanation for the delay in naming replacements.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits all forms of discrimination; however, no specific government institutions were designated to enforce these provisions.

*Women.*—Domestic violence against women was a problem. Police and legal authorities generally intervened when physical abuse was reported. The Penal Code was amended in 2003 to prohibit domestic violence, expand the definition of rape, and prohibit sexual harassment.

Prostitution was not a crime; however, related activities, such as pandering, are criminal. Incitement of minors to debauchery is a crime. The Ministry of Tourism acknowledged the problem of sexual tourism and conducted a workshop in July to address the issue.

There were reports of trafficking in women (see Section 5, Trafficking).

Under the law, wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage was dissolved. Widows with children inherit half of joint marital property. In practice, these requirements were not always observed. A tradition known as "the customary third," which provided the wife with the right to only one-third of a couple's joint holdings, was occasionally observed.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in private businesses and state-owned companies. In 2003, the Ministry of Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. However, women may not work in positions that might endanger their health, safety, and morals.

A number of NGOs focused on the civic education of women and girls and publicized and explained their specific legal protections; however, due to illiteracy, cultural traditions, and a lack of knowledge about their rights, few women lodged official complaints or sought redress when their legal rights were compromised.

*Children.*—The Ministries of Health, Education, and Population are responsible for various aspects of child welfare; however, lack of funding resulted in inadequate services and precluded the compilation of reliable statistics.

The Constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory; however, according to the World Bank, only 68 percent of primary school-age children were enrolled (*see* Section 6.d.). In September and October, the Government distributed 1.2 million sets of school supplies to primary school children nationwide as part of the Education for All program began in 2003.

In June, UNICEF and the Government launched a 3-year campaign to improve birth registration rates. The country has no uniform birth registration system, and unregistered children were not eligible to attend school or obtain healthcare services. A 2000 UNICEF study found that approximately 2.5 million children under 17 were not registered.

Child prostitution was a problem. According to a continuing study conducted by the International Labor Organization's International Program for the Elimination of Child Labor (IPEC), there were approximately 700 to 800 child prostitutes in the city of Nosy Be and more than 2,000 in Toamasina. Some child prostitutes reported earning several times the average per capita monthly income. Acute poverty and lack of family support were the primary reasons that children engaged in prostitution.

There were reports of child trafficking (*see* Section 5, Trafficking).

Child labor, including forced labor, was a problem. In June, the Ministry of Labor hosted a workshop that approved a national strategy to combat the Worst Forms of Child Labor (*see* Section 6.d.).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports of trafficking in women and girls for prostitution between the country and the neighboring islands of Mauritius and Reunion. Traffickers may be prosecuted under provisions of the Penal and Labor Codes that prohibit pedophilia and sexual tourism; however, there were no reports during the year of arrests for trafficking.

During the year, the Government took several steps to combat trafficking. The Government began a review of existing anti-trafficking legislation, including adoption regulations; shut down several international adoption rings that were suspected of trafficking under the guise of adoption; and launched a criminal investigation into a suspected case of large-scale adoption fraud. Three new Minors' Brigades (police units that specialized in child welfare) were established in the provinces, and police raided 3 nightclubs where 53 minors were illegally present. The Government initiated an aggressive anti-trafficking information campaign and worked with UNICEF to train police in six provincial cities to protect the rights of minors. The Ministry of Tourism initiated a program to identify and report tour operators offering sexual tourism services. The Government also continued to construct Welcome Centers for the victims of trafficking and forced labor (*see* Section 6.d.).

*Persons With Disabilities.*—There was no official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities and provides for a national commission and regional sub-commissions to promote the rights of persons with disabilities; however, neither a national commission nor the regional sub-commissions had been established by year's end. International NGOs and numerous local associations, including the Collective of Organizations Advocating for Persons with Disabil-

ities, advocated for legislation mandating equal access for persons with disabilities and the establishment of the National Commission.

During the year, the Government intervened to assist in two cases in which students had been denied the opportunity to take entrance exams because of their disabilities; in both cases, the students were allowed to reschedule their exams. There were 24 state-sponsored educational facilities in the country for persons with disabilities.

In December, the Government encouraged the employment of persons with disabilities at national and regional levels of government and ordered that persons with disabilities be provided with: Medical treatment in public and private medical centers; employment without discrimination; eligibility for civil service vacancies; and education at public schools and vocational training centers, which were responsible for ensuring accessibility.

*National/Racial/Ethnic Minorities.*—The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, were divided into 18 tribes, a term without pejorative overtones in the country. The vast majority of Malagasy spoke a single Malagasy language. None of the 18 tribes constituted a majority. There were also minorities of Indo-Pakistani, Comorian, and Chinese heritage in the country.

A long history of military conquest and political dominance raised the status of highland ethnic groups of Asian origin, particularly the Merina, above that of coastal groups of African ancestry. This imbalance has fueled an undercurrent of tension between citizens of highland and coastal descents. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

An economically significant Indo-Pakistani community, commonly referred to as Karana, has been present for over a century. Traditionally engaged in commerce, the Karana number approximately 20,000 persons. Few hold citizenship, which must be acquired through a native-born Malagasy mother, and many believed they were denied full participation in society and subject to discrimination.

In August 2003, a law was passed to permit foreigners to own land.

#### *Section 6. Workers Rights*

*a. The Right of Association.*—The law provides that public and private sector workers may establish and join labor unions of their choosing without prior authorization; however, essential service workers, including police and military personnel, may not form unions. Unions were required to register with the Government, and registration was granted routinely. Ministry of Labor statistics indicate that 14 percent of workers in export processing zone (EPZ) companies and less than 10 percent of all workers were unionized. Between 70 and 80 percent of the workforce were engaged in agriculture. Despite the existence of several public employees' unions, few public employees were union members.

The Labor Code prohibits discrimination by employers against labor organizers, union members, and unions; however, a December CRS report on working conditions in the EPZs indicated that some employees did not join unions due to fear of reprisal. In the event of antiunion activity, unions or their members may file suit against the employer in civil court.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right of workers to bargain collectively; however, collective bargaining agreements remained rare. The Labor Code states that either management or labor may initiate collective bargaining. The Government set civil servant wages and endorsed minimum wages proposed by the private sector (see Section 6.e.).

The Constitution provides for the right to strike, including in EPZs, within parameters fixed by law, and workers exercised this right during the year. The Labor Code calls for workers to exhaust all options including conciliation, mediation, and arbitration before resorting to strikes. Workers in essential services have a recognized but restricted right to strike; however, they did not exercise this right during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor, including by children; however, at times the Government did not respect this prohibition, specifically with respect to prison labor. Prisoners and pretrial detainees were hired out to private firms and government officials who provided basic amenities such as food and clothing in return for the prisoners' labor. In September, the Ministry of Labor released a study highlighting cases of forced labor among "pousse-pousse" (rickshaw) drivers, petty merchants, and apprentices.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code prohibits persons under age 18 from working at night and at sites where there is an imminent danger to health, safety, or morals; however, child labor was a prob-

lem. A 2003 statute raised the minimum age for employment from 14 to 15 years of age.

Nearly 13 percent of urban children and 36 percent of rural children between the ages of 10 and 14 were intermittently employed, the vast majority on family farms. Children in rural areas generally dropped out of school to help on family farms, and urban children often worked as domestic laborers and servants. In the agricultural sector, work for children on the family subsistence farm may begin at an even younger age. In cities, many children worked in occupations such as transport of goods by rickshaw and petty trading. In 2003, IPEC reported that children as young as 8 years old were being used in mines because they could maneuver in cramped spaces more easily than adults.

The Government enforced child labor laws in the formal economic sector by means of inspectors from the Ministry of Civil Services; however, enforcement in the much larger informal sector remained a serious problem.

During the year, the Government took steps to combat forced child labor and trafficking (see Section 5). In June, the Ministry of Labor approved a 15-year national plan to combat the worst forms of child labor, citing child prostitution, stone quarry work, salt marsh work, domestic labor, gemstone mining, agriculture, and commercial fishing as areas of particular concern. The plan created a national committee made up of high-level government, donor, civil society, and religious group representatives to raise public awareness and coordinate the national campaign; the committee became operational in August. The Government continued to construct Welcome Centers for the victims of trafficking and forced labor and, since July, the Antananarivo Welcome Center rescued over 200 children employed in the worst forms of child labor, including prostitution, and reintroduced many victims into the educational or vocational training system.

*e. Acceptable Conditions of Work.*—The Labor Code and its implementing legislation prescribe working conditions and minimum wages, which were enforced by the Ministry of Civil Service, Labor, and Social Laws. The law makes separate provisions for agricultural and nonagricultural work.

In October, the Government passed a decree increasing the monthly minimum wage from \$19.70 (197,000 FMG) to \$23.00 (253,000 FMG). The national minimum wage did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees knew what the legal minimum wages were, in practice, those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42<sup>o</sup> hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week; however, there were reports that employees often were required to work until production targets were met. A December CRS report on working conditions in the EPZs indicated that 86 percent of employees surveyed regularly worked more than 40 hours per week. In some cases, this overtime was unrecorded and unpaid.

The Labor Code sets rules and standards for worker safety and worksite conditions. The Ministry of Labor hired 50 new labor inspectors, bringing the total number to 90, to enforce labor laws throughout the country; however, these inspectors were able to cover only the capital effectively. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. CNAPS, the country's equivalent of the Social Security Administration, published reports on workplace conditions, occupational health hazards, and workplace accident trends. Workers did not have an explicit right to leave a dangerous workplace without jeopardizing their employment. The Labor Code applies to all legal workers.

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## MALAWI

On May 20, the country held its third election since transitioning to a multiparty democracy in 1994. President Bingu wa Mutharika of the United Democratic Front (UDF) was elected, succeeding President Bakili Muluzi, also of the UDF. International observers noted substantial shortcomings in the electoral process, including inequitable access to the state-owned media, the ruling party's use of state resources to campaign, and poor planning and administration by the Malawi Electoral Commission. Minor violence occurred when the final results were announced. Opposition parties filed legal challenges to the election results, which were still pending at year's end. Constitutional power was shared between a popularly elected president

and the 193-member National Assembly, of which 185 members were elected on May 20. The ruling party had majority support in Parliament due to alliances with several other parties and a number of independents. The Government generally respected the constitutional provisions for an independent judiciary; however, the judicial system was inefficient and lacked resources.

The National Police, headed by the Inspector General of Police under the Ministry of Home Affairs, are responsible for internal security. The Malawi Defense Force, under the Ministry of Defense, is responsible for external security. The police occasionally called on the army for support. While the civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country was very poor, with a narrow economic base characterized by a small and highly concentrated industrial sector, low levels of foreign and domestic investment, and few mineral resources. The economy was largely market-based; however, parastatal organizations dominated several sectors. The population was approximately 11.5 million, and agriculture dominated the economy, with over 80 percent of the labor force employed in the agricultural sector. The Government continued to move forward with its multisector privatization program and endorsed private sector participation in infrastructure. The economy grew by approximately 3.7 percent during the year; however, wealth remained highly concentrated in a small elite.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Unlike in the previous year, police negligence or use of excessive force was not reported to be a factor in detainee deaths. Police on occasion used excessive force in handling criminal suspects. Prison conditions remained harsh and often life threatening. There were instances of arbitrary arrest and detention, and lengthy pretrial detention was a problem. Security forces at times infringed on some privacy rights. The Government generally respected freedom of speech and the press; however, there were some exceptions. Improvements in press freedoms occurred following the presidential elections. Limited self-censorship existed. At times police used force against demonstrators, and police allegedly killed at least one bystander at a political rally. Violence against women was common, and women continued to experience severe societal discrimination. Abuse of children remained a problem. The Government limited workers' rights. Child labor, including instances of forced child labor, and trafficking in persons were problems. Mob violence triggered by anger over high levels of common crime resulted in several instances of mob executions of alleged criminals. HIV/AIDS was a serious problem in the country.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by the Government or its agents; however, there was one high-profile case of a death under mysterious circumstances. On December 28, 2003, Kalonga Stambuli, a former private business advisor to the previous president, died of poisoning and strangulation. Prior to his death, newspaper reports indicated that Stambuli may have had potentially damaging information about the former president's business activities. A police investigation was ongoing at year's end.

Unlike the previous year, there were no reports of police mistreatment of a suspect that resulted in death.

The investigation into the death of Peter Mussa Gama, who died in police custody in September 2003, remained ongoing at year's end. The Malawi Human Rights Commission (MHRC) publicly called for compensation to Gama's family.

Police allegedly killed a 10-year-old girl during a political demonstration (*see* Section 2.b.).

On May 23, a man was killed by worshippers at a mosque after he sought refuge from tear gas fired by police (*see* Section 2.b.).

Mobs sometimes resorted to vigilante justice in beating, stoning, or burning suspected criminals to death. On May 17, in Mulanje, persons beat a man to death after he allegedly vandalized a church and terrorized a neighborhood. Authorities suspect the man was suffering from a mental disorder, and police intervened to take the victim to a hospital where he later died. No arrests were made in the case.

On August 15, a crowd beat a man to death for allegedly burglarizing a home near Blantyre. A police investigation into the murder was ongoing at year's end. In another August incident, a man was beaten to death after being caught allegedly

stealing sugar cane near Kasungu. A suspect was arrested and awaited trial at year's end.

No action was taken by police in any of the 2003 or 2002 cases of mob killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, during the year a key witness in a high-level corruption case went missing; some reports indicated the man committed suicide, while others said he was out of the country. Police were investigating the case at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were instances of police beating and otherwise abusing detainees and using excessive force in handling criminal suspects.

The Inspectorate of Prisons' 2002 report noted that police used beatings and assault to restrain prisoners and to force confessions. While higher-ranking officials demonstrated familiarity with standards for the humane treatment of prisoners and publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. Police sometimes mistreated suspects due to a mistaken belief that the law required them to present a case (not just charges) to the court within 48 hours of arrest, and police sometimes resorted to beatings to obtain information within the time limit. Lack of financial resources for appropriate equipment, facilities, and training contributed to mistreatment.

Unlike in the previous year, there were no reports that police assaulted journalists.

Police violently dispersed demonstrations during the year, which resulted in numerous injuries and at least one death (*see* Section 2.b.).

Prison conditions remained harsh and life threatening. During the year, an average of 20 inmates died in prison each month, mostly due to HIV/AIDS. Overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. The prison system, which was meant to accommodate 6,200 inmates, held 9,220 prisoners, 191 of whom were juveniles. To combat these problems, the prison department developed and implemented a program to provide health attendants to each prison. At year's end, each prison in the country was staffed with at least one health attendant. Programs that provided community service alternatives for some offenders were utilized throughout the country.

During the year, the Government began a program with international donors to renovate the country's four major prisons, and a new prison was under construction in the northern region. Inmates were encouraged to grow vegetables and raise livestock. Some prisons were upgraded to include improved toilet and shower facilities and plumbing.

Although women were not kept in separate facilities, they were segregated within the prison compound and monitored by female guards. In the four maximum-security prisons, there were separate facilities for juveniles; however, the separation was inadequate in practice, and there were reports of sexual and physical abuse of juvenile prisoners. In the other prisons, juveniles were routinely incarcerated with adults. The law requires pretrial detainees to be held separately from convicted prisoners; however, many prisons could not comply with this law due to lack of space and inadequate facilities.

During the year, the Inspectorate of Prisons, domestic nongovernmental organizations (NGOs), and international NGOs were permitted to make visits to monitor prison conditions and to donate basic supplies. The Prison Reform Committee also worked in collaboration with the Ministry of Home Affairs and the Inspectorate of Prisons to visit prisons.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, although there were problems in practice. The Constitution provides the accused the rights to challenge the legality of detention, to have access to legal counsel, and to be released on bail or informed of charges by a court of law within 48 hours; however, these rights seldom were respected in practice.

The country's police force was inefficient, poorly trained, and inadequately funded. Due to funding limitations, police had extremely limited resources available for training and equipment, and were limited in their ability to provide an infrastructure to ensure respect for human rights. Corruption was widespread. Police continued efforts to improve investigative skills and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse and domestic violence (*see* Section 5). The Government continued to seek community involvement in its comprehensive reform of the police. During the year, civil society groups conducted workshops for the police on crowd control measures and management of demonstrations. The country also received foreign assistance during the year to train officials and procure equipment.

The use of temporary remand warrants to circumvent the 48-hour rule was widespread (*see* Section 1.c.). In cases where the court determined that a defendant could not afford to supply his own counsel, the Government provided legal services. However, since few persons were able to afford legal counsel and there were only seven public defenders in the country, indigent detainees could not all have representation in a timely manner. Bail frequently was granted to reduce prison overcrowding, rather than on the merits of an individual's situation.

Police arrested some journalists and demonstrators during the year (*see* Sections 2.a. and 2.b.).

Police were accused of arbitrary arrests due to political motives and were routinely criticized for failing to act impartially with regard to political demonstrations.

Of the 9,220 persons incarcerated in the country's prisons, 1,595 were pretrial detainees; of the 191 juveniles held, 91 were pretrial detainees; and of the 58 women held, 37 were pretrial detainees.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was inefficient and was handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, heavy caseloads, and lack of resources.

The Constitution provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. The Chief Justice is appointed by the President and confirmed by the National Assembly. The President appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the President and a majority of the Parliament.

By law, defendants have the right to a public trial but not to a trial by jury; however, in murder cases, the High Court used juries of 12 persons from the defendant's home district. Defendants also are entitled to an attorney, the right to present and challenge evidence and witnesses, and the right of appeal. The judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. During the year, the Department of Public Prosecutions had 10 prosecuting attorneys and 7 paralegals. The paralegals served as lay prosecutors and prosecuted minor cases in the magistrate courts. Lack of funding and a shortage of attorneys created a backlog, mainly in murder cases.

On May 18, the National Compensation Tribunal (NCT), which adjudicated claims of criminal and civil liability against the former dictatorship of Dr. Hastings Banda, was dissolved as a part of the democratic transition process. During its existence, the NCT registered nearly 25,000 claims, of which 342 were compensated fully and 5,247 were awarded interim compensation payments. The NCT's lack of funds limited its ability to settle claims, but some payments were made during the year.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government at times infringed on these rights. In March, some civil society and human rights groups complained when police initiated a sweep to arrest prostitutes and their clients (*see* Section 5).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, at times the Government limited this right. Following the May elections, the Government made efforts to increase press freedom. Limited self-censorship existed. The Government did not restrict academic freedom.

A broad spectrum of political and ideological opinion was available in the country's newspapers, usually without government interference. Five independent newspapers were available, including one independent daily and four independent weekly papers.

The state-owned Malawi Broadcasting Corporation (MBC) dominated the radio market with its two stations, transmitting in major population centers throughout the country. News coverage and editorial content were clearly pro-government.

There were 14 private radio stations, all broadcasting on FM frequencies with limited coverage and only in urban areas. These included: Two commercial stations broadcasting in Blantyre; a rural community radio station run by local women with the help of the Malawi Media Women's Association; and six religious stations.

Government-owned Television Malawi (TVM) was the country's sole television broadcaster.

On March 10, the Public Affairs Committee, a civil society group composed of influential religious leaders, initiated legal action against MBC and TVM, challenging

their bias toward the ruling party. These challenges generated renewed public interest in the issue of media freedom.

The ruling party interfered with the state-controlled media's freedom to interview opposition politicians who were critical of the Government. For example, on May 13, state-owned MBC radio halted the broadcast of a live interview with opposition party presidential candidate and former First Vice President Justin Malawezi. In the interview, Malawezi made highly critical remarks about the ruling party and administration, prompting station officials to cut short the time allotted.

On May 23, police shut down the Malawi Institute of Journalism, an independent radio station, and arrested four journalists after the station aired what was described as an "inflammatory interview" with an opposition party spokesperson. In the interview, the spokesperson called for the closure of airports and roadways to prevent guests from attending the presidential inauguration, and for the Malawi Defense Force to assume control of the Government. The reporters were released from custody and the charges were subsequently dropped.

There were no developments in the October 2003 assault of several journalists by police at a roadblock.

There were no developments in the formal inquiry into the 2002 assault on a journalist by a UDF parliamentarian.

During the election campaign period, opposition access to the media was limited. Electoral legislation requires that state-owned media provide equal access to all political parties during the election campaign period. However, regulatory bodies and the Malawi Electoral Commission (MEC) failed to enforce these provisions, resulting in uneven access to media resources. The ruling party frequently monopolized resources and used public funds for political campaign purposes. International election observers uniformly cited the lack of balanced media coverage as a limiting factor to the overall freedom and fairness of the electoral process. One political party sued TVM, MBC, and the MEC over the unfair media coverage.

On May 3, the MEC rebuked both MBC and TVM for not following media rules and guidelines during the campaign, but later that week withdrew the allegations and apologized.

Following international and domestic criticism of media access during the campaign period, officials in the newly elected Mutharika administration made efforts to reduce media bias.

On July 22, the new Minister of Information publicly called for MBC and TVM to allow dissenting views. MBC's Director General admitted that public broadcasters had not been free to interview the opposition for fear of losing their jobs.

The Government did not restrict access to the Internet; however, the Internet was not widely used.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, there were instances in which police limited this right.

Authorities interfered with opposition party political functions, and in some cases, used violence to disperse crowds. Some opposition candidates were unable to obtain permits to hold political gatherings.

On February 22, two persons were shot when police used live ammunition and tear gas to break up an opposition rally at Njamba, near Blantyre. Police also destroyed a podium and platform erected for the event. According to police, the gathering, which coincided with a ruling party rally nearby, was illegal because it lacked proper permits. Opposition leaders maintained they had a court injunction allowing the event to take place. MHRC urged the Inspector General of Police to launch an investigation into the violence, but no action was taken by year's end.

On May 23, in Blantyre, police allegedly shot 2 protestors and arrested at least 96 others for rioting over the results of the presidential election. Police reportedly used live ammunition and tear gas to stop looting and vandalism immediately following the announcement of the election results. One man was reportedly beaten to death by a group of worshippers when he sought refuge from the tear gas in a nearby mosque (*see* Section 1.a.). The suspects arrested by police were released on bail within 48 hours of arrest and were awaiting trial. An investigation into the shootings was ongoing at year's end.

On May 24, a police officer attempting to break up a political demonstration allegedly shot 10-year old Epiphania Bonjesi. Bonjesi, a bystander, bled to death after being shot in the leg. Eyewitness accounts indicated the bullet was fired by police, and the investigation was ongoing at year's end. In an out-of-court settlement in October, the Government paid compensation to Bonjesi's family. There were unconfirmed reports of one other death as a result of police attempts to subdue post-election unrest.

No action was taken against police who used excessive force to disperse demonstrations in 2003.

No action was taken against UDF members who allegedly attacked Forum for the Defense of the Constitution demonstrators in 2002.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Government required organizations, including political parties, to register with the Registrar General in the Ministry of Justice, and registration was routinely granted.

During the year, seven opposition parties united to form the Mgwirizano Coalition and fielded a common presidential candidate. Several opposition candidates allied with the ruling party after being elected.

The National Democratic Alliance (NDA) de-registered, and its leadership rejoined the ruling UDF.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There were no separate requirements for the recognition of religions, but religious groups must register with the Government. There were no reports that the Government refused to register any religious group during the year.

Foreign Christian missionaries experienced occasional delays in renewing employment permits; however, this appeared to be the result of bureaucratic inefficiency rather than a deliberate government policy against foreign missionaries. Missionaries and charitable workers paid lower fees for employment permits than did other professionals.

During the 2004 presidential and parliamentary campaign period, some prominent Christian religious leaders frequently spoke about corruption, the electoral process, and the candidates. The churches' remarks were often openly critical of the ruling political party. While candidates and officials took issue with the churches' statements, the Government did not make attempts to silence religious leaders, other than declaring that such statements deviate from the proper role of religious leaders. Churches continued to be a significant source of political influence, particularly in rural areas.

There were generally amicable relations among the various religious communities; however, following the 2003 deportation of five Muslims allegedly associated with al-Qa'ida, violent protests led to the Muslims' targeting of Christian interests, such as churches and NGOs. Although tensions increased as a result of these events, there were no further protests during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits the use of forced exile, and the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum; however, there were long delays in the process. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees and asylum seekers.

In August, the Government cooperated with UNHCR in conducting a re-verification exercise to assess the population of refugees and asylum seekers in the country. According to UNHCR, the country hosted approximately 9,100 refugees, primarily from the Democratic Republic of the Congo, Rwanda, and Burundi, at a refugee center in Dowa. The majority of refugees resided at the Dzaleka camp, though UNHCR and the Government made efforts to relocate refugees to a second camp in Luwani that opened in October 2003. The law does not accept refugees for permanent resettlement and does not permit them to work or study; however, while no legal framework existed, the Government routinely allowed refugees to seek both employment and educational opportunities. UNHCR, NGOs, and the Government collaborated to provide children in refugee camps with access to education.

The country also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

In November 2003, the Government signed an agreement with the Government of Rwanda and UNHCR to voluntarily repatriate approximately 5,500 refugees who

filed following the 1994 genocide in Rwanda. At year's end, only a small number of refugees had participated in the voluntary repatriation.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and older. International election observers found the May 20 presidential and parliamentary elections to have substantial shortcomings, including inequitable access to the state-owned media, the ruling party's use of state resources to campaign, and poor planning by the MEC. Voter turnout was low compared with the two previous presidential elections. With approximately 36 percent of the popular vote, President Bingu wa Mutharika, chosen by former President Muluzi as the UDF candidate, was elected to serve a 5-year term, defeating opposition coalition candidate Gwanda Chakuamba, John Tembo of the Malawi Congress Party (MCP), Brown Mpingajira of the National Democratic Alliance, and Justin Malawezi, the former first vice president who ran as an independent candidate. The seats in the National Assembly were divided among several parties and independents: the UDF had 72 seats; the MCP had 58 seats; the Republican Party had 15 seats; the Alliance for Democracy had 7 seats; the People's Progressive Movement had 6 seats; the Movement for Genuine Democratic Change had 3 seats; the People's Transformation Party had 1 seat; and there were 22 Independent members. There was no clear-cut ideological difference among the major political parties. The opposition challenged the outcome of the presidential vote, but had little success in legal proceedings due to lack of evidence. Following the election, there were 9 National Assembly vacancies. In 6 constituencies, election discrepancies prevented Parliamentary placement. The newly elected President and Vice-President each won parliamentary seats, but were constitutionally barred from holding other public offices. One seat was declared vacant after the winner's opponent successfully challenged the results. By-elections for these vacancies were scheduled to take place in January 2005.

President Mutharika, Vice President Cassim Chilumpha, and a 27-member cabinet exercise executive authority. The executive exerted considerable influence over the legislature; the legislature followed a hybrid parliamentary system, and consequently a number of Cabinet ministers also were Members of Parliament.

Although the Government did not prevent the operation of opposition political parties, the parties continued to allege that the Government used bribery and other inducements, including violence, to encourage opposition party divisions and defections of key personnel to the ruling party. President Mutharika acted quickly on his campaign promises to eliminate corruption in Government, and the Anti-Corruption Bureau (ACB) launched several investigations and made several arrests and indictments of former high-level Government officials. President Mutharika repeatedly stated that no officials were immune from prosecution for corruption. The President also replaced the heads of the ACB and the Director of Public Prosecution (DPP), which helped reinvigorate anti-corruption efforts.

Some opposition rallies were cancelled when organizers discovered at the last minute that the ruling party had decided to hold its own demonstration at the same venue on the same date or that permits could not be obtained in time. On occasion, members of the Young Democrats, the UDF youth wing, also disrupted opposition political rallies (*see* section 2.b.).

Sporadic minor violence was common between supporters of rival political parties.

Public access to information is guaranteed in Article 37 of the Constitution, and the Government respected this right in practice.

There were 27 women in the 193-seat National Assembly, and there were 6 women in the 28-member Cabinet. Women comprised approximately 25 percent of the civil service. There were 2 women justices among the 23 Supreme and High Court justices, and a woman was appointed as Inspector General of Police, the highest-level position in law enforcement.

Three citizens of mixed ethnicity were members of the National Assembly.

One cabinet minister, who was also an elected Member of Parliament, was a person with disabilities.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on

human rights cases. Government officials generally were cooperative and responsive to their views.

The Ombudsman was mandated by the Constitution to investigate and take legal action against government officials responsible for human rights violations and other abuses. The Ombudsman's freedom of action was circumscribed by legislation that requires a warrant and a 3-day waiting period to gain access to certain government records. The activities of the Ombudsman are subject to judicial review.

The constitutionally mandated MHRC was charged to monitor, audit, and promote human rights provided for under the Constitution, and to carry out investigations regarding violations of any human rights. Despite limited resources, the MHRC issued its 2003 Human Rights Report during the year, which described numerous complaints of human rights violations, such as overcrowding and poor sanitation in prisons, lack of proper medical attention to sick prisoners, long periods of pretrial detention, police brutality, child abuse, domestic violence, and the lack of opposition access to the media during elections.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution specifically provides for equal rights for women, forbids discrimination based on language or culture, and provides for equality and recognition before the law for every citizen; however, in practice, the capacity of government institutions to assure equal rights for all citizens was limited.

*Women.*—Domestic violence, especially wife beating, was common, and women seldom discussed the problem openly; however, the press published frequent accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes.

The law does not specifically prohibit female genital mutilation (FGM), and there were anecdotal reports that a few small ethnic groups practiced it.

While prostitution is not illegal per se, living off the wages earned through prostitution, owning a brothel, or forcing another person into prostitution are illegal. In March, based on a presidential directive, authorities began a campaign to combat prostitution. Dozens of suspected prostitutes and some of their clients were detained and appeared before the courts. Some of those detained were convicted and assessed small fines, while others were found guilty of lesser violations or released with a warning. Civil society and women's advocacy groups protested the move as a violation of constitutional rights and as discriminatory to women, and NGOs offered the detainees pro bono legal services. A High Court Justice suspended the directive and no further action was taken.

Under the Constitution, women have the right to full and equal protection by law and may not be discriminated against on the basis of gender or marital status; however, in practice, discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity. The literacy rate among women between the ages of 15 and 45 was 46 percent; male literacy in the same age group was approximately 79 percent.

Women often had less access to legal and financial assistance, and wives often were victims of discriminatory and illegal inheritance practices in which the majority of the estate was taken by the deceased husband's family. Women usually were at a disadvantage in marriage, family, and property rights; however, awareness of women's legal rights continued to increase, and women began to speak out against abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution; 52 percent of the country's full-time farmers were women. Women typically worked more hours than men to complete the same farm tasks because they rarely had comparable tools and equipment, and they remained responsible for all household tasks. Women also had limited access to agricultural extension services, training, and credit. Gender training for agricultural extension workers and the gradual introduction of rural credit programs for women have increased; however, few women participated in the limited formal labor market, where they constituted less than 5 percent of managerial and administrative staff.

The law provides for a minimum level of child support, widows' rights, and the right to maternity leave; however, only individuals who utilized the formal legal system benefited from these legal protections.

The Government addressed women's concerns through the Ministry of Gender, Child Welfare, and Community Services. The President appointed a well-respected woman with a long history of successful social advocacy and program management

to head this ministry. Women's issues, including gender balance in political representation, were central in the May elections.

*Children.*—The Constitution provides for equal treatment of children under the law, and during the year, the Government continued a high level of spending on children's health and welfare.

The Government provided free primary education for all children, although education was not compulsory. Families were responsible for book fees and purchasing uniforms. Students from very poor families had access to a public book fund. Girls, especially in rural areas, have historically been unable to complete even a primary education and therefore were at a serious disadvantage in finding employment. During the year, the University of Malawi released a report on the status of free primary education since its inception in 1994. The report noted that over the past decade, the Government increased its education budget annually, but the increases were not proportional to increasing student enrollment. Student dropout rates marginally decreased each year since free education was introduced, but the study concluded that rates remained high. The 2002 Malawi Demographic Household and Education Data Survey's report indicated that gender gaps in primary school attendance were small but that boys were much more likely to attend secondary school than girls. There also were large gaps in achievement levels between girls and boys.

In March, the Government took steps to respond to a UNICEF study that showed a number of girls entered into sexual relationships with teachers for money, became pregnant, and subsequently left school. The study also found that many girls left school because of violent behavior by some teachers. In response, the Government expanded legal protection of students subjected to exploitation and inappropriate relationships at school.

More than half of the country's children lived in poverty, mostly in rural areas. Children in rural households headed by women were among the poorest. Only one-third of children had ready access to safe drinking water, infant mortality was high, and child malnutrition was a serious problem. A few charitable organizations attempted to reduce the number of child beggars in urban areas; however, the problem of street children worsened as the number of orphans whose parents died from HIV/AIDS increased. Extended family members normally cared for such children and other orphans.

There were societal patterns of abuse of children. Kupimbira, a societal practice that allows a poor family to take out a loan for cattle or money in exchange for their daughter, regardless of age, has re-emerged over the last few years, according to press reports. The media also reported on the sexual abuse of children, especially in relation to traditional practices of initiation, though anecdotal evidence indicated these practices were becoming less common. While rites to initiate girls into their future adult roles still were secret, information suggested that abusive practices were widespread and very damaging.

During the year, the Government worked with UNICEF, international donors, and various NGOs to create and implement a Child Justice Act to ensure juveniles suitable access to the justice system. In July, a court dedicated to children's issues was established in Blantyre. The Ministry of Home Affairs, in conjunction with UNICEF, worked to establish 37 victim's support units nationwide.

FGM was performed in rare cases on girls (*see* Section 5, Women).

The trafficking of children for sexual purposes was a problem (*see* Section 5, Trafficking). The belief that children were unlikely to be HIV positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors.

Child labor, including instances of forced child labor, was a problem (*see* Section 6.d.). Child prostitution occurred.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons specifically, and trafficking was a problem. The extent of human trafficking was undocumented. Police and the Ministry of Gender, Child Welfare, and Community Services handled cases brought to the attention of authorities. The Penal Code contains several provisions relating to prostitution and indecency that could be used to prosecute traffickers. Since 2001, seven cases involving trafficking in persons have been prosecuted; however, there were no arrests or prosecutions of suspected traffickers during the year, and no cases were brought to the attention of authorities.

Although the age of sexual consent is 14, there was no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography. During the year the government worked with UNICEF and NGOs to refine child protection laws (*see* Section 5, Children).

The country is a source for women and children trafficked for sexual purposes locally and to brothels abroad, particularly in South Africa. Victims trafficked to South Africa were typically between 14- and 24-years-old, and were recruited with offers of marriage, study, or employment in South Africa. According to the International Organization for Migration (IOM), sex tourists, primarily from Germany, the Netherlands, and the United Kingdom, lured children into sexual relationships with them while in the country. Poverty and low educational levels contributed to such exploitation. Traffickers involved in land border trafficking to South Africa were typically long-distance truck drivers and local businesswomen.

Unlike in previous years, there were no reports of persons being trafficked to Europe, or being stranded in European brothels.

On July 28, the President chaired an inter-ministerial meeting dealing with the issue of human trafficking; on July 29 high-level government officials participated in a seminar to discuss how best to combat human trafficking. In September, the Ministry of Home Affairs hosted a 3-day regional anti-trafficking conference.

Due to extremely limited resources, the Government was unable to provide funding for NGO services to victims of trafficking. During the year, police contacted NGOs for assistance when presented with possible victims.

*Persons With Disabilities.*—The Constitution provides for the support of persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society; however, the Government generally did not enforce the laws in practice, due to extremely limited resources. Reported violations were taken seriously and the President publicly declared that students with disabilities should have equal access to education and other government services. The Government has not mandated accessibility to buildings and services for persons with disabilities. There were both public and privately supported schools and training centers that assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. The Minister of Social Development and Persons With Disabilities was a person with disabilities.

During the 2004 elections, some accommodations were made for voters with disabilities. Voters requiring assistance were permitted to bring an assistant into the voting booth with them.

*Other Societal Abuses and Discrimination.*—Homosexuality is illegal, although there were no prosecutions for homosexuality during the year. In previous years, this law was used to strengthen cases against men accused of molesting young boys.

Societal discrimination against persons living with HIV/AIDS was widespread and inhibited access to treatment; many individuals preferred to keep silent about their health rather than seek help and risk being ostracized. The Ministry of Labor and Vocational Training (MOLVT) conducted a public relations program to reduce the stigma associated with having HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join trade unions and workers exercised this right in practice; however, union membership was low due to the small percentage of the workforce in the formal sector, the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to join unions. Army personnel and police could not belong to trade unions, but other civil servants were allowed to form unions. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions; however, accurate statistics on the numbers of union members were not available. Employers, labor unions, and the Government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited their effectiveness in the implementation and enforcement of the law.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the MOLVT, and registration was routinely granted. At year's end, 26 unions were registered.

The law prohibits anti-union discrimination by employers and requires that employers reinstate workers dismissed because of union activities. Unlike in previous years, there were no reports of persons who were fired for their membership in unions.

*b. The Right to Organize and Bargain Collectively.*—Unions have the right to organize and bargain collectively, and the Government protected this right in practice. The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level and at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial

councils in the absence of collective agreements for sector-level bargaining. Industrial council functions included wage negotiation, dispute resolution, and industry-specific labor policy development. In practice, the law was not effectively implemented due to lack of sufficient knowledge of the law among employers, trade unions, and government officials.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the MOLVT, and workers exercised this right in practice. A strike can only occur after all settlement procedures established in a collective agreement (an understanding, not necessarily signed, reached by both parties to attempt mediation) and conciliation efforts have failed. Laws do not specifically prohibit retaliation against strikers. There was no prohibition on actions against unions that were not registered legally. Members of a registered union in “essential services” only have a limited right to strike. Essential services were specified as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population, as determined by the Industrial Relations Court (IRC).

Arbitration rulings were legally enforceable; however, in practice, due to the lack of funding and 2-year case backlog, the IRC could not monitor cases and enforce the laws adequately.

At year's end, 14 firms held licenses to operate under export processing zone (EPZ) status, and all were operational. The full range of labor regulations applied to the EPZs; however, union organizers said they had little access to workers in the EPZs. The 2002 International Confederation of Free Trade Unions (ICFTU) survey noted that companies in the EPZs were also resistant to union activity.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, such labor occurred (*see* Sections 5 and 6.d.). According to the ICFTU, bonded labor involving entire families was widespread on tobacco plantations. Tobacco tenants have exclusive arrangements, often unwritten, with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater than the artificially low price received for the tobacco crop, leading to a situation of debt and bonded labor to repay the input and other costs.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Constitution defines children as persons under 16 years of age, and the law prohibits the employment of persons less than 14 years of age; however, child labor was a problem. The law also prohibits the employment of children less than 18 years of age in work that was hazardous, harmful, or interferes with their education. There was no special legal restriction on children's work hours, though during the year the Government began work on a code of conduct to specify work hours for children. There was significant child labor on tobacco and tea farms, subsistence farms, and in domestic service, largely as a result of extreme poverty and longstanding cultural traditions. One local NGO reported that in urban areas, it was common to find young girls working outside of their family as domestic servants, receiving little or no wages. School-aged children often worked as vendors. The results of a May 2002 MOLVT study on child labor in the country were released in July. The study indicated that 72 percent of children were in school, and 84 percent of children were working either in or outside of their homes.

In October, an International Labor Organization (ILO) report noted a rise in the number of children doing “ganyu” (piecework) on the land to earn money to buy food or support their families. According to the ILO, 11 percent of children ages 10 and 11 were informally employed, and an estimated 42 percent of young people between ages 15 and 19 participated in the labor market.

Budgetary constraints hindered minimum work age and child labor law enforcement by police and MOLVT inspectors. In 2003, the Government trained approximately 120 labor officers in child labor monitoring, and has held refresher training since that time. During the year, the MOLVT youth committees in rural areas monitored and reported on child labor.

*e. Acceptable Conditions of Work.*—The MOLVT sets separate urban and rural minimum wage rates based on recommendations of the Tripartite Wage Advisory Board (TWAB) composed of representatives of labor, Government, and the private sector. However, the TWAB encountered problems due to inefficient organizational structure and inadequate funding, which hindered timely and accurate revision of the wage rate recommendations. The urban minimum wage amounted to approximately \$0.53 (MK 56) per day; in all other areas, it was approximately \$0.38 (MK 40) per day. Minimum wage rates did not provide a decent standard of living for a worker and family. Wage earners often supplemented their incomes through farming activities. The MOLVT lacked the resources to enforce the minimum wage effec-

tively. However, the minimum wage largely was irrelevant for the great majority of citizens, who earned their livelihood outside the formal wage sector.

The maximum legal workweek was 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice, employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards; however, MOLVT enforcement of these standards was erratic. Workers—particularly in industrial jobs—often worked without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment; however, given the low level of education of most workers and the high level of unemployment, workers were unlikely to exercise this right.

Mechanisms for protecting internationally recognized worker rights were weak. There were serious manpower shortages at the MOLVT; as a result, there were almost no labor standards inspections.

The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

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## MALI

Mali is a constitutional democracy that continued to implement a decentralized form of government. In May 2002, General Amadou Toumani Toure was elected to a 5-year term as President. The presidential and legislative elections were judged generally free and fair by international and domestic observers; however, there were some administrative irregularities. The former ruling party, Alliance for Democracy in Mali (ADEMA), lost its majority in the National Assembly, and no party held a clear majority. During the year, President Toure reshuffled the cabinet and expanded the cabinet to 28 ministers, including 10 former sub-ministerial offices, and appointed a new Prime Minister. The Government organized simultaneous urban and rural communal elections for the first time. The judiciary continued to be subject to executive influence, and there were reports of corruption in the courts.

Security forces are composed of the army, air force, Gendarmerie, National Guard, and police. The army and air force are under the control of the civilian Minister of Defense. The National Guard is administratively under the Minister of Defense; however, it responds to taskings from the Minister of Internal Security and Civil Protection. The police and Gendarmerie are under the Ministry of Internal Security and Civil Protection. The police and gendarmes shared responsibility for internal security; the police were in charge of urban areas only. While civilian authorities generally maintained effective control of the security forces, there were isolated instances in which elements of the security forces acted independently of government authority. There were no reports that security forces committed human rights abuses.

The country was very poor with a market-based economy, and its population was approximately 12 million. Most of the work force was employed in the agricultural sector, particularly farming and animal husbandry. The per capita gross national product was approximately \$240, which provided most of the population with a low standard of living, although there was a sizable middle class. The economy depended heavily on foreign assistance. Desertification, deforestation, soil degradation, and social limitations, including a low literacy rate and a high population growth rate (2.2 percent), contributed to poverty. The inflation rate remained low, and public sector wages were adjusted to keep pace with inflation. Poor infrastructure, minimal foreign investment, administrative inefficiency, and corruption also were important factors in limiting economic growth.

The Government generally respected its citizens' human rights; however, there were problems in some areas. Prison conditions remained poor. Occasionally police arbitrarily arrested and detained persons. The judicial system's large case backlog resulted in long periods of pretrial detention and lengthy delays in trials. Domestic violence against women was widespread. Discrimination against women persisted, and social and cultural factors continued to sharply limit economic and educational opportunities for most women. Female genital mutilation (FGM) was widespread, although educational campaigns against FGM were ongoing. The civil unrest in Cote d'Ivoire and the increased control at the country's southern border significantly slowed child trafficking with Cote d'Ivoire; however, trafficking remained a problem

especially within the country and with other neighboring countries. Hereditary servitude relationships continued to informally link different ethnic groups. Despite provisions in the Labor Code against child labor, regulations were often ignored in practice and child labor remained a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings by the Government or its agents; however, two students were killed in a confrontation with riot police.

On November 30, one student died during confrontation between different student groups. After rumors spread that the student died while in police detention, violent student demonstrations broke out on December 3 and 4. Two students died after being trampled during a confrontation between the riot police and the students. Following investigations, two police officers, one senior government official, and four students remained in detention without charge at year's end. The detention of police and government officials suggested possible police involvement, although the investigation was ongoing at year's end.

Inter-ethnic conflict resulted in deaths during the year (*see* Section 5).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions were poor. Prisons continued to be overcrowded, medical facilities and access were inadequate, and food supplies were limited. Men and women were separated in Bamako prisons; however, outside the capital, men and women remained housed in the same building but in separate cells. In Bamako, juvenile offenders usually were held in the same prison as adult offenders, but they were kept in separate cells. Pretrial detainees were held with convicted prisoners.

The Government permitted prison visits by human rights monitors, provided that administrative procedures were followed. Nongovernmental organizations (NGOs) and other monitors were required to submit a request to the prison director who then forwarded it to the Ministry of Justice. Although these administrative procedures were in place for several years, the Government began enforcing them during the year. Approvals were routinely granted and took up to 1 week. Several organizations, including the Malian Association of Human Rights, the Malian Association of Women Lawyers, and other nongovernmental organizations (NGOs) visited prisoners and worked with women and juvenile prisoners to improve their conditions. According to an NGO, the administrative process hindered the ability of monitors to ascertain if there were human rights violations.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, on occasion, police arrested and detained persons arbitrarily.

The national police force is organized into various divisions. Each district has a commissioner who reported to the Regional Director at national headquarters. The police force was moderately effective but had problems with lack of resources and training. Corruption existed within the police force.

Judicial warrants are required for arrest. Normally, the complainant delivered the warrant, which stipulated when the person was to appear at the police station. In some cases, the police served the warrant, based on a request from an influential relative of the complainant or if they received a bribe to execute the warrant. Frequently, in cases where a monetary debt was owed, the arrested person resolved the case at the police precinct, and the police received a portion of the recovered money.

The Constitution provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice, detainees were not always charged within the 48-hour period. Limited rights of bail or the granting of conditional liberty existed, particularly for minor crimes and civil matters. On occasion, the authorities released defendants on their own recognizance.

Administrative backlogs and an insufficient number of lawyers, judges, and courts often caused lengthy delays in bringing persons to trial. In extreme cases, individuals remained in prison for several years before coming to trial. Local lawyers estimated that approximately half of prison inmates were pretrial detainees.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch continued to exert influence over the judicial system. The Ministry of Justice appointed and had the power to suspend judges; it supervised both law enforcement and judicial functions. The President headed the

Superior Judicial Council, which oversaw judicial activity. Domestic human rights groups alleged that there were instances of bribery and influence peddling in the courts. The Government continued its campaign against corruption (*see* Section 3).

The Supreme Court has both judicial and administrative powers. The Constitution provides for a separate Constitutional Court that oversees issues of constitutionality and acts as an election arbiter. The Constitution also provides for the convening of a High Court of Justice with the power to try senior government officials in cases of treason.

Except in the case of minors, trials were public, and defendants had the right to be present and have an attorney of their choice. Defendants and attorneys had access to government evidence relevant to their cases. Defendants are presumed innocent and have the right to confront witnesses and to appeal decisions to the Supreme Court. Court-appointed attorneys were provided for the indigent without charge.

Village chiefs, in consultation with the elders, decided the majority of disputes in rural areas. If these decisions were challenged in court, only those found to have legal merit were upheld.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. Police searches were infrequent and required judicial warrants.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media was active and expressed a wide variety of views without restriction. Most of the previously reported 42 private newspapers and journals have disappeared, primarily due to a lack of financial resources. In the average week, about 15 different newspaper editions were published in Bamako, some appearing daily or weekly and others appearing occasionally. On the average day, there were about 10 to 12 different newspapers available for purchase. Most were small editions and only the government paper had a firm funding base. All newspapers were required to register with the Ministry of Communications; however, registration was routine.

The Government controlled the only television station and 1 of more than 125 radio stations; however, all broadcasting media presented a wide range of views, including those critical of the Government. The relative expense of newspapers and television, coupled with a low literacy rate, made radio the most prevalent medium of mass information and communication. In addition to commercial radio stations, private or community radio broadcasters included those run by associations and others directed toward smaller villages (the latter two radio services enjoyed special tax advantages).

A number of foreign broadcasters operated in Bamako through local media. Domestic reception and distribution of foreign satellite and cable television were permitted and fairly widespread, especially in Bamako. There were no private television stations that broadcast domestically produced programs.

The law regulates the press and provides for substantial criminal penalties, including imprisonment, for libel and for public injury to the Head of State, other officials, and foreign diplomats; these laws leave injury undefined and subject to judicial interpretation. However, the Government has never prosecuted journalists on criminal libel charges. The case of three reporters arrested in October 2003 on charges of defaming an attorney was still pending, and the journalists were freed while awaiting trial.

The Government did not restrict access to the Internet. Licenses to operate Internet servers were granted freely, but were prohibitively expensive.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The law requires groups that wish to hold public meetings to obtain the mayor's permission; however, such permission was granted routinely during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government required that all public associations, including religious associations, register with the Government. The registration process was routine and not burdensome. Traditional indigenous religions were not required to register.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations. Some police and gendarmes used the occasion to extort bribes.

The Constitution specifically prohibited forced exile; the Government did not use it.

According to both U.N. High Commissioner for Refugees (UNHCR) and government estimates, there were approximately 16,000 refugees in the country. Of the 11,000 Mauritians who sought refuge in 1989, only 6,844 remained in refugee camps in the western part of the country.

Approximately 50 percent of refugees lived in urban areas, including Sierra Leonians, Ivorians, and Liberians. The Government had a transit center located 120 miles from Bamako, where it hosted approximately 100 of the most vulnerable refugee and asylum applicants. The center had a capacity of approximately 300 persons and could be expanded to hold 900. The country received most of its refugees from Cote d'Ivoire and a small number from Liberia during the year.

The law provides for the granting of refugee status or asylum to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. A national committee in charge of refugees operated with institutional assistance from the office of the UNHCR. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. On April 24 and 25 the Government and UNHCR repatriated over 200 Liberian refugees back to Monrovia. The refugees lived in the southern city of Sikasso following their departure from Ghana in late February.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Under the Constitution, the President is Chief of State and Commander in Chief of the armed forces and is elected for a 5-year term with a limit of two terms. The President appoints the Prime Minister, other members of the Government, and high military officers as mandated by the Constitution.

In 2002, presidential elections were held, and General Amadou Toumani Toure won more than 60 percent of the vote even without the support of a political party. Independent international and domestic observers judged the elections to be generally free and fair and without evident fraud; however, there were some administrative irregularities.

Legislative elections in 2002 were also considered to be generally free and without evident fraud; however, there were some administrative irregularities. Shifting alliances had an impact on the composition of the National Assembly. The former majority party, ADEMA, held 37 of 147 seats after losing 13 seats to the Union for the Republic and Democracy (URD); the Rally for Mali (RPM) party and its allies held 65; and the remaining 26 seats were held by other smaller political parties and independents. No one party or coalition held a majority.

On April 29, President Toure reshuffled the 18-person cabinet and expanded the cabinet to 28 ministers, including 10 former sub-ministerial offices. On May 2, President Toure appointed a new Prime Minister, Ousmane Issoufi Maiga.

Communal elections were held on May 30, and the election process was reported to be generally orderly and transparent. The former ruling party ADEMA was the principle winner in the polls gaining 28 percent of 10,789 seats in the country's 703 communes. Its rivals, RPM and URD obtained 13 and 14 percent of seats, respectively. Six other well-known parties share 16 percent of the seats, with a coalition of lesser-known parties holding 11 percent. Independents did not do as well as some observers anticipated. Voter turnout, at 43.05 percent, was the highest since the 1991 political referendum.

There was no evidence of widespread fraud or coercion; however, minor incidents occurred in almost all regions of the country. A village in the western region of Kayes and another in the central region of Segou failed to participate in the process because they refused the selection of another village as their polling station. In separate incidents, militants whose candidate was disqualified removed voting equip-

ment in the northern regions of Gao and Kidal to prevent the voting process. Approximately 20 persons were under police investigation for possession of stolen voter cards. No charges had been filed against them at year's end.

Local governments benefited from central government subsidies, but they were also able to collect local taxes to support their operations. Decentralization changed traditional power relationships between government and the governed and relieved formerly powerful civil servants of their authority. The Government has passed many laws that allow greater financial autonomy in the areas of education, health, and infrastructure. Elected officials, especially in the southern regions, made some progress. However, in the lesser economically developed northern regions of the country, some mayors and other local officials were coping with difficulties stemming from revenue collection and local development programs. Effective service delivery strongly influenced citizens' perception and confidence in elected leaders and trust of Government; however, local service delivery deteriorated where financial and administrative capacity was weak.

Corruption continued to hamper the Government's development efforts.

On May 10, the Supreme Court installed Sidi Sosso Diarra, Auditor General, and Modibo Diallo, Deputy Auditor General, to head the Office of the Auditor General Office, which served as an added prevention against corruption. The Auditor General's Office is an independent authority designed to monitor the management of public resources and all public institutions, public companies, local and private associations, and NGOs that receive public financing.

On August 8, 16 civil servants, including the former Director and Deputy Director of Customs, the former Director of Mines, ministerial advisors, and businessmen were convicted of corruption for abusing a government business tax benefit program. Many of the convicted misused the program by creating fictitious businesses and providing false justification for reimbursement of custom taxes. The sentences ranged from 2-years to 18-months, with three people receiving suspended sentences.

The law provides for public access to government information and administrative documents for the press and any citizen. If an information request is refused, the person inquiring can appeal to an administrative court and the appeal must be handled within 3 months.

A total of 15 women held seats in the 147-member National Assembly. There were 5 female cabinet members in the 28-seat Cabinet. Five women served on the Supreme Court out of 33 justices, and 3 women served on the Constitutional Court out of 9 justices.

The National Assembly had 14 members of historically marginalized pastoralist and nomadic ethnic minorities representing the northern regions of Gao, Timbuktu, and Kidal. The Cabinet also had two representatives of the northern regions, the Minister of Health and the Minister of State Reforms and Institutional Relations.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Some of these groups included the Malian Association for Human Rights, a smaller Malian League of Human Rights, and a local chapter of Amnesty International. The International Committee for the Red Cross (ICRC) had offices in Bamako, Timbuktu, and Gao.

On July 26, armed assailants attacked seven ICRC workers on their way to assist victims in the northeastern region of Bourem still suffering from the effects of the 2003 floods; there were no injuries.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on social origin, color, language, sex, or race, and while the Government generally respected these provisions in practice, social and cultural factors gave men a dominant role.

*Women.*—Domestic violence against women, including spousal abuse, was tolerated and common; no statistics were available on the extent of the problem. Assault in marriage was a crime; however, police were reluctant to enforce laws against or intervene in cases of domestic violence. Many women were reluctant to file complaints against their husbands because they were unable to support themselves financially.

FGM was common, especially in rural areas, and was performed on girls at an early age. According to domestic NGOs, approximately 95 percent of adult women had undergone FGM. The practice was widespread among most regions and ethnic groups, was not subject to class boundaries, and was not religiously based. There

were no laws against FGM, and the Government did not propose legislation prohibiting FGM. Human rights organizations fighting FGM lobbied the National Assembly to pass a law against FGM. However, the Government passed a decree in 1999 that prohibited the practice of FGM in health centers. As a result, FGM no longer was practiced openly and was more commonly practiced on toddlers mostly in rural areas.

In 1999, the Government instituted a two-phased plan to eliminate all forms of FGM by 2008. The education phase of the national plan was ongoing. According to a human rights organization fighting FGM, the educational phase (through workshops, videos, and theater) made some impact in cities, where the practice noticeably decreased, especially on children of educated couples. In many instances, FGM practitioners agreed to stop the practice in exchange for an income generating activity. The National Committee Against Violence Towards Women linked all the NGOs active in preventing FGM, and various NGOs campaigned against FGM.

Women had very limited access to legal services due to their lack of education and information, and because family law favored men. Women particularly were vulnerable in cases of divorce, child custody, and inheritance rights, as well as in the general protection of civil rights. The overwhelming factor affecting women's access to legal services was cost. For example, if a woman wanted a divorce, she had to pay approximately \$60 (30,000 CFA francs) to start the process, an amount most women did not have.

Despite legislation giving women equal property rights, traditional practice and ignorance of the law prevented women from taking full advantage of the law; even educated women. Prospective spouses chose between polygynous and monogamous marriages; a marriage could not take place without both parties' consent. However, when no preference was specified in the marriage certificate, judges assumed that the marriage was polygynous. A community property marriage had to be specified in the marriage contract. Traditional practice discriminated against women in inheritance matters. For example, men inherited most of the family wealth, and women received a much smaller portion of estates.

Women's access to employment in the professions and government, and to economic and educational opportunities, was limited. Women constituted approximately 15 percent of the labor force. The Government, the country's major employer, paid women the same as men for similar work. Women often lived under harsh conditions, especially in rural areas, where they performed difficult farm work and did most of the childrearing.

A second 4-year (2004–2008) national plan of action for the promotion of women was launched early in the year. The program continued to seek a reduction in inequalities between men and women and created links between women within the Economic Community of West African States (ECOWAS) countries and throughout Africa. Although the Government launched the second 4-year plan, no analysis or evaluation of the results of the first 4-year plan was conducted.

Several women's rights groups, such as the Association of Malian Women Lawyers and the Association of Women in Law and Development, worked during the year to highlight problem areas in the law, mainly the family code, through activities such as debates, conferences, and women's rights training. Training was targeted to reach magistrates, police officers, and religious and traditional leaders, while providing legal assistance to women.

*Children.*—The Government was committed to providing for children's welfare and rights. Several laws protect children and provide for their welfare. An ordinance enumerates the rights of children and provides for government positions in each region of child "delegates," whose role would be to safeguard the rights and interests of children. The ordinance also creates special courts for children and specified protections for children in the legal system; however, there was no juvenile court system at year's end.

Education was tuition free and, in principle, open to all, although the majority of students left school by the age of 12. Students had to provide their own uniforms and supplies to attend public schools. While primary school was compulsory up to the age of 12, only 53.4 percent of children in the 7–12 age group (45.7 percent of girls and 61.4 percent of boys) received a basic education owing to a lack of primary schools, especially in rural areas where 80 percent of the population lived. Net enrollment of children in junior high school was 18.6 percent, of which 13.8 percent were girls. Shortages of teachers and materials, poverty, and cultural tendencies to place less emphasis on education of girls also affected the rate of girl's enrollment and education. Literacy rates among girls remained significantly lower than for boys. A 1998 government estimate reported a 12 percent literacy rate for women.

The Government solicited financial assistance from the business and sporting communities to provide a means of education to children in the country. On June 16, the Ministry of Education and the Ministry of Solidarity launched a program to recruit businessmen and women and sport celebrities to contribute financially to children's education in the country. Approximately 300 children were sponsored in the program.

The country had Koranic schools, which taught only the Koran, and Medersas that taught not only the Koran, but also reading, writing, and mathematics. There were 852 registered Medersas teaching at the primary school level with 140,194 students; 10 percent of all students attending primary school during the year. While these schools were by statute private, the Government's policy was support to them by providing textbooks and providing some teacher training and pedagogic support to Medersa schools. There was a department at the Ministry of Education charged with monitoring and supporting Medersas. There were reports that children who attended Koranic schools spent more time begging on the streets than learning in the classroom. The Koranic schools were independent institutions that depended on donations from parents and the money the children (known as garibouts) received from begging on the streets. They received no funding from the Government, and were not part of the Government's educational system. The Government believed it was the responsibility of the Islamic leaders to modernize and monitor Koranic schools. Koran schoolteachers reported that they requested the Government's assistance in providing basic reading and writing materials.

The Social Services Department investigated and intervened in cases of reported child abuse or neglect. According to local human rights organizations, reported cases were rare; however, statistics were unreliable.

The marriage code allows girls under the age of 15 to marry provided they receive special permission from a judge. Women's rights organizations opposed this provision of law as contradicting international conventions that protect children through the age of 18.

FGM was commonly performed on young girls (*see* Section 5, Women).

Child labor and trafficking in children were problems (*see* Sections 5, Trafficking and 6.d.).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons but specifically prohibits trafficking in children; however, children were trafficked during the year. Child trafficking is punishable by 5 to 20 years in prison. There also are laws that prohibit the contractual use of persons without their consent. Penalties increased if a minor was involved; however, these penalties were not imposed during the year.

During the year, three women were arrested in Segou region for trafficking for prostitution and one man at the Guinea border for trafficking young girls to become housemaids in Conakry. Though legal protections and measures were in place, parents were reluctant to follow through with charges and cases often languished unresolved within the justice system. At year's end, investigations were ongoing and no charges had been announced in previous year's cases.

Both the Ministry for the Promotion of Women, Children, and the Family and the Ministry of Labor and Civil Service handled the problem of trafficking. Both ministries, in cooperation with the Ministry of Foreign Affairs and the Ministry of Territorial Administration, developed a program to identify and rehabilitate victims, educate the population, and strengthen the legal system with regard to the movement and trafficking of minors.

The Government signed a bilateral agreement with Burkina Faso and Senegal, and during the year assisted in the repatriation of 19 children to Burkina Faso.

In past years, child trafficking to plantations in Cote d'Ivoire based on coercion or deception of children and their families by organized networks of traffickers was prevalent; however, civil unrest in Cote d'Ivoire and the increased control at the country's southern border significantly altered trafficking routes, slowing the flow to Cote d'Ivoire and increasing the flow to other neighboring countries. The country has become a point of origin, transit, and destination for trafficking. Most of the trafficking occurred within the country's borders during the year. Children were trafficked to the rice fields in the central regions; boys were trafficked to mines in the southeast; and girls were trafficked for involuntary domestic servitude in Bamako. The victims were usually from the central regions of the country and not from a specific ethnic group. Women and girls were trafficked from Nigeria for sexual exploitation. Traffickers were mainly from the country.

The Government worked closely with international organizations and NGOs and local NGOs to coordinate the repatriation and reintegration of trafficking victims. Fifty-four children were repatriated from Senegal during the year. Welcome centers

in Mopti, Segou, Sikasso, and Bamako assisted in returning trafficked children to their families.

On March 22, the International Organization for Migration organized a sub-regional workshop involving participants from Cote d'Ivoire, Burkina Faso, Senegal, and Guinea on child trafficking during the year.

Parents were required to carry travel passes for children, a measure intended to curb child trafficking. Following information campaigns during the year and in 2003, the public was aware of the usefulness of the travel document in the fight against child trafficking. There were no reports that these documents hindered legitimate travel during the year.

*Persons With Disabilities.*—There was no specific legislation protecting the rights of persons with physical or mental disabilities or mandating accessibility to public buildings; however, the Government did not discriminate against persons with physical disabilities in regard to employment, education, and other state services. The Government had not made provisions for persons with disabilities in these areas. There was no societal discrimination against persons with disabilities; however, in view of the high unemployment rate, persons with physical disabilities often were unable to find work.

*National/Racial/Ethnic Minorities.*—There was inter-ethnic violence between the Arabs and the Kountas in the north. Sporadic fighting between Kountas and Arabs occurred in the Gao area over the past 5 years primarily over resources, and because the Kountas were always in leadership positions, although they were fewer in number. Following the transition to democratic rule and elections, leadership roles have changed. Mediation sessions have been held; however, hostilities between the two communities continued to fester.

On August 7 in the Gao region, three Arabs and approximately seven Kountas were killed during a flare up of inter-ethnic hostilities between the two communities. An investigation of the clash was ongoing at year's end.

On August 12, a criminal court sentenced 17 out of 23 persons charged with assassination, arson, destruction of fields and various goods, and cattle raiding stemming from a May 2003 dispute over a local pond in Kela and Salamale, southwest of Bamako. The 17 found guilty received a 5-year sentence; the remaining 6 were acquitted. Approximately three persons had been killed and nine severely wounded in the clash.

On September 11, prisoners, including men convicted of murder during the 1998 Arab/Kounta conflict escaped in a well-organized jailbreak. Efforts to locate escapees were unsuccessful.

On October 18, a customs officer was killed during a confrontation between two Tuareg communities of Kidal. The customs officer volunteered to act as a mediator between the two factions, but was ambushed and killed by members of one of the factions. One of the assailants was arrested and charged.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code specifically provides for the freedom of workers to form or join unions and protects freedom of association, and workers exercised this right in practice. Only the military, the Gendarmerie, and the National Guard were excluded from forming unions. Virtually all salaried employees were organized, including teachers, magistrates, health workers, and senior civil servants.

Neither the Constitution nor the Labor Code prohibits anti-union discrimination, but there were no reports of anti-union behavior or activities during the year.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to strike, and workers exercised this right in practice. The growth of independent unions led to more direct bargaining between these unions and their employers. Wages and salaries for workers belonging to the National Union of Malian Workers (UNTM) Federation and the Syndicated Confederation of Malian Workers (CSTM) were set by tripartite negotiations between the Ministry of Labor, labor unions, and representatives of the National Council of Employers of the sector to which the wages applied. Civil service salary levels were pegged nationally to an index established by the Government. These negotiations usually set the pattern for unions outside the UNTM. The Ministry of Labor had an office that dealt with labor disputes and acted as a mediator in labor disputes between employers and employees. There are no export processing zones.

The Constitution provides for the right to strike; however, there were restrictions in some areas. For example, civil servants and workers in state-owned enterprises were required to give 2 weeks' notice of a planned strike and enter into mediation and negotiations with the employer and a third party, usually the Ministry of Labor

and State Reforms. The Labor Code prohibits retribution against strikers, and the Government generally respected this requirement in practice.

Several strikes, including by teachers, police officers, foreign service officers, and magistrates, occurred during the year. These strikes generally were settled within a few days.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

The law prohibits the contractual use of persons without their consent; penalties include a fine and hard labor. The penalties increase significantly if a minor, defined as someone less than 15 years of age, was involved.

There were some reports that de facto slavery, long reported to have existed in northern salt mining communities, evolved to wage labor in recent years; however, reliable evidence about labor conditions in those remote facilities remained unavailable. Hereditary servitude relationships continued to informally link different ethnic groups, particularly in the north.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code has specific policies that pertain to child labor; however, these regulations often were ignored in practice and child labor was a problem. The Labor Code permits children between the ages of 12 and 14 to work up to 2 hours per day during school vacations with parental approval. Children between the ages of 14 and 16 may work up to 4° hours per day with the permission of a labor inspector, but not during nights, on Sundays, or on holidays. Children between the ages of 16 and 18 could work in jobs that physically were not demanding; boys could work up to 8 hours per day and girls up to 6 hours per day. The Government implemented a new plan of action against child labor during the year. The plan, led by the Minister of Labor, focused on educating and training children.

The vast number of children who worked in rural areas, helping with family farms and herds, and those who worked in the informal sector, for example, as street vendors were not protected by laws against unjust compensation, excessive hours, or capricious discharge.

Child labor predominated in the agricultural and domestic help sectors and, to a lesser degree, in craft and trade apprenticeships, and cottage industries. Apprenticeship, often in a family member's or a parent's vocation, began at an early age, especially for children unable to attend school.

The authorities enforced Labor Code provisions through inspectors from the Ministry of Labor and State Reforms, who conducted surprise inspections and complaint-based inspections; however, resource limitations restricted the frequency and effectiveness of oversight by the Labor Inspection Service, and the Service operated only in the formal sector.

The National Campaign Against Child Labor, led by the International Program for the Elimination of Child Labor (IPEC)-Mali, was responsible for investigating abusive forms of child labor. IPEC relied on labor inspectors appointed by the Government in Bamako and in regional labor offices throughout the country. Investigations were held when NGOs or the media provided information that there was abusive child labor. There were no cases of child labor investigated during the year.

Unlike in previous years, there were no reports that children were kidnapped and sold into effective slavery during the year.

*e. Acceptable Conditions of Work.*—The Labor Code specifies conditions of employment, including hours, wages, and social security; however, in practice, many employers either ignored or did not comply completely with the regulations. The national minimum wage rate, set during the year, was approximately \$53 (28,000 CFA francs) per month. Workers had to be paid overtime for additional hours. The minimum wage did not provide a decent standard of living for a worker and family. The minimum wage was supplemented by a required package of benefits, including social security and health care. While this total package could provide a minimum standard of living for one person, in practice, most wage earners supported large extended families and supplemented their income by subsistence farming or employment in the informal sector.

The legal workweek was 40 hours (45 hours for agricultural employees), with a requirement for at least one 24-hour rest period. The Social Security Code provides a broad range of legal protections against hazards in the workplace, and workers' groups brought pressure on employers to respect parts of the regulations, particularly those affecting personal hygiene. However, with high unemployment, workers often were reluctant to report violations of occupational safety regulations. The Labor Inspection Service of the Ministry of Labor oversaw these standards but lim-

ited enforcement to the modern, formal sector. It was not effective in investigating and enforcing workers' safety and was insufficiently funded for its responsibilities.

Workers had the right to remove themselves from dangerous work situations and request an investigation by the Social Security Department, which was responsible for recommending remedial action where deemed necessary; it was not known if any worker had done so.

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## MAURITANIA

Mauritania is a highly centralized Islamic republic dominated by a strong presidency. The Constitution provides for a civilian government composed of a dominant executive branch, a senate, and a national assembly. President Maaouiya Ould Sid'Ahmed Taya, head of the ruling Republican Social Democrat Party (PRDS), has governed since 1984, first as head of a military junta and since 1992 as head of an elected civilian government. Taya was reelected President with more than 67 percent of the vote in November 2003. The leading opposition candidate was arrested just before election day, released on the eve of election day, then arrested again the day after day elections. Opposition candidates alleged widespread fraud, but they chose not to contest the election's results via available legal channels. Several political parties remained banned, and the Government refused two new political parties' requests for official recognition. The judiciary was subject to significant pressure from the executive through the latter's ability to appoint and pressure judges.

The Ministry of Defense directs the armed forces and Gendarmerie; the Ministry of Interior directs the National Guard and police. The armed forces are responsible for national defense. The National Guard performs police functions throughout the country in areas in which city police are not present. The Gendarmerie is a specialized paramilitary group responsible for maintenance of civil order in and outside metropolitan areas. The civilian authorities generally maintained effective control of the security forces; however, authorities arrested over 100 military, police, and Gendarmerie officers in August, September, and October on charges of coup plotting. Some members of the security forces committed human rights abuses.

The country had an estimated population of 2.9 million and had a market-oriented economy. Persistent drought, widespread desertification, and the largest locust invasion in at least 15 years have severely harmed the country. Mauritania suffers from rapid urbanization, extensive unemployment, pervasive poverty, and a burdensome foreign debt. The concentration of much of the country's wealth in the hands of a small elite, including the President's tribe and related Moor tribes, as well as a lack of transparency and accountability in certain areas of governance, impeded economic growth. The country received foreign assistance from bilateral and multilateral sources.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The Government circumscribed citizens' ability to change their government. There were some reports that the police beat detainees, and there were unconfirmed reports of torture. The Government took action against some members of security forces who committed abuses; however, impunity remained a problem. Prison conditions were harsh. Security forces used arbitrary arrest and detention and illegal searches. Although lengthy pretrial detentions continued, the length of pretrial detentions grew shorter due to an increased number of general and specialized courts. The Government continued its program of judicial reform and training. At times, the Government restricted freedom of speech, the press, and assembly. The Government limited freedoms of association and religion. The Government refused to recognize officially some nongovernmental organizations (NGOs) and human rights organizations. Discrimination against women continued. Female genital mutilation (FGM) remained a serious problem, despite some government efforts to halt the practice. Trafficking in persons was a problem. Ethnic tensions continued, and the largely southern-based ethnic groups remained underrepresented in political life, and some of their members felt excluded from effective political representation. Despite government efforts to eradicate the practice, local and international reports continued that slavery in the form of involuntary servitude persisted, particularly in remote regions of the country where a barter economy still existed. In addition, former slaves or descendants of slaves continued to work voluntarily for former masters or others in highly dependent relationships that constituted extreme servitude. Child labor in the informal sector was common.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. The trial of the two policemen charged with killing Amadou Kane, in August 2003, began in June. The government prosecutor charged the policemen with involuntary manslaughter and chose not to put the policemen into pretrial confinement. The trial continued at year's end.

There were no developments in the 2003 drowning of Taleb Boubacar on the Nouakchott beach or in the official investigation into the killing of a teenager in Kaedi.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police beat criminal suspects in custody. Several allegations of torture, in particular, of torture at the Ouad Naga and police school prisons, remained unconfirmed.

In October, Al-Jazeera broadcasted several images of bound and hooded men at the police school and Ouad Naga prison in connection with the coup attempts and plots during 2003. The Government categorically denied that prisoners at either prison had been tortured, and, at year's end, continued to work on an ICRC request for an official visit to these prisons.

Lawyers and family members of 129 soldiers detained in connection with the June 2003 coup attempt continued to allege that security forces tortured the detainees (see Section 1.d.). Neither media nor detainees provided conclusive evidence of torture.

Prison conditions remained harsh, although human rights activists reported that prison administration continued to show improvement. In some prisons, serious overcrowding persisted, and sanitation facilities remained inadequate, reportedly contributing to diseases such as tuberculosis, diarrhea, and dermatological ailments. Medical supplies, mainly provided by an international NGO, remained insufficient in all prisons. Prisoners with high-level government connections and with families to bring them food, medicines, and reading material fared better than the less privileged or citizens from other countries. In June, the Government provided food, bedding, medicines, and clothing to the Beyla prison in Nouakchott; however, budget allocations to improve food and nutrition, medical services and supplies, and bedding and cleaning supplies were not sufficient. Guard force management generally enforced regulations against beatings and torture; however, there continued to be credible reports of beatings of detainees at the Commissariat outside the Nouakchott prison. The nationwide prison capacity was 700, and, in September, the prison population was approximately 1,000. The prison population in Nouakchott was 405 persons. There were 381 men, 8 women, and 16 minors; minors were held in separate facilities. Local NGOs approvingly noted that the Government did not imprison any female rape victims during the year, in contrast to past practice.

Female prisoners have separate facilities with female guards and a communal garden. Children of female prisoners remained with their mothers, or the Ministry of Justice gave temporary custody of the children to another family member. The Noura Foundation, an NGO working in the prison, provided education and domestic training to the female prisoners. UNICEF, in collaboration with the Catholic NGO CARITAS and the Noura Foundation, provided services such as job training and sport activities in the juvenile detention centers. Pretrial detainees were frequently held with convicted prisoners, as a result of over crowding problems in the prisons.

The Government permitted prison visits by NGOs, diplomats, and international human rights observers. Foreign diplomats visited some prisons during the year. The International Committee of the Red Cross (ICRC) had access to prisons but did not conduct prison visits during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, there were frequent reports that the police arbitrarily arrested and detained citizens.

The police, who are under the control of the Ministry of the Interior, lacked equipment and training, which often weakened attempts to enforce the law. Corruption was believed to be endemic at all levels of the police. Police generally acted with impunity. The Government often did not hold security officials accountable or prosecute security officials for abuses.

The application of constitutional safeguards continued to vary widely from case to case. The law requires that courts review the legality of a person's detention within 48 hours of arrest. The police may extend the period for another 48 hours,

and a prosecutor or court can detain persons for up to 30 days in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney. While one article of the law provides detainees with the right to prompt judicial determination of the charges against them, an older law allows the Government to detain persons for up to 30 days without a judicial determination. The Government frequently adhered to the older law, particularly during politically turbulent periods. There is a provision for granting bail, but it was rarely used. The Government continued its judicial system reforms, which included creating specialized appeals courts and training judges in specialized legal fields abroad during the year.

In August, the Government briefly detained, but released the same day, several religious leaders on unspecified charges. The arrests appeared to be based on alleged political activities rather than religious beliefs. Several Islamist leaders—Jemil Mansour, Imam Dedew, and Moktar Mohamed Moussa—were arrested on multiple occasions during the year, allegedly for taking pictures of prisoners who claimed to have been tortured. The three men remained in pretrial confinement and under investigation, but had not been formally charged with any crime, at year's end.

During the year, the Government arrested several military officers and civilians allegedly involved in coup plotting (*see* Section 3).

The 129 detainees held in connection with the June 2003 coup attempt were moved to a prison southeast of Nouakchott where conditions, particularly in the summer heat, were reported to be very harsh. Multiple reports alleged that, for periods of several weeks at a time, prisoners were not allowed access to lawyers or family.

According to some neutral observers, police in some regions arrested former criminals and demanded bribes for their release. Pretrial detention was a common practice. Some indicted detainees were released before trial without explanation.

*e. Denial of Fair Public Trial.*—The Constitution provides for the independence of the judiciary; however, in practice, the executive branch exercised significant influence over the judiciary through its ability to appoint and pressure judges. In addition, poorly educated and poorly trained judges who were susceptible to social, financial, and tribal pressures limited the judicial system's fairness.

There is a single system of courts with a modernized legal system that conformed with the principles of Islamic law (Shari'a). Departmental, regional, and labor tribunals are the courts of first instance at the lower level. The 53 departmental tribunals, composed of a president and magistrates with traditional Islamic legal training, heard civil cases involving sums less than \$39 (10,000 ouguiya) and family issues, such as domestic, divorce, and inheritance cases. A total of 13 regional tribunals accepted appeals in commercial and civil matters from the departmental tribunals and heard misdemeanors cases. At the middle level, three courts of appeal, each with seven chambers (civil, commercial, administrative, and penal chambers, as well as criminal, minors, and labor courts) heard appeals from the regional courts and have original jurisdiction for felonies.

The Supreme Court was nominally independent and was headed by a magistrate appointed to a 5-year term by the President. The Supreme Court reviewed decisions and rulings made by the courts of appeal to determine their compliance with the law and procedure. Constitutional review was within the purview of a six-member Constitutional Council, composed of three members named by the President, two by the National Assembly president, and one by the Senate president. The Supreme Council of Magistrates, over which the President presided, undertook annual review of judicial decisions; the president and senior vice president of the Supreme Court, the Minister of Justice, three magistrates, and representatives from the Senate and National Assembly were members of this council. The annual review was intended to determine whether courts applied the law correctly and followed proper procedures. Reviews also served as a basis for evaluating the reform process and reassigning judges based on their qualifications.

The Constitution provides for due process and the presumption of innocence until proven guilty by an established tribunal. All defendants, regardless of the court or their ability to pay, have the legal right to representation by counsel during the proceedings, which were open to the public. If defendants lack the ability to pay for counsel, the court appointed an attorney from a list prepared by the National Order of Lawyers, which provided a defense free of charge. The law provides that defendants may confront witnesses, present evidence, and appeal their sentences, and these rights generally were observed in practice.

Shari'a provides the legal principles upon which the law and legal procedure are based, and courts did not treat women as the equals of men in all cases (*see* Section 5).

The minimum age for children to be tried was 12. Those between the ages of 12 and 18 were convicted, tried and sentenced to the juvenile detention center. There was a special court to hear the cases of children under the age of 18. Children who appeared before the court received more lenient sentences than adults, and extenuating circumstances received greater consideration in juvenile cases.

With international assistance, the Government continued a program to improve judicial performance and independence by organizing all laws and statutes into a single reference text and training officials throughout the justice system. Separate tribunals for specific types of disputes held court sessions more frequently. In August and September, several Islamic magistrates and legal clerks participated in a training program abroad that emphasized exposure to international legal concepts, including foundations of business law and property law.

The Government opened the trial of 181 men, who were charged with either participating in the June 2003 coup attempt or with plotting other coups, in late November. Defense lawyers alleged several procedural irregularities at the trial, including the presence of military officers on a tribunal that judged civilians as well as soldiers and the prosecution's demand for the death penalties for up to 18 men based solely on their signed confessions, not on any material evidence. The trial was ongoing at year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires judicial warrants to execute home searches; however, the authorities reportedly often ignored this requirement.

Government surveillance of dissidents and the political opposition was believed to continue; however, the extent to which the Government used informants was unknown.

There were a number of reports that some government officials misappropriated land under the land reform system, confiscating the land of southern ethnic groups or the land traditionally held by Black Moors and distributing it to their friends and family. However, the Government intervened in Barkeol and ensured that most of the misappropriated land was returned to its traditional owners, with other former owners receiving compensation for the loss of their land.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government continued to restrict these rights through prepublication press censorship by the Interior Ministry. In a few cases, media groups were refused access to public forums or censored for criticizing the Government. The Government did not restrict academic freedom.

All newspapers must register with the Ministry of the Interior; registration was routine. Two daily newspapers, Horizons and Chaab, were government owned. There were approximately 25 privately owned newspapers that published on a regular basis. These journals were weeklies and reached limited audiences. NGOs and the privately owned press openly criticized the Government and its leaders. Antigovernment tracts, newsletters, and petitions circulated widely in Nouakchott and other towns. Newspapers, journals, and privately published books were exempt from all taxes on materials used to produce them.

Radio was the most important medium in reaching the public, and the official media strongly supported government policies. All broadcast media (radio and television) were government owned and operated. The Government continued to deny, or simply not respond to, private applications to establish domestic radio stations.

Using satellite receivers and dish antennas, citizens could receive worldwide television broadcasts.

Unlike in the previous year, there were no reports that journalists were arrested during the year.

The Press Law requires publishers to submit copies of newspapers to the Ministries of Interior and Justice before distributing them. The Ministry of the Interior reviewed all newspaper copy prior to publication and usually authorized sales and distribution within 2 to 3 days. However, the Press Law provides that the Minister of the Interior can stop publication of material that discredits Islam or threatens national security. The Ministry censored one weekly edition of an independent newspaper.

In September, the Government banned Al Jawahir, an independent Arabic-language newspaper, as a result of its alleged financial links to Libya. The Government had accused Libya of backing a coup plot in August (*see* Section 1.d.).

The Arab-language private newspaper, Ar-Raya, closed by the Government in 2003 as a result of its links with Islamist political leader Jemil Mansour, remained closed during the year.

A senior member of the ruling political party sued four independent newspapers for libel after they published articles in their local newspapers in April, alleging that he embezzled funds from the sale of an oil refinery. The case was settled out-of-court.

Opposition parties' access to government radio and television broadcast facilities was extremely limited.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government sometimes restricted this right in practice.

The law requires that all recognized political parties and NGOs apply to the local prefect for permission to hold large meetings or assemblies. On November 8 and 9, police used tear gas to disperse demonstrations in Nouakchott. In May, the Government refused to allow a lawyers' organization to hold a press conference in Nouakchott on the grounds that the organization was not officially recognized. The Government refused several formal requests by recognized opposition parties to hold marches and press conferences.

The Constitution provides for freedom of association; however, the Government limited this right in practice, and circumscribed the efforts of some groups by denying them official recognition. All political parties must register with the Ministry of the Interior. At least 15 organized political parties and a wide array of NGOs, many of them highly critical of the Government, functioned openly, issued public statements, and chose their own leadership; however, the Government banned or refused to authorize several parties. The Government has not yet granted some NGOs official standing but did not prevent them from functioning (*see* Section 4). The Government did not recognize any new NGOs or associations during the year.

The Government refused two new political parties' requests for official recognition, and continued to ban the political parties Action for Change, Union of Democratic Forces-New Era (UFD-EN), An-Nouhoud, and Taliaa (Vanguard). The Government did recognize one new, opposition-based political party named "Sawab."

The Government's prohibition against forming the Convention for Change party remained in force.

In June, the African Commissions on Human and People's Rights stated that the Government's 2000 banning of the UFD-EN was a violation of Article 10 of the African Charter of Human and People's Rights.

*c. Freedom of Religion.*—The Constitution establishes the country as an Islamic republic and decrees that Islam is the religion of its citizens and the State; the Government limited freedom of religion. However, Christians in the foreign community and the few Christian citizens practiced their religion openly and freely.

The Government did not register religious groups; however, NGOs had to register with the Ministry of the Interior (*see* Section 2.b.). This included humanitarian and development NGOs affiliated with religious groups.

Although there is no specific legal prohibition against proselytizing by non-Muslims, in practice, the Government prohibited proselytizing by non-Muslims through the use of the Press Act, which bans the publication of any material that is against Islam or contradicts or otherwise threatens Islam. However, there were no reports that the Government punished persons for violating this provision during the year. The Government viewed any attempts by Christians to convert Muslims as undermining society; however, the Government also restricted suspected Islamic extremists. There were no known non-Muslim groups engaging in proselytizing, and foreign Christian NGOs limited their activities to humanitarian and development assistance.

Under the Press Act, the Government may restrict the importation, printing, or public distribution of Bibles or other non-Islamic religious literature, and, in practice, Bibles were neither printed nor publicly sold in the country. However, the possession of Bibles and other Christian religious materials in private homes was not illegal, and Bibles and other religious publications were available among the small Christian community.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice; however, in some regions, persons lacking identity cards could not travel freely. The Government set up roadblocks where gendarmerie, po-

lice, or customs officials checked the papers of travelers and often demanded bribes; however, during the year, the Government generally maintained fewer roadblocks and reduced the time taken in questioning and conducting vehicle searches. There were fewer reports of more stringent searches in the southern border areas.

The U.N. High Commissioner for Refugees (UNHCR) estimated that there were between 15,000 and 20,000 refugees from the 1989–91 crisis remaining in Senegal, although refugees have continued to return independently in small numbers and have benefited from small-scale agroforestry, health, and sanitation projects continued by NGOs and humanitarian workers. Cooperation by local authorities in addressing restitution and citizenship matters varied greatly, depending on individual officials and the returnee's region. Many returnees received their original homes, some property, and all or a portion of their land (*see* Section 1.f.). Throughout the Chemama or the Senegal River Valley region, returnee communities were reestablishing their agricultural production; however, recovery of land titles remained the primary issue. Timely restoration of identity papers varied, and some of those who returned in 1995 have not yet received identification cards. In some regions, persons lacking identity cards could not travel freely.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, or the 1967 African Union Convention on the status of refugees, but the Government has established a system for providing such protection. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees status or asylum.

The Government provided temporary protection to refugees from neighboring countries including Liberia, Sierra Leone, Senegal, the Democratic Republic of the Congo, Cote d'Ivoire, Mali, Western Sahara, and Guinea-Bissau. The Government also accepted the UNHCR's registration of approximately 400 asylum seekers, mostly from Sierra Leone and Liberia.

The country hosted more than 50,000 nationals of other West African countries who sought refuge and employment, primarily in Nouakchott and Nouadhibou. An estimated 60 percent of the country's small-craft fishermen were Senegalese.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government; however, this right was circumscribed in practice.

Although civilians occupied all ministerial-level positions, some members of the Military Council that ruled from 1984 to 1992, in addition to President Taya, remained in positions of power within the executive branch, the National Assembly, the armed forces, and government-owned enterprises.

President Taya won the November 2003 elections with 67 percent of the vote amid reports of fraud, particularly in the southern part of the country. The Government did not invite international and local diplomatic observers to observe the voting process, although it did permit one international organization to visit the country during the elections. The leading opposition candidate, Mohamed Haidallah, was arrested the day before the election, released, and re-arrested the day after the election. Opposition candidates alleged that the Government conducted a fraudulent election but chose not to contest the election's results via available legal channels, reportedly because the leading opposition candidate's imprisonment immediately following the elections prevented him from taking any legal action.

The Government arrested and tried 181 persons, mostly military officers, including Major Saleh Ould Hanenna, the leader of the "Knights of Change," for their involvement in three separate attempts to stage a coup to overthrow President Taya. The trial continued at year's end.

The Government reportedly harassed the sons of former president and current opposition leader Mohamed Haidallah on several occasions during the year, allegedly in connection with criminal activity.

There were no laws permitting public access to government information, by either citizens or non-citizens. Requests for such access were routinely refused, usually without a specific reason being given.

Women have the right to vote and formed the majority of registered voters in the November 2003 presidential elections. There were 3 women in the 81-seat National Assembly and 6 women in the 56-seat Senate. Three of the 15 members of the Executive Bureau of the ruling PRDS were women, and a woman headed the Union for Democracy and Progress party, a part of the ruling coalition. Women occupied some senior government positions: Three cabinet-level posts including the Minister of

Labor, two secretaries of state (Women's Affairs and New Technologies), the deputy director of the President's Cabinet, and the President's Minister-Counselor. Women were well represented in the Secretariat of Women's Affairs, including a number from minority ethnic groups. Aicha Mint Jeddane registered in the 2003 presidential elections as the country's first female presidential candidate. Her campaign platform focused on promoting women's issues.

The 56-member Senate had 3 Black Moors, 4 Halpulaars, 3 Soninkes, and the remaining 46 were of either White Moor or mixed White Moor/Black Moor heritage. The 81-member National Assembly had 9 Black Moors, 8 Halpulaars, 2 Soninkes, and 2 Wolof. Minorities such as the Black Moors, Halpulaars, Soninkes, and Wolofs were underrepresented in senior government positions. However, Sghair Ould M'Bareck was appointed as the country's first Black Moor Prime Minister in July 2003 and reappointed in mid-November 2003, and the first Black Moor woman to occupy a ministerial level position was appointed Minister of Public Records on November 2003. Of the Government's 22 ministerial posts, 2 incumbents were Black Moor, 2 were Halpulaar, and 1 was Soninke; the remaining 14 were of either White Moor or mixed White Moor/Black Moor ethnicity (*see* Section 5). The full 26-member Cabinet, including secretaries of state, had 2 Black Moors, 3 Halpulaars, and 1 Soninke.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The Government did not officially recognize a number of NGOs, and denied these NGOs the ability to deal with government officials, as well as the ability to request government assistance.

There were three organizations concerned with overall human rights issues. The oldest is the Mauritanian League for Human Rights (LMDH), a government-recognized body with a strong track record of defending government policies. A second organization, the Mauritanian Association for Human Rights (AMDH), was still unrecognized during the year (*see* Section 2.b.). While not affiliated with the opposition, the AMDH had many opposition members, and the AMDH was more critical of the Government than the LMDH, particularly on the unresolved abuses of the 1989–91 period. The International Study and Research Group on Democracy and Economic and Social Development in Africa (GERDDES-Africa) was not officially recognized. The Government has not responded to the applications of these organizations on the grounds that they were ethnically based organizations that were divisive and in violation of the law; however, the unrecognized organizations generally carried out their activities unimpeded by the Government. Many of the other organizations, including 14 unregistered associations such as the anti-slavery NGO SOS-Eslaves, were active in addressing human rights issues such as slavery, refugees, and the 1989 expellees.

Unlike in the previous year, no international human rights organizations visited the country during the year. An International Labor Organization (ILO) contact team visited the country in May.

In August, the U.N.-based Committee for the Elimination of Racial Discrimination (CERD) reported that slavery, FGM, and racial discrimination remained ongoing problems in the country.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equality before the law for all citizens, regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda; however, in practice, the Government often favored individuals on the basis of ethnic and tribal affiliation, social status, and political ties. Societal discrimination against women, strongly rooted in traditional society, was endemic, although the situation continued to improve.

*Women.*—Abuse and domestic violence are illegal, and human rights monitors and female lawyers reported that domestic violence was rare, particularly among the Moor population. The police and judiciary occasionally intervened in domestic abuse cases, but women in traditional society rarely sought legal redress, relying instead upon family and ethnic group members to resolve domestic disputes.

Rape, including spousal rape, is illegal, and there was one known conviction under this law during the year. In this case, the victim was a foreign national, and the perpetrators received light sentences, ranging from time served to 2 years minus time served. According to NGO reporting, the incidence of unreported rape was high. A credible local NGO's 2000 study found approximately 330 cases of rape in

Nouakchott. Of the 330 cases, 140 had been reported as rape to medical staff. The remaining 190 had not been reported as rape, but the NGO concluded that the cases fit the medical profile for violent sexual assault. The study added that 46 percent of these 330 assaults were group assaults.

Prostitution is illegal; however, NGO reporting indicated that it was a growing problem in some urban areas, particularly among Afro-Mauritanian and Black Moor women.

Traditional forms of mistreatment of women continued, mostly in isolated rural communities, but these practices appeared to be on the decline. One form of such mistreatment was the forced feeding of adolescent girls (gavage) prior to marriage, which was practiced only among White Moors tribal groups. While there was no law prohibiting gavage, the Government made it a policy to end the practice. Reports during the year indicate that very few women are currently subjected to gavage.

FGM was practiced among all ethnic groups. It was performed most often on young girls, often on the 7th day after birth and almost always before the age of 6 months. According to the most recent internationally sponsored study in 2001, three-fourths of all women between the ages of 15 and 49 have been subjected to FGM. Local experts agreed that the least severe form of excision was practiced and not infibulation, the most severe form of FGM. The practice of FGM has decreased in the modern urban sector.

The Government and international NGOs continued to coordinate anti-FGM efforts. These efforts focused on eradicating the practice in hospitals, discouraging midwives from practicing FGM, and educating populations in some areas on the issue. The High Islamic Council of Mauritania, the Islamic Scholar Association, and the National Forum for Women's Rights continued to emphasize the serious health risks of FGM and emphasize that FGM was not a religious requirement. The Government continued intensive media and educational campaigns against FGM during the year. Government hospitals and licensed medical practitioners were barred from performing FGM, and several government agencies worked to prevent others from carrying on this practice. According to several women's rights experts, the campaign against FGM appeared to be changing attitudes towards the practice; however, there were reports during the year that midwives performed FGM in local hospitals in violation of the Government's ban.

Women have legal rights to property and child custody, and, among the more modern and urbanized population, these rights were recognized. By local tradition, a woman's first marriage, but not subsequent marriages, requires parental consent. In accordance with Shari'a as applied in the country, marriage and divorce do not require the woman's consent, polygyny is allowed, and a woman does not have the right to refuse her husband's wish to marry additional wives. In practice, polygyny was very rare among Moors but was common among other ethnic groups. It was common in Moor society for a woman to obtain, at the time of marriage, a contractual agreement that stipulated that her husband must agree to end their marriage if he chose an additional wife. Arranged marriages also were increasingly rare, particularly among the Moor population. Women frequently initiated the termination of a marriage, which most often was done by repudiation of husband or wife rather than divorce. The reported rate of divorce among Moors remained 37 percent, with a remarriage rate of 72.5 percent. In July, the National Assembly voted against a proposal to provide women the same rights for a divorce that are available to men.

Women still faced legal discrimination. The testimony of two women was necessary to equal that of one man. The courts grant only half the amount of an indemnity to the family of a woman who has been killed that they award for a man's death. The Personal Status Code provides a framework for the consistent application of secular law and Shari'a-based family law, but this Code has yet to be implemented. For example, formulas applied to property distribution varied widely from case to case. In addition, the validity of and right to establish prenuptial agreements was not always respected. However, women did not face legal discrimination in areas not addressed specifically by Shari'a. The law provides that men and women receive equal pay for equal work. While not applied universally in practice, the two largest employers, the civil service and the state mining company, observed this law. In the modern wage sector, women also received family benefits, including 3 months of maternity leave.

The Government sought to open new employment opportunities for women in areas that were traditionally filled by men, such as health care, communications, police, and customs services. Women became more involved in the fishing industry and established several women's fishing cooperatives.

The Secretariat for Women's Affairs worked with many NGOs and cooperatives to improve the status of women. The Government, women's groups, and national

and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights.

*Children.*—The law makes special provision for the protection of children's welfare, and the Government had programs to care for abandoned children; however, inadequate funding hampered these programs. Education continued to receive the largest share of the national budget at 18 percent. The Government relied on foreign donors in such areas as child immunization.

The Government required attendance at school for 6 years, but full implementation of universal primary education was not scheduled to be completed until at least 2007, primarily because the Government lacked the financial resources to provide educational facilities and teachers throughout the country, especially in remote areas. There was a moderate increase in the official attendance rate, which increased to 91.7 percent during the year from 90 percent in 2001. Classes were fully integrated, including boys and girls from all social and ethnic groups. Children of slave families were allowed to attend school. There were no legal restrictions on the education of girls. An estimated 90 percent of school-age girls attended elementary school in 1998 and 1999, compared with 88 percent for boys. At the secondary level, female students constituted 44 percent of those enrolled. Despite these increases, enrollment in the southern and eastern parts of the country remained at a lower level. Female students made up 21.2 percent of the university's enrollment for the 2001–2002 academic year. Female students also constituted 30.5 percent of enroll in technical schools. The official literacy rate for women remained at 32 percent, compared with 50 percent for men. Almost all children, regardless of sex or ethnic group, attended Koranic school between the ages of 5 and 7 and gained at least rudimentary skills in reading and writing Arabic.

FGM was commonly performed on young girls (*see* Section 5, Women).

Trafficking in children occurred (*see* Section 5, Trafficking).

Child labor was a problem, particularly in the informal sector (*see* Section 6.d.)

Local NGOs estimated that there were up to 400 street children, largely as a result of poverty and of the urbanization of formerly nomadic families; however, the Government implemented a program to assist families with street children and to encourage their school attendance.

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons; the Government did not prosecute or sentence anyone under this law during the year.

The country was a source and destination for men, women, and children trafficked for the purpose of forced labor. Multiple NGO reports suggested that forced labor took several possible forms (*see* Section 6.c.). Slavery-related practices, and possibly slavery itself, persisted in isolated areas of the country where a barter economy still prevailed. Several reports suggested that young girls from remote regions, and possibly from western Mali, worked as unpaid housemaids in some wealthy urban homes. An unknown number of Talibes, or young boys, nearly all from Pulaar tribes, begged in the streets as part of a "work-study" arrangement with some "marabouts," or religious teachers, for receiving religious instruction.

There were no reports that government officials participated in, facilitated, or condoned trafficking. The Government did not provide assistance or protection services to trafficking victims, but did allow one NGO to provide limited assistance to Talibes.

The Government took measures to improve border security to combat trafficking in persons. Although no traffickers have been apprehended, these measures have resulted in arrests for alien smuggling.

*Persons With Disabilities.*—The law does not provide specifically for persons with disabilities; however, there were no reports of government or societal discrimination against persons with disabilities. The Government does not mandate preference in employment or education or public accessibility for persons with disabilities; however, it did provide some rehabilitation and other assistance for persons with disabilities. NGOs have become increasingly active in raising public awareness of issues affecting persons with disabilities. The school for the deaf and the blind in Nouakchott operated 6 classrooms and enrolled 67 students during the year; however, the school lacked sufficient trained staff.

*National/Racial/Ethnic Minorities.*—Ethnic minorities faced societal discrimination. Ethnic and cultural tension and discrimination arose from the geographic and cultural divides between Moor and Black African. The Moors were divided among numerous ethno-linguistic tribal and clan groups and further distinguished racially as either White Moor or Black Moor, although it often was difficult to distinguish between the two by skin color. White Moor tribes and clans, many of whom were dark-skinned after centuries of intermarriage with Berbers and sub-Saharan Afri-

can groups, dominated positions in government and business. The Black Moor subgroup remained politically and economically weaker than the White Moor subgroup. Concentrated in the south, the Halpulaar (the largest non-Moor group), the Wolof, and the Soninke ethnic groups were underrepresented in the military and security sectors.

The Constitution designates Arabic as the official language and Arabic, Pulaar, Soninke, and Wolof as the country's national languages; however, successive governments—both civil and military—have pursued various policies of “Arabization” in the schools and in the workplace.

Ethnic rivalry significantly contributed to political divisions and tensions. Some political parties tended to have readily identifiable ethnic bases, although political coalitions among them were increasingly important.

**Other Societal Abuses and Discrimination.**—There was no evidence of either societal violence or systematic government discrimination directed at practicing homosexuals. Although Shari'a outlaws homosexuality under certain conditions, secular laws did not, and the Government did not arrest or prosecute any homosexuals during the year.

There was no evidence of systematic discrimination by either society or the Government against persons with HIV/AIDS; however, taboos and beliefs associated with the disease caused victims in some areas to face isolation or exclusion.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association and the right of citizens to join any labor organization, and workers exercised this right in practice. All workers except members of the military and police were free to associate in and establish unions at the local and national levels. To be legally recognized, a union is required to have the authorization of the Public Prosecutor who can provisionally suspend a trade union at the request of the Ministry of the Interior if it believes that the union has not complied with the law. However, the Government has the power to decide whether to recognize a trade union (*see* Section 6.b.).

The majority of the labor force was in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent were employed in regularly paid positions. However, nearly 90 percent of industrial and commercial workers were organized. In July, the Government approved an updated labor code that brought the country closer into line with ILO-specified international norms (*see* Section 6.b.). The code provided criminal penalties for slavery.

Laws provide workers with protection against anti-union discrimination, and employees or employers may bring labor disputes to three-person labor tribunals administered jointly by the Ministries of Justice and Labor with the participation of union and employer representatives.

*b. The Right to Organize and Bargain Collectively.*—The law provides that unions may organize workers freely without government or employer interference, and workers exercised this right in practice. General or sector agreements on wages, working conditions, and social and medical benefits were negotiated in tripartite discussion and formalized by government decree. Wages and other benefits could also be negotiated bilaterally between employer and union, and the results of such negotiations were filed with the Directorate of Labor. Although the Directorate has the ability to change the negotiated settlement between labor and business, there were no known cases of such action during the year. There are no export processing zones.

The law provides workers with the right to strike, and workers exercised this right during the year. However, strikes in the private sector must be preceded by submission of a non-conciliation or negotiation-breakdown report. Once a referral is made to arbitrate a dispute, the tripartite arbitration committee may automatically terminate any strike. Some unions believed the new code of rendered strikes ineffective by requiring advance notification. Some trade union representatives stated that there was little social dialogue except in response to worker actions in a dispute.

The Government can dissolve a union for what it considered an “illegal” or “politically motivated” strike; however, no unions were disbanded during the year.

The Government ratified an updated Labor Code during the year. The updated Code included significant improvements in health-care entitlements, including the introduction of maternity leave; an improved paced-arbitration system; and a series of laws prohibiting forced labor in any form.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, the law only applies to the relations between employers and workers, and there were credible reports such practices oc-

curred. Slavery is illegal; however, there were still areas where the attitude of master and slave prevailed.

The updated Labor Code, which came into effect in July, includes criminal penalties for human trafficking in all of its recognized forms and includes increased criminal penalties for contracting to benefit from forced labor and for exploiting forced labor as part of an organized criminal network.

In May an ILO team visited the country to investigate allegations of the persistence of forced labor; however, a report had not been released by year's end.

Citizens continued to suffer from the country's heritage of slavery. Slavery has been officially abolished; however, the practice of chattel slavery was once a tradition. Numerous reports suggested that some members of the long-dominant White Moor community continued to expect or desire the servitude of Black Moors. The nature of these reports also suggested that such attitudes impeded the goal of eliminating all remnants of slavery and related practices, a goal to which both the Government and major opposition parties were committed. Slavery-related practices, and reports of slavery itself, persisted most strongly in those remote regions of the east and southeast where a barter economy existed, where education levels were generally low, and where a greater need existed for manual labor in work such as herding livestock and tending fields.

A system of officially sanctioned slavery, in which government and society joined to force individuals to serve masters, did not exist. However, there continued to be reports that slavery in the form of forced and involuntary servitude persisted in some remote areas. The unrecognized NGO SOS-Esclaves publicized several accounts of newly escaped slaves during the year. These reports, while not conclusive proof of the persistence of slavery, strongly suggested that slavery and related practices persisted mainly among a few nomadic groups and small villages in remote rural regions where a barter economy exists.

Voluntary servitude also persisted, with some former slaves and descendants of slaves continuing to work for former masters in exchange for some combination of money, lodging, food, or medical care. The reasons for the persistence of such practices varied widely among the different ethnic groups; however, a barter economy, poverty, and persistent drought provided few economic alternatives for many and left some former slaves and descendants of slaves vulnerable to exploitation by former masters. There were reports that some former slaves in some sedentary communities continued to work for their former masters or others without remuneration to retain access to land they traditionally farmed. Although the law provides for distribution of land to the landless, including to former slaves, this law has been enforced in only a few cases. Deeply embedded psychological and tribal bonds also made it difficult for many individuals who had generations of forebears who were slaves to break their bonds with former masters or their tribes. Some persons continued to link themselves to former masters because they believed their slave status had been religiously ordained and they feared religious sanction if that bond were broken.

Adult females with children faced greater difficulties and could be compelled to remain in a condition of servitude.

There were no reported judicial cases directly related to slavery during the year; however, there were a few cases indirectly related to slavery through issues of child custody and inheritance. Human rights NGOs stated that the absence of such cases was attributable to judges' strong preference for out-of-court arbitration to avoid entering slavery-based allegations in the official record.

The Commissariat for Human Rights, Poverty Alleviation, and Integration focused on addressing the consequences of slavery. The Government focused on education, literacy, and agrarian reform to remedy the economic consequences of slavery-related practices. However, the Government's record in cases in which an individual's civil rights were violated because of status as a former slave was poor. When complaints were filed with the Government that involved the detention of individuals against their will, the Government intervened in accordance with the law, although sometimes only after considerable pressure and time.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides that children cannot be employed before the age of 14 in the nonagricultural sector or under age 13 in the agricultural sector unless the Minister of Labor grants an exception due to local circumstances; however, child labor in some parts of the informal sector was common and a significant problem, particularly within poorer inner-city areas. The law states that employed children between the ages of 14 and 16 should receive 70 percent of the minimum wage and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage. Young children in the countryside were commonly employed in herding, cultivation, fishing, and other

significant labor in support of their families' activities. Young children in urban areas often drove donkey carts and delivered water and building materials. In keeping with longstanding tradition, many children served apprenticeships in small industries and in the informal sector. Reporting by some human-rights NGOs, including SOS-Esclaves, strongly suggested that domestic employment, often unpaid, of girls as young as 7 in wealthier homes was a growing problem. There was no child labor in the modern industrial sector.

The Government had a labor inspectorate with the authority to refer violations directly to the appropriate judicial authorities; however, these inspectors lacked the basic resources, such as transport and office equipment, needed to enforce existing child labor and other labor laws.

*e. Acceptable Conditions of Work.*—The minimum monthly wage for adults increased to \$42 (11,300 ouguiya) but was not enforced. The nationally mandated minimum monthly wage did not provide a decent standard of living for a worker and family.

The standard, legal, nonagricultural workweek could not exceed either 40 hours or 6 days without overtime compensation, which was paid at rates that were graduated according to the number of supplemental hours worked. Domestic workers and certain other categories could work 56 hours per week. The Labor Directorate of the Ministry of Labor is responsible for enforcement of the labor laws, but, in practice, inadequate funding limited the effectiveness of the Directorate's enforcement.

The Ministry of Labor also is responsible for enforcing safety standards but did so inconsistently, due to inadequate funding. In principle, workers could remove themselves from hazardous conditions without risking loss of employment; however, in practice they could not.

The law protects legal but not illegal foreign workers, and foreign workers could join unions.

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## MAURITIUS

The Republic of Mauritius is a parliamentary democracy governed by a prime minister, a council of ministers, and a national assembly. In September 2003, the Prime Minister, Sir Anerood Jugnauth, became Head of State, while the Deputy Prime Minister, Paul Raymond Berenger, became Prime Minister. The power sharing agreement was negotiated during the 2000 electoral season between the two coalition government parties, the Mauritian Socialist Movement (MSM), and the Militant Mauritian Movement (MMM). National and local elections, supervised by an independent commission, take place at regular intervals. According to international and local observers, the 2000 national elections were free and fair and resulted in a victory for the opposition MSM and the MMM coalition. There were numerous political parties, and politics were open and vigorous. The judiciary is independent.

The Mauritius Police Force (MPF), responsible for internal security, includes a paramilitary Special Mobile Force. The country does not have a military force separate from the MPF. The Coast Guard, the Special Mobile Force, and police all report to the Commissioner of Police. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy consisted of labor-intensive, export-oriented manufacturing (mainly textiles), sugar, tourism, and nascent financial services and information technology sectors. During the year, the country's population was estimated at approximately 1.2 million. In 2003, economic growth was estimated at 4.6 percent. Wages kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports that police abused suspects and detainees. Unlike in the previous year, police did not restrict freedom of assembly. Violence and discrimination against women and abuse of children continued to be problems. There were some restrictions on the rights of workers in the Export Processing Zone (EPZ). Child prostitution and child labor occurred.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

During the year, a prison official and seven prisoners were charged with manslaughter for the 2001 beating death of a man in prison. The trial was ongoing at year's end.

At year's end, the judicial inquiries into the two deaths in police custody in 2002 were completed; however, the Director of Public Prosecution (DPP) had not decided whether to proceed with prosecution.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there continued to be reports of abuses by police. For the second consecutive year, the National Human Rights Commission (NHRC) criticized police for continued allegations of brutality. The NHRC received 150 complaints through November, of which 24 were for alleged physical brutality by police. Allegations in six cases were that police beat suspects to obtain confessions. Additionally, the Complaints Investigation Bureau, an office in the Police Department, received 160 complaints against police involving alleged brutality or use of force during the year.

In February, press reports alleged that three police officers stripped and beat a 17-year-old man at a police station after he had asked the officers to slow down their police car. Authorities did not take any action against the officers.

Prison conditions generally met international standards, although there were problems in some areas. In 2003, a report by the Assistant Commissar of Police and the National Intelligence Unit reported that the Beau-Bassin Prison was home to drug trafficking, illegal betting, and sex commerce. In June, a daily newspaper reported that there had been little progress by the Prime Minister's office to improve the prisons since the 2003 report. Food, water, and medical care were available to all prisoners, and sanitation was adequate.

On April 27, a 25-year-old prisoner of the Beau-Bassin prison alleged that he was beaten unconscious by members of the prison security squad. According to press reports, the prisoner had complained to prison officials about the mattress in his cell, and prison security forces allegedly beat him in retribution. Afterward, a short prisoner uprising took place, with approximately 200 prisoners refusing to eat dinner and re-enter their cells. Police and an internal prisons investigation found that no brutality took place.

In October, a weekly newspaper alleged that officers of the Rehabilitation Youth Center (RYC), a halfway house for male child offenders, had sexually and physically abused inmates. No action against the officers was taken; however, an official of the Ministry of Social Security, which has responsibility for the center, said that the Ministry would put video cameras throughout the center in response to the abuse reports.

During the year, 1 prisoner died in custody and 11 died in prison. According to the Prisons Service, all those in custody died either from suicide or natural causes.

Women were held separately from men, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners. HIV positive prisoners were held separately from the general prison population.

The Government permitted prison visits by independent observers. During the year, the press, the NHRC, and international organizations made regular prison visits. At least one nongovernmental organization (NGO) was actively involved in rehabilitation of prisoners.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The MPF is a national force headed by a Commissioner of Police who has authority over all security and police forces, including the Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. Unlike in past years, there were no reports that the security forces were trained inadequately to prevent or control rioting, or to investigate violent crimes. During the year, the Independent Commission Against Corruption continued an investigation against the second in command of the Central Investigative Bureau for staying at a luxury hotel free of charge.

The law requires that all arrested persons must be charged, read their rights, including the right to remain silent and the right to an attorney, and brought before the local district magistrate within 48 hours; these rights generally were respected. The law permits a 36-hour detention of suspects without legal counsel; however, police in some cases delayed suspects' access to defense counsel. Minors and those who did not know their rights were more likely not to be provided prompt access. A suspect can be detained for up to 1 week, after which the issue of bail is brought before a magistrate. Alternatively, with agreement from police, the accused may be released on bail the same day as the arrest.

The Dangerous Drugs Act allows law enforcement authorities to hold suspected drug traffickers for up to 36 hours without access to bail or legal counsel.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of the Supreme Court, which has appellate powers, and a series of lower courts. Final appeal may be made to the Privy Council in the United Kingdom.

The DPP determines which court hears particular cases based on the severity of the crime and anticipated punishment. All crimes carrying the death penalty or life imprisonment are sent to the Supreme Court, crimes of a medium level of severity are sent to the intermediate courts, and less serious cases are handled by the district courts.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction. More than a dozen privately owned newspapers presented varying political viewpoints and expressed partisan views freely. The Government has the ability to counter press criticism by using strict libel laws; however, the Government did not use these measures. Libel suits between private parties were common.

Three independent, private radio stations operated during the year.

Domestic television was government owned and is regulated. Foreign international news services, such as the United Kingdom's Sky News, France's Canal Plus, and Cable News Network, were available to the public by subscription.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Police permission is required for demonstrations and mass meetings, but such permission was not refused during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious organizations and faiths that were present in the country prior to independence, such as the Roman Catholic Church, the Church of England, the Presbyterian Church, the Seventh-day Adventists, Hindus, and Muslims, receive a lump-sum payment every year from the Ministry of Finance based upon the number of adherents, as determined by a 10-year census. Newer religious organizations (which must have a minimum of seven members) were registered by the Registrar of Associations and were recognized as legal entities with tax-free privileges. No groups were refused registration.

Underlying tensions between various ethnic and religious groups persisted, but there were no violent confrontations during the year. Some ethnic minorities, particularly those of Creole and Muslim background, alleged that within the upper echelons of the civil service, a glass ceiling prevented them from promotion to the higher levels of government.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not use it.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but the Government did not grant refugee status or asylum on the grounds that the country was small, had limited resources, and did not wish to become a haven for large numbers of refugees.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

According to international and local observers, national elections held in 2000 were free and fair. The opposition MSM/MMM federation defeated the governing Labor Party/Parti Mauricien Xavier Duval coalition.

In September 2003, the President, Sir Anerood Jugnauth, who formerly served as Prime Minister, became Head of State, while Paul Raymond Berenger, who formerly served as Deputy Prime Minister, became Prime Minister. In accordance with the Constitution, the President is nominated by the Prime Minister and confirmed by the National Assembly. Prime Minister Berenger assumed his position as part of a power-sharing agreement negotiated in 2000 between the two parties of the ruling coalition, the MSM and the MMM. The agreement stipulated that the leader of the MSM would lead the Government for the first 3 years of the 5-year term, after which the head of the MMM would take over as Prime Minister, and the MSM leader would become President. This transition occurred on schedule in 2003, making Berenger the first Christian, non-Indian-descent head of government since independence.

In 2002, the island of Rodrigues successfully held its first elections for a regional elected assembly. The creation of the assembly was a first step toward a decentralized and autonomous island of Rodrigues. The assembly worked with the central Government in controlling funds for Rodrigues.

Although historically the Hindu majority dominated politics, there were no groups that were excluded from the political system.

There was a public perception that corruption existed in the legislative and executive branches. The law provided for access to government information, and the Government generally complied with requests.

There were 4 women in the 70-seat National Assembly, and there was 1 female minister in the 24-member Cabinet.

Candidates for the National Assembly were required to identify themselves with one of four distinct ethnic groupings—Hindu, Muslim, Sino-Mauritian, or general population. For these purposes, “general population” was the category used to describe primarily the Creole and Franco-Mauritian communities. Based on these 4 categories, the 70-seat National Assembly had 37 Hindus, 21 members of the general population, 11 Muslims, and 1 Sino-Mauritian, and among the 24 members of the Cabinet, there were 16 Hindus, 3 Muslims, and 1 Sino-Mauritian. In November, one minister from the general population category resigned because of political disagreements with the Prime Minister, thus reducing the general population number in the Cabinet to four members.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The NHRC investigated complaints of human rights abuses and was composed of a commissioner, who must be a former Supreme Court judge, and three other members, one of whom must be a lawyer or a judge with 10 years of experience, and two of whom must have experience in the human rights field. The NHRC is authorized to investigate abuses by any public servant, but it could not investigate complaints that were already the subject of an inquiry by the DPP, the Public Service Commission, or the Disciplined Forces Service Commission. The NHRC had the authority to visit centers of detention or prisons and to assess and make recommendations on conditions. The NHRC tries to resolve complaints through conciliation, but if that is not successful, it can forward cases to the DPP (if criminal in nature), to the service commissions, or to the responsible authority in question. During the year, the NHRC received 24 complaints of police brutality (*see* Section 1.c.).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution specifically prohibits discrimination on the basis of race, caste, place of origin, political opinion, color, or sex, and the Government generally enforced these provisions. Some societal discrimination occurred.

*Women.*—The law criminalizes domestic violence and provides the judicial system with power to combat this problem; however, in practice, domestic violence against women, particularly spousal abuse, was a problem. Many victims chose not to pros-

ecute or report their attacker, presumably due to cultural pressures. In June, the Ministry of Women's Rights, Child Development, and Family Welfare, in collaboration with the Ministry of Health, released a guide for medical practitioners to help identify victims of family violence. In 2001, the NGO SOS Femmes reported that 84 percent of the women surveyed said they were victims of physical abuse.

The law criminalizes the abandonment of one's family or pregnant spouse for more than 2 months, the nonpayment of court-ordered food support, and sexual harassment; however, many women remained in abusive situations for fear of losing spousal financial support. A magistrate can order a spouse to pay child support, but there were reports that some spouses stopped working to avoid payment.

Although specific laws make rape illegal, including spousal rape, it was a problem.

Prostitution is illegal; however, there were reports of prostitution during the year.

Traditionally, women have played subordinate roles in society, and societal discrimination continued; however, women had access to education, employment, and government services.

In October, a report sponsored by the United Nations Development Program (UNDP) and prepared by Global Women Business Leaders found that women were underrepresented in board membership and the decision-making level in the private sector; the report suggested steps to improve the situation, but no remedial steps had been taken by year's end.

The Sex and Discrimination Act affords women broadly defined wage protections, and the law was generally respected in practice.

In the agricultural sector, the law protects women from being forced to carry loads above certain weight limits; however, remuneration was determined by the amount that one was able to carry during a period of time. As a result, women working in agriculture were often paid less than men because they carried loads that weighed less.

*Children.*—The Government placed strong emphasis on the health and welfare of children and displayed a commitment to expand educational opportunities for children. In 2003, the Government created an Ombudsman for Children's Issues and made the position responsible for ensuring that the rights, needs, and interests of children are given full consideration by government, private authorities, individuals, and associations.

Education is tuition free and compulsory until the age of 12. Books are free for primary school, but not for secondary school. Those parents that could not afford books could apply to the Government for an exemption and receive books free of charge. According to the Ministry of Education, in 2003, attendance at the primary level was nearly 100 percent, but only 68 percent at the secondary level. The majority of children finished a secondary level of education. Girls and boys were treated equally at the primary, secondary, and post-secondary levels.

The Government provided full medical care for children.

Under the law, certain acts compromising the health, security, or morality of a child are crimes; however, the Government was unable to enforce complete compliance with the law. During the year, the Child Development Unit received 3,141 reports of child abuse. Of this figure, there were 148 cases of parental physical abuse, 78 cases of intercourse with minors (under age 16), and 48 cases of physical abuse by nonfamily members. Private voluntary organizations claimed that the problem was more widespread than was acknowledged publicly. The state-funded National Children's Council and the Ministry of Women's Rights, Family Welfare, and Child Development administered most government programs. Both provided counseling, investigated reports of child abuse, and took remedial action to protect affected children.

Under the law, children involved in child pornography and prostitution are offered social aid, while adult offenders are prosecuted; however, child prostitution was a problem, and the Government targeted child prostitution as a top law enforcement and prevention priority. The Government continued a 5-year action plan to combat child prostitution. The Ministry of Women, Child Development, and Family Welfare ran a hotline for reporting cases of child prostitution. Some NGOs formed regional awareness networks and developed training materials for educators. For example, in July, Soroptimist International initiated a pilot project in two colleges aimed at preventing child commercial sexual exploitation. There was a Drop-in Center where child victims of sexual abuse and exploitation could be rehabilitated.

*Trafficking in Persons.*—The law prohibits trafficking in children, but it does not specifically mention trafficking in adults; in addition, a study commissioned in 2002 by the Ministry of Women, Development, and Family Welfare, UNDP, and the Uni-

versity of Mauritius estimated that there were approximately 2,600 child prostitutes in the country (see Section 5, Children).

*Persons With Disabilities.*—There was no overt discrimination in employment, education, or in the provision of other state services against persons with disabilities, including mental disabilities; however, the law did not require that work sites be accessible to persons with disabilities, making it difficult for persons with disabilities to fill many jobs, and there was no law mandating access to buildings for persons with disabilities. The law requires organizations that employ more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution explicitly protects the right of workers to associate in trade unions, and there was an active trade union movement. Approximately 350 unions represented 115,000 workers. Many unions were small, having fewer than 1,000 members, and 10 major labor federations served as umbrella organizations for these smaller unions. With the exception of police, the Special Mobile Force, and persons in government services who were not public officers, workers were free to form and join unions and to organize in all sectors, including in the EPZ.

The Mauritian Labor Congress (MLC) asserted that union membership was low in the EPZ in part because employers in the EPZ intimidated employees and restricted access to union organizers (see Section 6.b.).

*b. The Right to Organize and Bargain Collectively.*—The law protects the right of employees to bargain collectively with their employers, and workers exercised this right. The National Remuneration Board (NRB), whose chairman was appointed by the Minister of Labor, set minimum wages for nonmanagerial workers. Most unions negotiated wages higher than those set by the NRB. Approximately 13 percent of the labor force worked for national or local government.

The law provides for the right to strike, and workers exercised this right in practice. However, the Industrial Relations Act (IRA) requires a 21-day cooling-off period, followed by binding arbitration; in practice, this had the effect of making most strikes illegal. The Government has 21 days to respond to any labor dispute referred to the Ministry of Labor. If the Government does not respond within 21 days by referring the case either to the Permanent Arbitrary Tribunal or to the Industrial Relations Commission, the proposed strike can be carried out. The IRA states that worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals are unjustified. The IRA grants the Prime Minister the prerogative to declare any strike illegal if he considers that it “imperils the economy.”

National labor laws covered EPZ workers; however, only 10 percent of EPZ workers were unionized. There are some EPZ-specific labor laws, including the provision for 10 hours per week of mandatory paid overtime at a higher wage than for ordinary working hours. Some employers reportedly established employer-controlled work councils for workers in the EPZ, effectively blocking union efforts to organize at the enterprise level. Approximately 70,000 persons worked in the EPZ.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor outside the EPZ, including by children, and there were no reports that such practices occurred. Labor laws that cover the EPZ allow for 10 hours of compulsory overtime a week and compulsory work on public holidays, although at a higher hourly wage.

According to the International Labor Organization’s Committee of Experts, the Merchant Shipping Act contains provisions that were not compatible with international standards regarding forced labor. Certain breaches of discipline, such as by seamen, were punishable by imprisonment.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under age 15 and limits the employment undertaken by youth between ages 15 and 18; however, while the Government generally respected this law in practice, there were problems with child labor. According to the law, the penalties for employing a child are a fine of no more than \$72 (2,000 rupees) and a term of imprisonment not to exceed 1 year.

According to the Ministry of Women’s Rights, Child Development, and Family Welfare, 1,600 children between the ages of 12 and 14 were employed or looking for work in 2000. Child labor in homes, on farms, and in shops was common on the island of Rodrigues.

Children unable to attend secondary school often sought apprenticeships in the trades. Vocational schools trained students who failed the primary education certificate exam at the end of the 6th year of primary education.

The Ministry of Labor is responsible for the enforcement of child labor laws and the investigation of reports of child labor abuses, and in practice, conducted frequent inspections. The Ministry employed 45 inspectors to investigate all reports of labor abuses, including those of child labor. During the year, there were 19 cases of child labor reported.

*e. Acceptable Conditions of Work.*—The Government administratively established minimum wages, which varied according to the sector of employment, and mandated that the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled worker in the EPZ was \$14 (398 rupees) per week, while the minimum wage for an unskilled factory worker outside the EPZ was approximately \$20 (550 rupees) per week. These wages did not provide a decent standard of living for a worker and family, but the actual market wage for most workers was much higher due to a labor shortage and collective bargaining. Minimum wages for employees in the distributive trade and catering sector were increased about 20 percent during the year. The standard legal workweek in the industrial sector was 45 hours. According to the MLC, 10 hours of overtime a week is mandatory at certain textile factories in the EPZ (*see* Section 6.b.).

The Government set health and safety standards, and Ministry of Labor officials inspected working conditions and ensured compliance with the law; however, the small number of inspectors limited the government's enforcement ability. Inspections were announced and unannounced. Voluntary employer compliance with safety regulations helped reduce the number of occupational accidents, with the Ministry of Labor reporting a general trend downward in the number of industrial accidents over the past 10 years. During the year, there were 652 occupational accidents, 21 of which were fatal. In 2003, there were 25 fatalities. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

In March, an amendment to the Labor code raised the penalty for workers who are abused, assaulted, threatened, or subjected to other offensive behavior in the workplace from \$72 (2,000 rupees) to \$2700 (75,000 rupees) and imprisonment not exceeding 2 years.

Since foreign workers often did not speak English, French, or Creole, it was difficult for them to demand their rights, which were the same as those of citizen employees, including the right to belong to a union. Illegal foreign workers, when identified, were deported.

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## MOZAMBIQUE

Mozambique is a republic with a constitutional government, headed by President Armando Guebuza who was elected in December in generally free and fair elections that were marred by some irregularities. The irregularities did not affect the outcome of the presidential election, but did result in the opposition losing two or three seats in the National Assembly. The Front for the Liberation of Mozambique (FRELIMO) won 160 seats in the 250-seat National Assembly, and the opposition coalition of the Mozambique National Resistance-Electoral Union (RENAMO-UE) won the remaining 90 seats. FRELIMO has ruled the country since independence in 1975, dominating both policymaking and implementation. The Constitution provides for an independent judiciary; however, the executive branch dominated the courts. The courts lacked adequate resources, were chronically understaffed, susceptible to corruption, and largely ineffectual.

The forces responsible for internal security under the Ministry of Interior (MOI) include: The Criminal Investigation Police (PIC), the Mozambican National Police (PRM), and the Rapid Intervention Force (FIR). The political opposition claimed that the FIR operated in support of the ruling party. An additional security body, the State Information and Security Service (SISE), reports directly to the President. The military, which is responsible for both internal and external security, continued to suffer from lack of funds. While civilian authorities generally maintained effective control of the security forces, there were some instances in which members of the security forces acted independently of government authority. Members of the security forces committed serious human rights abuses.

The economy was market-based and gross domestic product growth for 2003 was approximately 7 percent. The country had a population of approximately 18.5 million. Nearly 80 percent of the workforce was employed in agriculture, mostly on a subsistence level; however, high unemployment and underemployment in the formal and informal sectors continued. The poverty rate fell from 69 percent in 1996 to 54

percent during the year; however, food insecurity continued in many regions due to poor climactic conditions. The industrial and agricultural minimum wage kept pace with inflation; however, the wages of most salaried workers—such as police, teachers, and government workers—did not keep pace with inflation.

Corruption continued to be a problem in the public and private sectors; however, the Government took steps to address it during the year. HIV/AIDS had a growing impact on the economy, particularly in the depressed port city of Beira, where prevalence reached 30 percent.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Police continued to commit numerous abuses, including unlawful killings, beatings in custody, and arbitrary arrests and detentions. Prison conditions remained extremely harsh and life threatening; several prisoners died due to the harsh conditions. Despite efforts to clear long-standing case backlogs, prison overcrowding was widespread and lengthy pretrial detention was common. Police harassed and arbitrarily detained journalists. The Government at times infringed on freedom of movement. Domestic violence against women, as well as widespread discrimination against women in employment and property rights, remained significant problems. The abuse and criminal exploitation of street children, including child prostitution, continued in urban areas. Trafficking in women and children was a problem. Discrimination against persons with disabilities and child labor remained problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents during the year; however, there continued to be reports of unlawful killings by security forces.

In March, police in Matola shot and killed two young men who were suspected of being car thieves. Police had not announced by year's end whether they were investigating the incident.

The Mozambican League of Human Rights (LDH) released a report in 2003 that alleged that from 2000 to 2002, the police continued to harbor "squadrons of death" that were responsible for summary executions and operated with impunity. The report cites activities in the Maputo suburbs of Matola Rio, Boane, and Costa do Sol.

In May, LDH reported that at the maximum-security jail in Beira, Sofala Province, police shot and killed a prisoner, Mjdane Pedro, while he was allegedly trying to escape. In a separate incident, three other prisoners—Tom Daimone, Thimba Machava and Faustino Silva—were shot and killed for disobeying prison authorities. All four cases were under official investigation by provincial authorities at year's end.

No action was taken against the guard who in March 2003 transferred three inmates into a smaller cell in Mogovolas district; the inmates died of suffocation.

In January, police declined to initiate a formal investigation into the shooting death of four persons detained in a police station in the southern city of Matola in November 2003. The situation in Montepuez remained tense because the Government refused to reveal publicly the names of the more than 100 detainees who were jailed for participating in a RENAMO protest march and subsequently died of asphyxiation in 2000.

Unlike the previous year, there were no reports that police killed persons during demonstrations.

In September 2003, members of the Community Police shot and killed 13-year-old Aderito Francisco Cumbe in the Maputo neighborhood of T3. According to the police, random bullets hit the boy when the police were trying to scare away persons who had raided a house.

Extremely harsh prison conditions, often leading to serious illness, continued to result in the deaths of several persons in custody (*see* Section 1.c.).

The Government continued to cooperate with international organizations in demining efforts to remove the hundreds of thousands of mines planted between 1960 and 1990. The National De-mining Institute (IND) recorded 6 deaths resulting from landmine accidents in 2003, although IND believes the figure may not be accurate due to the difficulty in gathering data nationwide. During the year, there were 3 mine-related deaths and 25 mine casualties were reported to IND, the majority in Sofala province. Representatives of several nongovernmental organizations (NGOs) working in the de-mining field believed that IND's data collection was inadequate, and that the actual death and casualty numbers were at least twice as high as reported.

The slow progress in the investigation into the 2001 killing of the Banco Austral manager Antonio Siba-Siba Macuacua continued to receive widespread media coverage as an example of the difficulty of confronting corruption. Press reports have linked high-level government officials to the case. The PIC continued to investigate the crime, but no charges were filed by year's end.

Occasional mob and vigilante killings continued in both urban and rural areas due to general public frustration with the rising incidence of crime. During the year, mob violence resulting in the deaths of suspected criminals was reported throughout the country. On October 23, an angry crowd in the small town of Maxixe, Inhambane attacked the home of two brothers suspected of murdering a local businessman. After intervention by the police, the crowd was dispersed without any fatalities taking place. On November 10, a mob in Maxixe reportedly with many of the same individuals attacked the house of a local businessman, under the pretense that he was involved in trafficking in body parts. Police killed two individuals and wounded several others during a shootout with the mob.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

Unlike in the previous year, no criminal suspects disappeared and there were no reports that armed RENAMO members kidnapped members of FRELIMO.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits such practices; however, police continued to commit serious abuses, and torture, beatings, death threats, physical and mental abuse, and extortion remained problems. During the year, human rights advocates reported complaints of torture, including several instances involving the sexual abuse of women, beating, illegal detention, and death threats.

There were reports that police abused prostitutes and street children (*see* Section 5).

Political party members attacked and beat members of other political parties during the year (*see* Section 3).

Prison conditions were extremely harsh and life threatening.

Two National Directorates of Prisons (DNPs), one under the Ministry of Justice (MOJ) and the other under the MOI, operated prisons in all provincial capitals. Approximately 7,180 detainees were held in jails and prisons administered by the MOJ during the year. Most prisoners received only one meal per day, consisting of beans and flour. It has been customary for families to bring food to prisoners; however, there were occasional reports that guards demanded bribes in return for allowing the delivery of food to the prisoners.

There continued to be many deaths in prison, the vast majority due to illness and disease; however, some prisoners reportedly died from poisoning during the year. In a series of prison visits conducted in 2003 and during the year, the LDH found many health problems among prisoners due to overcrowding and poor to non-existent medical care. Healthy prisoners and sick prisoners were regularly kept in the same cells; in Nampula, prisoners suffering from skin diseases, malaria, and tuberculosis were kept together with healthy prisoners.

Overcrowding in prisons was a serious problem. In September, in Maputo Central Prison the LDH found there were 2,538 detainees in a facility built for 800. In Gondola, Manica Province, and in Moatize, Tete Province, the two jails visited were holding twice as many as the facilities were meant to hold. Beira Central Prison received a large amount of negative publicity during the year, including reports that it had more than 700 inmates housed in a facility built for 120 and significant health problems, including the spread of HIV through unwanted sexual encounters.

The Penal Code stipulates that the legal minimum age for detention is 16 years; however, in a visit conducted in January by LDH to Maputo Central Prison and Maputo Civil Jail, the LDH found at least three cases of minors in detention awaiting trial for petty crimes, some for more than a year. LDH considered this to be typical of prisons across the country.

MOI and MOJ facilities, while separate, often were connected physically. Military and civilian prisoners were held in the same prisons.

Women were held in separate areas of prisons from men. Prisons occasionally housed young children, usually infants, brought there by mothers sentenced for long periods when no other caregivers were available. There were documented reports that minors under the age of 16 were housed with adults in the general population.

In MOI facilities, detainees who had not yet been charged were held with prisoners sentenced for serious offenses that specify maximum security. In MOJ facilities, detainees who had been charged but not yet tried were held with prisoners who had been tried and sentenced to prison for relatively minor cases where moderate security imprisonment was deemed sufficient.

International as well as domestic human rights groups may have access to prisoners at the discretion of the MOJ and MOI; however, officials sometimes cited unsanitary conditions or security risks as reasons to delay or cancel visits. During the year, the LDH visited several jails and prisons in the Maputo area and in the provinces. During the year, the National Assembly's Legal Affairs Committee and a group of local lawyers conducted separate visits to prisons in Beira and Maputo.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, in practice the police continued to arbitrarily arrest and detain citizens.

The police were poorly paid, received no raises during the year despite 13 percent inflation, and lacked professionalism. Corruption extended throughout the ranks, and police used violence and detention to intimidate persons from reporting abuses. Police reportedly extorted money from street vendors, many of whom were widowed or divorced women, sometimes beat the women and stole their merchandise. The investigative unit of the police, the PIC, was often criticized for impeding criminal investigations.

Security officials often detained persons for spurious reasons and demanded identification documents, which must be carried by citizens at all times, for the sole reason of extorting payments (*see* Section 2.d.). Many victims chose not to seek police assistance because of police demands for bribes or a lack of confidence that the police would help. Increased human rights awareness campaigns broadcast on national television by the anti-corruption NGO Etica have resulted in a perception that such cases are decreasing.

Professional training for new police officers increased during the year; approximately 500 officers from across the country received human rights training.

Under the Penal Process Code, only persons caught in the act of committing a crime can be held in detention; however, this provision was seldom enforced. Under the law, the maximum length of investigative detention is 48 hours, during which a detainee has the right to judicial authorities review of the case, after which the detainee can be detained up to another 60 days while the case is investigated by the PIC. In certain cases where a person is accused of a very serious crime, detainees may be held up to 252 days. The law provides that if the prescribed period for investigation has been completed, and no charges have been brought, the detainee must be released. However, MOJ officials noted that some police lacked adequate training and did not know how to charge a person properly. In many cases, the authorities either were unaware of regulations or ignored them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends.

The bail system remained poorly defined, and prisoners, their families, and NGOs continued to complain that police and prison officials demanded bribes to release prisoners.

The Supreme Court Commission for Strengthening of the Law tried to address the problem of overcrowding of jails and prisons by proposing a series of measures, including conversion of sentences to fines and suspension of sentences for those charged with crimes with maximum sentences of less than 2 years of jail. However, many public figures suspected that certain criminals might benefit from these changes by bribing judges in lieu of paying fines or serving sentences. The Commission's recommendations have not yet been implemented, but are supposed to be considered by both the National Assembly and the Attorney General's office in early 2005.

There were several reports that police harassed and arbitrarily detained journalists (*see* Section 2.a.).

There were reports that detainees spent longer in pretrial detention than the sentence they received. The law provides suspects with the right to be brought before a magistrate within 48 hours of being detained; however, this often was not enforced. In June 2003, members of the National Assembly's Legal Affairs Committee reported that four detainees had been held for more than 4 years and another four for more than 5 years without their detention ever having been formalized. The parliamentary committee also found that 33 inmates had been held illegally for periods in excess of 2 months without being brought before a magistrate.

Due to lack of resources, Maputo city judicial authorities stopped holding expedited trials at the central prison and the top security prison. The expedited trials had previously been done in an effort to reduce overcrowding and prolonged pretrial detention.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however the executive, and by extension the FRELIMO party, continued to dominate the judiciary, which was understaffed and managed by inadequately trained appointees. The judicial system suffered from a lack of transparency and

often did not act in compliance with the principles of promotion and protection of human rights. Of the 128 districts in the country, only 92 had functioning courts, leaving the remainder with no formal courts at the district level.

Although salaries for judges and court staff were increased in 2003 in an effort to combat corruption, bribe-taking, chronic absenteeism, unequal treatment, deliberate delays and omissions in handling cases continued to be problems during the year. The Anti-Corruption Unit (UAC) in the Attorney General's office reported that there were 116 reports of allegedly corrupt acts, primarily accepting bribes from defendants and siphoning public funds, by judges and government officials in 2003. In 2003, only three persons were brought to trial in such cases and none were found guilty.

Justice Mario Mangaze, the President of the Supreme Court, presided over the Higher Judicial Magistrates' Council (CSMJ), the body responsible for overseeing professional behavior among magistrates, which in 2003 initiated 21 disciplinary proceedings against 9 judges and 12 law officers. Disciplinary action by CSMJ reportedly decreased during the year. CSMJ regulations allow judges who have been accused of misconduct to appeal decisions and also provides for the immediate removal of judges whose appeal is denied.

The President of the Republic appoints the president and vice president of the highest tribunal, the Supreme Court. Supreme Court nominations initially are prepared by CSMJ, which submits a list of qualified potential Supreme Court nominees to the President. CSMJ members are elected by their peers: Four are elected by the National Assembly and two are appointed by the President; members tended to be either FRELIMO members or FRELIMO-affiliated. No National Assembly approval is needed for other judicial appointments, which are also appointed by the President.

There are two complementary formal justice systems: The civil/criminal system and the military system. The Supreme Court administers the civil/criminal system and the Ministry of National Defense administers the military courts. Civilians are not under the jurisdiction of, or tried in, military courts. The Supreme Court also hears appeals, including military cases. Below the Supreme Court there are provincial and district courts. There are appeals courts in all provinces; however, few of these courts were staffed by formally trained judges. There also are courts that exercise limited, specialized jurisdiction, such as the administrative court, the customs court, and the maritime court. A Constitutional Council was charged with determining the constitutionality of laws and decrees, supervising the electoral process, declaring and validating electoral results, and ruling on electoral disputes. Persons 16 years and younger fall under the jurisdiction of a court system for minors, and the Government can send minors to correctional, educational, or other institutions. As with the provincial and district courts, the specialized and minor court systems were ineffective due to a lack of qualified professionals.

Persons accused of crimes against the Government were tried publicly in regular civilian courts under standard criminal judicial procedures. A judge may order a closed trial because of national security interests or to protect the privacy of the plaintiff in cases concerning sexual assault. The Supreme Court has original jurisdiction over Members of Parliament and other persons who are immune from trial in the lower courts.

In regular courts, all accused persons in principle are presumed innocent and have the right to legal counsel and appeal; however, authorities did not always respect these rights. Although the law specifically provides for public defenders, such assistance generally was not available in practice, particularly in rural areas, and most citizens were unaware of this right and did not possess the means to obtain any form of legal counsel. A study by the University of Eduardo Mondlane, released in December, indicated that 90 percent of the 2,700 prisoners in Machava Prison (Maputo Province) did not have access to legal counsel. Some NGOs continued to offer limited legal counsel at little or no cost to both defendants and prisoners.

Although there was a 30 percent increase in the number of attorneys in the country over the past 2 years, the increase in young attorneys was not sufficient to address the immediate need for qualified judges and other judicial personnel. Of the 186 judges nationwide, fewer than 50 had law degrees, even though the law requires it.

Outside the formal court system, a number of local customary courts and traditional authorities adjudicated matters such as estate and divorce cases. These courts were staffed by respected local arbiters who had no formal training but who exercised a substantial judicial and executive role.

There were no confirmed reports of political prisoners; however, RENAMO continued to claim that all persons held in connection with the 2000 nationwide dem-

onstrations were political prisoners, and continued to consider those convicted and sentenced also to be political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, opposition party members alleged that government intelligence services and ruling party activists monitored telephone calls, conducted surveillance of their offices, followed the movements of opposition members, used informants, and attempted to disrupt party activities in certain areas of the country such as Montepuez and Nampula provinces. By law, police need a warrant to enter homes and businesses, and also to monitor telephone calls.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, in practice there were some restrictions on these rights. Police harassed and arbitrarily detained journalists; however, unlike in previous years, there were no reports of violence against journalists. Journalists generally practiced self-censorship regarding politically sensitive issues.

There were five independent weekly newspapers published in Maputo and six other independent weekly journals published in provincial capitals. Only a small minority of the population received news directly through the print media.

The daily newspapers *Noticias* and *Diario de Mocambique*, and the weekly newspaper *Domingo*, largely reflected the views of the ruling party; however, these media sources also demonstrated a willingness to critically examine government actions. For example, in June and July, all of these newspapers provided extensive coverage of the Government's conflict with a group of retirees over an extended dispute over pensions. Nonetheless, many observers believed that these newspapers focused more on highlighting government projects and accomplishments, especially near elections.

Government stations were the only broadcasters capable of countrywide transmission; however, there were local and independent broadcasts in most urban areas, and the number of radio stations increased markedly during the year. Government media continued to show greater transparency in reporting and some independence of editorial content. Radio Mozambique, the public's most widely broadcast source of information, is government-owned; however, its news coverage generally was considered unbiased and fair. Radio Mozambique regularly broadcast public debates on key issues that included a variety of participants with differing opinions.

In addition to Radio Mozambique, there were 43 community-based, 4 religious, and 16 commercial private radio stations, most of which used local languages in addition to Portuguese and which covered most of the country. This reflects a nearly 200 percent increase in community-based radio and a significant increase in commercial radio during the year.

TV Mozambique (TVM) continued to demonstrate strong bias towards the Government. For example, in July TVM refused to broadcast nine commercials already paid for by author Bernabe Ncomo, who had written a book that contradicted the official FRELIMO version of history regarding the independence struggle. TVM returned the money to Ncomo, alleging that the commercial contained political campaign messages; however, the newspaper *Savana* later published the text of the commercial that appeared to have no political content.

Portuguese Television for Africa (RTP Africa), a station owned by the Government of Portugal, also transmitted throughout the country. Privately owned television transmission continued to be limited to Maputo.

International media were allowed to operate freely; however, they were comprised mostly of broadcast media. Foreign radio programs reached all major population centers and reported local news via local part-time reporters. The British Broadcasting Company (BBC) and the Radio Difusao Portugal (RFI) carried news in Portuguese but broadcast most of the day in English and French, respectively. The only international print medium operating was LUSA, the Portuguese News Agency. International television news was available via cable in Maputo and via satellite nationwide.

Police and other officials harassed and arbitrarily detained journalists during the year. For example, on May 1, the district administrator in Mocuba, Zambezia Province, indefinitely suspended Oliveira Malei, a reporter and newsreader from Licunga Community Radio, for criticizing both the poor state of roads in Mocuba and the town's funeral services. Malei was compulsorily transferred to the Zambezia provincial capital, Quelimane, where he was confined in an abandoned storehouse. A reporter from the newspaper *Noticias* visited Malei in confinement and reported he had malnutrition and malaria.

While criticism of the President was not prohibited, the law provides that in cases of defamation against the President, truth is not a sufficient defense. This law was

not tested in court during the year and the provision was not invoked, despite considerable verbal and written criticism of the President.

No libel charges were filed against any news medium during the year.

In January 2003, six men, led by Anibal Dos Santos Jr., commonly known as “Anibalzinho,” were sentenced to prison terms ranging from 23 to 28 years for the 2000 execution-style shooting of Carlos Cardoso, an investigative journalist who was the founder and editor of the news fax agency Metical.

On May 9, Anibalzinho escaped from prison for the second time in less than a year and was later found in Canada. All local and international media outlets—print, television, and radio—covered the Anibalzinho case closely during the year. Most news outlets also covered the politically sensitive link between Anibalzinho and Nyimpine Chissano, the President’s son, who many alleged was connected to the Cardoso case. In December, the Canadian Government decided to deport Anibalzinho in early 2005. On December 16, the Supreme Court decided to declare a re-trial of Anibalzinho, a decision that effectively re-opens the unresolved Cardoso case. All the major news outlets in the country reported this situation in detail.

The media reported freely on the voter registration process, with special attention paid in September to first-time registration of voters outside the country. Media coverage of the presidential election campaign was widely considered to be more evenhanded than during the previous presidential election in 1999, even among the government-aligned media outlets. Minor party candidates received regular daily coverage along with the major candidates from FRELIMO and RENAMO. Despite this, RENAMO has made many complaints about TVM’s campaign coverage being biased. Journalists were able to cover the campaign and the two election days without substantial difficulty.

The Government did not limit access to the Internet, and a growing number of Internet service providers operated during the year.

The Government generally did not restrict academic freedom; however, there were reports that teachers at the university, secondary, and primary school level felt compelled to lead campaign activities for FRELIMO, particularly in the central and northern provinces. Many teachers were asked to teach children the FRELIMO campaign song in school rather than the national anthem. There were also reports of teachers in secondary and primary school not being hired because of their known political affiliations.

In August, after Eduardo Namburete, dean of the communication school and press officer for the state-run University of Eduardo Mondlane, declared that he would work for the opposition party RENAMO in the election campaign, he was forced by university administrators to step down from his position as head of the communication school and the press office, but retained his status as a professor at the university. In December, Namburete was elected to the National Assembly as a RENAMO parliamentarian.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, authorities used force to disperse several demonstrations during the year. The law regulates public demonstrations but does not apply to private gatherings held indoors and by individual invitation, nor does it affect religious gatherings or election campaigning.

In early 2003, the Madjermans, a group of several hundred Mozambican citizens who worked in the former East Germany in the 1990s, began regular Friday demonstrations to protest the Government’s refusal to pay pensions that the group claimed were owed to them. Police officer Albitro Curva remained in prison awaiting trial for the shooting death of Virgilio Amade during a Madjermans demonstration in September 2003. Following the shooting, the police and leaders for the Madjermans signed an agreement to regulate future demonstrations. In July 2003, police dispersed a group of Madjermans who were preparing for their Friday march; seven were injured. The authorities had imposed a restriction on circulation on main streets of Maputo during the African Union summit, which was seen to override the previously signed agreement.

Police continued to crack down on Madjermans marches during the November 2003 electoral campaign, accused participants of tearing down FRELIMO electoral posters, and arrested Madjermans leader Alberto Mahuai, who was detained and interrogated for 3 days. Marches stopped after this detention, but weekly marches resumed in April. On June 30, the Madjermans demonstrators escalated their protest by occupying part of the National Assembly building. The demonstrators left peacefully after meeting with a government official, but claiming their concerns were being ignored, forced their way into the German Embassy on July 13. A group of 41 Madjermans occupied the German Embassy for 4 days. After negotiation with the German Embassy staff, the demonstrators left peacefully, and local police who

were on guard did not harm anyone. The pension issue has still not been resolved by year's end.

The law provides for freedom of association; however, both the Government and the law imposed some limits on this right. A political party is required to demonstrate that it has no regional, racial, ethnic, or religious exclusiveness and must secure at least 2,000 signatures of citizens to be recognized (*see* Section 2.c.). There were 41 registered political parties, 6 of whom registered during the year.

A government decree regulates the registration and activities of foreign NGOs. Non-political foreign NGOs and religious organizations are required to register with the Minister of Foreign Affairs and Cooperation (MFA), providing significant detail on their organization's scope, staffing, and finances. Domestic NGOs must register with the MOJ. The registration process for foreign NGOs was not transparent and regularly took several months. Some NGOs have reported that they had to make illegal payments in order to stay in operation.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The law requires religious institutions and missionary organizations to register with the MOJ, reveal their principal source of funds, and provide the names of at least 500 followers in good standing. The Christian Council reported that not all religious groups registered, but that unregistered groups worshiped unhindered by the Government.

Occasionally missionaries were received with hostility. For example, in July, 15 foreign missionaries were expelled from the northern town of Montepuez by the local government on suspicion of being RENAMO spies; however, they re-established their activities in other parts of the country. At times tensions were high as a result of the activities of foreign Christian missionary groups in the majority Muslim northern provinces.

The law governing political parties specifically forbids religious parties from organizing, and any party from sponsoring religious propaganda. The Independent Party of Mozambique (PIMO), a predominantly Muslim group without representation in Parliament, took positions based on Muslim religious principles, advocated moral behavior, and criticized the Government for corruption. PIMO and its presidential candidate, Ya'qub Sibindy, were able to campaign during the year without hindrance from the authorities.

Most places of worship nationalized by the Government have been returned to their respective religious organizations; however, the Catholic Church and certain Muslim communities complained that some other properties such as schools, health centers, and residences unjustly remained in state hands and continued to request their return. The Directorate for Religious Affairs is mandated to address the issue of the return of church properties. The return of properties such as schools and health clinics has been delayed because of the Government claims that it needs time to construct new facilities.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, at times the Government infringed upon them.

Police traffic checkpoints established for safety or security concerns occasionally affected freedom of movement. To reduce harassment and confiscation of travelers' possessions at the borders, customs supervisors levied disciplinary fines and fired abusive customs agents. In large cities, the police often stopped foreign pedestrians and ordered them to present original passports or resident papers, sometimes refused to accept notarized copies, and fined or detained those who failed to show proper documents (most persons do not carry the originals of documents due to the risk of theft). Police also detained local citizens routinely for failure to carry identity papers and extorted bribes (*see* Section 1.d.).

The Constitution prohibits exile, and the Government did not use it.

The law provides for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protections to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum in principle, but this right was not always respected in practice. Many refugees who have received certification from UNHCR have had difficulty receiving refugee certification from the Government. This has impeded the refugees' ability to gain employment and move freely within the country. Media reports suggested that only 850 of the over 8,000 reported refugees in country have received

refugee status from the Government's refugee certification agency, INAR. Media reports have also accused INAR officials of extracting bribes from refugees in exchange for certification.

As of December, the estimated population of refugees was 8,100. The majority, 4,500, were at Marratane refugee center near Nampula; over 60 percent of the refugees were men. There were 16 nationalities represented at the camp, with over 90 percent from the Democratic Republic of the Congo, Burundi, and Rwanda. Refugee camp conditions met minimal standards, although some refugees claimed to fear attack by fellow refugees on the basis of ethnicity. Conflicts among rival Congolese groups and between Rwandans and Congolese were reported by UNHCR during the year, but no acts of physical violence were reported.

In December 2003, the Government, UNHCR, and the Government of Rwanda signed a tripartite agreement that would allow for the voluntary repatriation of the approximately 1,000 Rwandan refugees in the country. However, only a handful of Rwandan refugees have been repatriated by year's end.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

During the year, citizens freely exercised their right to vote in the country's third multiparty general elections. Voting day procedures generally followed international norms; however, the political campaign season and the vote count were marred by irregularities in isolated parts of the country.

Tensions between supporters of the two major parties, RENAMO and FRELIMO, continued throughout the year. The most notable incident occurred in July in Inhanga, Sofala Province, when local police detained two RENAMO members for beating up a FRELIMO delegate and his wife. In reaction, a large crowd of RENAMO members stormed the police station and released the suspects. This led to a response by a large contingent of the FIR police fighting with RENAMO loyalists over the next 3 days. At least one FIR member was killed, but no RENAMO loyalists were killed in the altercation. In subsequent months, there were reports of further altercations between RENAMO and the FIR in Sofala, leading to injuries but no deaths.

There were also several reports that FRELIMO loyalists in Tete Province destroyed a local RENAMO party headquarters, with no response by law enforcement.

The 40-day campaign season leading up to the general elections was mostly peaceful, reportedly more so than previous campaigns, but observers reported multiple incidents in which members of one party were harassed and beaten by members of another party, particularly in rural areas. Altercations generally involved rock throwing, fistfights, and destruction of property; no killings were reported. Police generally declined to intervene in disputes, siding de facto with the aggressor party. FRELIMO used significant federal funds and resources for campaign purposes, in violation of election law.

The elections held on December 1 and 2, were peaceful. Voter turnout was lower than in past presidential elections, estimated near 40 percent. On December 22, Armando Guebuza of FRELIMO was declared the winner with 64 percent of the vote, compared with 32 percent for Afonso Dhlakama of RENAMO; three minor parties received the remaining votes. The National Elections Commission managed the voting process; the Commission consisted of a FRELIMO majority and a RENAMO minority. In several cases, the election authorities were not able to get voting materials to rural areas, many of which were predominantly pro-RENAMO, by the morning of December 1, which reduced the ability for some to vote. Election observers were allowed to observe the voting process and vote tabulation at the polling stations on December 2, but were not always able to watch the subsequent vote counting at the provincial or national level, leaving open the possibility of fraud. In some cases, most notably in Changara district of Tete province, and also in parts of Niassa and Gaza provinces, reported results implied unrealistically high voter turnouts and caused journalists and observer missions to allege pro-FRELIMO ballot-stuffing. However, the final presidential and legislative election results closely tracked the parallel vote counts carried out by observers. Guebuza and FRELIMO won the elections with a large majority of the vote. Observer missions and journalists alleged that irregularities in Tete Province appeared to have been significant enough to tilt that province's representation in the National Assembly more strongly in favor of FRELIMO.

In late December, RENAMO issued complaints of election fraud to the National Election Commission, asking for a repeat of the election. The Commission rejected

RENAMO's major claims but did recognize that some problems had taken place, and did alter the results in Zambezia province, switching one National Assembly seat from FRELIMO to RENAMO. Also, the Commission forwarded cases of fraud in Tete to the provincial prosecutor's office for possible further action but did not alter the results. RENAMO has since forwarded its complaints to a Constitutional Council for further review.

The November 2003 municipal elections were considered by international observers to be generally free and fair; however, there were concerns about irregular vote counts in the Beira municipal election, which took 3 weeks to resolve before RENAMO was finally determined the winner. In the end, FRELIMO won 28 and RENAMO 5 of the country's 33 municipalities. Voter turnout was low throughout the country, estimated by the Government at 24 percent. Smaller parties participated in the elections, but received few votes.

Throughout the year, there was an intense national debate over the enfranchisement of emigrants. FRELIMO officially supported the right of emigrants to vote; however, most opposition parties, including RENAMO, were suspicious of FRELIMO's willingness to operate the country's embassies impartially, and therefore advocated denying emigrants the franchise. In July, the National Electoral Commission decided that Mozambican expatriates in South Africa, Swaziland, Malawi, Tanzania, Kenya, Zimbabwe, Zambia, Portugal, and Germany would be registered to vote for the first time in the nation's history. During the September registration period, over 47,000 new voters were registered in these countries, nearly 70 percent of them in South Africa. Reports indicated that only FRELIMO had a significant organizational presence in this registration process.

From June 28 through July 15, citizens were able to register for the December elections. This time period was smaller than the 30-day period available in past years, leading to complaints by opposition parties (particularly RENAMO) that they did not have sufficient time to get all the voters in their rural base registered.

Corruption was widely perceived to be endemic in the executive and legislative branches, particularly among the various ministries. Much of the public discussion on corruption still focused on older high profile cases, such as the murders of journalist Carlos Cardoso and banker Antonio "Siba-Siba" Macuacua in 2000 and 2001, respectively. New cases of corruption were slowly coming to light. The Anti-Corruption Unit (UAC) in the Attorney General's office was actively investigating public siphoning of funds by high-ranking officials in various ministries; however, no new charges were filed during the year. In August, the National Assembly passed a revised corruption law, which many observers believe will make it easier to investigate and prosecute corruption by government officials.

The UAC continued investigating several public figures, including the Director of the National Institute of Social Action (INAS), an organization under the Ministry of Women and Social Action created to provide government assistance to economically vulnerable populations, for siphoning of public funds during the year. No new charges were filed during the year. During the year, the UAC extended its activities outside of the capital by opening regional offices in Beira and Nampula.

There are no laws providing for the right of public access to information and in practice the Government restricted citizens' right to public information.

Prior to the December elections, there were 102 women in the 250-member National Assembly, and women held 3 of the 23 ministerial positions and 5 of the 18 vice ministerial positions in the Cabinet. In the December elections, 87 women were elected to the National Assembly. The female Minister of Planning and Finance, Luisa Diogo, also assumed the role of Prime Minister, generally considered the second most powerful position in the Government. FRELIMO's policy mandated that at least 30 percent of the party's two governing bodies must be women. During the year, the Political Commission and Central Committee fulfilled this mandate.

Members of many ethnic groups held key positions in both the legislative and executive branches; there was no compelling evidence that specific ethnic groups were excluded. Leadership positions within FRELIMO traditionally have been dominated by the Shangaan ethnic group, while those in RENAMO traditionally have been dominated by the N'dau ethnic group.

#### *Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases; however, registration procedures for NGOs were often lengthy. While the Government did cooperate with NGOs, many NGOs believed that the Government was slow to respond to their requests. The Government responded to human rights-related inquiries from the LDH, Etica, and other NGOs on a case-by-case basis.

*Section 5 Discrimination, Social Abuses, and Trafficking in Persons*

The Constitution forbids discrimination based on race, sex, or disability; however, in practice discrimination against women, persons with disabilities, and persons with HIV/AIDS persisted.

*Women.*—Although official statistics were not kept, reports indicated that domestic violence against women—particularly spousal rape and beating—was widespread. Many women believed that their spouses had the right to beat them, and cultural pressures discouraged women from taking legal action against abusive spouses. Hospitals usually did not attribute evidence of physical abuse to domestic violence. There is no law that defines domestic violence as a crime; however, laws prohibiting rape, battery, and assault can be used to prosecute domestic violence. The NGO All Against Violence (TCV), which registered 620 cases of domestic violence in 2003, noted that many women did not report such cases due to fear of retaliation by their husbands or inaction by the police.

For years, TCV has served as a monitoring and educational group for problems of domestic and sexual abuse of women and children; however, during the year, the organization largely collapsed due to lack of funding, leaving an information gap.

The law prohibits rape, but not spousal rape. The law was not effectively enforced, and rape trials rarely occur. Many of these suspects are held for an extended period of pretrial detention until a settlement is made.

Prostitution is illegal; however, the practice was widespread and particularly prevalent along major transportation corridors and border towns where long-distance truckers stayed overnight. Young women with unemployed parents were at the greatest risk for being drawn into prostitution. There were reports that police officers sexually abused prostitutes and demanded money in exchange for allowing them to work; such cases were rarely reported in the media.

Numerous development organizations and health-oriented NGOs emphasized programs to improve women's health and increasingly focused resources on combating the spread of HIV/AIDS and sexually transmitted diseases among sex workers.

Sexual harassment was regarded as pervasive in business, government, and education, although no formal data existed. In August, the new revised Family Law was adopted, which raises the marriage age to 18 for both sexes, eliminates husbands' de facto status as heads of families, and legalizes civil, religious, and common law unions. The law does not legally recognize polygyny; however, women in polygynous marriages are granted full marital and inheritance rights. The law is particularly important because many, perhaps most, citizens are married through customary law rather than religious ceremony; the law clarifies women's legal rights with regard to property, child custody, and other issues.

The adoption of the Family Law increases the status of women and standardizes rights that had previously varied greatly within the country, depending on regional interpretation of customary law; however, many women knew little or nothing about the new law, and customary law will still be practiced de facto in many parts of the country. In some places, a woman had no recourse to the judicial branch for enforcement of the rights provided her by the civil codes, particularly in the northern part of the country, while other areas respected access to the judicial branch for women in common law marriages. Women were the primary cultivators of family land in the country; however, under customary law, they have had no rights to the disposition of the land.

The Constitution grants citizenship to the foreign-born wife of a male citizen, but not to the foreign-born husband of a female citizen.

Women continued to experience economic discrimination in practice. Women constituted slightly more than half the population but were responsible for two-thirds of economic production. Women in the workplace received lower pay than men for the same work. According to parliamentarians women were subject to sexual harassment and to discrimination in hiring because of potential absences on maternity leave; although the labor law entitles a woman to 60 days of maternity leave, employers often violated this right.

*Children.*—The Government made children's rights and welfare a priority; however, significant problems remained. With the assistance of the Community Development Foundation (FDC) and UNICEF, the Government undertook a legal review of children's rights; however, it had not resulted in any policy changes by year's end.

Although the law provides for tuition-free primary education, school officials regularly charged a matriculation fee for each child, which was a significant financial burden for many families. Children with a certificate that testifies that the parents are below a certain poverty level do not pay any matriculation fees; however, often this was not respected in practice. Primary education was compulsory through the fifth year; however, there were few educational facilities, which limited enrollment.

The number of primary schools in the country increased slightly during the year; however, schools were still overcrowded, and there was widespread corruption in the school system. In January, the Ministry of Education reported that over 1 million children of school age would be unable to attend primary school during the year due to lack of space in classrooms. The Ministry also reported that 2.8 million children were enrolled in primary school in 2003, which meant that approximately 30 percent of all children did not attend primary school. The Ministry of Education estimates that nearly 50 percent of primary school graduates will move on to secondary school this year, representing a significant mark-up in recent years. Many secondary schools still do not have a full curriculum through the twelfth grade and graduation rates are very low. Girls continued to have lower enrollment numbers than boys at the secondary school level, especially in rural areas, due to family decisions regarding education.

Newspapers frequently reported that the parents of school children had to bribe teachers or officials to enroll their children in school. Parents were often willing to make payments because they knew classroom space was insufficient for all children wishing to attend school, particularly from the eighth grade onward. Other reports indicated that girls exchanged, or were forced to exchange, sex with teachers for passing grades.

The Government took steps to address the problems of the approximately 500,000 children orphaned by HIV/AIDS in the country. Several government agencies, including the Ministries of Health and Women and Social Action developed programs to provide health assistance and vocational education for HIV/AIDS orphans. The problem was highly visible in public discourse and received significant media attention.

The National Institute of Statistics estimated that 55 percent of child deaths in the country resulted from malnutrition or related illnesses. During the year, the Government expanded a vaccination initiative and a program to manage childhood illnesses.

The Ministry of Women and Social Action and other agencies worked together with UNICEF to develop a plan to increase the number of registered births. The majority of children in the country had not been formally registered, which limited their potential access to education and health care. To address this problem, in August legislation extending registration from 60 to 90 days of the date of birth was signed into law.

Unlike in the previous year, there were no reports that police beat street children.

The trafficking of children for sexual exploitation remained a problem (*see* Section 5, Trafficking).

Child labor remained a problem (*see* Section 6.d.).

The country continued to have a problem with street children. There are no reliable numbers on the number of street children nationwide; however, the NGO Rede de Crianca, comprised of 33 community organizations that work with youth in Maputo, identified 3,419 street children who work in their programs.

The Maputo City Women and Social Action Coordination Office continued its program of rescuing abandoned orphans and assisting single mothers who head families of three or more persons. They also offered special classes to children of broken homes in local schools. Other NGO groups sponsored food, shelter, and education programs in all major cities. ASEM, in Beira, also provided counseling to parents who had expelled children from their homes, which usually happened when a wife has children who were unacceptable to a new husband.

*Trafficking in Persons.*—There are no specific laws that prohibit trafficking in persons, and there were numerous reports of trafficking. Trafficking in persons can be prosecuted under violations of labor, immigration, and child labor laws committed while trafficking. In 2002, there were seven cases in which exploiters were charged with indecent assault of a minor; penalties ranged from 2 to 8 years.

Exploitation of children below the age of 15 continued, and child prostitution remained a problem. The law does not specify an age of sexual consent; however, offering or procuring of prostitution and pornography of any form, including that of children, is illegal under the Penal Code. Sexual abuse of a child under 16 also is illegal under the Penal Code. Persons engaged in child prostitution, use of children for illicit activities, child pornography, child trafficking, or forced or bonded labor may be punished by prison sentences and fines; however, perpetrators of these crimes rarely were identified and prosecuted and punishments were not commensurate with that of a serious crime.

The country is a point of origin for trafficked women and children. Poverty, a history of child migration, and weak border controls all contributed to trafficking. In May 2003, the IOM reported that approximately 1,000 Mozambican women and chil-

dren were trafficked to South Africa every year. The report noted that victims include both sex workers and non-sex workers. Many of the women trafficked were sold to brothels in Johannesburg or sold as concubines or “wives” to mineworkers in South Africa. Boys were trafficked as laborers on South African farms. Victims came from both urban and rural backgrounds and were often promised better jobs in South Africa. Once there, they were threatened with their legal status and forced to work for little or no pay. Traffickers included small networks of citizens based in Maputo and Nampula, and there were reports that organized crime groups were involved.

Child prostitution appeared to be most prevalent in Maputo, Nampula and Beira, and at border towns and overnight stopping points along key transportation routes. Child prostitution reportedly was growing in the Maputo, Beira, and Nacala areas, which have highly mobile populations and a large number of transport workers. Child prostitution was reported in Sofala and Zambezia province. Some NGOs were working with child prostitutes by providing health care, counseling, and training in other vocations.

The law prohibits the access of minors to bars and clubs; however, the Government did not have adequate resources to enforce the law effectively. During the year, the Government trained police to aid child prostitutes and held a series of seminars to assist police in handling cases of child sexual abuse.

Investigations into the 2003 cases of two street vendors accused of trying to sell two children to a “witch-doctor” in the Maputo suburb of Magoanine and a Burundian citizen was arrested in Cuamba, in the northern province of Niassa, accused of abducting four young girls with the intent of trafficking them out of the country were ongoing at year’s end.

During the year, the Government continued its Campaign Against Trafficking of Children, which included various anti-trafficking and public awareness programs. In addition, the Government continued a pilot program at three police stations to assist child victims of trafficking.

*Persons With Disabilities.*—The law provides that citizens with disabilities shall enjoy fully the same rights that it provides for all citizens; however, the Government provided few resources to implement this provision. Representatives of disabled groups and injured veterans frequently protested that societal discrimination continued against persons with disabilities. Approximately 1.9 percent of citizens have physical or mental disabilities.

Concerns of persons with disabilities included access to socioeconomic opportunities and employment, accessibility to buildings and transportation, and a lack of wheelchairs. The only provisions that the Government has enacted for accessibility to buildings and transportation for persons with disabilities were in the electoral law governing the needs of voters with disabilities in the polling booths. Special access facilities were rare. There were few job opportunities for persons with disabilities in the formal sector.

The Government only provided four schools nationwide for the hearing and vision impaired and for persons with physical and mental disabilities. The government-operated mental health facilities; however, conditions were extremely poor.

The Association of Disabled Mozambicans (ADEMO), the primary advocacy group in the country for persons with disabilities, reported that the Government was beginning to have a more positive attitude towards persons with disabilities. The group worked closely with the Government to start a disabled sports federation, which it expects to be launched by year’s end. ADEMO also reported that in August the Government offered duty exemption for 500 wheelchairs donated by the Wheelchair Foundation.

*National/Racial/Ethnic Minorities.*—There was no systematic mistreatment or discrimination on the basis of race or ethnicity; however, the FRELIMO Government traditionally has included at all levels a large number of southerners, mostly from the Shangaan ethnic group, which has engendered complaints from residents of other parts of the country. There also were complaints that the Government favored economic development in the southern part of the country over other areas. The Government has taken several steps to address such concerns: The central and northern provinces feature prominently in the Government’s 5-year development plan, economic and social plan, poverty alleviation strategy, and investment incentive program, and the President, Prime Minister, and Cabinet members continued to spend a significant amount of time in the provinces during the year. The executive, judicial, and legislative branches included officials from central and northern parts of the country in senior positions.

*Other Societal Abuses and Discrimination.*—Persons with HIV/AIDS were often fired from their jobs or rejected by their families, according to the Special

Rapporteur of the U.N. Commission on Human Rights (UNCHR), who visited the country in December 2003.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides that all workers are free to join or refrain from joining a trade union, and workers exercised these rights in practice. Membership among the country's 13 unions was approximately 200,000, which is approximately 3 percent of the available work force. A much higher percentage of workers in the formal sector were in labor unions. Some unions alleged that the Organization of Mozambican Workers, the largest union federation, was not independent of FRELIMO.

*b. The Right to Organize and Bargain Collectively.*—The law protects the right of workers to organize and engage in collective bargaining. Less than 2 percent of the work force was in collective bargaining contracts. The Government did not set private sector salaries; existing unions were responsible for negotiating wage increases. The Consultative Commission on Labor met periodically to negotiate changes in the minimum wage. The Center for Arbitration, Conciliation, and Mediation helped settle business-to-business problems through binding arbitration.

The Constitution explicitly provides for the right to strike, with the exception of civil servants, police, military personnel, and other essential services (which include sanitation, fire fighting, air traffic control, health care, water, electricity, fuel, post office, telecommunications, and funeral services), and workers exercised this right in practice. The law specifies that strikers must notify police, the Government, union, and employers 48 hours in advance of intended strikes. The law forbids retribution against strikers, the hiring of substitute workers, and lockouts by employers. Specific labor disputes generally were arbitrated through special workers' committees, formally recognized by the Government.

There are export processing zones (EPZs) in Maputo and in Beira. Workers in EPZs are subject to the same labor regulations as other workers, and worker rights were generally respected in practice.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred in the formal economy; however, children in rural areas were used as labor to settle financial and other disputes (*see* Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law regulated child labor; however, child labor remained a problem. In the wage economy, the minimum working age without restrictions is 18 years of age. The law permits children between the ages of 15 and 18 to work subject to certain restrictions and the employer is required to provide for their education and professional training and to ensure conditions of work that are not damaging to their physical and moral development. Children between the ages of 12 and 15 are permitted to work under special conditions authorized jointly by the Ministries of Labor, Health, and Education. For minors under 18 years, the maximum workweek is 38 hours, and the maximum workday is 7 hours. Minors under 18 years of age are not permitted to work in unhealthy or dangerous occupations or those requiring significant physical effort. Children must undergo a medical examination before beginning work. By law, children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher.

Because of high adult unemployment in the formal sector, few children were employed in regular wage positions; however, children, including those under the age of 15, commonly worked on family farms; independently in seasonal harvests or commercial plantations, where they were paid on a piecework basis and principally involved picking cotton or tea leaves; or in the urban informal sector, where they performed such tasks as guarding cars, collecting scrap metal, working as vendors, and selling trinkets and food in the streets. The International Labor Organization estimated that between 30 and 35 percent of children ages 10 to 14 were working in the informal sector. Children also were increasingly employed as poorly paid domestic laborers.

Children orphaned by HIV/AIDS often were forced to work because they were left without any adult family members or with only extended family members who were unable to support them. Forced child labor was a problem. Children in rural areas were used as labor to settle financial and other disputes, with their families delegating the children to work for limited periods of time to settle debts.

The Ministry of Labor is authorized to regulate child labor in both the informal and formal sectors. Labor inspectors may obtain court orders and use police to enforce compliance with child labor provisions, and violations of child labor provisions are punishable with fines. Enforcement mechanisms generally were adequate in the

formal sectors but remained inadequate in the regulation of informal child labor. The Labor Inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside of the capital. The Government provided training for police on child prostitution and abuse (including pornography); however, there was no specialized child labor training for the Labor Inspectorate. The Government disseminated information and provided education about the dangers of child labor.

*e. Acceptable Conditions of Work.*—During the year, there was an approximately 15 percent increase in the minimum wage to \$55 (1,100,000 meticais) per month for industrial workers and \$39 (790,000 meticais) per month for agricultural workers; however, neither minimum wage provided a decent standard of living for an average worker and family. Many workers turned to a second job, if available; maintained their own gardens; or depended on the income of other family members to survive. Only a small percentage of laborers worked at the minimum wage level. Less than 10 percent of workers were in salaried positions, and the majority of the labor force was employed in subsistence farming and the informal sector. Although the industrial sector frequently paid above minimum wage, there was little industry outside of the Maputo area.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector and the Ministry of Planning and Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. It was customary for workers to receive benefits such as transportation and food in addition to wages.

The standard legal workweek is 40 hours, but can be extended to 48 hours. After 48 hours, overtime must be paid at 50 percent over base hourly salary. Overtime is limited by law to two hours per day and 100 hours per year. Foreign workers are protected under the law.

Worker complaints about employers deducting social security contributions from wages but failing to pay them into accounts and lack of access to the Social Security system continued during the year.

In the small formal sector, health and environmental laws enacted to protect workers; however, the Ministry of Labor enforced these laws ineffectively, and the Government only occasionally closed firms for noncompliance. There continued to be significant violations of labor legislation in many companies and services. In the first 6 months of the year, the Ministry of Labor estimated that there were 154 industrial accidents, 6 of which resulted in death. Most of these accidents were blamed on unsafe practices or the lack of safety equipment. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment; however, in practice this right was restricted by threats of dismissal and peer pressure.

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## NAMIBIA

Namibia is a multiparty, multiracial democracy. Sam Nujoma, the leader of the South West Africa People's Organization (SWAPO) and President since the country's independence in 1990, will step down at the end of his term in March 2005. On November 15 and 16, citizens elected Minister of Lands, Resettlement, and Rehabilitation Hifikepunye Pohamba to be the next President. International and domestic observers agreed the general elections were generally free and reflected the will of the electorate despite some irregularities; SWAPO won three-quarters of the seats in the National Assembly. The judiciary was independent but at times inefficient.

The police, including the paramilitary Special Field Force (SFF), supervised by the Ministry of Home Affairs, and the Namibian Defense Force (NDF), supervised by the Ministry of Defense, shared responsibility for internal security. The Namibian Central Intelligence Service (NCIS) has responsibility for national security-related intelligence inside and outside the country. Civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy was heavily dependent on mining, fish, and tourism; the population was 1.8 million. More than 50 percent of the working population was engaged in subsistence agriculture. The per capita income of approximately \$1,870 masked extreme disparity between the income levels of black citizens and white citizens, which resulted in large part from the pre-independence apartheid regime; however, the living standards of black citizens continued to improve. White citizens and foreign interests still largely controlled ranching. Unemployment exceeded 30

percent and affected primarily the black majority. Government policies continued to promote equality through education, job creation, and promotion of entrepreneurial opportunities for the historically disadvantaged.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Security forces killed and abused citizens during arrests and detentions. Some security force members who committed abuses were arrested and tried; however, the Government did not take action in other cases. Problems with arbitrary arrest and lengthy pretrial detention continued. A large court backlog, due primarily to resource constraints, resulted in lengthy delays of trials. High-level government officials continued to respond to criticism of ruling party and government policies with verbal abuse. There continued to be pressure on journalists who worked for government-owned media outlets not to criticize the Government. Violence against women and children, including rape and child abuse, continued to be a serious problem. Women also continued to experience serious legal and cultural discrimination. Racial and ethnic discrimination and serious disparities in education, health, employment, and working conditions persisted, as did discrimination against indigenous persons. There were reports of forced labor, including by children. Child labor was a problem; however, the Government continued its efforts to end this practice. Unlike in previous years, there were no reports that Angolan Armed Forces (FAA) soldiers intimidated and abused civilians.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings by the Government or its agents; however, security forces killed two persons during the year. On July 15, a police officer shot and killed Francis Sikwai Musanza, who allegedly was fishing illegally. On December 16, police shot and killed Jeffrey Shalulu, who had escaped from Otjiwarongo police cells, where he was awaiting trial. No further information was available about either case.

During the year, the Prosecutor General declined to press charges against an NDF member who in 2003 shot and killed Mohamed Sawana.

There were no developments in the 2003 police beating of Alilo Ndungula, who subsequently died.

There were no further developments in 2002 killings by security forces.

Unexploded ordnance killed and injured several persons during the year. For example, on July 7, unexploded ordnance killed Dirk Jansen at Otjomuise. The police Explosive Ordinance Disposal Unit and NDF operational clearance teams participated in demining activities during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

There were no developments, and none were expected, in the 2002 disappearance of Fransisco Chivela, who security forces detained on suspicion of being a “UNITA bandit.”

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, security forces sometimes beat or otherwise abused persons, including persons held in custody.

Unlike in previous years, no prisoners alleged that they had been tortured.

Despite a police directive that prohibited the use of sjamboks (heavy leather whips), security forces continued to use them.

In May, Steven Visagie, who fled custody at the Walvis Bay Police Cells and subsequently was rearrested, charged in a media report that security forces used tear gas in cells “for no reason.”

On August 31, police held down, kicked, and arrested four foreigners they reportedly mistook for thieves. The foreigners, who were released, did not press charges.

During the year, the Government took action against some security force members who abused persons in 2003. For example, a court martial convicted and fined the officer who abused one of the female NDF recruits who filed charges of mistreatment in July; the case of the other recruit was dismissed for lack of evidence. A court martial was scheduled for March 2005 to try NDF members who harassed and beat Beau Pietersen and Hatani Mao Eichab for refusing to remove their earrings.

The Prosecutor General declined to prosecute the NDF member who in 2003 allegedly shot Sonette Benson in the leg.

Paramilitary units also abused persons. In February, SFF members reportedly beat Theophillus Ambondo, allegedly for transporting maize meal in a government vehicle on the weekend.

On November 14, at Kayira-yira village, SFF members reportedly beat Lyasantu Mendosa before taking him to the Rundu police, who subsequently transported

Mendoza to the hospital; on November 16, he was discharged from the hospital to appear in the Magistrate's Court on charges of possessing marijuana. No further information was available on the case.

There were no developments in the June 2003 case in which SFF members allegedly assaulted George Petrus.

During the year, media and human rights groups continued to report on the ongoing court cases that resulted from security forces responding with violence to secessionist attacks in 1999 (*see* Sections 1.d. and 1.e.). More than 100 related cases were pending at year's end.

During the year, some citizens of the Mafwe ethnic group complained of police harassment in the form of repeated interrogations about the 1999 secessionist attacks at Katima Mulilo (*see* Section 1.d.).

Unlike in previous years, there were no reports of intimidation and abuse of civilians in the northern border areas by FAA soldiers.

Unexploded ordnance continued to injure persons; however, there were no reports of injuries from landmines during the year (*see* Section 1.a.).

Conditions in prisons and military detention facilities were Spartan; however, they generally met international standards. There were incidents of overcrowding and poor maintenance. Victims of abuse were able to pursue legal remedies. The Ministry of Prisons and Correctional Services administered the country's prisons and jails and continued to work to improve conditions.

In January, Josef Kandjimba died in police custody; Kandjimba's family charged that his death resulted from police failure to take him to a December 2003 medical checkup.

Female prisoners were held separately from male prisoners. The Government also made efforts to separate juvenile offenders from adult criminals, and there were separate facilities for child offenders in Windhoek and Mariental; however, in many rural areas, juveniles continued to be held with adults. There were several pilot programs that provided alternatives to incarceration for juvenile offenders. Pretrial detainees generally were held separately from convicted prisoners.

The Government continued to grant nongovernmental organizations (NGOs) regular access to prisons and prisoners. The International Committee for the Red Cross (ICRC) requested and received prison access.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest or detention except in situations of national emergency; however, security forces at times did not observe these prohibitions.

The country's 10,000-member national police force (NAMPOL) is highly centralized with regional commands responsible to the Inspector General of Police, who reports to the Minister of Home Affairs. Approximately half of NAMPOL's overall complement is assigned to the SFF, a paramilitary unit made up primarily of combatants from the former People's Liberation Army of Namibia; SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to consistently deter or investigate street crime.

The police continued to make use of a human rights training course and a human rights training manual designed by the Legal Assistance Center (LAC). At times security force members accused of committing abuses were arrested and tried in military courts or the civilian criminal justice system; however, in other cases, the Government did not take any action against those responsible for abuses.

Persons who were arrested must be informed of the reason for their arrest and must be brought before a magistrate within 48 hours of their detention. Those accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel; however, in practice, many accused persons in remote and rural areas were not represented by counsel, primarily due to the lack of resources. Prisoners generally had access to legal counsel and family during regular visiting hours. Detainees had access to their lawyers prior to trial. There was a functioning bail system in place, and the LAC reported that it generally was observed except in rural areas, where persons often were unaware of their legal rights.

On January 2, police at an Ondangwa roadblock arrested Shefeni Daniel Linekela for being a suspected illegal immigrant. Linekela, who was detained for 5 days, was released without charge.

Under a state of emergency, the Constitution permits detention without trial, although the names of detainees must be published in the Government's gazette within 14 days, and their cases must be reviewed within 1 month by an advisory board appointed by the President.

During the 1999 state of emergency declared in response to Caprivi Liberation Army (CLA) attacks in Katima Mulilo, the security forces detained several hundred suspected CLA members and sympathizers, most of whom were released after 2 weeks. Trial proceedings began in October 2003; 120 suspects remained in detention at Grootfontein at year's end (*see* Section 1.e.).

The seven refugees who were arrested on related charges of high treason after being forcibly returned from Botswana in December 2003 remained in detention at year's end; their trial was scheduled for early 2005.

Citizens who were arrested arbitrarily used civil suits as legal recourse in many cases. In October, the High Court awarded damages of \$2,000 (NAD 12,000) to Luiza Lomba, a citizen who was detained as an illegal immigrant in 2000.

The case of Aurelio Samakupa Sondjamba, who filed damages against the Government after his 2002 release from prison after being held for 2 years without charge, was settled out of court during the year; Sondjamba was awarded compensation.

The 2002 civil suit filed by Anna Shingenge, who was detained by King Munkundi of the Ongandjera Traditional Authority for 7 months, was settled out of court under confidential terms.

There was no further information on the 2002 arrest of three persons who remained in detention at year's end for suspected involvement with the CLA.

A trial must take place within "a reasonable time," or the accused must be released. Human rights organizations have criticized the length of time that pretrial detainees were held, which has extended beyond 1 year in some cases (*see* Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the court system at times was inefficient. During the year, government and ruling party officials harshly criticized High Court Judge Elton Hoff.

The formal court system has 3 levels: 30 magistrates' courts; the High Court; and the Supreme Court. The latter also served as a court of appeals and as a constitutional review court.

The Constitution provides for the right to a fair trial with a presumption of innocence until proven guilty; however, this right was limited somewhat in practice by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system.

The lack of qualified magistrates and other court officials and the high cost of legal aid resulted in a serious backlog of criminal cases, which often translated into delays of up to 1 year or more between arrest and trial, contravening constitutional provisions for the right to a speedy trial. Some of those awaiting trial were incarcerated in the same conditions as those of convicted criminals.

During the year, procedural issues continued to dominate the high treason trial of 120 detainees arrested in connection with the 1999 attacks on government institutions at Katima Mulilo (*see* Section 1.d.). On February 24, High Court Judge Hoff ordered the release of 13 of the 120 detainees after ruling that the court did not have jurisdiction because of irregularities in their extradition from Botswana and Zambia. After their release, the 13 were rearrested on the same charges. The Government appealed the High Court's ruling to the Supreme Court, which overturned the decision on July 21. High Court criminal proceedings for all 120 suspects were initiated on August 23, subsequently postponed, and rescheduled to resume in January 2005.

During the year, the Government and ruling party officials harshly criticized Judge Hoff and his decision to release the 13 detainees. The Deputy Minister of Environment and Tourism called the Judge "disloyal and unpatriotic," and SWAPO Party Youth League Secretary Paulus Kapia denounced Hoff and the human rights organizations that defended him. The Law Society charged Ilonga and Kapia with contempt of court; however, no trial date had been set by year's end.

Most rural citizens first encountered the legal system through the traditional courts, which dealt with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The law delineates which offenses may be dealt with under the traditional system. The law defines the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with provisions of the Constitution.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search, except in situations of national emergency; government authorities generally respected these rights in practice, and violations were subject to legal action.

Under the law, the NCIS is authorized to conduct wiretaps, intercept mail, and engage in other covert activities inside and outside the country to protect national security; however, wiretaps and covert surveillance required the consent of a judge.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, subject to reasonable restrictions in situations such as a state of emergency, and the Government generally respected these rights in practice; however, high-level government officials sometimes responded to criticism of the Government and ruling party with verbal abuse. There also were reports of government pressure on reporters who worked for government-owned media. The Government did not restrict academic freedom.

The Government contributed financially to the New Era newspaper and the Namibia Press Agency, both parastatals. The ruling SWAPO party owned one publication, Namibia Today. There were six independent newspapers. Reporters for independent newspapers continued to criticize the Government openly and did not engage in self-censorship.

The Government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television. NBC television and nine radio services that broadcast in English and indigenous languages were the most widely heard and influential media in the country. During the year, there were reports of government influence on NBC operations and editorial content as well as self-censorship by the staff. There were nine private radio stations, one private television station, and a private cable and satellite television service that broadcast international news and entertainment programs. The ruling SWAPO party owned 51 percent of this cable service.

Government departments were precluded from advertising in The Namibian newspaper or purchasing it with state funds because of the newspaper's critical coverage of the President and the Government. Political parties, including the ruling SWAPO party, advertised in The Namibian.

During the year, high-level government and ruling party officials sharply and publicly criticized journalists in response to perceived criticism of the Government or ruling party; however, there were fewer such incidents than in previous years. Such verbal attacks did not appear to have significantly affected the aggressive style of the independent media.

There were no restrictions on Internet access or use. There were growing numbers of domestic web pages, and the major newspapers had popular websites.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, except in situations of national emergency, and the Government generally respected these rights in practice. Organizers of public meetings were required to obtain prior police approval, but many public gatherings took place without such approval and without interference by the Government.

Unlike in the previous year, security forces did not disperse demonstrations during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, except in situations of national emergency, and the Government generally enforced these rights in practice.

The Constitution prohibits forced exile, and the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum; however, the Government required individual status determinations for asylum cases. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

At year's end, the population at the Osire Refugee Camp was approximately 10,000. Approximately 90 percent of this population was from Angola; the remaining refugees were from the Democratic Republic of the Congo, Burundi, Rwanda, and other African countries. During the year, 3,000 refugees voluntarily returned to An-

gola. The Government generally did not permit refugees and asylum seekers to work or live outside the Osire refugee camp. Education through grade 10 was available to all refugees at the camp, and the Government facilitated further secondary education for students with financial sponsorship at schools outside the camp. Some tension with local farmers persisted; farmers accused some refugees of stealing firewood, and refugees claimed they were not paid for informal labor.

The Government continued to maintain strict control over civilian access to the Osire refugee camp; however, the ICRC, the UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

Most of the approximately 1,000 Caprivi refugees—primarily Barakwena San—who in 2003 returned to the country from Botswana had assimilated into their communities by year's end.

In July, the Botswana Court of Appeal rejected the Government's appeal to have 13 alleged Caprivi secessionists extradited to face charges of murder and high treason. During the year, 2 of these individuals died of natural causes; the remaining 11 were being detained while the UNHCR reviewed their refugee claims.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right during the year in presidential, parliamentary, regional, and local elections.

The Constitution establishes a bicameral Parliament and provides for general elections every 5 years and regional elections every 6 years. Members of the National Assembly are elected on a party list system on a proportional basis. National Council members are elected from within popularly elected Regional Councils.

Presidential and parliamentary elections were held on November 15 and 16. Hifikepunye Pohamba, SWAPO Party candidate and Minister of Lands, Resettlement, and Rehabilitation, was elected President with 76.4 percent of the vote; SWAPO won 55 of 72 elected National Assembly seats. International and domestic observers characterized both elections as free and reflecting the will of the electorate despite some irregularities. Observers criticized the inefficient vote tabulation system and the unequal access to media coverage and campaign financing. In the National Assembly, 6 opposition parties won a total of 17 seats: The Congress of Democrats Party, the Democratic Turnhalle Alliance, the United Democratic Front, the National United Democratic Organization, the Republican Party, and the Monitor Action Group. The inauguration of President-elect Pohamba and the National Assembly was scheduled for March 2005.

Legislation—including the 2003 Anti-Corruption Bill—and institutions—including the Office of the Ombudsman and the Office of the Auditor-General—were in place to combat public corruption; however, corruption and lack of transparency were growing problems. During the year, there were notable cases of malfeasance in several of the country's parastatals. Reports of corruption in the Airports Company, the Social Security Commission, and the Roads Authority received widespread media coverage. The Anti-Corruption Bill had not been implemented by year's end due to budgetary constraints.

No laws provided for public access to government information; however, the Government generally provided such access.

Women held 20 seats in the 78-seat National Assembly. There was a Women's Caucus in Parliament that reviewed legislation for gender sensitivity. There were 5 female ministers, including the Attorney General, and 5 female deputy ministers among the 45 ministerial and deputy ministerial positions.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a member of the San community represented the SWAPO party in the National Assembly. Virtually all of the country's other ethnic minorities were represented in Parliament and in senior positions in the Cabinet. Members of smaller ethnic groups held the offices of Prime Minister, Deputy Prime Minister, and Speaker of the National Assembly.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, high-level government officials continued to use harsh language in response to NGO criticism of the ruling party and government policies. Government and ruling party officials continued to attack verbally human rights NGOs, including the National Society for Human Rights. For example, at a March 9 press conference, the Secretary of SWAPO's Youth League charged that the LAC,

the National Society for Human Rights (NSHR), and the Society of Advocates were unpatriotic and “self-declared defenders of the enemies of the Namibian people.” At a November 12 SWAPO rally, two Ohangwena regional councilors referred to the NSHR staff as “traitors.” Despite verbal attacks, NGOs continued to criticize government policies freely.

During the year, representatives of international human rights organizations visited the country.

There was an autonomous ombudsman, with whom the Government cooperated.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, creed, gender, or religion, and specifically prohibits “the practice and ideology of apartheid”; however, the Government did not effectively enforce these prohibitions.

*Women.*—Domestic violence against women, including beating and rape, was widespread. Traditional attitudes regarding the subordination of women exacerbated problems of sexual and domestic violence. Domestic violence is against the law, and the law defines rape in broad terms and allows for the prosecution of spousal rape. There continued to be significant attention paid to the problems of rape and domestic violence. In some Magistrate’s Courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms.

Women and Child Protection Units, staffed with police officers trained to assist victims of sexual assault, were located in nine cities; during the year, the PEACE Center and other NGOs continued to provide training to these units. Police reported an increase in the number of women who reported rape and domestic violence.

The Constitution prohibits discrimination against women, including employment discrimination; however, men dominated positions in upper management. The Ministry of Labor and the Employment Equity Commission, which reports to the Minister of Labor, were responsible for problems involving discrimination in employment; the Ministry of Women Affairs and Child Welfare was responsible for advocating for women’s rights. The Ministry of Justice’s Law Reform and Development Commission advocated for women’s rights in legislation, such as the Maintenance Act. The law prohibits discriminatory practices against women married under civil law; however, women married under customary (traditional) law continued to face legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed.

*Children.*—The Constitution enumerates children’s rights, including those in the area of education and health, and during the year, approximately 20 percent of government expenditures were designated for education and 15 percent for health care; however, in practice, resource constraints and untrained support staff resulted in inadequate attention to child welfare.

The Constitution provides children with the right to primary and junior secondary education (grades 1 to 10); however, the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on students’ families, and precluded some children from attending school. In general, more girls than boys were enrolled in secondary schools. Many San children did not attend school.

During the year, the Government took several steps to provide medical care and other assistance to the approximately 100,000 HIV/AIDS orphans and other vulnerable children.

Child abuse was a serious and increasingly acknowledged problem. The authorities vigorously prosecuted crimes against children, particularly rape and incest. The law protects children under 18 years of age by criminalizing sexual exploitation, child pornography, and child prostitution. The age of sexual consent was 16 years. During the year, the Government provided training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

There were a few reports of child prostitution, and parents as well as perpetrators were liable in such cases. For example, an investigation during the year into the disappearance of a 7th grade pupil at Narraville Primary School revealed that students as young as 11 and 12 were involved in sexual relations with older men; in some cases, parents seeking additional income reportedly had encouraged such activities. The school called an emergency meeting of the parents to address the issue, the State opened a charge sheet, and the Women and Child Protection Unit of the police initiated an investigation.

The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

Child labor was a problem (*see* Section 6.d.).

*Trafficking in Persons.*—The Prevention of Organized Crime Act, which was enacted in November, specifically prohibits trafficking in persons, and there were no reports of persons being trafficked to, from, or within the country. The law also prohibits slavery, kidnapping, forced labor, including forced prostitution, child labor, and alien smuggling. Traffickers were subject to fines of up to \$166,000 (NAD 1 million) or up to 50 years' imprisonment.

There were a few reports of child prostitution (*see* Section 5, Children).

*Persons With Disabilities.*—While discrimination on the basis of disability is not addressed in the Constitution, the Labor Act prohibits discrimination against persons with disabilities in employment; however, enforcement in this area was ineffective. Although there was no legal discrimination against persons with disabilities, societal discrimination persisted. The Government legally does not require special access to public buildings for persons with disabilities, and some ministries remained inaccessible to them. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem. Disability issues continued to receive greater public attention than in previous years, with wider press coverage of the human rights problems that confront persons with disabilities. During the year, the Electoral Commission of Namibia took steps to accommodate voters with disabilities, including the provision of Braille templates for ballots in the presidential and national assembly elections.

*National/Racial/Ethnic Minorities.*—Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Many nonwhites continued to complain that the Government was not moving quickly enough to provide education, health, housing, employment, and access to land. Some citizens continued to accuse the Government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. There also were reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners.

*Indigenous People.*—The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law, all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, San and other indigenous citizens have been unable to exercise fully these rights as a result of minimal access to education, limited economic opportunities under colonial rule, and their relative isolation. The Government has taken measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to education; however, many San children did not attend school. In February, the LAC filed charges on behalf of 18 members of the San community against more than 20 communal farmers who allegedly beat them after accusing the San of stock theft; the case was pending at year's end. NGOs reported a decrease in complaints that San were unable to obtain proper and accurate identification documents.

The Government's authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference, was controversial because of the leaders' influence on local events, including local police powers. In some cases, the Government withheld recognition from genuine traditional leaders for political reasons.

*Other Societal Abuses and Discrimination.*—On December 8, the Government signed into law a new Labor Act, which removed the previous law's protection of homosexuals from employment discrimination. During the year, senior government officials continued to make disparaging public remarks about homosexuals. For example, in a May 6 parliamentary debate, Justice Minister Albert Kawana called homosexuality "illegal and criminal."

#### Section 6. Worker Rights

*a. The Right of Association.*—The Constitution provides for freedom of association, including freedom to form and join trade unions, and workers exercised this right in practice. A survey by trade unions indicated that approximately 140,000 of the 280,000 workers in the formal sector were unionized. Farm workers and domestic servants working on rural and remote farms often were ignorant of their rights, and unions experienced obstacles in attempting to organize these workers; as a result, they reportedly suffered abuse by employers. The law provides a process for employer recognition of trade unions and protection for members and organizers.

The law specifically protects both union organizers and striking workers from employer retaliation; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

*b. The Right to Organize and Bargain Collectively.*—The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers were members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining and construction industries, which had centralized, industry-wide bargaining. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

Except for workers providing essential services such as jobs related to public health and safety, workers have the right to strike once conciliation procedures are exhausted and 48-hour notice has been given to the employer and labor commissioner; legal strikes were conducted during the year. Under the law, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration. The law protects workers engaged in legal strikes from unfair dismissal.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there continued to be media reports during the year that farm workers (including some children on family-owned commercial farms) and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the Ministry of Labor's resource constraints, labor inspectors sometimes encountered problems in gaining access to the country's large, family-owned, commercial farms to investigate possible labor code violations.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Criminal penalties and court orders were available to the Government to enforce child labor laws; however, such action involved a complicated legal procedure, and child labor was a problem. Under the law, the minimum age for employment is 14 years, with higher age requirements for night work and in certain sectors such as mining and construction. Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas.

The Government has taken steps to end child labor abuses. During the year, the Ministry of Labor continued to hire additional inspectors, who used revised inspection checklists to include specific inquiries on International Labor Organization (ILO) Convention 182 concerns. The Ministry continued to work together to monitor abuses with ILO representatives, who visited the country during the year. The Government also continued to work with NGOs to assist the victims of child labor.

*e. Acceptable Conditions of Work.*—There was no statutory minimum wage law; however, the mining, construction, and agricultural sectors set basic levels of pay through collective bargaining. However, a 2003 survey by the Namibian Farmworkers Union claimed that nearly 40 percent of 200 farms surveyed paid their workers less than minimum wage. In Windhoek's historically disadvantaged high-population density areas, minimum wages for workers did not provide a decent standard of living for a worker and family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours and required at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The new Labor Act mandates 24 workdays of annual leave per year, at least 30 workdays of sick leave over a 3-year period, and 3 months of maternity leave paid in part by the Social Security Commission. However, in practice, these provisions were not always observed or enforced rigorously by the Ministry of Labor.

The Government mandates occupational health and safety standards, and the Labor Act empowers the President to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently; however, the Ministry of Labor still lacked an adequate number of trained inspectors to monitor adherence to such labor regulations as providing overtime pay and social security by some companies, especially small, family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides

employees with the right to remove themselves from dangerous work situations; however, some workers did not have this right in practice.

The law accords the same rights to legal foreign workers as to citizens.

## NIGER

Niger is a republic that returned to democracy in 1999, following coups d'etat in 1996 and 1999, and continued efforts to consolidate a democratic system and a constitutional government. On December 4, Tandja Mamadou was elected to his second 5-year presidential term with 65 percent of the vote in an election that international observers called generally free and fair. Four parties joined the ruling coalition of the National Movement for the Development of Society (MNSD) and the Democratic and Socialist Convention (CDS) to win 88 of the 113 seats in the National Assembly. On December 24, Tandja re-appointed MNSD party president Hama Amadou as Prime Minister. The judiciary continued to show signs of independence; however, family and business ties could influence lower court decisions, and there were reports that the executive branch influenced the judicial process. Judicial corruption and inefficiency were problems.

Security forces consist of the armed forces, composed of the Army and Air Force; National Forces for Intervention and Security (FNIS), composed of the Republican Guard and the Saharan Unit for Security; gendarmerie (paramilitary police); and national police. The armed forces, under the Ministry of Defense, were responsible for internal and external security; the gendarmerie, also under the Defense Ministry, had primary responsibility for rural security; the FNIS, under the Interior Ministry, was responsible for domestic security and the protection of high-level officials and federal buildings; and the national police, also under the Interior Ministry, were responsible for urban law enforcement. Civilian authorities generally maintained effective control of the security forces. A few members of the security forces committed human rights abuses.

The economy was market based and depended primarily on subsistence farming, herding, small trading, and informal markets. Approximately 15 percent of the economy was in the formal sector, primarily in light industry and government services. Approximately 61 percent of the population of 11.2 million lived on less than a \$1 a day, and the country's per capita income was less than \$200 a year. The rate of economic growth in 2003 was 3 percent; the Government's projection for the rate of growth by year's end was 4.1 percent. Drought, locust infestation, deforestation, soil degradation, high population growth rates, and exceedingly low literacy were problems.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. During the year, security forces killed and abused persons, although there were fewer such incidents than in previous years. Prison conditions remained poor and sometimes life-threatening, and prolonged pre-trial detention remained a problem. Police arrested a journalist and an opposition politician during the year. Unlike in the previous year, there were no reports that the Government limited freedom of speech, the press, or academic freedom. Security forces also forcibly dispersed violent student protests and injured numerous demonstrators. The Government continued to ban several Islamist organizations that engaged in or threatened violence. Domestic violence and societal discrimination against women continued to be serious problems. Female genital mutilation (FGM) persisted, despite a government ban on the practice. There was societal discrimination against persons with certain disabilities and ethnic minorities, and reports continued of a form of slavery or servitude. Child labor and forced or compulsory labor, including by children, occurred. There were reports of trafficking, including child prostitution.

During the year, the Government took steps to decentralize and to consolidate democratic institutions by holding generally free and fair presidential, legislative, and municipal elections.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, security forces killed persons during the year.

On January 27, Adam Amenge, the President of the local chapter of the National Movement for the Development of Society (MNSD) Party in Tchirozerine, Agadez re-

gion, was killed; Rhissa Ag Boula, the then-Minister of Tourism, was implicated in the case and resigned. On February 19, Ag Boula was charged with complicity to murder and placed under preventative detention in the prison in Say, where he remained at year's end awaiting trial. On June 30, 9 of 12 other persons arrested in connection with the killing were granted provisional release. There were allegations that the killing was politically motivated; however, other observers claimed the motivation was personal.

In March, in Agadez, police shot and killed an alleged murderer as he tried to flee the scene of the crime; one police officer was prosecuted, fined, and sentenced to 3 years in jail.

On August 10, armed men attacked 3 buses along the Agadez-Arlit road in the northern region of Agadez; the attacks resulted in 3 deaths, 14 injuries, and the kidnapping of 2 gendarmes, who were among the passengers. The armed men escaped and the whereabouts of the gendarmes remained unknown at year's end.

There were no developments in the 2002 killings of a protester and two soldiers. Unlike in the previous year, there were no reports that persons died from landmines.

There were no reports of ethnic violence during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

On August 10, armed men kidnapped two gendarmes, who remained unaccounted for at year's end (*see* Section 1.a.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were a few reports that security forces beat and abused persons.

In May, security forces in Tera detained without charge a health worker for refusing medical treatment to the child of a Republican Guard; the health worker, who was released after 48 hours, reportedly was beaten and humiliated in detention. The case was under investigation at year's end.

In June, security forces in the area of Tesker reportedly beat and abused persons after civilians in the area had killed a soldier during a fight in March. Local human rights organizations, which provided legal assistance to the claimants, condemned the security forces; the case was under investigation at year's end.

Police used tear gas to disperse student protests (*see* Section 2.b.).

During the year, the three gendarmes from Torodi convicted in 2003 of using excessive force during a 2002 interrogation appealed the judgment; the case was pending in the Appeals Court at year's end.

During the year, armed persons claiming to reconstitute the Air and Azawak Liberation Front (FLAA), a former Tuareg rebel group, attacked vehicles and passengers in the northern region of Agadez. On June 5, self-proclaimed FLAA members attacked vehicles and stole money and valuables from the passengers; on July 8, another group attacked passenger vehicles and demanded the release of Rhissa Ag Boula, a former leader of the Tuareg rebellion and the former Minister of Tourism (*see* Section 1.a.).

Conditions in all 35 of the country's prisons were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. For example, in Niamey's Civil Prison, there were approximately 700 prisoners in a facility built for 350; more than 400 of these were awaiting trial at year's end. In 2003, a new maximum security prison was completed in Koutoukale for dangerous criminals, but it did little to relieve the prison system's severe overcrowding. Family visits were allowed, and prisoners could receive supplemental food, medicine, and other necessities from their families; however, nutrition and health conditions were poor, and deaths occurred from AIDS, tuberculosis, and malaria.

Corruption among prison staff was rampant. Prisoners could bribe officials to leave prison for the day and serve their sentences in the evenings. Some prisoners bribed officials to serve their sentences in the national hospital.

Prisoners were segregated by gender, and minors and adults were incarcerated separately; there was one juvenile detention center. Pretrial detainees were held with convicted prisoners.

Human rights observers, including the International Committee of the Red Cross (ICRC), were granted unrestricted access to prisons and detention centers and visited them during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; however, police at times violated these provisions.

The police force, which was under the direction of the Ministry of Interior, was ineffective, primarily because of inadequate resources. Basic supplies, such as vehicle fuel, radios, uniforms, handcuffs, batons, and badges were scarce. Patrols were

sporadic, and emergency response time in Niamey could take 45 minutes. Police training was minimal, and only specialized police units had basic weapons-handling skills. In December 2003, the National Assembly adopted legislation granting police more decision-making authority and increased compensation; however, corruption remained pervasive.

If police failed to gather sufficient evidence within the detention period, the prosecutor can give the case to another officer, and a new 48-hour detention period begins. Poor communications hindered accurate identification of detainees and could result in prolonging the 48-hour detention period. A defendant has the right to a lawyer immediately upon detention, and bail is available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevented many of the accused from taking full advantage of these rights.

Security forces detained a journalist and an opposition politician during the year (*see* Section 2.a.).

Police, acting under authority granted them by the Security Law, occasionally conducted sweeps to detain suspected criminals.

In July, the remaining cases of the persons arrested in January 2003 following the 2002 mutinies were reassigned to the new Military Court and were pending trial at year's end.

There were serious backlogs in the judicial system. Despite legal limits to the pre-trial confinement period of indicted persons, detention frequently lasted months or years; some persons have been waiting as long as 6 years to be charged.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch sometimes interfered with the judicial process. In civilian matters, there were credible reports that family and business ties influenced lower court decisions. Judges sometimes feared reassignment or having their financial benefits reduced if they rendered a decision unfavorable to the Government. Nevertheless, there continued to be evidence of increased judicial independence. In May, the Constitutional Court ruled against changes proposed by the Government to the Electoral Code. In 2002, the Constitutional Court noted that the Government did not have the right to remove the Sultan of Zinder from his position; the Sultan still faced fraud charges at year's end.

Unlike in the previous year, there were no court proceedings that occurred in the absence of defendants and their counsel.

Defendants and prosecutors could appeal a verdict, first to the Court of Appeals, then to the Supreme Court. The Court of Appeals reviewed questions of fact and law, while the Supreme Court reviewed only the application of the law and constitutional questions. There also were customary courts.

Defendants have the right to counsel, to be present at trial, to confront witnesses, to examine the evidence against them, and to appeal verdicts. The Constitution affirms the presumption of innocence. The law provides for counsel at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more. Although lawyers complied with government requests to provide counsel, the Government generally did not remunerate them. Widespread ignorance of the law prevented many accused from taking full advantage of these rights. There was only one defense attorney known to have a private practice outside the capital, although lawyers traveled to various locations of the country to provide legal assistance as requested.

A military court was established in November 2003 and provides the same rights as civilian courts; however, it cannot try civilians.

Traditional chiefs could act as mediators and counselors and had authority in customary law cases as well as status under national law, where they were designated as auxiliaries to local officials. Chiefs collected local taxes and received stipends from the Government, but they had no police or judicial powers and could only mediate, not arbitrate, customary law disputes. Customary courts, located only in large towns and cities, try cases involving divorce or inheritance. They were headed by a legal practitioner with basic legal training who was advised by an assessor knowledgeable in the society's traditions. The judicial actions of chiefs and customary courts were not regulated by law, and defendants could appeal a verdict to the formal court system. Women did not have equal legal status with men in the traditional and customary courts and did not enjoy the same access to legal redress (*see* Section 5).

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law generally requires that police conducting a search have a warrant, normally issued by a judge; however, police reportedly often conducted routine searches without war-

rants. Under the State Security Law, police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property.

In February, the five officers and one civilian whose homes were searched without warrant in 2002 and then were charged with high treason were granted provisional release; the case was transferred to the new Military Court.

No action was taken against Republican Guards who in 2003 allowed Malian bandits of the same ethnic group to steal food and livestock from citizens living near the border in the Tillaberi region; however, the Government held meetings with affected communities during the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and unlike in the previous year, the Government generally respected these rights in practice and did not restrict academic freedom. Unlike in the previous year, there were no reports that the Government closed down radio stations; however, security forces arrested a journalist and an opposition politician during the year.

The Government published a French-language daily newspaper, *Le Sahel*, and its weekend edition. There were approximately 12 private French-language weekly or monthly newspapers, some of which were affiliated loosely with political parties. The private press criticized government actions.

Since literacy and personal incomes were both very low, radio was the most important medium of public communication. The government-owned radio station *La Voix du Sahel* transmitted 14 hours per day, providing news and other programs in French and several local languages. There were several private radio stations, including *Radio France International*, *Africa Number One*, and *Radio Bonferey*; five were owned locally and featured popular news programs in local languages, including *Djerma* and *Hausa*. These private radio stations generally were less critical of the Government than were the private newspapers. The government-operated multilingual national radio service generally provided equitable broadcasting time for all political parties; however, opposition parties complained of inequitable access to media during local and national elections during the year.

Television was a far less important medium than radio. The government-owned *Tele-Sahel* and *TAL-TV* broadcast programming in French and other major national languages. A private television station, *TV Tenere*, also broadcast local and foreign programming. The director of a private radio station operated a wireless cable television service for the capital, offering access to international channels.

The news coverage of the state-owned media reflected government priorities. Presidential activities and conferences dealing with development issues always were reported. Analysis or investigative reporting on domestic topics was extremely rare.

Foreign journalists circulated and reported freely. Strict accreditation requirements were imposed on domestic and foreign journalists; however, there were no reports that any journalists had been denied accreditation. During the year, the CSC continued to allow domestic broadcasting services to rebroadcast programs of foreign origin, such as *Voice of America*, *British Broadcasting Corporation*, *Deutsche Welle* programs, and *Radio France International (RFI)*.

Unlike during the previous year, the Government did not use existing law to criminalize slander and libel and to prosecute, convict, and imprison critics.

On August 12, the Government arrested Moussa Kaka, the editor of a private radio station and a correspondent for *RFI*. Beginning in June, Kaka had broadcast reports on an alleged reactivation of the Tuareg rebellion in the north. On August 11, *RFI* aired an interview between Mohamed Ag Boula and Kaka, who was subsequently charged with conspiracy and failure to advise authorities of criminal activities. Kaka was released from custody on August 16 and instructed to remain at the disposal of the court for further investigation. Charges against him were pending at year's end.

On December 7, the Government arrested Sanoussi Jackou, president of the Nigerien Party for Self-Reliance and owner of the independent newspaper *La Roue de l'Histoire*, on charges of inciting ethnic hatred; on November 21, Jackou had appeared on a radio talk show and allegedly insulted an ethnic group. On December 16, Jackou was sentenced to 1 month in prison and fined \$100 (50,000 CFA); an appeal had been filed by year's end.

On January 6, Maman Abou, the owner and editor of the weekly *Le Republicain* newspaper, was provisionally released; Abou had been arrested in November 2003 on defamation and theft charges after he published a July 2003 article that accused the Government of awarding several contracts to its supporters without going through a competitive bidding process. Charges against Abou were still pending at year's end.

During the year, the CSC rescinded its decision to withdraw the temporary broadcasting licenses of 11 stations; in 2003, the Government had withdrawn the licenses, which allegedly had been issued improperly.

The Government did not restrict access to the Internet or censor websites.

*b. Freedom of Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right. The Government retained the authority to prohibit gatherings either under tense social conditions or if advance notice (48 hours) was not provided. Political parties, including a coalition of opposition political parties, legally were permitted to hold demonstrations within a defined area.

Police forcibly dispersed demonstrations during the year. On January 23, police used tear gas to disperse students at Abdou Moumouni University who were demonstrating violently against scholarship arrears, poor housing conditions, the closure of the university food service, and the lack of student transportation; some of the students were injured. Eleven of the students, who barricaded main roads, set tires on fire, and damaged private vehicles, were arrested and charged with disturbing public order and damaging public property; all 11 were released after 10 days. On September 30, security forces again used tear gas to disperse student demonstrators at the University.

No action was taken against police who forcibly dispersed demonstrators in 2003 and 2002.

The Constitution provides for freedom of association; however, citizens may not form political parties based on ethnicity, religion, or region.

The seven militant Islamic organizations banned by the Government in 2002 remained banned (*see* Section 2.c.). During the year, two representatives from one of the banned organizations were released; the two had been arrested in 2002.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice, as long as persons respected public order, social peace, and national unity.

No religious group was subsidized; however, Islam is the dominant religion and the Islamic Association, which acts as an official advisory committee on religious matters to the Government, had biweekly broadcasts on the government-controlled television station. On government-controlled media, Christian programs generally broadcast only on special occasions, such as Christmas and Easter; however, the independent media regularly broadcast such programs.

Religious organizations must register with the Interior Ministry. This registration was a formality, and there was no evidence that the Government ever refused to register a religious organization.

During the spring, Muslim preachers urged violent resistance to a U.N.-sponsored polio vaccination, claiming it was a plot by Westerners to sterilize Muslim children. In reaction, the Government temporarily detained the preachers on the grounds of inciting a riot.

In 2002, the Government banned seven militant Islamic organizations on the grounds that these organizations were responsible for “disturbing the peace.” No mainstream Islamic organizations or human rights organizations have challenged the legality of the bans, which still were in effect at year’s end.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement and restricts neither emigration nor repatriation, and the Government generally respected these rights in practice. Security forces at checkpoints monitored the travel of persons and the circulation of goods, particularly near major population centers, and sometimes demanded payments or bribes; however, there were fewer reports of such actions than in previous years. There were occasional reports of banditry, sometimes violent, during the year (*see* Section 1.c.).

The Constitution prohibits forced exile, and there were no reports of its use.

The law does not provide for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, although the country is a signatory to the Convention. The Government has not established a system for providing protection to refugees. In practice, the Government provides protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee or asylum status. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR’s regional office in Benin was responsible for refugee assistance and protection in the country; the Government’s interministerial National Refugee

Eligibility Committee performed refugee prescreening duties. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol, and has offered asylum to several thousand persons primarily from Mali and Chad. A few Chadian refugee families remained in the country.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to change their government, and citizens were able to exercise that right during the municipal, legislative, and presidential elections held during the year. On December 4, Tandja Mamadou was elected to his second 5-year presidential term with 65 percent of the vote in an election that international observers called generally free and fair; however, international observer groups noted some irregularities on election day. A coalition composed of the MNSD, CDS, the Rally for Social Democracy, the Rally for Democracy and Progress, the Nigerien Alliance for Democracy and Progress, and the Social Party for Nigerien Democracy backed Tandja and won 88 of the 113 seats in the National Assembly.

On July 24, local elections were held for approximately 3,700 council members from 265 newly created communes. The ruling coalition won 74 percent of the seats, and the opposition Nigerien Party for Democracy and Socialism won 22 percent of the seats.

The country has a power sharing presidential system with the President as head of state and the Prime Minister as head of government. The President must choose the Prime Minister from a list of three persons presented by the majority party or coalition in the National Assembly. On December 24, Tandja re-appointed MNSD party president Hama Amadou as Prime Minister.

The Constitution provides for a representative one-chamber National Assembly and an independent judiciary. Citizens 18 years of age and over can vote, and voting is by secret ballot.

Official corruption occurred, and the Government publicly acknowledged that it was a problem; however, no officials were prosecuted for corruption during the year.

There were no laws that provided for public access to government information; however, many documents could be obtained from individual ministries and the National Archives.

Women traditionally have played a subordinate role in politics. The societal practice of husbands' voting their wives' proxy ballots effectively disenfranchised many women in the 1999 elections; however, female voter turnout substantially increased during local, legislative, and presidential elections held during the year. There were 14 women in the 113-seat National Assembly and 6 female ministers in the Cabinet. The law mandates that women receive 25 percent of senior government positions and fill 10 percent of elected seats; women won at least 10 percent of the approximate 3,700 local council positions during the July elections.

All major ethnic groups were represented at all levels of government. There were eight seats in the National Assembly designated for representatives of "special constituencies," specifically ethnic minorities and nomadic populations. President Tandja, who reportedly is half Peul and half Kanouri, is the country's first president who is not from either the Hausa or the Djerma ethnic groups, which make up approximately 56 percent and 22 percent, respectively, of the country's population.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several independent human rights groups and associations generally operated without government restriction, investigating and publishing their findings and conclusions that often were highly critical of the Government. Government officials often were unresponsive to their views and denied allegations of human rights abuses. The ICRC was active in the country.

The mandate of the Commission on Human Rights and Fundamental Liberties, which the Government created and funds, includes communication, advocacy, and investigation of human rights abuses. In 2002, the Government recommended adding civil servants from the Ministries of Justice, Interior, Social Development, and Labor to the Commission; however, this restructuring reduced the representation from civil society and limited the Commission's independence.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on sex, social origin, race, ethnicity, or religion; however, in practice, there were instances of societal discrimination against women, children, ethnic minorities, and persons with disabilities, including limited economic and political opportunities.

*Women.*—Domestic violence against women was widespread, although reliable statistics were not available. Wife beating reportedly was common. Families often intervened to prevent the worst abuses, and women may (and did) divorce because of physical abuse. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the legal system, fear of social stigma, or fear of repudiation. Women's rights organizations reported that prostitution often was the only economic alternative for a woman who wanted to leave her husband.

Rape is a crime punishable by 10 to 30 years' imprisonment depending upon the circumstance and age of the victim. Reliable statistics were not available.

FGM was practiced by certain ethnic groups; approximately 20 percent of women in the country had undergone FGM, according to a 1999 World Health Organization global study. Clitoridectomy was the most common form of FGM. FGM is against the law, and under the law, those convicted of practicing FGM and their accomplices face prison sentences from 6 months to 3 years; if the victim of FGM dies, the practitioner can be sentenced from 10 to 20 years' imprisonment. The Government also took an active role in combating FGM and worked closely with local NGOs, community leaders, UNICEF, and other donors to develop and distribute educational materials at government clinics and maternal health centers and participated in information seminars and publicity.

Prostitution, which is illegal, was more prevalent in big cities and near major mining and military sites.

Sexual harassment was criminalized, and violators face prison sentences from 3 to 6 months and fines from \$20 to \$200 (10,000 to 100,000 CFA francs). If the violator is in a position of authority, the prison sentence is from 3 months to 1 year and the fine is increased to from \$40 to \$400 (20,000 to 200,000 CFA francs).

Despite the Constitution's provisions for women's rights, deep-seated traditional and religious beliefs resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women did much of the subsistence farming as well as childrearing, water- and wood-gathering, and other work. Despite constituting 47 percent of the work force, women remained underrepresented in civil service and professional employment.

Legal rights as heads of household applied only to men; divorced or widowed women, even with children, were not considered to be heads of households. In the east, there were reports that some women were cloistered and could leave their homes only if escorted by a male and usually only after dark.

National service, which lasted from 18 months to 2 years, was mandatory for all young men and women who completed university studies or professional training. Men were allowed to serve in the military as part of their national service obligation; however, even though women were allowed to serve in the military, they could meet their national service obligation only by serving as teachers, health service workers, or technical specialists.

In December, the Ministry of Social Development's office to promote and protect women's rights became a separate ministry, the Ministry of Women's Promotion and Child Protection. The Government continued to work toward the passage of the Family Law, which addresses many fundamental rights of women.

*Children.*—Although the Constitution provides that the Government should promote children's welfare, financial resources for this purpose were extremely limited. The minimum period of compulsory education was 6 years; however, according to the Ministry of Basic Education, only approximately 50 percent of children of primary school age attended school, and approximately 60 percent of those who finished primary schools were boys. The majority of young girls were kept at home to work and were married at a young age, rarely attending school for more than a few years. This resulted in a female literacy rate of 9 percent compared with 25 percent for males as reported in a 2002 UNESCO report. Literacy rates, particularly for girls, were even lower in rural areas.

Some families entered into marriage agreements under which young girls from rural areas were sent by the age of 10 or 12 and sometimes younger to join their husband's family under the tutelage of their mother-in-law.

FGM was performed on young girls in many parts of the country by certain ethnic groups (*see* Section 5, Women).

The trafficking and commercial sexual exploitation of children was a problem (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

Infanticide occurred, and 80 percent of the female prison population were charged with the crime. According to the Ministry of Justice, infanticide resulted from severe economic conditions.

There were many displaced children, mostly boys, begging on the streets of the larger cities. Most of these boys came from rural areas and were indentured to Koranic schools by their parents due to economic hardships (*see* Section 5, Trafficking).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to, from, and within the country. Traffickers could be prosecuted under a 2003 revision of the penal code that criminalizes slavery; sentences for conviction ranged from 10 to 30 years' imprisonment.

Unlike in the previous year, there were no prosecutions of traffickers during the year.

The Ministries of Justice, Interior, and Social Development shared responsibility for combating trafficking in persons. The National Commission for the Coordination of the Fight Against Trafficking in Persons continued its work during the year.

There was evidence that the country is a transit point for persons trafficked between Nigeria, Benin, Togo, Ghana, Burkina Faso, and Mali; final destinations also included North African and European countries. The country is a destination for a small number of trafficked persons. Internal trafficking also occurred, and there was anecdotal evidence that clandestine networks victimized young girls who worked as household helpers.

Internal trafficking of young boys for labor and young girls for prostitution from rural to urban areas occurred. There were credible reports of underage girls being drawn into prostitution, sometimes with the complicity of the family. There also were reports that child prostitution was especially prevalent along the main East-West highway, particularly between the towns of Birni N'konni and Zinder. Child prostitution is not criminalized specifically, and there was no precise age of consent; however, the law prohibits "indecent" acts toward minors. It was left to a judge to determine what constituted an indecent act. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by 3 to 5 years in prison.

There also were reports of internal trafficking that included the indenturing of boys to Koranic teachers. In response to economic hardship, some rural parents sent their sons to learn the Koran in the cities where, in return for their education, the boys supported their teachers by begging on the streets or doing manual labor.

Trafficking in persons generally was conducted by small-time operators who promised well-paid employment in the country. Victims, primarily from neighboring countries, were escorted through the formalities of entering the country, where they found that their employment options were restricted to poorly paid domestic work or prostitution. Victims had to use a substantial portion of their income to reimburse the persons who brought them to the country for the cost of the trip. Compliance was enforced by "contracts," which were signed by illiterate victims before they departed their countries of origin; alternatively, the victim's travel document simply was seized. A local nongovernmental organization (NGO) also reported that some rural children were victims of domestic trafficking in which the victim (or his/her family) was promised a relatively decent job only to be placed in a home to work as a servant.

The Government provided no services for trafficking victims; however, it supported the efforts of the ICRC and CARITAS in providing food, temporary shelter, and primary health care.

During the year, the Government sponsored anti-trafficking information and education programs, including an International Labor Organization (ILO) outreach campaign to traditional chiefs.

*Persons With Disabilities.*—The Constitution mandates that the State provide for persons with disabilities; however, the Government had not implemented regulations to mandate accessibility to buildings, transportation, and education for those with special needs. Limited government health care benefits were available to persons with disabilities, and NGOs provided many services and programs. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy.

*National/Racial/Ethnic Minorities.*—The Hausa and Djerma ethnic groups made up approximately 56 percent and 22 percent, respectively, of the country's population. These two groups also dominated government and business, and many believed that nepotism existed along ethnic lines. Tandja Mamadou was the country's first president who is neither Hausa nor Djerma. Minority ethnic groups, such as Tuaregs, Arabs, Peuls, Toubous, and Kanouris, were represented through special constituencies in the National Assembly; minority representation at the municipal level increased as a result of the July elections. In the past, many of these ethnic

groups asserted that the Hausa and Djerma groups discriminated against them. The Government increased educational opportunities and health care access by constructing schools and health clinics in remote areas, often to the benefit of ethnic minorities. During the annual Cure Salee and other festivals of desert nomads, the Government provided medical, veterinary, and legal services; however, some nomadic ethnic minorities continued to be dissatisfied with government efforts to meet their unique needs.

During the year, there were reports of continued banditry in the north that may have involved former Tuareg rebels (*see* Section 1.c.).

Limited security issues existed in the south as a result of continued conflict over land use between farming and herding groups.

On November 20, in the town of Passi, a longstanding dispute between farmers and herders over grazing land erupted into violence when herders beat the son of a farmer. In retaliation, residents of the farming town burned down the herders' village, which resulted in the deaths of 13 persons and the injuring of 30 others. Authorities arrested several suspects, and an investigation was ongoing at year's end.

During the year, there no developments in the October 2003 retaliatory killings of Tuaregs by a group of Toubou; conflicts between the two groups, who were nomadic herders, resulted from disputes over grazing areas and water points.

*Other Societal Abuses and Discrimination.*—Despite strong government efforts to discourage discrimination against persons with HIV/AIDS, societal discrimination against such persons occurred.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides formal recognition of workers' right to establish and join trade unions, and workers exercised this right in practice; however, more than 95 percent of the work force was employed in the nonunionized subsistence agricultural and small trading sectors.

*b. The Right to Organize and Bargain Collectively.*—In addition to the Constitution and the Labor Code, there is a basic framework agreement between unions, employers, and the Government that defines all classes and categories of work, establishes basic conditions of work, and defines union activities. The Labor Code is based on ILO principles, and it protects the right to organize. In private and state-owned enterprises, unions used their right to bargain collectively without government interference for wages above the legal minimum and for more favorable work conditions. Collective bargaining also existed in the public sector. There are no export processing zones.

The Constitution provides for the right to strike, except for security forces and police, and workers exercised this right in practice.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor, except for legally convicted prisoners, and slavery is prohibited; however, a traditional form of slavery or servitude still was practiced by the Tuareg, Djerma, and Arab ethnic minorities, particularly in remote northern regions and along the border with Nigeria.

Persons born into a traditionally subordinate caste were often expected to work without pay for those above them in the traditional social structure. According to Timidria, a local human rights NGO that actively worked against the practice, 7 percent of the population worked under such conditions. Individuals could legally change their situations; however, most did not and accepted their circumstances. In 2003, Timidria conducted a survey of 11,000 persons born into servitude; 80 percent reportedly indicated that the persons for whom they worked determined who they married and whether their children attended school.

The 2002 case of a Tuareg man from Tanout who claimed he was threatened with castration for planning a revolt against the person he worked for was pending at year's end.

The Labor Code does not prohibit specifically forced or compulsory labor by children, and there were credible reports of underage girls being drawn into prostitution and of underage boys working as laborers in mines, slaughterhouses, and rice fields (*see* Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law permits child labor in nonindustrialized enterprises under certain conditions; however, law and practice prohibit child labor in industrial work, and child labor was a problem.

Children under the age of 14 must obtain special authorization to work, and those 14 to 18 years of age were limited to a maximum of 4<sup>1/2</sup> hours per day and certain types of employment so schooling may continue. The law requires employers to ensure minimum sanitary working conditions for children. Ministry of Labor inspec-

tors were responsible for enforcing child labor laws; however, resource constraints limited their ability to do so.

Child labor practically was nonexistent in the formal (wage) sector, and there were no known instances of the use of child labor in factories; however, children worked in the unregulated agricultural, commercial, and artisan sectors, and some—including foreign—youths were hired in homes as general helpers and baby sitters for very low pay.

The majority of rural children regularly worked with their families from a very early age—helping in the fields, pounding grain, tending animals, getting firewood and water, and other similar tasks. Some children were kept out of school to guide a blind relative on begging rounds. Others sometimes were employed by Koranic teachers to beg in the streets (*see* Section 5).

Child labor also occurred in the largely unregulated gold mining sector and in slaughterhouses. Children working in gold mines were particularly vulnerable to poor ventilation, collapse hazards, and insufficient lighting; they also were susceptible to alcohol and substance abuse.

The Ministry of Labor, which was responsible for implementing ILO Convention 182 on the Worst Forms of Child Labor, continued working with UNICEF and the International Program on the Elimination of Child Labor to complete the first phase of a program to determine the extent of the problem. The program addressed four areas: Improving conditions in underground gold mines around Komabongu; increasing awareness about child labor at the national slaughterhouse in Niamey; teaching marketable skills to street children in Birni N'konni; and reducing labor hours and teaching marketable skills to children who worked in agriculture on islands in the Niger River around Tillaberi.

Forced and compulsory labor by children occurred (*see* Section 5).

*e. Acceptable Conditions of Work.*—The Labor Code establishes a minimum wage for salaried workers of each class and category within the formal sector; however, minimum wages did not provide a decent standard of living for workers and their families. The lowest minimum wage was \$40.00 (20,000 CFA francs) per month. Additional salary was granted at \$2.00 (1,000 CFA francs) per month per child. Government salaries have largely been paid on time. Most households had multiple earners (largely in informal commerce) and relied on the extended family for support.

The legal workweek was 40 hours with a minimum of one 24-hour rest period; however, for certain occupations, the Ministry of Labor authorized longer workweeks of up to 72 hours. There were no reports of violations during the year.

The Labor Code also establishes occupational safety and health standards; however, due to staff shortages, inspectors focused on safety violations only in the most dangerous industries: Mining, building, and manufacturing. The gold mining industry was largely unregulated. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases were not well informed of the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs; however, in most cases this did not occur in practice.

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## NIGERIA

Nigeria is a federal republic composed of 36 states and a capital territory, with an elected president and a bicameral legislature drawing their authority from the 1999 Constitution. In April 2003, President Olusegun Obasanjo of the People's Democratic Party (PDP) was reelected to a 4-year term after being declared winner in elections that were marred by what international and domestic observers termed to be serious irregularities and fraud, including political violence. The elections also resulted in the ruling PDP claiming 70 percent of the seats in the national legislature and 75 percent of the state governorships. Throughout the year, opposition parties continued to challenge the election in court. On December 20, an election tribunal voided part of the 2003 election results, including the entire result of Ogun State, President Obasanjo's home state, and found that there was significant rigging, but by a 3–1 vote, declined to overturn the election. The opposition immediately announced that it would appeal the verdict to the Supreme Court in 2005. Although the judicial branch remained susceptible to executive and legislative branch pressures, the performance of the federal courts exhibited growing independ-

ence. State and local judiciary were significantly influenced by political leaders and suffered from corruption and inefficiency more than the federal court system.

The Federal Nigeria Police Force (NPF) is tasked with law enforcement and the Inspector-General of Police (IGP) reports directly to the President. Internal security is the duty of the State Security Service (SSS), which reports to the President through the National Security Advisor. Police were unable to control ethno-religious violence on numerous occasions during the year, and the Government continued its reliance on the army in some cases. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted outside the law. Members of the security forces committed numerous human rights abuses.

The Central Bank reported that country's market-based economy grew 10.2 percent in real terms in 2003. Inadequate infrastructure, endemic corruption, and general economic mismanagement hindered economic growth. Most of the population of approximately 137 million was rural and engaged in small-scale agriculture, which accounted for only 35.8 percent of gross domestic product. Increased unemployment was a problem. Much of the country's wealth remained concentrated in the hands of a small elite. Corruption, nontransparent government contracting practices, and other practices favored the wealthy and politically influential, including a banking system that impeded small and medium investor access to credit and regulatory and tax regimes that were not always enforced impartially. Wages and benefits have not kept pace with inflation. There were numerous work stoppages at different levels of government due to salary nonpayment. The International Labor Organization (ILO) estimated that 96 million citizens lived below the poverty line and were vulnerable to malnutrition and disease.

The Government's human rights record remained poor, and the Government continued to commit serious abuses. Nationwide local government elections held during the year were not generally judged free and fair and therefore abridged citizens' right to change their government. Security forces committed extrajudicial killings and used excessive force. There were several politically motivated killings by unknown persons during the year. Security forces regularly beat protesters, criminal suspects, detainees, and convicted prisoners. There were fewer reported incidents of torture by security agents than in previous years. Impunity was a problem. Shari'a courts sentenced persons to harsh punishments including amputations and death by stoning; however, there were no reports of amputation or stoning sentences carried out during the year. Prison conditions were harsh and life threatening, and conditions contributed to the death of numerous inmates. Security forces continued to arrest and detain persons arbitrarily, including for political reasons. Prolonged pre-trial detention remained a serious problem. The judicial system often was incapable of providing criminal suspects with speedy and fair trials. Government authorities occasionally infringed on citizens' privacy rights.

The Government at times restricted freedom of speech and press. The Government continued placing limits on freedom of assembly, citing security concerns. Some state governments placed limits on some religious rights, and some government programs discriminated between religious groups. The Government occasionally restricted freedom of movement for security reasons in areas of unrest and used lethal force at checkpoints. Domestic violence and discrimination against women remained widespread. Female genital mutilation (FGM) remained widely practiced in some parts of the country, and child abuse and child prostitution were common. Intercommunal violence remained a problem. Some militant members of ethnic groups throughout the country, particularly in the oil-producing Niger Delta region, continued to commit serious abuses, including unlawful killings. Ethnic and regional discrimination remained widespread, and localized religious discrimination and violence persisted. Restrictions on worker rights continued. Some persons, including children, were subjected to forced labor. Child labor continued to be a problem. Trafficking in persons for purposes of prostitution and forced labor was a problem, and collusion of government officials in trafficking was alleged. Vigilante violence continued throughout the country, particularly in parts of the South.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were politically motivated killings by the Government or its agents. National police, army, and security forces committed extrajudicial killings or used excessive force to apprehend criminals and to disperse protestors during the year, when crowds were perceived by police as possibly becoming violent. Police and the armed forces were instructed to use lethal force against suspected criminals and suspected vandals near oil pipelines in the

Niger Delta Region. Multinational oil companies and domestic oil producing companies often hired private security forces and subsidized living expenses for police and soldiers from area units assigned to protect oil facilities in the volatile Niger Delta region. Freelance security forces and former security forces accounted for a portion of the violent crime committed during the year.

The Federal anticrime taskforce, also known as "Operation Fire for Fire," was among the most frequent human rights offenders. Operation Fire for Fire was established in response to widespread public calls for the Government and police to address violent crime more vigorously. Police and anticrime taskforce personnel committed extrajudicial killings in the apprehension and detention of suspected criminals. There were widespread complaints that Operation Fire for Fire has given a largely untrained police force broad latitude in using deadly force. In most cases, police officers were not held accountable for excessive or deadly force, or for the deaths of persons in custody. They generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects (*see* Section 1.d.).

During the year, police, military, and anticrime personnel continued to regularly use lethal force against suspected criminals. On December 28, the Inspector-General of Police, Tafa Balogun, announced that police killed 1,694 "suspected armed robbers" during the year.

For example, in a coordinated operation on September 11 and 12, police in Bauchi and Zamfara States killed 11 suspected armed robbers and arrested 5 others. In a press conference, the Bauchi police command announced that 36 armed robbers had been killed over a 2-month period.

On October 18, Kaduna residents tried to exhume 10 to 19 bodies from a common grave in a local cemetery. Police had allegedly buried the bodies that morning. Residents of the area believed the bodies were of activists who had been arrested during the previous week's fuel strike. While convening a panel to investigate the deaths, the Kaduna State governor claimed that they were armed robbers killed in a exchange of gunfire. The panel had not produced its findings by year's end.

No further action was taken during the year in the 2003 cases of killings of suspected criminals by police in Ado Ekiti, Enugu State, Kubwa, or Bauchi State.

Criminal suspects died from unnatural causes while in official custody, usually as the result of neglect and harsh treatment (*see* Section 1.c.). For example, on February 4 in Edo State, Prince Vincent Omo-Oribhabor, a 65-year-old PDP chieftain, died less than 24 hours after police arrested him. The body was immediately embalmed before it was released to the family, making an autopsy impossible.

In August, in Jigawa State, an accused rapist was beaten and killed by four policemen while being transported to a police station for questioning. No action was taken against the four policemen.

Harsh and life-threatening prison conditions and denial of proper medical treatment also contributed to the deaths of numerous inmates. There was no action in the 2003 death of Haruna Mohammed while in police custody during the year.

Security forces committed other unlawful killings during the year. In several cases, police accidentally killed persons while attempting to disperse crowds. For example, on October 15, the second day of the Muslim holy month of Ramadan, police killed two persons and wounded three or four others in Gusau, the capital of Zamfara State in northwest Nigeria. A crowd had approached the state government's building to demand annual Ramadan gifts from the Zamfara State Governor. Police at the gates stopped the crowd from advancing, a scuffle ensued, and police opened fire. No action was taken against the police officers by year's end.

There was no action taken in the 2003 cases of the police shootings of a debtor's pregnant wife and a commercial motorcycle rider.

Violence and lethal force at police and military roadblocks and checkpoints continued during the year. For example, on June 3 in Ekiti State, police killed two and injured four in a commercial bus when the driver could not pay a \$0.15 (20 naira) bribe.

In June use of in Kwara State, a police inspector shot a member of the National Union of Road Transport Workers who attempted to intercede for a commercial driver arguing with police over a bribe.

There was no further action taken in the 2003 cases of bribe-related killings in Ebonyi, Jigawa, and Delta States.

Police and military personnel used excessive and sometimes deadly force in the suppression of civil unrest, property vandalization, and interethnic violence (*see* Sections 5 and 6.b.). There were reported occurrences of summary executions, assaults, and other abuses carried out by military personnel and paramilitary mobile police across the Niger Delta.

In response to public pressure or formal requests from state governments, the Federal Government continued to deploy the army in troubled areas during the year. During the ethno-religious crisis in parts of Plateau State, the military was deployed to quell the violence (*see* Section 2.c.). Similarly, in parts of Benue State, especially in the Kwande Local Government Area (LGA), the military was deployed to assist the police in maintaining peace. There were reports of excessive force in these two operations.

In 2003, the Government began “Operation Restore Hope,” a joint task force comprising approximately 5,000 army, naval, air force, and mobile police personnel under the command of Army General Zamani, in response to violence in the Niger Delta region (*see* Section 5). In June and September, the Government established additional task forces to respond specifically to increased violence in Rivers State. During the year, task force personnel and militant youths had numerous skirmishes and encounters. Amnesty International estimated 500 casualties in Rivers State and surrounding areas. Human rights organizations have accused the military and police of harassment, extortion, and excessive use of force in the region.

There were several killings by unknown persons that may have been politically motivated. For example, on February 6, unknown assailants killed Chief Aminasari K. Dikibo, the former national vice-chairman of the ruling PDP. No arrests were made by year’s end.

On March 7, Chief Philip Olorunnipa, the chairman of the Kogi State electoral commission, was killed in his home in Adumo Kabba. Four days earlier, Luke Shigaba, the former Bassa LGA chairman was also killed. No arrests were made in either case by year’s end.

On October 12, Jerry Agbeigbe, a prominent labor activist and former president of the National Association of Pilots and Engineering, was shot and killed. At year’s end, three suspects were in custody, but had not been tried.

There were no developments in the 2003 killings of Uche Ogbonnaya and Marshall Harry.

Of the suspects charged in 2002 with the murder of Justice Minister and Attorney General Bola Ige, five, including Senator Iyiola Omisore, were released in April. Seven others, including prime suspect Ademola Adebayo and six other aides of the slain Minister, were released in October due to insufficient evidence.

There were no known developments in the reported 2002 cases of politically motivated killings by unknown assailants.

Politically-related violence occurred throughout the country during nationwide LGA elections, especially when PDP candidates were announced as winners in contested local government elections, in some cases after another candidate had been declared the winner. For example, in January in Kontagora, Niger State, at least seven persons were killed during a riot following the release of local government election results.

In March, in Donga, Taraba State, 30 civilians and 1 soldier were killed when protests over the local government election results turned violent. The military was called in to restore order, but fired live ammunition into the crowd. The crowd then beat one soldier to death. Also, in March in Burutu and Asaba, Delta State, up to five persons were killed during a riot after the announcement of local election results in which all PDP candidates were declared the winners.

There were no developments in the following 2003 cases of electoral violence: The February killings of seven persons in Benue State, and the May killings of eight persons in Delta State.

Killings carried out by organized gangs of armed robbers remained common during the year. In most southeastern states, state governments supported vigilante groups, the most well-known of which was the “Bakassi Boys,” officially known as the Anambra State Vigilante Service. Like most vigilante groups, the Bakassi Boys sometimes killed suspected criminals rather than turn them over to police. Although some killings continued, the influence of the Bakassi Boys and other vigilante groups in the Southeast diminished during the year.

Other organized vigilante groups continued to commit numerous killings of suspected criminals. For example, on May 14, a vigilante group in Yobe State killed a shop owner, claiming he had confessed to armed robbery. The same group killed two others, allegedly for being “godfathers” to gangs of armed robbers. The Yobe State governor publicly praised the leader of the group, Sarkin Baka, for his actions.

On May 17, three suspected armed robbers were beaten and burned to death by a vigilante group in Ebonyi State. A group leader claimed the three had launched an unsuccessful attack on some residents.

No action was taken against members of vigilante groups who killed or injured persons during the year or in previous years, although police reportedly harassed members of such groups.

Reports of street mobs apprehending and killing suspected criminals diminished during the year, and there were no developments in cases from previous years.

Lethal interethnic, intraethnic, and interreligious violence occurred at increased levels from previous years (see Sections 2.c. and 5). Sporadic communal violence continued between Tivs, Jukuns, and other tribes in Adamawa, Kogi, Edo, Delta, Nassarawa, and Plateau states during the year, killing hundreds of persons.

Tensions between members of ethnic groups in the oil-producing areas and employees and contractors of oil companies remained high. On April 23, two foreign oil services contract workers, a local contract worker, and two local security personnel were killed in an apparent botched kidnapping attempt by unknown actors. One foreign contract worker was critically injured. No persons were arrested by year's end.

During the year, fighting between and among rival student affinity groups, commonly known as cults, in higher institutions led to the killing of persons and destruction of property. In August, 33 students died due to cult rivalries' violence; 15 from Ebonyi State University and 18 from Enugu State University of Science and Technology. Smaller scale clashes in a number of schools around the country led to significant destruction of property. Isolated clashes included cases of personal injury and rape. Cultism activities expanded during the year to include clashes between all-female cult groups.

There was no resolution in the 2003 or 2002 cases involving deaths in cult clashes.

*b. Disappearance.*—There were reports of politically motivated disappearances during the year. For example, the Government still had not responded to a court order to release a Kaduna central mosque imam whom the Government has detained since May 2003. The imam was assumed still to be in custody, although there were no updates during the year.

During the year, there were few reports of hostage situations in the country. In July, workers of Forasol Drilling West Africa in Bayelsa State commandeered an oil rig to protest the company's employment policies. The workers held nine expatriate employees for a day, until the state governor negotiated their safe release. In December in Bayelsa State, members of the Iduwini National Movement for Peace and Development commandeered a seabulk vessel contracted to Shell Nigeria. The men released most of the crew, but held one Croatian crew member for ransom and other concessions. Within a few days, Bayelsa State officials negotiated the release of the crew member, who was freed unharmed.

In previous years, some kidnappings, particularly in the Delta, appeared to have been part of longstanding ethnic disputes over resources. Due to limited manpower and resources, police and armed forces rarely were able to confront the perpetrators of these acts, especially in the volatile Delta region.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the law provides for punishment of such abuses; however, during the year, police, military, and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners. Police physically mistreated civilians regularly in attempts to extort money from them. The law prohibits the introduction into trials of evidence and confessions obtained through torture. In some cases, persons died from torture in custody (see Section 1.a.).

Different formulations for criminal law of Islamic Shari'a were in place in 12 northern states (see Section 2.c.). Shari'a courts delivered "hudud" sentences such as amputation for theft, caning for fornication and public drunkenness, and death by stoning for adultery, but no death sentence has been carried out. Because no applicable case has been appealed to the federal level, federal appellate courts have yet to decide whether such punishments violate the Constitution (see Section 1.e.). Stoning and amputation sentences have been overturned on procedural or evidentiary grounds, but have not been challenged on constitutional grounds. Caning is also a punishment under common law in the Northern Region Penal Code and has not been challenged in the courts as a violation of the Constitution. In some cases, convicted persons are allowed to choose to pay a fine or go to jail in place of receiving strokes of the cane. These sentences were usually carried out immediately, while all sentences involving mutilation or death allow 30 days for appeal.

In September in Bauchi State, Daso Adamu, a nursing mother, was sentenced to death by stoning after admitting to having sex with her first husband after her second husband absconded. The man was freed for lack of evidence. In October, she was released on bail on the grounds that she was breastfeeding. In December, a Shari'a appeals court vacated the conviction and sentence, ruling that her pregnancy was insufficient evidence to convict her.

In October in Bauchi State, Hajara Ibrahim was sentenced to death by stoning for adultery after becoming pregnant outside of wedlock. According to the Shari'a court that convicted her, she confessed to having sex with a man who had promised to marry her. The man was released for lack of evidence. The defendant appealed the sentence, stating that she should have been charged with the lesser crime of fornication, rather than adultery. In November, a Shari'a appeals court overturned the conviction and sentence, ruling that she had never consummated an arranged marriage, and therefore should never have been charged with adultery.

During the year, there were several other cases with sentences of stoning or amputation pending appeal or sentence implementation. No stoning or amputation sentences were carried out during the year.

Security forces tortured persons, although there were fewer reports of torture than in previous years. For example, three police officers, one infected with HIV/AIDS and another with syphilis, were accused of abducting, raping and torturing two female students of the Enugu State University of Science and Technology on September 27. In October, the three policemen were arrested and charged in this case, and dismissed from the police force.

On June 3, in Kwara State, a police officer shot at a bus outside Ilorin, wounding a university student. The policeman was dismissed from the force.

There were no updates in the 2003 cases of the suspected rapist beaten by police in Ogun State, the three Ekiti State legislators beaten by mobile policemen, or the case of the two policemen arrested in Lagos for allegedly raping prostitutes they had arrested.

Security forces beat journalists during the year (*see* Section 2.a.).

There were numerous ethnic clashes during the year (*see* Sections 2.c. and 5), in which the number of persons who were beaten or injured severely was higher than in previous years. The military was generally able to respond quickly because military units were already deployed in some areas when violence broke out. Police generally lacked the resources to control communal violence.

Prison and detention conditions remained harsh and life threatening. Most prisons were built 70 to 80 years ago and lacked functioning basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in unhealthy and dangerous sanitary conditions. Some prisons held 200 to 300 percent more persons than their designed capacity. The Government acknowledged overcrowding as the main cause of the harsh conditions common in the prison system. Prolonged pretrial detention contributed to the overcrowding (*see* Section 1.d.).

Disease was pervasive in the cramped, poorly ventilated facilities, and chronic shortages of medical supplies were reported. Prison inmates were allowed outside their cells for recreation or exercise only irregularly, and many inmates had to provide their own food. Only those with money or whose relatives brought food regularly had sufficient food; petty corruption among prison officials made it difficult for money provided for food to reach prisoners. Poor inmates often relied on handouts from others to survive. Beds or mattresses were not provided to many inmates, forcing them to sleep on concrete floors, often without a blanket. Prison officials, police, and security forces often denied inmates food and medical treatment as a form of punishment or to extort money from them. Harsh conditions and denial of proper medical treatment contributed to the deaths of numerous prisoners. According to the NGO Prisoners Rehabilitation and Welfare Action (PRAWA), dead inmates promptly were buried on the prison compounds, usually without notifying their families. A nationwide estimate of the number of inmates who died in the country's prisons was difficult to obtain because of poor record keeping by prison officials.

No further information was available on the 2003 case of the Lagos inmates placed in intensive care after a tuberculosis outbreak.

In practice, women and juveniles were held with male prisoners, especially in rural areas. The extent of abuse in these conditions was unknown. In most cases, women accused of minor offenses were released on bail; however, women accused of serious offenses were detained. Although the law stipulates children shall not be imprisoned, juvenile offenders were routinely incarcerated along with adult criminals. The Prison Service officially required separation of detainees and convicted prisoners; however, in practice the method of confinement depended solely on the capacity of the facility. As a result, detainees often were housed with convicted prisoners.

The Government allowed international and domestic NGOs, including PRAWA and the International Committee of the Red Cross (ICRC), regular access to prisons. PRAWA and the ICRC published newsletters on their work. The Government admitted that there were problems with its incarceration and rehabilitation programs and worked with groups such as these to address those problems.

*d. Arbitrary Arrest or Detention.*— The Constitution prohibits arbitrary arrest and detention; however, security forces generally did not observe these prohibitions. Police and security forces continued to use arbitrary arrest and detention.

The NPF is tasked with law enforcement. Each state unit was commanded by an Assistant Inspector General. The Constitution prohibits local and state police forces. The NPF continued its aggressive anticrime campaign dubbed “Operation Fire for Fire,” which was responsible for human rights abuses and did not noticeably decrease the incidents of violent crime nationwide (*see* Section 1.a.). Corruption was rampant, usually taking the form of bribes at highway checkpoints, and in 2003, more than 250 police were arrested during the year and another 300 dismissed from service for corruption. In addition, in 2003, more than 30 officers around the country were arrested in connection with armed robbery. Police generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects.

Police and security forces were empowered to make arrests without warrants based on a reasonable suspicion that a person had committed an offense; they often abused this power. Under the law, police may detain persons for 24 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest and to take the accused to a police station for processing within a reasonable amount of time. By law, police must provide suspects with the opportunity to engage counsel and post bail. However, police generally did not adhere to these procedures in practice. Suspects routinely were detained without being informed of the charges, denied access to counsel and family members, and denied the opportunity to post bail for bailable offenses. Detainees often were kept incommunicado for long periods of time. The provision for bail often was arbitrary or subject to extrajudicial influence. In many parts of the country, there was no functioning system of bail, so suspects were held in investigative detention for prolonged periods of time. Numerous suspects alleged that police demanded payment before they were taken to court to have their cases heard. If family members attended court proceedings, police often demanded an additional payment.

Persons who happened to be in the vicinity of a crime when it was committed normally were held for interrogation for periods ranging from a few hours to several months. After their release, those detained frequently were asked to return repeatedly for further questioning.

There were several politically motivated arrests during the year. For example, on May 27, 20 members of the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB) were arrested in Ebonyi State and taken to Abuja, where they were held without charges until October, when they were charged with conspiracy to commit treason and released on bail. In September, 53 MASSOB members were arrested in Lagos, but charges were not filed; most were released on bail by year’s end.

In August, three Owu tribal elders in Ogun State were arrested and held for 2 days after speaking out against President Obasanjo’s annulment of the election of the new Owu leader.

Security forces detained journalists during the year (*see* Section 2.a.).

During the year, police arrested demonstrators and labor leaders during strikes (*see* Sections 2.b. and 6.b.).

Members of the Oodua People’s Congress (OPC), a militant Yoruba group operating in the Southwest that claims its objective is to protect the collective rights of the Yoruba within the federation, continued to be arrested and detained without trial. Some members were charged as armed robbers and tried accordingly. However, relations with police continued to improve, and OPC operated freely during the year.

There were no updates in the reported 2002 cases of arbitrary arrest and detention.

Lengthy pretrial detention remained a serious problem. Serious backlogs, endemic corruption, and undue political influence continued to hamper the judicial system (*see* Section 1.e.). Mid-year data from the Prisons Service indicated that 23,742 prisoners, approximately 60 percent of total prisoners, were detainees awaiting trial. Multiple adjournments in some cases led to serious delays. Police cited their inability to securely transport detainees to trial on their trial dates as one reason why so many were denied a trial. The National Human Rights Commission (NHRC) reported that some detainees were held because their case files had been lost. Some state governments released inmates detained for significant periods of time without trial.

In September, an Ikorodu High Court responded to the 2002 suit filed by 350 inmates challenging the constitutionality of their detention without trial and ordered

the release of 280 Kirikiri Prison inmates who were awaiting trial. The Lagos State Ministry of Justice appealed the ruling. On October 30 and 31, 120 inmates were released for counseling and rehabilitation to NGOs and religious organizations. The rest remained in detention at year's end.

The persons charged in the 1996 attempted murder of Alex Ibru had not been tried by year's end (*see* Section 2.d.). Hamza Al Mustapha, one of the defendants, was charged in October with plotting to overthrow President Obasanjo's Government from his jail cell, although Al Mustapha supposedly was held incommunicado.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial branch remained susceptible to executive and legislative branch pressure. Decisions at the federal level exhibited greater independence. Political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Citizens encountered long delays and frequent requests from judicial officials for small bribes to expedite cases.

The Ministry of Justice implemented strict requirements for level of education and length of service for judges at the Federal and State levels. However, there were no requirements or monitoring body for judges at the local level, and corruption and miscarriages of justice were common.

The recommendations of the 1993 Esho Panel, set up to investigate corruption in the judiciary, called for the "withdrawal" of 47 judicial officials. No judges have been removed for irregularities cited in the Panel's report.

The regular court system is composed of federal and state trial courts, state appeals courts, the Federal Court of Appeal, and the Federal Supreme Court. There are Shari'a (Islamic) and customary (traditional) courts of appeal in states that use those bases for civil or criminal law, including in the Federal Capital Territory (Abuja). Courts of the first instance include magistrate or district courts, customary or traditional courts, Shari'a courts, and for some specified cases, the state high courts. The Constitution also provides that the Government establish a Federal Shari'a Court of Appeal and Final Court of Appeal; however, the Government had not yet established such courts by year's end.

The nature of a case usually determined which court had jurisdiction. In principle, customary and Shari'a courts had jurisdiction only if both plaintiff and defendant agreed; however, in practice, fear of legal costs, delays, distance to alternative venues, community pressure, and individual preference caused many litigants to choose the customary and Shari'a courts over other venues. In some states, cases involving only Muslims must be heard by a Shari'a court.

Other states with Shari'a law permitted Muslims to choose common law courts for criminal cases; however, societal pressure forced most Muslims to use the Shari'a court system.

According to the Constitution, persons charged with offenses have the right to an expeditious trial. Criminal justice procedures call for trial within 3 months of arraignment for most categories of crimes; however, there were considerable delays, often stretching to several years, in bringing suspects to trial (*see* Section 1.d.). Most detainees were poor and could not afford to pay the costs associated with moving their trials forward, and as a result they remained in prison. Wealthier defendants employed numerous delay tactics and, in many cases, used bribes to persuade judges to grant numerous continuances. Such practices clogged the court calendar and prevented trials from starting.

Trials in the regular court system were public and generally respected constitutionally protected individual rights in criminal cases, including a presumption of innocence, and the right to be present, to confront witnesses, to present evidence, and to be represented by legal counsel. However, there was a widespread perception that judges were easily bribed or "settled," and that litigants could not rely on the courts to render impartial judgments. Many courts were understaffed, and personnel were paid poorly. Judges frequently failed to appear for trials, often because they were pursuing other means of income, and sometimes because of threats against them. In addition, court officials often lacked the proper equipment, training, and motivation to perform their duties, again primarily due to inadequate compensation.

In both common law and Shari'a courts, indigent persons without legal representation were more likely to have their sentences carried out immediately upon being sentenced, although all accused persons have the right to appeal. In 2003 The Government instituted a panel of legal scholars to draft a uniform Shari'a criminal statute to replace divergent Shari'a statutes adopted by various northern states; however, the panel did not produce its report during the year, and states continued to apply their individual codes.

There were no legal provisions barring women or other groups from testifying in civil court or giving their testimony less weight; however, the testimony of women and non-Muslims usually was accorded less weight in Shari'a courts. In violation of mainstream Shari'a jurisprudence, some Kadis (Muslim judges) subjected women to harsh sentences for fornication or adultery based solely upon the fact of pregnancy, while men were not convicted without eyewitnesses unless they confessed. For example, in September and October in Bauchi State, two women were sentenced to death by stoning for having sex out of wedlock, but the two men involved were acquitted for lack of evidence (*see* Section 1.c.), although a higher court overturned the women's convictions.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions; however, authorities at times continued to infringe on these rights.

Police raided homes without warrants during the year.

Police and security forces continued the practice of holding relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender to arrest. Human rights groups called for police to end the practice. Purdah, the practice of keeping girls and women in seclusion from men outside the family, continued in parts of the country, which restricted the freedom of movement of women.

*Section 2 Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times restricted these rights. While there were many private newspapers and magazines that published freely, there were also numerous attacks carried out by security forces during the year. Some journalists practiced self-censorship. The Government owned and controlled most of the electronic media and some publications; however, there was also a large and vibrant private domestic press that was frequently critical of the Government. Following the privatization of the Daily Times, only one national, government-owned daily newspaper was published, the New Nigerian. In addition to English, the New Nigerian published a Hausa edition. Several states owned daily or weekly newspapers that also were published in English. These publications tended to be poorly produced, had limited circulation, and required large state subsidies. By year's end, there were more than 10 major daily newspapers, 6 weekly newsmagazines, and several sensational evening newspapers and tabloid publications.

Because newspapers and television were relatively expensive and literacy levels were low, radio remained the most important medium of mass communication and information. There was a government-owned national radio broadcaster, the Federal Radio Corporation of Nigeria, which broadcast in English, Hausa, Yoruba, Igbo, and other languages; and 51 state radio stations, which broadcast in English and local languages. The National Broadcasting Commission (NBC), the body responsible for the deregulation and monitoring of the broadcast media licensed at least three private radio stations in 2003. There were nearly a dozen private radio stations operating during the year.

The National Television Station, NTA, was federally owned, and 30 states also operated television stations. There were nine privately owned television stations that broadcast domestic news and political commentary. There were five private satellite television services. The law requires that local television stations limit programming from other countries to 40 percent and restricted the foreign content of satellite broadcasting to 20 percent; however, the Government did not restrict access to, or reception of, international cable or satellite television.

International broadcasting, principally Voice of America and British Broadcasting Corporation, as well as Deutsche Welle and others, broadcast in English and Hausa and were an important source of news in the country. Unlike in the previous year, there were no reports that the Government denied international broadcasting organizations accreditation renewals.

Effective April 1, the NBC banned live broadcast of foreign news and programs. The Commission stated the ban was established because it would be unprofessional for a station to broadcast live any content over which it had no editorial control.

During the year, there were multiple cases of threats against and attacks on the press. Security forces beat journalists on several occasions during the year. For example, on May 4, the police in Enugu beat journalists covering the appeals court judgment on election petitions. On June 10, heavily armed police beat eight journalists who were at the Nigerian Union of Journalists Press Center in Osogbo to cover a lecture organized by a local NGO working in the areas of democracy and govern-

ance. The police alleged that the organizers of the lecture constituted a security risk in the state.

Security forces also detained journalists during the year. For example, on July 4, police in Kano arrested and detained Kola Olalere, the Kano State correspondent of Nigerian Tribune (which is owned by Kano State), for allegedly publishing false information on a looming crisis in Kano. On August 11, police in Jigawa State detained two photojournalists for over 7 hours for allegedly releasing photographs that ridiculed the state government. On September 4, the SSS entered the office of the Lagos independent weekly news magazine, Insider, and impounded the weekly edition, seized computers, checkbooks, and other valuables and arrested and detained three members of the staff. The SSS explained that they took these actions because the publishers of the magazine had consistently attacked and humiliated the office of President Obasanjo. The detained journalists were released shortly after the incidents.

There were incidents in which security forces interfered with journalists. For example, on April 17, the police in Ondo State seized the tape recorder of Niyi Bello, The Guardian correspondent, and the video camera of a NTA crew while they were covering an incident of police brutality.

On April 22 in Ibadan, police attached to the Ekiti State governor seized and smashed the camera of a photojournalist on the allegation that he was trying to take photographs of the governor's official jeep.

On October 15, security agents stopped the broadcast of Port Harcourt Rhythm Radio's interview with Asari-Dokubo, a militia leader in the country's Niger Delta region, and threatened the staff with arrest and closure of the station if they aired the interview.

There were no further known developments in the reported 2002 cases.

In 2003, the Government announced that journalists covering the National Assembly were required to have all material cleared before publication. Journalists protested, and the requirement was dropped.

There were no developments in the November 2003 case of the three editors charged with sedition and criminal defamation in relation to a magazine article alleging the involvement of government officials in questionable oil deals.

Editors reported that government security officers sometimes visited or called to demand information about a story or source. Local NGOs suggested that newspaper editors and owners underreported actual human rights abuses and killings due in part to self-censorship. State broadcasters and journalists remained important tools for governors; these officials used the state-owned media to showcase the state's accomplishments and to promote their own political goals.

Unlike in the previous year, there were no reports that foreign journalists who sought to enter the country to cover political developments experienced delays in obtaining a visa, were issued only single entry visas, or were forced to pay bribes to expedite visa processing, due to their status as journalists. However, on November 27, Time magazine reporter Stephan Farris arrived at Lagos airport on a flight from Kenya with a valid visa. The SSS detained Farris overnight, then returned him to immigration officials, who placed him on a return flight to Kenya, excluding him from the country. The SSS gave no reason for deporting Farris.

The Government did not restrict access to the Internet.

State governments continued to restrict academic freedom by controlling curriculum at all levels including mandating religious instruction. Student groups alleged that numerous strikes, inadequate facilities, and the rise of cultism (or gangs) on campuses, particularly in the South, continued to hamper educational progress (see Section 1.a.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respected this right for pro-government rallies, while opposition gatherings continued to be restricted. In areas that experienced communal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis.

The Government continued nominally to require organizers of outdoor public functions to apply for permits, although both government authorities and those assembling often ignored this requirement.

The law prohibited gatherings whose political, ethnic, or religious content might lead to unrest. Open-air religious services away from places of worship remained prohibited in many states due to fears that they might heighten interreligious tensions. The Ondo State ban on open-air religious events remained in effect during the year, and the Kaduna State government ban on processions, rallies, demonstrations, and meetings in public places was enforced on a case-by-case basis. A security forces' committee ban on all political, cultural, and religious meetings in Plateau

State was implemented on an ad hoc basis. The Government denied opposition permits to rally to opposition groups.

On May 15, police in Lagos fired tear gas and shot into the air to disperse a rally organized by human rights groups. Many persons sustained injuries. Several human rights leaders, including Nobel Laureate Professor Wole Soyinka, were arrested, detained, and later released.

No action was taken against security forces who killed or injured persons while forcibly dispersing protests in 2003 or 2002.

The Constitution provides for the right to associate freely with other persons in political parties, trade unions, or special interest associations, and the Government generally respected this right in practice. The Constitution allows the free formation of political parties. There were 30 parties registered with Independent National Electoral Commission (INEC) during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and while the Federal Government generally respected religious freedom, there were some instances in which limits were placed on religious activity to address security and public safety concerns.

The Constitution prohibits state and local governments from adopting an official religion; however, some Christians have alleged that Islam has been adopted as a de facto state religion in several northern states, citing criminal law aspects of Shari'a law and the continued use of state resources to fund the construction of mosques, the teaching of Kadis, and pilgrimages to Mecca ("hajj"). However, several states, including northern states, also used government revenues to fund Christian pilgrimages to Jerusalem. In general, states, whether dominated by Christians or Muslims, favored the faith practiced by the majority of residents. Estimates indicated approximately half of the country's population practiced Islam, more than 40 percent practiced Christianity, and the remainder practiced traditional indigenous religions or no religion.

The Constitution provides that states may elect to use Islamic (Shari'a) laws and courts. There were 12 northern states that have adopted at least parts of Shari'a law—Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, Zamfara, and Gombe. Adherence to Shari'a provisions is compulsory for Muslims in some states and optional in others. Non-Muslims are not required in any state to submit to Shari'a jurisdiction, although in some states they have the option, which may work to a defendant's advantage when the penalty under Shari'a is less severe.

Christian and Islamic groups planning to build new churches or mosques are required by law to register with the Corporate Affairs Commission (CAC). The CAC did not deny registration to any religious group during the year. Many nascent churches and Islamic congregations ignored the registration requirement, and a small number, most notably those in Abuja, had their places of worship shut down when zoning laws were enforced. Several northern state governments continued to ban public proselytizing to avoid ethno-religious violence; however, some proselytizing groups remained active despite these formal bans, which generally were enforced on a case-by-case basis.

The Constitution does not require students to receive instruction in a religion other than their own; however, the Ministry of Education requires public school students throughout the country to undergo either Islamic or Christian religious instruction. State authorities claimed that students were permitted not to attend classes taught in a religion other than their own and that students may request a teacher of their own religion to provide alternative instruction. However, there were often no teachers of "Christian Religious Knowledge" in many northern schools, and of "Muslim Religious Knowledge" in some southern schools.

No further action was taken in the 2003 incident in which members of the Moslem Students of Nigeria organization were charged with public disturbance after they invaded primary and secondary schools in Oyo State.

Although distribution of religious publications was generally unrestricted, the Government sporadically enforced a ban against broadcasting religious advertisements on state-owned radio and television stations.

Although the expanded Shari'a laws technically do not apply to non-Muslims, the non-Muslim minority has been affected by certain social provisions of Shari'a, such as the separation of the sexes in public schools and health and transportation services. Non-Muslims were not required to wear the hijab during the year. Many social provisions associated with Shari'a have roots in the country's pre-Islamic societies and were in practice before the states adopted Shari'a. Most states have not criminalized alcohol consumption by non-Muslims; however, in May, Kano State announced that non-Muslims would be fined approximately \$380 (50,000 naira) or sen-

tenced to up to a year in prison for drinking or selling alcohol other than in certain restaurants and on military bases.

A number of states with expanded Shari'a law have long sanctioned private vigilante Shari'a enforcement groups (known as Hisbah); in some cases these groups had authority to make arrests. The Governor of Jigawa State mobilized a statewide Shari'a enforcement committee to arrest, detain, and prosecute Muslim offenders. The Hisbah groups were not very active during the year.

The law prohibits religious discrimination in employment and other practices; however, private businesses frequently discriminated on the basis of religion or ethnicity in their hiring practices and purchasing patterns. In nearly all states, ethnic rivalries between "indigenes" and "settlers" led to some societal discrimination against minority ethnic and religious groups.

Religious differences often mirror regional and ethnic differences. For example, persons in the North and in parts of the Middle Belt were overwhelmingly Muslim and from the large Hausa and Fulani ethnic groups that tended to dominate these areas. Many southern ethnic groups are predominantly Christian. In many areas of the Middle Belt, Muslim Fulani tend to be pastoralists, while the Muslim Hausa and most Christian ethnic groups tended to be farmers or work in urban areas. Consequently ethnic, regional, economic, and land use competition and confrontations often coincided with religious differences between the competing groups.

It is not unusual for two different ethnic groups with a long history of conflict to have adopted different religions with the effect of exacerbating existing tensions. For example, retaliatory political violence in Plateau State escalated during the year. The violence reached its peak in May when a mainly Christian Tarok militia from a nearby town in Plateau State massacred more than 500 mainly Muslim Hausa/Fulani residents in Yelwa village. The massacre occurred after a February incident in Yelwa in which more than 40 Christian Taroks were burned to death in a church.

A week later in Kano State, Muslims staged a peaceful rally protesting the violence against Muslims in Plateau State. The rally took on a religious dimension when unemployed youth began vandalizing businesses belonging to Christians and erupted into mob violence in which more than 300 Muslims and Christians were killed.

In mid-May, after the violence subsided, the Government declared a state of emergency in Plateau State; however, the state of emergency did not negatively affect religious freedom.

In June, at least 50 persons were killed in Numan, Adamawa State during fighting that began over the rebuilding of the central mosque near a Christian Bachama leader's palace, causing riots between ethnic Bachama Christians and ethnic Hausa Muslims. In response to the June violence, the Governor of Adamawa dethroned the Bachama leader and ordered the relocation of the mosque.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them; however, police occasionally restricted freedom of movement by enforcing curfews in areas with ethno-religious violence.

In May, police in the Federal Capital Territory limited the number of Muslims entering Abuja to attend Friday Juma'at prayers at the National mosque to minimize attendance at a rally in favor of 2003 opposition presidential candidate.

Curfews were in place in parts of Plateau State after violence there in May (see Section 2.c.). Parts of Yobe and Borno States experienced restrictions in movement at times of clashes with the so-called "Nigerian Taliban."

Law enforcement agencies used roadblocks and checkpoints to search for criminals and to prevent persons traveling from areas of conflict to other parts of the country where their presence might instigate retaliatory violence. There were no reports that government officials restricted mass movements of individuals fleeing ethnic unrest. Security and law enforcement officials continued to use excessive force at checkpoints and roadblocks and engage in extortion and violence (see Section 1.a.).

There was no law that required women to obtain permission from a male relative to obtain a passport.

Unlike in previous years, there were no reports that activists and Abacha regime opponents were questioned upon entry or exit to the country at Murtala Mohammed International Airport in Lagos. Unlike in the previous year, Mohammed Abacha, former military ruler General Sani Abacha's son, was no longer confined to the city of Kano, but required permission to travel outside Nigeria, pending arrest and trial for the 1996 attempted murders of Abraham Adesanya, leader of the Yoruba group

Afenifere, and Alex Ibru, publisher of the Guardian newspaper. Ismaila Gwarzo, national security advisor to former President Abacha, remained restricted to his hometown in Kano State at year's end. The Constitution prohibits the expulsion of citizens, and the Government did not use forced exile.

During periods of ethno-religious violence, numerous persons were displaced from their places of residence (see Section 5). According to Amnesty International, tens of thousands of persons were displaced in the Niger Delta region during the year due to continued ethnic and communal conflict. In May and June, reprisals to root out criminal groups displaced many persons, primarily from Ijaw villages. In June through September, gang fighting in Port Harcourt resulted in thousands of displaced persons. In August, as the result of an improved although still tenuous security situation in Delta State, persons displaced by violence in 2003 began returning to some parts of Warri. However, the majority of persons displaced in 2003 had not returned by year's end.

The Lagos office of the U.N. High Commissioner for Refugees (UNHCR) estimated that 12,000 refugees, mostly ethnic Fulani herders, remained in Cameroon. In December, 315 of the refugees returned to the country. At year's end, UNHCR and the governments of Nigeria and Cameroon were preparing for the return of the remaining refugees who wanted to return. The UNHCR stated that it was safe for Ogoni refugees to return, but only a few families were repatriated during the year.

The law provides for the granting of asylum and refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established such a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers through the National Commission for Refugees (NCR), its Federal Commissioner, and the National Emergency Management Agency NEMA. The Eligibility Committee (on which the UNHCR had observer status), governed the granting of refugee status, asylum, and resettlement, and reviewed refugee and resettlement applications. The Committee met in January and July. The Committee granted 238 asylum seekers refugee status; cases were rejected, with 990 cases pending at year's end.

There were an estimated 9,000 recognized refugees living in the country. During the year, 1,017 refugees were repatriated to Liberia and Sierra Leone. Remaining refugees included others from Sierra Leone, Liberia, Chad, Rwanda, and the Democratic Republic of the Congo. Refugee camps were generally overcrowded, and refugees' requests for police and judicial assistance generally received less attention. The National Commission for Refugees managed the camps and had 10 staff members based in the camps.

To maintain stability in Liberia, the Government provided asylum for Charles Taylor, former President of Liberia, during the year. Although the U.N. Special Court for Sierra Leone requested Taylor's extradition, President Obasanjo maintained that Taylor would be handed over only to a democratically elected Liberian government.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully through periodic free and fair elections held on the basis of universal suffrage; however, citizens' right to change their government was abridged during nationwide Local Government Area elections held from January to April and the April 2003 state and national elections.

Voter registration for the 2003 national elections was carried out in 2002, and there were charges that millions of eligible voters were unable to register due to an apparent shortage of registration materials. In addition, there were allegations of improper hoarding of registration materials by politicians. A final voters list, required by law for the elections, was not published.

The 2003 legislative elections were marred by widespread fraud. The turnout was significantly (under 50 percent) for the 2003 presidential and gubernatorial elections, which were also marred by widespread fraud. A total of 31 parties participated in the April 2003 National Assembly elections, and 19 parties had presidential candidates in the election. The European Union observer mission categorized the presidential elections as extremely poor, stating that in the worst six states, elections effectively were not held, and in the rest of the country the elections were seriously marred. All major independent observer groups, international and domestic, had negative statements about the fairness of elections and cited problems throughout the country. Problems included ballot stuffing, intentional miscounting,

underage voting, multiple voting, intimidation, and violence, including political killings (*see* Section 1.a.). There were numerous attempts to kill members of political parties during the year. There also were several cases of politically motivated arrests (*see* Section 1.d.). Although all parties participated in the misconduct; observers cited violations by the ruling PDP significantly more than others. Some election tribunal cases related to the flawed 2003 elections were still ongoing at year's end. More than 90 percent of the cases that had been decided by year's end were simply dismissed on technicalities.

The opposition All Nigeria People's Party challenged the election of Governor Boni Haruna from the ruling PDP in Adamawa State. On March 25, an electoral tribunal upheld the challenge and cancelled the election results in 14 of the 21 local government councils are ordered a fresh round of voting. In July, an appeals court in Jos overturned the tribunal's verdict, announcing that the initial evidence was "absolutely inadequate." No further appeal was possible according to electoral law.

On December 20, an election tribunal voided part of the 2003 presidential election results, including the entire result of Ogun State, President Obasanjo's home state, and found that there was significant rigging but, by a 3-1 vote, declined to overturn the election. The opposition immediately announced that it would appeal the verdict to the Supreme Court in 2005.

INEC's actions during the year continued to raise serious rule of law questions. INEC again refused to provide the presidential election tribunal with subpoenaed official documents such as the 2003 election National Register of Voters, which is legally required before any valid general election can be held. INEC also refused to provide candidate lists and voter tally sheets and refused a new request for some states' official 2003 election returns. In November, INEC testified before the tribunal that requirements in law for INEC's independence did not apply to the Electoral Commissioners who run INEC at the national and state levels; to most of INEC's professional staff; to much of its election-day staff at polling and collation places; and most importantly, to all of the returning officers during a presidential election except the Chairman of INEC (who is directly appointed by the President). For its few remaining positions where independence was required by the act, INEC contended that only political party membership was prohibited, and it was up to challengers (such as the candidate challenging the 2003 presidential election) to provide the membership roll of their opponent's political party to prove an INEC official had been a member on a specific day while working for INEC.

The political system remained in transition. The three branches of the Government acted somewhat independently, although the executive branch dominated the other two branches.

The Constitution contains provisions for the removal of the president, vice president, ministers, legislators, and state government officials for gross misconduct or medical reasons. The press and legislative investigators scrutinized several public officials closely.

There were multiple court cases in progress stemming from the disputed May 2003 gubernatorial elections in Anambra State, which brought Governor Chris Ngige to power. Separately, court cases continued surrounding the July 2003 abduction of the Governor and the subsequent removal of his security detail. During this abduction, mobile police allegedly forced the Governor's resignation, which he later recanted. In September at the World Igbo Congress, Anambra State political "god-father" Chris Uba claimed that Ngige, his former protege, had not won his 2003 reelection bid, but that Uba had bribed the INEC to announce fraudulent results. No action had been taken against Uba by year's end. On November 10 and 11, roving armed bands burned several buildings in Anambra State including the governor's residence and state elections commission building. The police reportedly did not respond to these arsons. Many accused Uba of being behind the arsons as part of his ongoing quest to oust Governor Ngige. On November 12, President Obasanjo convened a security meeting to discuss the emergency and formed a Presidential Peace Committee, led by Ebonyi State Governor Sam Egwu, to help resolve the crisis. On November 29, local press reported that gunmen attempted to kill Ngige. However, the Anambra head of police and a member of Ngige's own staff subsequently contradicted these press reports. The following day, several small bombs exploded at the governor's lodge; no one was injured. Separately on November 29, an appeals court restored the Governor's full security detail. By year's end, there were no arrests as a result of the arsons in the state.

Corruption was massive, widespread, and pervasive, at all levels of the government and society (*see* Section 1.e.). On November 8, the Minister of Finance, Ngozi Ikonjo-Iweala, launched the Ministry's Anti-Corruption Unit to serve as the official forum to report wrongdoing by Ministry of Finance officials.

The 2003 prosecution of the former Labor Minister and other senior government officials on corruption charges had not been completed by year's end.

Men continued to dominate the political arena, and NGOs continued to protest the limited representation of women in the political process. Although there were more than 500 ministerial and National Assembly positions, there were only 3 female ministers, 3 female senators, and 12 female representatives.

The Constitution mandates that the composition of the federal, state, and local governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country to promote national unity and loyalty. The Government was an example of this diversity: President Obasanjo is a Yoruba from the southwest, the Vice President is a Fulani from the northeast, and the Senate President is an Igbo from the southeast. The Government also attempted to balance other key positions among the different regions and ethnic groups. The Senate used its oversight role to reject many of President Obasanjo's ambassadorial appointments and insisted on three appointments from each state. The political parties also engaged in "zoning," a practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. Despite this effort, with more than 250 ethnic groups, it was difficult to ensure representation of every group in the Government (*see* Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Criticism of the Government's past human rights' record was abundant in various media. Human rights activists continued to complain that President Obasanjo and members of his Government did not meet with them as frequently as they did during the early years of his first administration.

The case in which the Center for Law Enforcement Education (CLEEN) sued the Government over the 2002 seizure of its human rights report had not been heard by year's end.

The ICRC was active, with offices in Abuja and Lagos under the direction of a regional delegate. Its primary human rights activities during the year involved training prison officials on human rights, sanitation, and prisoner health (*see* Section 1.c.).

The NHRC, which was tasked with monitoring and protecting human rights in the country, enjoyed greater recognition by and coordination with NGOs and worked to establish its credibility as an independent monitoring body. The NHRC was chaired by retired justice Uche Omo, included 15 other members, and had zonal affiliates in each of the country's 6 political regions. Since its inception, the NHRC has been underfunded. The NHRC was a member of the International Coordinating Committee of National Human Rights Institutions (ICC).

The Benue Commission, established in 2002 to investigate the 2001 killing of approximately 200 civilians, rape, extortion, and looting in Benue State by soldiers, submitted its report to the Government in 2003, but the report held no one accountable and made no recommendations for corrective action.

Civil rights groups released the report of the Human Rights Violations Investigation Commission, commonly known as the Oputa panel. The Government held that the Supreme Court had found the panel's mandate to be unconstitutional, so it planned no further action regarding the report's findings.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on community, place of origin, ethnic group, sex, religion, or political opinion; however, customary and religious discrimination against women persisted, social discrimination on the basis of both religion and ethnicity remained widespread, and ethnic and regional tensions continued to contribute to serious violence, both between citizens and the security forces and between groups of citizens.

*Women.*—Domestic violence was widespread and accepted by both men and women. Reports of spousal abuse particularly wife beating were common. Police normally did not intervene in domestic disputes, which seldom were discussed publicly. The Penal Code permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, power of speech, facial disfigurement, or life-threatening injuries. In more traditional areas of the country, courts and police were reluctant to intervene to protect women who formally accused their husbands if the level of alleged abuse did not exceed customary norms in the areas. According to the 2003 Nigeria Demographic

and Health Survey (NDHS), 64.5 percent of women and 61.3 percent of men agree that a husband was justified in hitting or beating his wife for at least one of six specified reasons, including burning food and not cooking on time.

Rape was against the law. Rape and sexual harassment continued to be problems. The practice of demanding sexual favors in exchange for employment or university grades continued to be common, and rape continued to be epidemic in universities.

The NDHS estimated the FGM rate at approximately 19 percent among the nation's female population, and the incidence has declined steadily in the past 15 years. While practiced in all parts of the country, FGM was much more prevalent in the southern part of the country. Women from northern states were less likely to undergo the severe type of FGM known as infibulation. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivers her first child; however, three-quarters of the survey respondents who had undergone FGM had the procedure before their first birthday. According to the survey, the principal perceived "benefits" of FGM include maintaining chastity/virginity before marriage, giving the victim better marriage prospects, providing more sexual pleasure for men (primarily according to male respondents), and aiding safe childbirth.

The Federal Government publicly opposed FGM; however, it took no legal action to curb the practice. There were no federal laws banning FGM. Because of the considerable problems that anti-FGM groups faced at the federal level, most refocused their energies to combat the practice at the state and LGA levels. Bayelsa, Edo, Ogun, Cross River, Osun, and Rivers States have banned FGM. However, once a state legislature criminalized FGM, NGOs found that they had to convince the LGA authorities that state laws were applicable in their districts. The Ministry of Health, women's groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM. They worked to eradicate the practice; however, they had limited contact with health care workers on the medical effects of FGM.

Prostitution was a serious social problem, particularly in urban areas. A number of states enforced existing laws or introduced laws to combat prostitution. All states that have adopted Shari'a have criminalized prostitution, and this ban was enforced with varying degrees of success. Prostitution was not illegal in Lagos State; however, authorities used statutes that outlaw pandering as a justification to arrest prostitutes. Trafficking in women was a problem (*see* Section 5, Trafficking).

In some parts of the country, women continued to be harassed for social and religious reasons. Purdah continued in parts of the far north (*see* Section 1.f.).

Women also experienced considerable discrimination. While there are no laws barring women from particular fields of employment, women often experienced discrimination through customary and religious practices. The Nigerian NGOs Coalition expressed concern about continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and salary equality. There were credible reports that several businesses operated with a "get pregnant, get fired" policy. Women remained underrepresented in the formal sector but played an active and vital role in the country's informal economy. While the number of women employed in the business sector increased each year, women did not receive equal pay for equal work and often found it extremely difficult to acquire commercial credit or to obtain tax deductions or rebates as heads of households. Unmarried women in particular endured many forms of discrimination.

The NDHS showed that women had significant control over the income they generate (73.4 percent make sole decisions on how such income is to be used), but that men largely controlled decisions about such problems as children's and women's own health care.

While some women made considerable individual progress both in the academic and business world, women remained underprivileged. Although women were not legally barred from owning land, under some customary land tenure systems only men could own land, and women could gain access to land only through marriage or family. In addition, many customary practices did not recognize a woman's right to inherit her husband's property, and many widows were rendered destitute when their in-laws took virtually all of the deceased husband's property. Widows were subjected to unfavorable conditions as a result of discriminatory traditional customs and economic deprivation. "Confinement" was the most common rite of deprivation to which widows were subjected, and it occurred predominately in the East. Confined widows were under restrictions for as long as 1 year and usually were required to shave their heads and dress in black. In other areas, a widow was considered a part of her husband's property, to be "inherited" by his family. Shari'a personal law protects widows' property rights, and an NGO reported that many women

have succeeded in protecting their rights in Shari'a courts. Polygyny continued to be practiced widely among many ethnic and religious groups.

Women were affected to varying degrees by Shari'a law in the 12 northern states. In Zamfara State, local governments enforced laws requiring the separation of Muslim men and women in transportation and health care. In practice, the testimony of women was not given the same weight as that of men in many criminal courts (*see* Section 1.e.).

*Children.*—The Government seldom enforced even the inadequate laws designed to protect the rights of children. Public schools continued to be inadequate, and limited facilities precluded access to education for many children. The Constitution calls for the Government, “when practical,” to provide free, compulsory, and universal primary education; however, compulsory primary education rarely was provided. In many parts of the country, girls were discriminated against in access to education for social and economic reasons. When economic hardship restricted families’ ability to send girls to school, many girls were directed into activities such as domestic work, trading, and street vending. The literacy rate for men was 58 percent but only 41 percent for women. Many families favored boys over girls in deciding which children to enroll in secondary and elementary schools. Preliminary NDHS data from households showed that net attendance for boys was 63.7, for girls 56.5.

While most schools in the north traditionally separated children by gender, the law requires it in Zamfara, Sokoto, and Kebbi State schools (*see* Section 2.c.).

Cases of child abuse, abandoned infants, child prostitution, and physically harmful child labor practices remained common throughout the country (*see* Sections 5, Trafficking and 6.d.). The Government criticized child abuse and neglect but did not undertake any significant measures to stop customary practices harmful to children, such as the sale of young girls into marriage. There were credible reports that poor families sold their daughters into marriage as a means to supplement their incomes. Young girls sometimes were forced into marriage as soon as they reached puberty, regardless of age, to prevent the “indecent” associated with premarital sex or for other cultural and religious reasons. Human rights groups reported an increase in sexual assaults and rapes of young girls, especially in the North, and attributed the increase to a fear of AIDS and a resulting desire for young virgins.

FGM was commonly performed on girls in some parts of the country (*see* Section 5, Women).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, persons were trafficked to, from, and within the country. It was believed that some individual members of the government facilitated or condoned trafficking, although no officials were accused, prosecuted, or convicted.

The law prohibits human trafficking and provides for penalties including monetary fines, imprisonment, deportation, forfeiture of assets and passport, and liability for compensation to victims in civil proceedings. Imprisonment terms range from 12 months to life, while fines range from \$375 (50,000 naira) to \$1,500 (200,000 naira).

The National Agency for Prohibition of Trafficking in Persons (NAPTIP), established in August 2003, was primary responsibility for combating trafficking. The NPF and the Nigerian Immigration Service (NIS) also have antitrafficking units. In addition, the President has a special assistant for human trafficking and child labor.

With the existence of NAPTIP, enforcement efforts improved during the year; however, inadequate funding for NAPTIP and other antitrafficking efforts remained a major constraint. The number of trafficking cases investigated and prosecuted during the year increased; however, the precise number of cases pursued was difficult to determine because of poor record keeping and the overlapping roles of NAPTIP and the anti-trafficking units of the NPF and NIS.

NAPTIP investigated 35 new cases during the year, and many of the cases were pending at year’s end. NAPTIP made arrests in 13 cases. Four cases, involving six traffickers, went to court. In November, the High Court in Edo State delivered the first conviction under the anti-trafficking law, sentencing a woman to 3 years’ imprisonment for attempting to traffic six girls to Spain.

In the September 2003 case of the repatriation of 400 Beninese children, the traffickers arrested were released during the year after a traditional ruler in the area intervened.

The NPF Antitrafficking Task Force was established and staffed 11 units in states with the worst trafficking problems. Units from these states and the Federal Capital Territory reported 34 cases, involving 111 victims and 51 suspects. Records were not precise enough to determine which cases reported by the police overlapped with those tracked by NAPTIP.

The Government collaborated with the Spanish police, the Italian National Antimafia Bureau, and the police force of the Benin Republic on investigations in several cases. In November, the Government signed a memorandum of understanding with the United Kingdom to share detection methods and equipment and provide medical and financial support to victims.

The country was a source, transit, and destination country for trafficked persons during the year. With support from the Italian government, NAPTIP established a national monitoring center, and the ILO began adapting software to be used at the center; however, during the year, records were kept manually and only on a limited scale. No government or NGO estimates on the extent of trafficking were available; however, the magnitude of the problem was believed to be significant. This belief was based on several factors, including the number of deportees returned to the country and reports of Nigerians stranded along trafficking routes, particularly in North African countries. The ILO estimated that 40 percent of child street peddlers were trafficking victims.

Nigerians were trafficked to Europe, the Middle East, and other countries in Africa for the purposes of forced labor, domestic servitude, and sexual exploitation. Girls and women were trafficked for forced prostitution to Italy, France, Spain, the Netherlands, Cote d'Ivoire, and the Benin Republic. Children were trafficked for involuntary domestic and agricultural labor and street peddling within the country and to countries in West and Central Africa. Both women and children were trafficked to Saudi Arabia. The country was a destination country for children trafficked for forced labor from other West African countries, primarily Benin.

Women and children were most at risk of being trafficked. Boys were trafficked primarily to work as forced bondage laborers, street peddlers, and beggars, while girls were trafficked for domestic service, street peddling, and commercial sexual exploitation. Trafficking in children, and to a lesser extent in women, occurred within the country's borders. Children in rural areas were trafficked to urban centers to work as domestics, street peddlers, merchant traders, and beggars.

The UN Office of Drugs and Crime (UNODC) reported that individual criminals and organized criminal groups conducted trafficking, often involving relatives or other persons already known to the victims. Traffickers employed various methods during the year. Many were organized into specialties, such as document and passport forgery, recruitment, and transportation. To recruit young women, traffickers often made false promises of legitimate work outside the country. Traffickers also deceived child victims and their parents with promises of education, training, and salary payments. Once away from their families, children were subjected to harsh treatment and intimidation. Traffickers subjected victims to debt bondage, particularly victims forced into prostitution. In some cases, traffickers employed practitioners of traditional magic, or juju, to threaten victims with curses to procure their silence. NAPTIP estimated that 90 percent of the girls trafficked through Benin routes were placed under juju curses. Victims were transported by air, land, and sea. Established land routes to Europe transited Benin, Togo, Ghana, Cote d'Ivoire, Guinea, Mali, Niger, and Morocco.

At the institutional level, government authorities do not facilitate or condone trafficking; however, NAPTIP received reports from informants and foreign officials that law enforcement officers and individuals in the immigration and airport authorities collaborated in trafficking across the country's borders. Victims interviewed by UNODC identified the complicit and collaborative behavior of police, security force, immigration, and customs officials. NAPTIP briefed the heads of police and immigration on the issue. NAPTIP also worked with the Ministry of Aviation to address corruption among airport officials. The law provides punitive measures for officials who aid or abet trafficking; however, during the year, NAPTIP and NPF found no evidence of official complicity, and no officials were prosecuted, tried, or convicted for trafficking-related charges.

The Government provided limited funding for assistance to victims. NAPTIP served as the point of contact for immigration and police officials when victims were found. Seventy-four victims passed through the agency during the year. NAPTIP directly provided overnight shelter to some, but most often, agency officials connected victims to nongovernmental or international organizations for shelter, counseling, and reintegration assistance. NAPTIP established a hotline for victims and anyone seeking or wanting to provide information about trafficking. In a couple of cases, the Government helped victims repatriate to the country. NAPTIP also helped to reunite several trafficked children with their families.

The Ministry of Labor and Productivity, in collaboration with the ILO, NAPTIP, the police, and other federal agencies, provided food, transportation, and other logistical assistance to reunite internally and externally trafficked children with their families.

The Government donated a building for a 10-year period as a 120-bed shelter in Lagos to be run by the International Organization for Migration (IOM) and NAPTIP. With foreign government support IOM renovated the building, which also includes offices for IOM and NAPTIP staff. On July 22, the shelter opened.

At the state level, the government of Akwa Ibom donated a shelter for trafficked children and the government of Kano State worked with UNICEF to establish a shelter for victims.

The Government provided some funding for protection activities. For victims serving as witnesses, divisional police officers were appointed to serve as witness protection officers. NAPTIP officials and the officer worked together to provide assistance. NAPTIP also created a brochure to let victims know the agency exists to help them if they would like to pursue prosecution. The brochure was distributed to deportees returning to the country in hopes that it would encourage unidentified trafficking victims to come forward. The brochure prompted at least one woman returned from Italy to contact NAPTIP. Several state governments in the south continued strong efforts to protect victims. Victims were no longer criminalized or detained with criminals in cells as they were in previous years.

Efforts by the Government to prevent trafficking in persons increased during the year; however, inadequate funding remained a major constraint. The stakeholder forum established by NAPTIP in 2003 continued. NAPTIP officials met with several major traditional leaders to raise their awareness about trafficking and the 2003 anti-trafficking law. NAPTIP also worked with the media to raise awareness among the public, and officials appeared on national talk shows and state programs. The Government began implementing the ILO International Program on the Elimination of Child Labor (IPEC) West Africa Cocoa Agriculture Project to prevent the trafficking or employment of children in association with commercial agriculture, especially cocoa production.

The Government has established economic and education programs that may help to prevent trafficking, such as the National Poverty Eradication Program and the Nigerian Agricultural and Rural Development Bank. Despite these and other programs, poverty, lack of access to education, and lack of economic opportunities remained pervasive problems in the country and fuel the trafficking problem.

Several state governments made significant prevention efforts during the year, including awareness campaigns among at-risk populations.

Nongovernmental and international organizations organized conferences and meetings on trafficking and established prevention and awareness programs in schools. Groups also worked through the media. A faith-based foundation in Akwa Ibom State sponsored awareness programs on television and radio. The ILO began a program in partnership with the News Agency of Nigeria (NAN) to raise awareness and build media capacity in eliminating child trafficking and labor.

*Persons With Disabilities.*—There were no laws that require accessibility to buildings or public transportation for persons with disabilities, and the Government did not formulate any policy specifically ensuring the right of persons with disabilities to work. Children and women with disabilities faced social stigma, exploitation, and discrimination, and were often regarded as a source of shame to their own families. Children with disabilities who could not contribute to the family economy were seen as a liability, and in some cases were severely neglected. Literacy rates among various categories of persons with disabilities were significantly lower than among the general population, for both men and women. The Federal Government ran vocational training centers in Abuja to provide training to indigent persons with disabilities. The individual states also provided facilities to assist blind and physically incapacitated individuals to become self-supporting, and persons with disabilities established a growing number of self-help NGOs.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse, and consisted of more than 250 groups, many of which spoke distinct primary languages and were concentrated geographically. There was no majority ethnic group. The four largest ethnic groups, which made up two-thirds of the country's population, were the Hausa and Fulani of the north, the Yoruba of the southwest, and the Igbos of the southeast. The Ijaw of the South Delta were the fifth largest group, followed by Kanuri in the far northeast, and the Tiv in the Middle Belt. Many groups complained of insufficient representation. Middle Belt and Christian officers dominated the military hierarchy. Some persons in the North believe that the northern Hausa were underrepresented in the military.

The Constitution prohibits ethnic discrimination by the Government; however, claims of marginalization, particularly by members of southern minority groups and Igbos, continued. In particular, the ethnic groups of the Niger Delta continued their calls for high-level representation on petroleum problems and within the security

forces. Northern Muslims accused the Government of favoring Yorubas or Christians from the Middle Belt for those positions. Traditional linkages continued to impose considerable pressure on individual government officials to favor their own ethnic groups for important positions and patronage.

Societal discrimination on the basis of ethnicity was practiced widely by members of all ethnic groups and was evident in private sector hiring patterns, de facto ethnic segregation of urban neighborhoods, and a continuing paucity of marriages across major ethnic and regional lines. There was a long history of tension among some ethnic groups (see Section 2.c.).

Ethnic groups claimed environmental degradation and government indifference to their status in the oil-producing Niger Delta region. Groups such as the Ijaw, Itsekiri, Urhobo, Isoko, and Ogoni continued to express their unhappiness about their perceived economic exploitation and the environmental destruction of their homelands, and incidents of ethnic conflict and confrontation with government officials and forces continued in the Delta area (see Sections 1.a. and 1.b.).

Interethnic fighting also continued in Warri, Delta State, resulting in casualties and the displacement of tens of thousands of local inhabitants. In June, as the result of numerous conflict resolution efforts, parties agreed to a ceasefire. Interethnic violence decreased, but did not stop completely. The ceasefire in Warri remained largely in effect at year's end.

Interethnic fighting elsewhere in the Delta also displaced tens of thousands of local inhabitants. Violence temporarily abated in the region in 2003. In 2004, militia groups operating in Port Harcourt and other areas around the Delta region carried out violent operations. In September, several persons were killed in Port Harcourt when militia gangs attacked some neighborhoods around the port area. Militants claimed they were protesting poverty, inadequate control of local resources, lack of infrastructure, and environmental degradation, conditions for which they blamed the Federal Government and multinational oil companies operating in the area. Some observers alleged that some of the militants were exploiting the "cause of the Niger Delta peoples" for personal gain and aggrandizement. They further alleged that many of the militants were thugs and criminals. Officials from the Presidency negotiated directly with militant leaders and reached a ceasefire agreement that was implemented by the government of Rivers State.

Competing economic aspirations among ethnic groups for control of state and local governments led to violent conflicts during the year.

Conflict over land rights and ownership continued among members of the Tiv, Kwalla, Jukun, and Azara ethnic groups; each of these groups resided at or near the convergence of Nassarawa, Benue, and Taraba States. The Tiv, who were claimed by their opponents to have migrated to the country later than other inhabitants of the disputed area, were regarded as interlopers by the other groups, which consider themselves "indigenous" ethnic groups. Tivs are the largest ethnic group in much of Benue and parts of other states.

Communal violence between members of the Ogori and Ekpedo ethnic groups in Kogi and Edo states continued over boundary and land disputes. Kogi and Edo state governors declared the disputed land a "buffer zone," and the matter was referred to the National Boundary Commission in 2003. No further action was taken during the year.

Most people displaced by the violence between Fulani herdsmen and farmers in Adamawa State in 2003 had returned to their homes by year's end.

Communal violence escalated in Plateau State, reaching its peak in May (see Section 2.c.).

There were no developments in previous years' incidents of ethno-religious violence.

*Other Societal Abuses and Discrimination.*—Homosexuality is illegal under federal law; homosexual practices are punishable by prison sentences of up to 14 years. In the 12 northern states that have adopted Shari'a, adults convicted of having engaged in homosexual intercourse are subject to execution by stoning, although no such sentences have been imposed.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides all citizens with the right to form or belong to any trade union or other association for the protection of their interests, and workers exercised this right in practice; however, several statutory restrictions on the right of association and on trade unions remained in effect.

According to figures provided by the Nigeria Labor Congress (NLC), total union membership was approximately 4 million. Less than 10 percent of the total work force was organized. With the exception of small number of workers engaged in commercial food processing, the agricultural sector, which employed the majority of the

work force, was not organized. The informal sector, and small and medium enterprises, remained largely unorganized.

Workers, except members of the armed forces and employees designated as essential by the Government, may join trade unions. Essential workers included government employees in the police, customs, immigration, prisons, the federal mint, and the Central Bank. Employees working in a designated Export Processing Zone (EPZ) may not join a union until 10 years after the start-up of the enterprise (*see* Section 6.b.).

The country's labor law mandates a single-labor-federation structure for workers, which has become the NLC. Trade unions are required to be registered formally by the Government, and a minimum 50 workers per enterprise are required to form a trade union; the Government formally recognized 29 such unions under the NLC by year's end. Senior staffers are not permitted to join NLC-affiliated unions and were organized under the confederation Trade Union Congress (TUC), which was not registered with the Government. The TUC and its constituent organizations acted like a union federation and often cooperated with their NLC counterparts but had no legal status. It was also denied a seat on the National Labor Advisory Council (NLAC). These legal restrictions diluted the bargaining strength of workers. The ILO Committee of Experts on the Application of Conventions repeatedly inquired what steps were being taken to eliminate these restrictions on the freedom of association.

*b. The Right to Organize and Bargain Collectively.*—The labor laws provide for both the right to organize and bargain collectively between management and trade unions, and collective bargaining occurred throughout the public sector and the organized private sector. The Labor Minister could refer unresolved disputes to the Industrial Arbitration Panel (IAP) and the National Industrial Court (NIC). Union officials questioned the effectiveness of the NIC in view of its inability to resolve various disputes stemming from the Government's failure to fulfill contract provisions for public sector employees. Union leaders criticized the arbitration system's dependence on the Labor Minister's referrals. The Labor Minister made several referrals to the IAP during the year. The IAP and NIC were active; however, both suffered from a lack of resources.

Workers had the right to strike; however, certain essential workers were required to provide advance notice of a strike. In September a court limited the right to strike to matters pertaining to wages and conditions of work, thereby prohibiting strikes over matters of national economic policy. The NLC appealed the ruling; the appeal was pending at year's end. Worker under a collective bargaining agreement could not participate in a strike unless their union complied with the requirements of the law, which included provisions for mandatory mediation and for referral of the dispute to the Government; however, in practice the law did not appear to be enforced, and strikes, including in the public sector, were widespread.

There were several strikes during the year over a government policy to deregulate fuel prices. In October, the NLC, in association with various NGOs, organized a 4-day "stay-at-home" to protest another fuel price increase. On October 1, the State Security Service had detained the president of the NLC, Adams Oshiomhole, for questioning following the NLC's decision to mobilize the "stay-at-home" protest. Other activists in various places were detained in connection with the protest, and the staff of the AFL-CIO's Solidarity Center in Abuja were detained several hours by State SSS, then released without explanation, just after the protest was suspended. On October 11, police reportedly killed a 12-year-old boy during clashes with protesters in Kaduna; a man was reported killed in a similar incident in Port Harcourt the following day. There were allegations that some of the arrested strikers in Kaduna were killed (*see* Section 1.a.). The protest was suspended after 4 days when the Government set up a "stakeholders committee" led by the Senate Vice President, and including NLC members, which agreed to a fixed price for fuel.

There were no developments in the June 2003 killing of at least 18 persons during a nationwide strike.

There were no laws prohibiting retribution against strikers and strike leaders, but strikers who believed they were victims of unfair retribution could submit their cases to IAP, with the approval of the Labor Ministry. The IAP's decisions were binding on parties but could be appealed to the NIC; however in practice, the decisions of these bodies infrequently carried the force of law. Union representatives described the arbitration process as cumbersome and time-consuming, and an ineffective deterrent to retribution against strikers.

EPZs in Calabar, Cross River State, and Onne Port, Rivers State, operated during the year. Workers and employers in these zones were subject to national labor laws, which; however, provided for a 10-year amnesty on trade unions, strikes, or lockouts

following the commencement of operations within a zone. In addition, the law allows the EPZ Authority to handle the resolution of disputes between employers and employees instead of workers' organizations or unions.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that it occurred (see Sections 5 and 6.d.), and enforcement of the law was not effective.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—In most sectors, the minimum work age is 15 years, which is consistent with the age for completing educational requirements; however, child labor remained a problem. The law prohibits employment of children less than 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The law states that children may not be employed in agricultural or domestic work for more than 8 hours per day. Apprenticeship of youths at the age of 13 is allowed under specific conditions.

The country made progress toward eliminating the worst forms of child labor. Awareness was increasing throughout civil society and the Government showed its commitment to the issue. Despite these advances, forced child labor and trafficking in children continued during the year (see Section 5).

Economic hardship resulted in high numbers of children in commercial activities aimed at enhancing meager family income. Children frequently were employed as beggars, street peddlers, bus conductors, and domestic servants in urban areas. Little data was available to analyze the incidence of child labor. The National Modular Child Labour Survey Nigeria conducted the only survey available between 2000 and 2001. The survey reported approximately 15 million children working in the country. Of these, more than 6 million were not attending school and more than 2 million were working 15 or more hours per day.

A Ministry of Employment, Labor, and Productivity unit dealt specifically with child labor problems, as well as an inspections department whose major responsibilities included enforcement of legal provisions relating to conditions of work and protection of workers; however, there were fewer than 50 inspectors for the entire country, and the Ministry conducted inspections only in the formal business sector, where the incidence of child labor was not a significant problem. NAPTIP bears some responsibility for enforcing child labor laws. The agency reportedly received no complaints of child labor, although it did pursue cases of trafficking in children (see Section 5).

Private and government initiatives to stem the incidence of child employment continued but were ineffective. The Government implemented the ILO/IPEC West Africa Cocoa Agriculture Project in the cocoa and other agricultural sub-sectors to combat hazardous child labor and to prevent the child trafficking for labor exploitation. Several programs by NGOs and international organizations worked to address child labor in the country.

UNICEF conducted a program to remove young girls from the street peddling trade and relocate them to informal educational settings. ILO programs worked to involve communities and schools in withdrawing children from exploitative situations such as street peddling and prostitution. The programs aimed to reintegrate the children into school or otherwise provide vocational training.

*e. Acceptable Conditions of Work.*—The law sets a minimum wage, which was reviewed infrequently. Real private sector wages greatly exceeded the minimum wage. The minimum wage was \$56.70 (7,500 naira) per month for private sector workers and \$41.70 (5,500 naira) per month for public sector workers (with a 13 month year as the law mandates an extra month's pay for the Christmas holiday). The national minimum wage did not provide a decent standard of living for a worker and family. The Government directed each state administration to establish its own salary structure based on its ability to pay, but at least the national minimum wage. Many state governments have stated they were not in a position to pay the increase to minimum wage without massive layoffs or the elimination of ghost workers. Ghost workers (who appeared on the employment rolls but not on the job) remained a significant problem, although the Federal Capital Territory (FCT) took actions to delete several thousand ghost workers from its rolls.

The 25 percent wage increase agreed in July 2003 between the NLC and the Government was not paid. The Government later insisted that only the public service unions could negotiate for civil servants, not the NLC.

The law mandates a 40-hour workweek, 2 to 4 weeks annual leave, and overtime and holiday pay, except for agricultural and domestic workers. There is no law prohibiting excessive compulsory overtime. The law also establishes general health and safety provisions, some of which were aimed specifically at young or female workers. It requires that the Inspectorate Division of the Ministry of Labor and Employment

inspect factories for compliance with health and safety standards; however, this agency was greatly underfunded, lacked basic resources and training, and consequently neglected safety oversight of many enterprises, particularly construction sites and other nonfactory work. The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents. The Labor Ministry, which was charged with enforcement of these laws, has been ineffective in identifying violators. The Labor Decree does not provide workers with the right to remove themselves from dangerous work situations without loss of employment.

The law applies to legal foreign workers; however, not all multinational companies respected these laws in practice.

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## RWANDA

Rwanda is a republic dominated by a strong presidency. The largely Tutsi Rwandan Patriotic Front (RPF) took power in 1994 and formed a Government of National Unity that functioned during the transitional period following the civil war and genocide until 2003, when elections were held. In May 2003, a country-wide referendum resulted in the approval of a new constitution, which provides for a multiparty system and nullifies the suspension of political activity, although it provides few protections for parties and their candidates. In August 2003, the country held its first multicandidate national elections since independence; President Paul Kagame was elected to a 7-year term in largely peaceful but seriously marred elections. In September 2003, President Kagame's party, the RPF, won the majority of the seats during legislative elections and therefore remained the principal political force that controlled the Government. The judiciary, which was not operational for most of the year as the country implemented judicial reforms, was subject to executive influence and suffered from a lack of resources, inefficiency, and some corruption.

The Minister of Defense is responsible for external security and national defense; the Minister of Internal Security is responsible for civilian security matters as well as supervision of the prisons and the national police. The Rwanda Defense Forces (RDF), which maintain external security, and the police, which maintain internal security, comprise the security apparatus. Following the formal withdrawal of all its troops from the Democratic Republic of the Congo (DRC) in 2002, the Government began to reorganize its military establishment to provide for a smaller force more suitable for territorial defense than for expeditionary action abroad. Government authorities did not always maintain effective control of the security forces, and there were several instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed serious human rights abuses.

During the year, there were several unconfirmed reports from multiple credible sources that RDF troops were at times present in the eastern part of the DRC, particularly following public threats by the Rwandan President in November indicating that the Government might send RDF troops into the DRC to attack Hutu rebels deemed a threat to its security. There were also reports that RDF military advisors remained integrated with former Congolese Rally for Democracy (RCD/G) forces. However, the Government publicly denied allegations that RDF troops were operating in the DRC. During the year, Rwandan rebels in the DRC, known as the Democratic Forces for the Liberation of Rwanda (FDLR), conducted attacks in the northwestern region of Rwanda.

The country was very poor, and 60 percent of the population of 8.3 million lived in poverty. The economy is market-based and primarily driven by the agricultural sector. More than 85 percent of the labor force was engaged in subsistence agriculture. The 1994 Genocide destroyed the country's social fabric, human resource base, institutional capacity, and economic and social infrastructure. Per capita annual income was \$230, and the country experienced an estimated economic growth rate of 4 percent. Small-scale commercial activities increased, but the industrial base remained limited. Inflation during the year was 11 percent, and wages generally did not keep up with inflation. Drought conditions affected the second harvest season in the latter part of the year, increasing the cost of food and reducing the yield in the export tea market.

The Government's human rights record remained poor, and the Government continued to commit serious abuses. The right of citizens to change their government was effectively restricted. Members of Local Defense Forces (LDF) committed unlawful killings. The Government investigated reports that organized groups targeted and killed witnesses to the 1994 Genocide in certain provinces. There were reports

of politically motivated disappearances. Police often beat suspects in custody, and torture was a problem. Prison conditions remained life threatening. Arbitrary arrest and detention and prolonged pretrial detention remained serious problems. During the year, the Government released a report that accused human rights groups, journalists, churches, and local government officials of "genocide ideology"; the Government subsequently justified scores of arbitrary arrests and the effective dismantling of the country's independent human rights organizations as part of its campaign against "divisionism." The judiciary did not always ensure due process or expeditious trials. The Government continued to conduct genocide trials at a slow pace. The Government restricted freedom of speech and of the press, and it limited freedom of assembly and association. In several instances, local government officials restricted the freedom of religion, particularly for Jehovah's Witnesses. Government officials reportedly harassed and imprisoned refugees and asylum seekers during the first half of the year, when the Government was taking over responsibility for their registration. Societal violence and discrimination against women and ethnic minorities, particularly the Batwa, were problems. Child labor was prevalent, and trafficking in persons was a problem.

During the year, armed proxy groups reportedly supported by the Government, including some ex-RCD/G combatants, continued to operate and commit serious human rights abuses in the DRC, including killings and rape.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings by the Government or its agents; however, there were reports of arbitrary killings by members of the LDF.

On April 29, an LDF member named Micombero beat an 18-year-old plantation worker to death in Kanama district in Gisenyi Province. By year's end, it was not known whether officials took any action against the LDF officer.

On May 14, an LDF officer named Ndacyayisenga, with the complicity of another LDF officer named Kinyinya, shot and killed Jean Baptiste Nsekanabo, after he failed to produce his identity card. The LDF officers were not arrested as of the end of the year.

LDF officers who were arrested for committing abuses in 2003 remained in jail, and none of their cases reached conclusion during the year.

There were no developments in the 2002 killing in Kigali of RDF officer Alphonse Mbayire by a soldier in uniform.

Military courts actively prosecuted RDF soldiers accused of violating the human rights of citizens. On January 28, two soldiers arrested Protais Ntiruhunwa, a young boy accused of stealing a radio and took the boy to the barracks and beat him to death. On February 6, the soldiers were arrested, although the trial was not completed at year's end. In the case against Sergeant Nyamaswa and Corporal Karangwa for the April 2003 beating death of an agronomist, Nyamaswa was acquitted and Karangwa received 5 years in prison on June 26.

Despite the official 2002 withdrawal of its forces from the DRC, during the year, there were unconfirmed reports from multiple credible sources, including a panel of U.N. experts, that the Government continued to provide material support for ex-RCD/G forces operating in the DRC under former RCD/G commanders such as Colonel Jules Mutebutsi and General Laurent Nkunda. Unlike in the previous year, there were no reports that the Government provided support to the Union of Congolese Patriots.

There continued to be reports throughout the year of killings and other human rights abuses, including torture, rape, and looting, committed with impunity in the DRC by both pro-DRC and anti-DRC government forces, although RDF forces were reportedly no longer directly involved. Verification of these reports was extremely difficult, particularly those originating from remote areas and those affected by active combat in the eastern part of the DRC. The Government maintained that it no longer had troops in eastern DRC, and that its influence over former RCD/G combatants was decreasing. It rejected any responsibility for the numerous serious human rights abuses committed against civilians by former RCD/G soldiers in the DRC.

During the year, the Government prosecuted nine members of the military on charges of murder or attempted murder in the DRC prior to the 2002 withdrawal. For example, on April 24, Private Phenias Kanyarwanda was sentenced to life imprisonment for killing his Congolese porter. Of the nine tried during the year, two were found innocent. The highest-ranking official tried during the year was a corporal, and he was convicted. At year's end, the Government had not opened any new

inquiries into the abuses by its troops in previous years in the DRC. The appeals of RDF Sergeants Nkusi and Seuhoro, both convicted of two 1998 murders by a military court in 2003, were pending at year's end.

According to several human rights organizations and government officials, hundreds of witnesses to the Genocide were killed throughout the country, reportedly to prevent testimonies and undermine the rural justice system (Gacaca). For example, on June 12, three persons lead by Jean Munigankiko killed Valentine Mukanzeyimana of Butare Province. Munigankiko admitted to police that he killed Mukanzeyimana because Mukanzeyimana had accused him in Gacaca proceedings of having killed his family. By year's end, police had detained suspects in connection with some of the killings.

There were reports in the northwest of killings by insurgents who were allied with persons responsible for the 1994 Genocide. On November 15, an FDLR attack on a village in Gisenyi Province resulted in two deaths. Such attacks were rare and appeared to be aimed at destabilizing the tourism economy and the April commemoration of the 10th anniversary of the 1994 Genocide.

The U.N. International Criminal Tribunal for Rwanda (ICTR), based in Arusha, Tanzania, continued to prosecute genocide suspects during the year (*see* Section 4).

*b. Disappearance.*—There were reports of politically motivated disappearances within the country.

On April 17, police arrested Jean Damascene Tuyizere of Gisenyi Province in Gisenyi town. A military intelligence officer questioned Tuyizere for several days at the police station, after which he was transferred to an unknown location. Several days later, the prefect of the province visited the family and said they should be careful not to travel without their identity cards. By year's end, his family had not been given news of his whereabouts.

On October 6, police arrested four campaign workers of former Prime Minister Faustin Twagiramungu, who ran in the 2003 presidential elections. The families of Jean de Dieu Kwizera, David Habimana, Block Mugambira, and Jean Paul Kamondo last heard from the four men on October 21, and by year's end, had been given no news of their whereabouts.

On November 20, an RDF captain, Jean Leonard Kagabo, disappeared after police arrested him in Byumba Province. By year's end, his family had been given no news of his whereabouts.

There were no developments in the 2003 disappearances of two prominent citizens and four high-level government officials, including parliamentarian Dr. Leonard Hitimana.

On June 30, the Government released a report on the status of several ongoing investigations of high-profile disappearances that occurred in 2003, following the release of a 2003 government report criticizing the Democratic Republican Movement (MDR), an opposition party, and calling for its dissolution. According to the report, Lieutenant Colonel Cyiza, a former Supreme court Vice-President who disappeared in April 2003, was residing in the DRC; two other military officers previously reported missing were in Burundi. In both cases, however, the Government did not provide any proof of these claims. The report provided no new information on the whereabouts of Dr. Leonard Hitimana, an MDR member of the National Assembly.

There were no developments in the case of the missing Banyamulenge (Tutsi) soldiers reportedly arrested in 2002 by the RDF; the Government continued to deny that any such arrests had occurred.

There were no developments in the reported disappearances of two persons detained in 2002 at Ndoshoh in the DRC by RDF and RCD/G forces.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, police officers often beat suspects at the time of arrest, and on at least one occasion, security forces reportedly committed acts of torture.

According to a local human rights group, there were 75 reported cases of torture during the year, not including cases reported by Jehovah's Witnesses or journalists (*see* Section 2.a. and 2.c.). For example, on February 19, an assistant district police chief in Butare Province, Canisius Mwitabangoma, arrested Mathias Mugabo on charges of insulting and using ethnic slurs against the police chief. During his detention, he was beaten with the butt of a bayonet and forced to sleep naked in his cell. No action had been taken against the police chief at year's end.

There were numerous reports during the year that police detained and beat members of Jehovah's Witnesses because they refused to participate in nighttime security patrols (*see* Section 2.c.).

There was no development in the 2003 case of the torture of RDF Major Ngirabatware, who remained in prison at year's end.

There continued to be numerous reports that security forces at times beat, harassed, or threatened political dissidents, journalists, and members of NGOs (see Sections 2.a., 2.b., and 4).

During the year, unexploded ordnance that remained from the 1994 civil war caused three deaths and eight injuries.

During the year, ex-RCD/G combatants in the eastern region of the DRC committed numerous serious human rights abuses, including torture, beatings, and widespread rape.

Prison conditions were harsh and life threatening. The International Committee of the Red Cross (ICRC) has registered approximately 76,000 prisoners detained on genocide or security-related charges and estimated that an additional 10,000 prisoners were detained on charges unrelated to the genocide; however, the Ministry of Justice routinely referred to the prison population as numbering 87,000. While the Government was committed to improving prison conditions, chronic overcrowding remained a major problem. During the year, the Government completed the construction of two new prisons while closing down the four remaining cachots (local detention centers) in the country.

Sanitary conditions were extremely poor, and despite continuing efforts, the Government did not provide adequate food or medical treatment. The ICRC provided 30 percent of the food in the 16 main prisons and also provided additional expertise and medical, logistical, and material support to improve conditions for inmates. Prison deaths largely were the result of preventable diseases and suspected cases of HIV/AIDS. There was an undetermined number of deaths in prison reported during the year. Prisoners may also be hired out to perform work at private residences and businesses (see Section 6.c.).

Women were detained separately from men, and more than 500 minors were incarcerated with adults throughout the prison system. During the year, the Government made efforts to better ensure that minors were incarcerated separately from adults, as well as efforts to release children; however, an undetermined number of children classified as minors remained incarcerated on genocide-related charges at year's end. Pretrial detainees generally were separated from convicted prisoners; however, there were numerous exceptions as a result of the large number of genocide detainees awaiting trial. High profile political prisoners, such as former president Pasteur Bizimungu, were kept in special sections of regular prisons.

The ICRC, human rights organizations, diplomats, and journalists had regular access to the prisons. The ICRC continued its visits to communal jails and military-supervised jails.

Unlike in the precious year, there were no reports that RCD/G combatants (or ex-RCD/G combatants) incarcerated persons in the private residences of rebel military commanders.

*d. Arbitrary Arrest or Detention.*—The Constitution provided legal safeguards against arbitrary arrest and detention; however, authorities rarely observed them in practice, and security forces continued to arrest and detain persons arbitrarily.

The National Police was a young organization. The National Police is headed by the Commissioner General and has two Deputy Commissioners, one for operations and another for administration. Five Assistant Commissioners oversee the various units, such as traffic, intelligence, criminal investigations, protection, and the provincial areas. The police lacked basic resources such as handcuffs, radios, and patrol cars. However, they participated in extensive training programs, and the police academy curriculum included training on human rights, nonlethal use of force, and professionalism. There was little problem with corruption or discipline within the police force due to national pride, strict training, and close monitoring.

The LDF received less training than the National Police and fall under the Ministry of the Interior, along with locally staffed "civil disorder" units. The LDF performed basic security guard duties throughout the country and were known to chase illegal street vendors, petty criminals, and prostitutes away from public areas. While they have no arrest powers, they reportedly acted with impunity. During the year, the Government initiated a project to integrate the LDF into the National Police.

The law requires that authorities investigate and then obtain a judicial warrant before arresting a suspect. Police may detain persons for up to 48 hours without a warrant, and formal charges must be brought within 5 days of arrest; however, these provisions were widely disregarded during the year. The law permits investigative detention if authorities believe that public safety is threatened or that the accused might flee. There is no bail, but the authorities may release a suspect pending trial, if they are satisfied that there is no risk that the person may flee or become a threat to public safety and order.

During the year, security forces used arbitrary arrest and detention frequently. Authorities detained numerous individuals after they expressed viewpoints unacceptable to the Government, particularly those who raised complaints about land reform and Gacaca proceedings (see Section 2.a.).

In Kigali city, police arrested Eric Mutemberezi on April 12, Oscar Hbarurema on April 13, and Gad Byiringiro on April 14 and accused them of attempting to recruit young persons to join Rwandan rebels in Burundi. All were released in June because there was no tangible evidence against them.

Members of religious groups, including Jehovah's Witnesses, were arrested during the year (see Section 2.c.).

Human rights organizations estimated that more than 300 persons were detained briefly during the 2003 presidential campaign period; almost all were reportedly supporters of Faustin Twagiramungu, an opposition candidate.

There were no developments in the 2003 cases against Leonard Kavutse, Janvier Munyemana, and Secretary General of the MDR Pierre Gakwandi, all of whom remained in prison and were awaiting trial at year's end.

The Government continued to detain ex-combatants who returned to the country as part of the ongoing peace process between Rwanda and the DRC; detainees were placed in an 8-to-12-week-reintegration program at Mutobo, in Ruhengeri Province. The returnees included some children. The children generally served as porters for ALIR (now called the Democratic Front for the Liberation of Rwanda, or FDLR); a few served as combatants for FDLR. Child soldiers were held separately from the adult combatants. The Government opened a demobilization center in January to process and reintegrate rebel child soldiers returning from the DRC (see Section 5). Authorities frequently allowed detainees at the demobilization camp at Mutobo to receive visitors, and sometimes to go home for visits.

Approximately 80,000 individuals accused of genocide continued to be imprisoned while awaiting trial. The law permits the continued detention of genocide suspects long enough to allow them to face trial either in a conventional court or in the Gacaca system (see Section 1.e.). Lengthy pretrial detention was a serious problem, and some suspects had been in jail since 1994. The Government did not have the capacity to process cases within a reasonable time. Pretrial detentions were even longer than in previous years because the court system was not operational for 10 months of the year (see Section 1.e.).

Mobile groups, whose mandate was to establish or complete files that indicated the basis for charges for all genocide-related detainees, continued to operate during the year. Approximately 90 percent of detainees in custody during the year had files; however, the vast majority of those files were incomplete.

There were numerous reports of political detainees, including MDR Secretary General Pierre Gakwandi.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was subject to executive influence and suffered from inefficiency, a lack of resources, and some corruption. The justice system collapsed during the war and Genocide of 1994. With help from the international community, it continued to undergo a slow rebuilding process. For example, in July, the Government dismissed approximately 500 district- and provincial-level judges from the national court system who were deemed to be unqualified, and it subsequently appointed more than 230 judges as replacements. Despite the reforms, the Government did not have the capacity to ensure that provisions in the Constitution were enforced or that due process protections were observed.

The ordinary courts operated only during the last 2 months of the year. For the first 10 months, Parliament debated and passed judicial reform bills, which restructured the court system and were intended to strengthen the required qualifications for judges. During this legislative process, only courts handling high profile cases functioned. They began hearing cases again in late October, although the Supreme Court was still redistributing 40,000 pending cases, all of which were unrelated to the Genocide, at year's end.

There were problems enforcing domestic court orders. For example, security forces at times ignored court decisions and refused to release prisoners. In the high profile case against Pasteur Bizimungu, the Prosecutor's Office refused to implement the court's decision requiring officials to return material resources confiscated during Bizimungu's arrest to his family, despite appeals from the family and their lawyer. An ombudsman is mandated to conduct investigations into judicial corruption; however, by year's end, no such investigations had been conducted.

The Constitution provides for the adoption of a system of ordinary and specialized courts. Ordinary courts included the Supreme Court, the High Court of the Repub-

lic, the provincial courts, and district courts. Specialized courts included Gacaca courts and military courts.

Although the judicial reforms adopted in July were seen as providing the framework for a more independent judiciary, observers raised concerns about the fairness of the process used to appoint and dismiss judges. Despite meeting the criteria delineated in the new reforms, several judges were fired. For example, Jean Baptiste Nsabimana was dismissed despite having a university law degree and 6 years of experience.

The law provides for public trials with the right to a defense (but not at public expense), a presumption of innocence, and a right to appeal, and these provisions were generally respected in practice; however, some appeals cases were subject to lengthy delays. By year's end, there were between 67 and 100 lawyers in the country, and the abject poverty of most defendants made it difficult for many of them to obtain legal representation. An estimated 10 percent of defendants were able to afford a private lawyer. Lawyers Without Borders continued to train Gacaca judges but did not provide defense or counsel to those in need. New court officers continued to be sworn in and assigned to courts across the country, but the Government did not have a sufficient number of prosecutors, judges, or courtrooms to hold trials within a reasonable time. During the first half of the year, the Ministry of Justice—as part of a campaign to professionalize the judicial sector—began dissolving the Corps of Legal Defenders, an organization supported by international donors that provided those accused of genocide with free legal aid. By year's end, the Corps was no longer functioning.

During the year, there were trials that did not meet internationally accepted standards. On June 7, former President Pasteur Bizimungu, former transport minister Charles Ntakirutinka, and six other persons believed to be involved with Bizimungu's banned PDR-Ubuyanja party were found guilty of belonging to a criminal, antigovernment association; the eight individuals were arrested in 2002 on charges of "threatening national security by forming a criminal association." A court sentenced Bizimungu to 15 years in prison, Ntakirutinka to 10 years in prison, and the remaining six to 5 years each. The trial against Bizimungu and his seven codefendants, which began in March, was marred by a lack of corroborating evidence against the defense and was characterized by many international observers as having fallen short of international standards of fairness and impartiality. During the course of the trial, Bizimungu's attorney was detained for 24 hours for contempt of court, the judge prevented the defense from fully cross-examining the prosecution's witnesses, and the defense was only allowed to present a limited number of witnesses. The codefendants lodged an appeal in June, which had not been heard by year's end.

The RDF continued to dismiss soldiers for indiscipline and criminal offenses. The RDF routinely tried military offenders in military courts, which handed down sentences of fines, imprisonment, or both during the year (*see* Section 1.a.). The law stipulates that civilians who were accomplices of soldiers accused of crimes be tried in military court. Civilians tried in military court had received stolen goods from soldiers, had acted as accomplices with soldiers to commit theft, or had participated in rape. Military courts tried fewer than 10 civilians during the year.

The judiciary focused on resolving the enormous genocide caseload of more than 80,000 detainees (*see* Section 1.d.). Unlike in the previous year, the Government did not continue to implement the program referred to as the Gisovu, or pre-Gacaca, project, a release program in which genocide-related detainees and prisoners who were elderly, ill, or without files were taken to their former villages to allow villagers to make complaints against them or to confirm that there was no reason to detain them.

Gacaca courts, a grassroots participatory form of justice, served as the Government's primary judicial process for adjudicating thousands of genocide cases. Gacaca courts were established in more than 9,000 villages across the country during the year. Human rights observers have criticized the Gacaca courts of being biased against those who acted on behalf of the former government and not trying others who committed serious human rights violations from 1990 to the present in support of the current Government. The National Commission for Gacaca Courts, created in 2003, oversaw the rewriting of the Gacaca law. The new law, passed on July 19, reduced the number of judges required for a Gacaca trial, recategorized crimes, and reduced sentences. The Gacaca law provides for reduced sentences for cooperation and credit for time served. Lawyers were not permitted to participate officially in Gacaca. The procedure for observing Gacaca trials made it difficult for human rights groups to monitor the trials. The training of judges on the new Gacaca law was still being completed at year's end, and no courts had progressed beyond the pretrial phase.

In addition to Gacaca courts, genocide-related cases were tried by the ICTR and by the Government in local courts (*see* Section 4). Less than 10 percent of individuals detained as genocide suspects have been tried in ordinary jurisdictions, and local legal aid organizations reported that no genocide-related trials took place in the country during the year.

A section of the Organic Genocide Law is designed to encourage confessions in exchange for reduced sentences for the vast majority of those involved in the Genocide. Following efforts by the Government, international donors, and NGOs to widely advertise the confession provisions, 65,000 prisoners have confessed since the law was implemented in 1996. However, only a small number of confessions were processed due to lengthy administrative review and hearing proceedings, and the lack of officials to process the confessions through the system. The testimony of the 63,000 prisoners have implicated as many as 500,000 additional persons in the Genocide who have not yet been detained by police.

There were some reports of political prisoners, including former President Pasteur Bizimungu and seven other persons believed to be involved with Bizimungu's banned PDR-Ubuyanja party.

Few people had success pursuing their property restitution cases through the court system, partly because it was not functioning. There were reports that orphans, ex-combatants, and returning refugees had difficulty reclaiming their family land.

*f. Arbitrary Interference With Privacy, Family, Home or Correspondence.*—The Constitution prohibits such practices, and authorities generally respected these prohibitions; however, in August, security forces began monitoring the homes and telephone calls of two journalists (*see* Section 2.a.).

Unlike in the previous year, there were no reports that security forces forcibly entered homes.

Between 1997 and the end of 2001, more than 600,000 persons were relocated to government-designated resettlement sites in compliance with a "villagization" policy. Although the Government stated that the move to villages was voluntary, some observers said that government authorities compelled many persons to move; others may have relocated out of fear of security forces or insurgents. While villagization remained government policy, the Government did not compel these persons to remain in the villages; however, restrictions on where houses could be built forced some individuals to continue to reside on the settlement sites. Thousands of persons still lived in inadequate housing not of their own choosing.

Citizens who served in the military could be recalled to compulsory duty at any time. After rebel incursions from the DRC into the country in late March, the Government compelled citizens to participate in nightly watch patrols; citizens who refused were beaten and detained (*see* Section 2.c.).

On November 30, there were unverified reports from numerous credible sources, including MONUC, that a significant number of armed men suspected of being RDF soldiers entered the DRC and attacked and burned villages north of Goma, near the border.

During the year, there were numerous credible reports, including one by the U.N. Group of Experts, that ex-RCD/G combatants from the DRC, with the aid of local Rwandan and Congolese officials recruited for military training—sometimes forcibly—demobilized Rwandan and DRC soldiers and refugees from the DRC (*see* Section 2.d.). However, the Government denied that any recruitment activities occurred.

The Government interfered with the right of Jehovah's Witnesses to marry according to their faith (*see* Section 2.c.). Unlike in the previous year, there were no reports that police harassed family members of former president Pasteur Bizimungu; however, his family members reportedly were still unable to gain possession of property confiscated by government agents in 2002, despite a court order issued during the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice, and the Government harassed journalists who expressed views contrary to official views. Most journalists practiced self-censorship due to fear of government reprisals.

Government authorities detained individuals after they expressed viewpoints unacceptable to the Government. On April 28, police arrested Augustin Habimana after he complained in a public meeting to a mayor in Gisenyi Province that the current Government's policy of forced night patrols was similar to the policy under the former regime of Juvenal Habyarimana, and said that the Government should

negotiate peace with the DRC-based rebels rather than use the local population to fight them. He remained in detention at year's end.

Unlike in the previous year, there were no reports that the Government accused opposition party members of using language that was "divisionist."

During the year, the Government continued to exercise tight controls over the media. The number of newspapers continued to increase; however, by July, international and local observers generally agreed that Umuseso was the only independent newspaper remaining in Rwanda. There were unconfirmed reports during the year that government agents were attempting to covertly infiltrate Umuseso's staff to influence the content of the newspaper. There were both privately and government-owned newspapers, all of which published weekly in English, French, or Kinyarwanda; however, there were no daily newspapers. Newspapers were subject to government restrictions.

The Government largely controlled the broadcast media. The law authorizes private radio and TV broadcasting, subject to the approval of the Government. During the year, the Government granted licenses to four private radio stations, three of which began operations by year's end. Radio Rwanda journalists were civil servants of the National Office of Information. Foreign media groups, including Voice of America, Deutsche Welle, and the British Broadcasting Corporation, broadcast in Kigali. The Government continued to own the only television station, which was nominally independent of the Government.

During the year, the Government continued to torture, harass, and threaten the media. On February 22, security forces detained, harassed, and threatened to kill five journalists, including Robert Sebufirira and Emmanuel Munyaneza, both of whom worked for the independent Kinyarwanda weekly, Umuseso. The journalists said they were detained because they were printing articles that were critical of the Government and were told during detention not to print such articles again. By year's end, no action had been taken against the security forces members of security forces responsible for the reported beating.

In August, security forces began following and monitoring the homes and telephone calls of Umuseso writers Tharcisse Semana and Madjaliwa Niyonsaba, both of whom subsequently went into hiding. Both journalists reportedly received threatening text messages demanding that they never again write articles critical of the Government.

In September, the Government threatened to close Umuseso for several months. The newspaper's editorial staff refused to comply with a request by the High Council of the Press to acknowledge "mistakes" and to reveal its sources for a controversial series of articles. The threat followed 2 years of constant harassment during which the Government confiscated Umuseso's editions on several occasions. By year's end, the Information Ministry had not suspended Umuseso.

On November 15, police detained incommunicado two journalists, Patrice Nsengiyumva, director of the Press House (Maison de la Presse), and Bonaventure Bizimuremyi, editor of the newspaper Umucyo. Eventually, authorities allowed them access to attorneys and family members. They were released a few days later, and by year's end, judicial investigations were ongoing.

On December 18, six unknown assailants with knives stabbed and wounded two Umuseso journalists, Mugisha Furaha and Rwango Kadafi, after reportedly recognizing them as journalists. By year's end, there were unconfirmed reports that some of the assailants were members of the military and that police had arrested three of the assailants; however, no additional information was available.

On December 31, members of the security forces reportedly arrested Umuseso journalist Didas Gasana at the country's Ugandan border, detained him for 5 hours, and threatened to kill him. Gasana had obtained an exit visa to go to Uganda for medical reasons.

No action was taken against police officers who beat three journalists and a deputy editor in November 2003.

Several journalists remained in self-imposed exile at year's end.

At year's end, several international press freedom advocates continued to criticize the Government for not allowing Radio Rwanda journalist Dominique Makeli access to due process; he was arrested in 1994 on charges of inciting genocide.

The Government censored the media during the year by confiscating newspapers on several occasions. Authorities confiscated Umuseso editions throughout the year, usually while editors carried the newspapers from Uganda, where they were printed. In addition, during the summer, authorities reportedly confiscated all the copies of an edition published by Ukuri, a local newspaper; the confiscation took place shortly after the publication of an expose on police corruption.

There were two printing presses, one of which was owned by the Government. The second was owned by the Catholic Church and was used only by the Church. Other

newspapers had to either use the government press or print their newspapers in Uganda.

During the year, the Government used criminal libel laws to suppress criticism from the media. On November 16, the editor of Umuseso, Charles Kabonero, was tried on criminal charges of “divisionism” and defamation after Denis Polisi, a parliamentarian and secretary general of the ruling party, filed a libel suit against Kabonero. The suit was filed in response to an article published in August that alleged Polisi rented office space to several parastatal bodies and had ambitions to rule the country. The Kigali prosecutor’s office requested a 4-year prison sentence and a fine of \$90,000 (50 million francs) for Kabonero. On November 23, Kabonero was found not guilty of “divisionism,” but he was found guilty of defamation and contempt of a public official. The court ordered Kabonero to pay the Government a \$9 (5,000 francs) fine for contempt and another \$6 (3,600 francs) in court fees; it also ordered Kabonero to pay \$0.001 (1 franc) to Polisi for damages.

During the year, *Journaliste en danger* (JED), an NGO promoting press freedom in Central Africa, selected local journalists to monitor the state of press freedom in the country; however, before beginning work on the project, the monitors declined to fulfill their duties. According to JED, the monitors declined due to an atmosphere of fear and a general lack of press freedom in the country.

The Government did not restrict access to the Internet or censor websites during the year.

The Government did not restrict academic freedom; however, the head of the national university, appointed by the Government, made public statements describing his role as one of monitoring the university, its staff, and its students for evidence of “genocide ideology.”

Following the June release of Parliament’s genocide ideology report, the Ministry of Education, Science, and Technology fired 37 teachers and suspended 27 high school students on accusations that they engaged in genocide ideology and other offenses, including sexual abuse, intent to poison Tutsi, and harassment of genocide survivors. The Ministry delivered the list of more than 60 educators and students to police for prosecution. Human rights observers noted that the Government had a responsibility to prevent the recurrence of genocide; however, they criticized the Government’s use of the ill-defined charge of genocide ideology, saying that it threatened academic freedom and freedom of speech, and that it encouraged local officials to fabricate false charges against persons for personal, political, or economic gain.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, authorities limited this right in practice. Authorities legally may require advance notice for outdoor rallies, demonstrations, and meetings. Authorities generally prohibited nighttime meetings, particularly after rebel incursions into the northwest part of the country from the DRC in late March and April.

During the year, there were reports that authorities prevented meetings by NGOs (see Section 4).

The Constitution provides for freedom of association; however, the Government limited this right in practice. Private organizations were required to register, and in practice, the Government generally granted licenses without undue delay; however, there were some exceptions. During the year, the Government instituted a new policy for registration, requiring organizations to obtain letters of support from every local official in areas in which the organizations intended to work. This essentially made registration extremely difficult for some types of organizations, particularly human rights organizations.

During the year, the Government refused registration to The Community of Indigenous Peoples of Rwanda (CAURWA), a Batwa advocacy organization (see Section 5).

The Constitution provides for a multiparty system of government and for the free operation of political organizations; however, the Government often did not respect these provisions. During the year, the main opposition party, the Democratic Republican Movement, remained inactive as a result of the cabinet’s May 2003 recommendation to ban it; although the Supreme Court never acted upon the recommendation, the MDR was dissolved shortly thereafter when all existing political parties were required to reregister under a new political party law. The actions taken by authorities during the 2003 election campaign period created an atmosphere of fear, so many groups simply chose not to meet. Members of political parties other than the ruling RPF reported that, because Rwanda had essentially become a one-party state, there was no sense in meeting.

All political organizations were obliged to join and attend meetings of the Forum for Political Organizations, chaired by the RPF Secretary General. The only new party registered during 2003, the Party for Peace and Concord (PPC), did not join the RPF coalition. Security forces harassed its executive committee members, and several members were forced out of their jobs, including the former Postmaster General, Dr. Christian Marrara.

The Government continued to harass former members of the MDR and other opposition figures.

Unlike in the previous year, there were no reports that the RCD/G (or ex-RCD/G) or Uganda People's Congress forces restricted freedoms of assembly.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, while the Government generally respected this right in practice, it failed to prevent local authorities from abusing or restricting religious freedoms, particularly those of Jehovah's Witnesses.

There were numerous reports that police beat and detained or arrested members of Jehovah's Witnesses because they refused to participate in nighttime security patrols. Since March, 209 members of Jehovah's Witnesses were imprisoned or detained on alleged security grounds, 34 of whom faced severe beatings while in detention. Detentions ranged from 1 day to 1 month in length. Jehovah's Witnesses members from 6 of the 12 provinces were arrested on charges of "disobeying government emergency security policy," specifically, refusing to participate in night patrols. In four of the six provinces, local authorities beat the detained Jehovah's Witnesses.

There were also reports during the year that authorities closed a Jehovah's Witnesses Kingdom Hall and dispersed worshippers.

On August 24, police arrested 16 men and 8 women who were participating in a Jehovah's Witness service in Mataba, Umutara Province. They reportedly were imprisoned because they were meeting on a Tuesday rather than a Saturday. The women were released after 2 days, and the men after 3 days.

Unlike in the previous year, there were no reports that authorities detained or harassed Seventh-day Adventists.

Pentecostal Pastor Majyambere remained in detention at year's end on charges of "preaching rebellion."

After 2 years in prison, members of the Mouvement Sacerdotal Marial were released in June. There was no development in the cases of the Pentecostal prayer group arrested in March 2003.

The report by the Commission on Genocide Ideology criticized a number of churches, their activities, and/or their leaders (see Section 4). The report specifically targeted Jehovah's Witnesses, Seventh-day Adventists, a number of Pentecostal churches, and several Catholic priests. For example, the report accused a Catholic priest of promoting genocide ideology because he created an association of micro-credit borrowers, whose members all belonged to the same ethnic group. In addition, churches were criticized for allowing Hutu and Tutsi to sit separately during prayers. The Commission recommended that the Government should intervene in internal church politics to resolve leadership conflicts, that a number of associations should be abolished, and that the Government should counsel churches about which activities were acceptable. It also called on Parliament to adopt a special law to govern the functioning of all churches in the country; however, by year's end, no such law had been adopted.

The law requires that all nonprofit organizations, including churches and religious organizations, register with the Ministry of Justice to acquire the status of "legal entity." At year's end, no application had been denied, and no group's religious activities had been curtailed as a result of difficulties or delays in the registration process.

The law does not require that a person who wants to get married at a ceremony presided over by a government official must put his or her hand on the national flag, but this practice was enforced throughout the country. Jehovah's Witnesses had a very difficult time finding places to marry without this patriotic ceremony, which they objected to on religious grounds. Jehovah's Witnesses claimed that members of their faith have been beaten and imprisoned at the place issuing the marriage certificate, due to their refusal to place their hands on the flag.

According to church officials, in 4 of the country's 12 provinces, 43 children of Jehovah's Witnesses were expelled from secondary schools between April and June for refusing to salute the national flag or to sing the national anthem. Church officials raised the issue with national authorities, but most of the children remained expelled until the end of the school year.

Some religious leaders were perpetrators of violence and discrimination during the year, and several clergy members of various faiths faced charges of genocide in the country's courts and in the ICTR (*see* Section 4).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times did not respect them in practice. Citizens had to show identification upon request by security forces. Citizens must obtain a new national identity card when making a permanent move to a new district, and these new cards were issued routinely. In May, government officials forced citizens to return to the districts listed on their identity cards and said those who refused to return would face detention.

There were several reports during the year that government officials delayed passport issuances for, or threatened to confiscate passports of, political dissidents, most notably Dr. Theoneste Niyategeka, who ran against President Kagame in the 2003 presidential elections.

The Constitution prohibits forced exile, and the Government did not use forced exile; however, some individuals secretly left the country to live in self-imposed exile because they believed their lives were in danger. For example, in March, the editor in chief of an independent Kinyarwanda newspaper, Robert Seburfirira, fled the country after continuous harassment and torture by security forces. In October, several persons implicated in the June parliamentary report on genocide ideology also fled the country, including a Catholic priest and a high school administrator.

Between February and April, government officials from both Rwanda and the DRC were pressuring refugees to return to the DRC, according to DRC refugees in the Gihembe and Kiziba camps, in Rwanda's Byumba and Kibuye provinces (respectively). Government officials reportedly entered the camps in plain clothes, posing as refugees, and conducted unsanctioned meetings designed to encourage the refugees to return to the DRC. In one case, these officials allegedly pressured the refugees to sign a letter requesting their immediate repatriation.

By year's end, more than 50,000 Rwandan refugees remained outside the country; however, approximately 13,000 refugees returned to the country during the year. According to the UNHCR, more than 10,000 citizens freely returned to the country from the DRC, and another 2,500 refugees were voluntarily repatriated from Uganda.

More than 5,000 Hutu former combatants and accompanying family members were repatriated to the country as part of an effort to demobilize, repatriate, and reintegrate Rwandan rebels in the DRC.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system providing protection to refugees. The Constitution recognized the right to asylum "under conditions determined by law"; however, there was no law in place to recognize refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they fear persecution, and it granted refugee status and asylum; however, the Government was slow to implement refugee registration procedures, and most persons seeking asylum or refugee status had to seek private assistance (finding housing, food, and other supplies) while waiting for formal recognition by the Government. The Government generally cooperated with the U.N. High Commissioner for Refugees (UNHCR), which was responsible for granting refugee status until March. The UNHCR continued to assist refugees and provided temporary protection to approximately 50,900 persons, the vast majority of whom were refugees from the DRC who fled the DRC during the unrest of 1996.

During the first 6 months of the year, when the Government was taking over the responsibility of registering refugees and asylum seekers, there were numerous reports that government officials harassed and imprisoned refugees and asylum seekers. Some refugees reported that during February, they were tortured while in prison and others were intentionally starved. Police and immigration officials in remote locations were either unaware of their new responsibilities to register refugees and asylum seekers, or poorly trained to do the job. By year's end, the reported incidents of harassment were considerably lower. There were numerous reports, including one prepared by an independent panel of experts for the U.N. Security Council, that former RCD/G agents in the DRC entered refugee camps in Rwanda, with the aid of local Rwandan authorities, to recruit young men, including children, to join their militia in the eastern DRC; however, some parents of refugees who left the camps said they sent their children to the DRC for schooling—not for use as soldiers—and

the U.N. report, which relied heavily on statements by humanitarian aid workers, did not refute this claim.

During the year, UNHCR supported three monitoring officers who generally found that returning refugees could negotiate agreements with persons living on and using their former property. However, in one case, 200 refugees returning from Uganda chose to return to Uganda after being unsuccessful in reclaiming their land in Umutara Province. Local authorities did not actively prevent them from accessing the land; however, they did not protect refugees' right of return as it applied to property.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to change their government peacefully; however, despite peaceful presidential and legislative elections during 2003, this right was effectively restricted.

In August 2003, President Paul Kagame won a landslide victory against two independent presidential candidates. International election observers, representing both governments and NGOs, noted that the country's first post-genocide elections, though peaceful, were marred by numerous irregularities, including ballot stuffing, "guarded" polling booths, and irregular ballot counting in at least 2 of the 12 provinces. There also were numerous credible reports that during the presidential and legislative campaign periods in 2003, Kagame's opponents and their supporters faced widespread harassment and intimidation, including detention, which made it virtually impossible to campaign.

The local level electoral process requires that persons queue behind the candidate of their choice. Since there is no confidentiality in the voting process, there is considerable social pressure to select the RPF candidate. In some districts, this pressure was so great that no one chose to challenge the RPF candidate. International observers also expressed concern that approximately half of the provincial and district officials, elected 2 years ago to 4-year terms, were removed by unilateral state decision.

During the year, several local elections were held to replace officials removed from office for "incompetence" or "corruption"; observers did not consider the election process to be free and fair.

The Constitution, adopted in May 2003, requires that all political parties register with the Government, and all but one of the parties that existed prior to May 2003 successfully re-registered (*see* Section 2.b.). During the year, no party other than the ruling RPF was active in party building activities such as recruitment and platform development.

The Constitution provides for a bicameral legislature, consisting of an 80-seat Chamber of Deputies and a 26-seat Senate. The term for Deputies was 5 years, while the term for Senators was 8 years, non-renewable.

In the September and October 2003 legislative elections, President Kagame's political party, the RPF, won the majority of the seats in the Chamber of Deputies and Senate. International election observers noted that the elections, though peaceful, were marred by numerous irregularities and widespread intimidation against the opposition.

In addition to the RPF, six other political parties were represented in the Chamber of Deputies and the Senate; however, none were considered to be fully independent of President Kagame and the RPF.

In accordance with the Constitution, all political organizations were required to join the Forum for Political Organizations. In addition, the law regulates the formation, structure, and functioning of political organizations; it also monitors their use of the media, management of financial assets, and relations between political organizations and other institutions. The law outlines a code of conduct that places tight controls on political organizations. For example, the law states that political organizations have the "moral obligation to condemn any biased ideas and behavior aimed at turning the State into a State governed by a cluster of politicians." The law also outlines the Government's ability to cancel an organization's mandate. Political organizations that participated in Forum meetings during the year reported that they were not allowed to openly discuss their concerns about political space in the country.

Corruption of government officials was a problem. During the year, the ombudsman's office, created in 2003 to combat corruption, reported over 2,000 cases of financial and administrative corruption committed during the year. Most were cases where a government official used his or her power to coerce citizens into action.

In January, two prominent government officials resigned or took a leave of absence before being replaced because of allegations of corruption. Gerald Gahima,

former Prosecutor General and Vice President of the Supreme Court, was accused of using his position to secure bank loans. Gahima's brother, Theogene Rudasingwa reportedly took a leave of absence from his position as Advisor to the President after being accused of giving government contracts to his construction company. During the year, security forces intimidated a local hotel into breaking its contract with a private security company, KK Security, and hiring Intersec, a security company owned by an RPF investment group.

The law does not provide for access to government information, and in practice, it remained difficult for citizens and foreigners, including journalists, to obtain access to government information.

The Constitution requires that at least 30 percent of the seats in Parliament be reserved for women; women won approximately 40 percent of the seats during September 2003 legislative elections. At year's end, there were 8 women in the 26-seat Senate and 39 women in the 80-seat Chamber of Deputies. In addition, President Kagame appointed 9 women to ministerial positions, representing 32 percent of the positions in his cabinet.

Although the Constitution stipulated that marginalized groups should be represented in the Senate, the Batwa were not explicitly given such representation.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups operated in the country, investigating and publishing their findings; however, the Government effectively dismantled independent human rights organizations during the year. The Government generally did not provide to human rights organizations, or to other governments, systematic replies or rebuttals to allegations of human rights abuses committed in the country. The Government tended to be suspicious of local and international human rights observers. The majority of the domestic human rights organizations were seen as being only nominally independent of the Government, and none of the domestic organizations had the resources to conduct extensive human rights monitoring. The Government harassed those that attempted to report and act with significant independence.

During the first half of the year, local NGO activities often were limited to receiving and compiling reports from citizens about human rights abuses and conducting selected investigations, primarily because of resources but also because of some self-censorship. Reports were published occasionally; statements criticizing specific incidents were more common.

On June 30, Parliament approved a report by the Commission on Genocide Ideology that described evidence allegedly showing the prevalence of "genocide ideology" in each of the country's 12 provinces. Based on 6 months of investigations, the report dealt with cases of harassment of genocide survivors, the activities of the domestic human rights organization Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) and other NGOs, and allegedly corrupt leaders of local government, churches, and grassroots organizations. During the year, the Government used this report to target perceived critics of the Government (see Sections 2.a. and 2.c.). International observers criticized the report for failing to adequately define genocide ideology and failing to protect the principle of presumption of innocence. Simply being accused by the Government of supporting a genocide ideology was enough to damage the ability of the accused organizations from being able to work effectively, even if they were later absolved of guilt.

The report called for the dissolution and prosecution of a number of civil society organizations and their members. After the release of the report, independent human rights organizations were effectively dismantled, and all independent sources of information on the human rights conditions in the country disappeared in the second half of the year. The government particularly targeted LIPRODHOR, calling for its dissolution because it allegedly promoted the idea that the Government protected and promoted only Tutsi interests. Although LIPRODHOR was not dissolved, it was forced to rewrite its mandate, and align itself more closely with Government policy. In June and July, several LIPRODHOR executive board members fled the country.

Other civil society organizations implicated in the report were also forced either to stop their activities or rework their programs to align more closely with government policy. In response to the parliamentary report, a group of progovernment domestic NGOs created an NGO "Platform," or collective, to manage the activities of NGOs. Membership was not voluntary, and the elections for officers were irregular.

There were reports that authorities prevented NGO meetings during the year.

On September 6, despite 3 years of negotiations between the Government and international NGOs on a draft law to manage international NGOs, the Government

proposed an entirely new draft law to the international NGOs. The proposed new law did not address many of the compromises made during the previous negotiation and subjected NGOs to stringent government oversight. No compromise had been reached between the parties by year's end, but the proposal was widely seen as an attack on international NGOs.

The Government continued to criticize reports by international observers and human rights NGOs and was hostile towards those whose reporting was perceived by the Government to be biased and inaccurate.

In July, a report issued by a U.N. panel accused the Government of supporting dissidents in the DRC, led by ex-RCD/G commanders such as Colonel Mutebutsi and General Nkunda, who seized the eastern town of Bukavu in June, thereby breaking an arms embargo instituted in 2003 by the U.N. Security Council. In its report, the U.N. Expert Panel on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC concluded that the Government's "ongoing assistance, which includes the supply of arms and ammunition, continues to threaten the stability of the [DRC] transitional government and, if unchecked, could lend itself to a renewed outbreak of hostilities and further jeopardize regional stability." The Government's minister for regional cooperation described the report as a "fabrication lacking credible evidence" and accused it of being biased.

In December, following unconfirmed MONUC reports that RDF forces had entered the DRC, the U.N. Security Council sharply criticized the Rwandan Government and called on it to immediately withdraw troops who may have crossed the border. A U.N. spokesperson said the U.N. had been unable to verify information independently because the region was difficult to access. The Government denied that its troops had entered the DRC.

The ICTR continued to prosecute genocide suspects during the year. Since 1994, the ICTR has delivered verdicts on 23 persons, including 6 during the year. Government authorities sporadically prevented witnesses from attending and giving testimony at the ICTR, which delayed the judicial process. Relations and cooperation between the Government and the ICTR improved following the 2003 appointment of Hassan Bubacar Jallow as the ICTR's Prosecutor. Discussions between the Government and the Tribunal continued on investigating Rwandan Patriotic Army (RPA) crimes, or "revenge killings," committed in 1994.

Six genocide trials were completed by year's end. On January 22, Jean de Dieu Kamuhanda, former Minister of Culture and Education, was sentenced to life imprisonment. On February 25, a lieutenant in the Armed Forces of the Congo (FAR), Sammuell Imanishimuwe, was sentenced to life imprisonment. On the same date, Emmanuel Bagambiki, former prefect of Cyangugu Province, and Andre Ntagerura, former Minister of Transportation, were both provisionally released. On June 17, Sylvestre Gacumbitsi, Mayor of Rusumo Commune in Kibungo Province, was sentenced to 30 years in prison. On July 15, former Minister of Finance Emmanuel Ndingabahizi was sentenced to life imprisonment.

Twenty-five ICTR trials were in progress at year's end, and 11 cases were under appeal. An additional 17 persons remained in detention, awaiting trial at the year's end, while 3 persons accused of genocide awaited transfer to Arusha. Two of the three ICTR investigators arrested in 2001 on genocide charges were in custody awaiting trial at year's end; the remaining investigator had been released from custody but was fired by the ICTR.

In May, the Government publicly criticized efforts by the ICTR to investigate alleged RPA war crimes and said civilian casualties were sometimes an unavoidable consequence of military operations.

#### *Section 5. Discrimination Societal Abuses, and Trafficking in Persons*

The Constitution provides that all citizens are equal before the law, without discrimination on the basis of ethnic origin, tribe, clan, color, sex, region, social origin, religion or faith opinion, economic status, culture, language, social status, or physical or mental disability. The Government generally enforced these provisions; however, problems remained.

*Women.*—The law did not specifically prohibit domestic violence, and domestic violence against women, including wife beating, was common. Cases normally were handled within the context of the extended family and rarely came before the courts. Since the courts were being restructured during the year, no new cases were heard. In recent years, those convicted of rape generally received sentences of from 20 to 30 years of imprisonment.

A Human Rights Watch study, released September 30, addressed justice in cases of sexual violence and highlighted that only a few perpetrators of sexual violence had been prosecuted over the past decade. The report found that weaknesses in statutory law, insufficient protections for victims and witnesses, lack of training for

authorities with respect to sexual violence, and poor representation of women among police and judicial authorities have resulted in an inadequacy on the Government's part to ensure legal redress and medical assistance. According to Amnesty International, although an estimated 250,000 to 500,000 women and girls were raped during the Genocide, the survivors still had almost no opportunity for legal recourse; and although some organizations estimate that 75 percent of genocide widows were living with HIV/AIDS, medical care was unavailable to the majority of them.

Prostitution and trafficking were problems (*see* Section 5, Trafficking).

Women continued to face societal discrimination. Women traditionally performed most of the subsistence farming. Since the 1994 Genocide, which left numerous women as heads of households, women have assumed a larger role in the formal sector, and many have run their own businesses. Nevertheless, women continued to have limited opportunities for education, employment, and promotion. Government efforts to expand opportunities for women included a clause in the Constitution providing that at least 30 percent of the seats in Parliament be reserved for women; women won approximately 40 percent of the seats during September 2003 legislative elections. Other efforts included scholarships for girls in primary and secondary school, loans to rural women, and a Ministry of Gender program to train government officials and NGOs in methods to increase the role of women in the workforce. The Family Code generally improved the legal position of women in matters relating to marriage, divorce, and child custody. The law allows women to inherit property from their fathers and husbands, and it allows couples to choose the legal property arrangements they wish to adopt; however, in practice, it was much more difficult for women to successfully pursue property claims than for men.

The Ministry of Gender and Women in Development was charged with handling problems of particular concern to women, and the Minister was an active advocate of women's rights. A number of women's groups were extremely active in promoting women's concerns, particularly those faced by widows, orphaned girls, and households headed by children.

*Children.*—The Government was committed to children's rights and welfare, and it attempted to provide education and health care to every child. Children headed at least 65,000 households. The Government worked closely with international NGOs to secure assistance for children who were heads of households, and sensitized local officials to the needs of children in such situations.

Education is compulsory through primary school or until age 12. While primary school fees were officially waived during the year, most parents still had to pay the fees to support basic school operations. School fees routinely were waived for orphans. Public schools lacked essential and basic supplies and could not accommodate all children of primary school age. A UNICEF study reported that 400,000 school-age children were unable to go to school in 1999. Private schools often were too distant or too expensive to serve as an alternative for many children. Examination decided entry to secondary school. According to a UNICEF report published during the year, 67 percent of primary school-age boys and girls were enrolled in school. Of the children who entered the first grade, 78 percent reached the fifth grade. Approximately 74 percent of men were literate, compared with 60 percent of women.

Child prostitution was a problem (*see* Section 5, Trafficking).

During the year, there were reports that former RCD/G forces in the DRC recruited, sometimes forcibly, children from refugee camps within Rwanda with the aid of local Rwandan officials (*see* Section 2.d.). The Coalition to Stop the Use of Child Soldiers reported that armed groups in the DRC continued to use approximately 2,000 Rwandan children as soldiers in Ituri district of the DRC. The Government denied that any such recruitment activities occurred in the country and that Rwandan children were being used as child soldiers in the DRC.

The Government's program of demobilization and reintegration continued during the year, with a number of child soldiers from the DRC participating in the program. In January, the Government opened a demobilization center dedicated specifically to children. The Government participated in an International Labor Organization (ILO)-International Program for Elimination of Child Labor (IPEC) program to prevent the involvement of children in armed conflicts and support the rehabilitation of former child soldiers. There were credible reports that, in some regions, children were recruited to work for the LDF; however, these were isolated cases.

Child labor was prevalent (*see* Section 6.d.).

There were approximately 6,000 street children throughout the country. Local authorities rounded up street children and placed them in foster homes or government-run facilities. The Gitagata Center still housed approximately 400 children, the majority of whom were rounded up in December 2003. The Government sup-

ported a “Childcare Institution” in each of the 12 provinces that served as safe houses for street children, providing shelter and basic needs. The Government continued to work with NGOs throughout the year to address the question of street children.

*Trafficking in Persons.*—There was no specific antitrafficking law, but laws against slavery, prostitution by coercion, kidnapping, rape, and defilement were available to prosecute traffickers; however, there were reports of trafficking.

No traffickers have been prosecuted; however, during the year, the Government actively investigated cases of sex crimes, although it did not keep separate trafficking statistics. In 2003, the Government prosecuted 581 persons accused of sexual crimes against children. The Government was making significant efforts to fight trafficking despite severe resources constraints.

The Government provided training on sex crimes and crimes against children to police as part of the police training curriculum. During the year, the Government worked to open a forensic lab to aid police in building stronger cases against traffickers; by year’s end, the administrative offices were functioning. During the year, the Government also monitored immigration and emigration patterns, as well as border areas that were accessible by road.

The country was a source country for small numbers of women and children trafficked for the purposes of sexual exploitation, domestic labor, and soldiering. Small numbers of women were trafficked internally or to Europe for prostitution. A small number of child victims were trafficked to Burundi and the DRC. There were reports that local government officials facilitated the trafficking of children for use as soldiers in the DRC (*see* Section 5, Children).

Numerous children headed households, and some of these children resorted to prostitution or may have been trafficked into domestic servitude. Child prostitution was a problem. Former adult prostitutes preyed on children from rural areas, recruiting them to work in cities, often under false pretenses. UNICEF estimated that there were 2,140 child prostitutes in the major cities and several thousand street children.

The Government identified the worst forms of child labor, and, in collaboration with UNICEF, identified three NGOs to help children working in these sectors. The Government also sponsored programs specifically designed to alleviate poverty among the poorest families, in which poverty was most often cited as the primary cause of forced child labor. When the Government dismantled prostitution rings, it offered women rehabilitation programs, which included work retraining.

*Persons With Disabilities.*—Although there were no laws restricting persons with disabilities from employment, education, or other state services, in practice, few persons with disabilities had access to education or employment. There was no law mandating access to public facilities.

*National/Racial/Ethnic Minorities.*—Before 1994, an estimated 85 percent of citizens were Hutu, 14 percent were Tutsi, and 1 percent were Batwa (Twa). However, Hutus and Tutsis were not clearly distinct groups since the two have intermarried for generations. The 1994 mass killings and migrations probably affected the ethnic composition of the population, but the extent and nature of the changes remained unknown.

With the removal of ethnic labels from identification cards, the Batwa no longer were officially designated as an ethnic group. During the year, there were approximately 23,000 Batwa in the country, which represented less than 1 percent of the population. The Batwa, survivors of the Twa (Pygmy) tribes of the mountainous forest areas bordering the DRC, existed on the margins of society and continued to be treated as inferior citizens by both the Hutu and Tutsi groups.

The Government refused to register CAURWA, an advocacy group for the Batwa, because its program of advocating on behalf of one ethnic group was perceived as “divisive.”

By year’s end, no investigation had been made into the case of a Batwa genocide suspect who died in 2002 during detention at Gikongoro prison.

There were seven Batwa organizations focused on the protection of their interests, which included access to land, housing and education, and the eradication of discrimination against them; however, they generally were unable to protect their interests due to government restrictions on using ethnic labels. Because the Government no longer recognized ethnicity, the Batwa were unable to argue that they needed special services. Few Batwa had been educated formally. There was one Batwa on the National Commission for Human Rights, but no explicit Batwa representation in the Senate, despite a constitutional provision that allows the president the right to appoint four members to the Senate “who shall ensure the representation of historically marginalized communities.”

Large-scale interethnic violence in the country between Hutus and Tutsis has erupted on three occasions since independence in 1962, resulting on each occasion in tens or hundreds of thousands of deaths. The most recent and severe outbreak of such violence, in 1994, involved genocidal killing of much of the Tutsi population under the direction of a Hutu-dominated government and in large part implemented by Hutu-dominated armed forces called the ex-FAR and Interahamwe militia. The Genocide ended later the same year when a predominately Tutsi militia, operating out of Uganda and occupied Rwandan territory, overthrew that government and established the Government of National Unity, which was composed of members of eight political parties and which ruled until the elections in August and September 2003. Since 1994, the Government has called for national reconciliation and committed itself to abolishing policies of the former government that had created and deepened ethnic cleavages. The Constitution provides for the eradication of ethnic, regional, and other divisions and the promotion of national unity. Some organizations and individuals accused the Government of favoring Tutsis, particularly English-speaking Tutsis, in government employment, admission to professional schooling, recruitment into or promotion within the army, and other matters; however, the Government continued to deny this charge.

*Incitement to Discrimination.*—Following the June release of Parliament's genocide ideology report and an October Radio Rwanda broadcast about the same subject, there were reports that local government officials incited Tutsi citizens to make false accusations against or discriminate against Hutus. During the year, one case of discrimination involved a personal conflict between a local Tutsi official and a Hutu school administrator. The local official accused the school administrator of threatening Tutsi students. Although the school administrator was eventually cleared of the charges, he was forced to leave the district and reported ongoing harassment by government intelligence officers.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides noncivil servants with the right to create professional associations and labor unions, and workers generally exercised this right in practice. The law specifically excludes civil servants from organizing. The labor movement was hampered because of the massive disruptions caused by the 1994 Genocide. Unions continued to regroup and assert themselves during the year; however, the Government and many employers were opposed to the idea of trade unions operating freely.

More than 85 percent of workers were engaged in small-scale subsistence farming. Union membership was voluntary and open to all salaried workers, including public sector employees. Organized labor represented only a small part of the work force. Approximately 7 percent of the work force worked in the formal (wage) sector, and approximately 75 percent of those active in the modern sector were union members.

There were no restrictions on the right of association for noncivil servants, but all unions must register with the Ministry of Labor for official recognition. There were no known cases in which the Government denied recognition. The law prohibits unions from having political affiliations and from publicly expressing their political, philosophical, or trade union opinions, which the Central Union of Rwandan Workers (CESTRAR) has said is tantamount to prohibiting organizing.

The law prohibits antiunion discrimination, but there were neither functioning labor courts nor other formal mechanisms to resolve complaints involving discrimination against unions. Union activists have complained that some employers threatened to fire employees who attempted to join a union. The law requires employers to reinstate workers fired for union activity; however, there were no reports that employers had fired employees for this reason.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the protection of workers from employer interference in their right to organize and administer unions; however, the law does not include agricultural workers in this provision. The law provides for collective bargaining, although only CESTRAR had an established collective bargaining agreement with the Government. In practice, the Government was intimately involved in the collective bargaining process since most union members were in the public sector (*see* Section 6.e.). There were no export processing zones.

Participation in unauthorized demonstrations could result in employee dismissal, nonpayment of wages, and civil action against the union. Authorization was not required for union meetings.

The law provides for the right to strike, except for public service workers and workers in essential services; however, there were no strikes during the year. The Minister of Labor decides what constitutes an essential service. According to the

International Confederation of Free Trade Unions, there is an excessively broad definition of so-called “essential” services in which strikes are prohibited. A union’s executive committee must approve any strike, and the union must first try to resolve its differences with management according to steps prescribed by the Ministry of Public Service and Labor. This process essentially prohibits strikes. There were no demonstrations by union members during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, prisoners were assigned to work details, which generally involved rebuilding houses, clearing land, or other public maintenance duties. Prisoners also may be hired out to perform work at private residences and businesses. It was unclear how much pay the prisoners were given in return for their work.

During the year, there were reports of forced coltan mining by prisoners, as well as other forms of forced labor.

The law does not prohibit specifically forced and compulsory labor by children, and there were reports that former RCD/G forces in the DRC forcibly recruited children from refugee camps within Rwanda with the aid of local Rwandan officials (see Sections 2.d. and 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Except for subsistence agriculture, which occupies approximately 85 percent of the workforce, the law prohibits children under the age of 16 from working without their parents’ or guardians’ permission and prohibits children under 16 from participating in night work or any work deemed hazardous or difficult, as determined by the Minister of Labor; however, child labor was prevalent. Night work is defined by the Labor Code as work between 7 p.m. and 5 a.m.; children also must have a rest period of at least 12 hours between work engagements. The minimum age for full-time employment is 18 years, and 14 years for apprenticeships, provided that the child has completed primary school. According to a 2003 U.N. report, 31 percent of children between the ages of 5 and 14 engaged in child labor, and during the year, children headed many households.

The Government identified five forms of child labor as those that should be considered as the “worst forms of labor,” including domestic work outside the family sphere; agricultural activities on tea, rice, and sugar cane plantations; work in brickyards and sand extraction quarries; crushing stones; and prostitution. During the year, child labor persisted in the agricultural sector (particularly on tea plantations), among household domestics, in small companies, and the brick-making industry. In addition, child prostitution was a problem, and there were unconfirmed reports that ex-RCD/G combatants forcibly recruited refugee children for use as soldiers in the DRC (see Sections 2.d. and 5). Children received low wages and abuse was common.

The Ministry of Public Service and Labor and the Ministry of Local Government did not enforce child labor laws effectively. There continued to be a lack of labor inspectors and labor courts to prevent child labor.

During the year, the Government took some steps to prevent and reduce the use of child labor. In July, the Ministry of Labor conducted training for the country’s 12 labor inspectors; 1 day was devoted to child labor. Throughout the year, the Government conducted a widespread education campaign on child labor that included radio and television programs. In addition, the Government continued to support 12 child labor inspector offices, 1 for each of the country’s provinces; however, the Government was unable to provide them with adequate resources to effectively identify and prevent the use of child labor.

*e. Acceptable Conditions of Work.*—The Ministry of Public Service and Labor set minimum wages in the small formal sector. The Government, the main employer, effectively set most other wage rates as well. There is no single minimum wage; minimum wages varied according to the nature of the job. The minimum wages paid did not provide a decent standard of living for a worker and family, and in practice, workers accepted less than the minimum wage. Often families supplemented their incomes by working in small business or subsistence agriculture.

Officially, government offices and private sector entities had a 40-hour workweek; the maximum workweek was 45 hours. The Government mandated that the workday begin at 7 a.m. and end at 3:30 p.m., with a 30-minute break for lunch. There was no mandated rest period. The law regulates hours of work and occupational health and safety standards in the formal wage sector, but inspectors from the Ministry of Public Service did not enforce these standards aggressively. Workers do not have the right to remove themselves from dangerous work situations without jeopardizing their jobs.

## SAO TOME AND PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty democracy. Fradique de Menezes was elected President of the country in a 2001 election deemed free and fair by international observers. In 2002 parliamentary elections, also deemed free and fair, the Movement for the Liberation of Sao Tome and Principe-Social Democratic Party (MLSTP) won 24 seats, the Movement for the Democratic Force of Change (MDFM) coalition won 23 seats, and the Ue-Kedadji coalition won 8 seats; Gabriel Arcanjo Ferreira da Costa was named Prime Minister. In 2002, President Menezes dismissed Costa, and a new 13-member coalition government was formed under Maria das Neves. In September, das Neves was dismissed for corruption and replaced by Damiao Vaz D'Almeida. During the year, the Government held town hall meetings throughout the country to establish a national consensus on the country's priorities; the search for consensus was one of the military's stipulations to end the 2003 attempted coup. The judiciary was generally independent but was subject at times to influence and manipulation.

The Minister of National Defense and Internal Affairs supervises and controls the military services, the police, and immigration. In July, the Government raised military salaries 30 percent as part of a continuing effort to improve soldiers' living conditions and benefits following the 2003 coup attempt. Civilian authorities maintained effective control of security forces. There were no reports that security forces committed human rights abuses.

The mainstay of the mixed economy was the export of cocoa; coffee, vanilla, and pepper also were produced for export. The population was approximately 181,500; per capita annual income was \$280. Unemployment remained high. The Government has privatized all state-held land and was somewhat successful in its efforts at structural adjustment; however, the country remained highly dependent on foreign aid.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Prison conditions were harsh, and the judicial system was inefficient. Violence and discrimination against women occurred, child labor was a problem, and labor practices on plantations were sometimes harsh.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there have been reports in the past that security forces at times beat and abused detainees in custody. There were no reports that police beat detainees during the year.

Prison conditions were harsh but not life threatening. Facilities were overcrowded, and food was inadequate. Women and men were held separately, and juveniles were separated from adults. Because of overcrowding, some pretrial prisoners were held with convicted prisoners.

The Government permitted human rights monitors to make prison visits; however, no visits were made during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Unlike in the previous year, there were no reports that security forces arbitrarily arrested and detained demonstrators.

The police force, under the Ministry of Defense, was ineffective and widely viewed as corrupt. Efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, were hampered during the year by a lack of financial and human resources.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial system at times was subject to political influence or manipulation. The Government set judicial salaries, which remained low, and suspicion persisted that judges may be tempted to accept bribes. During the year, the Government took steps to strengthen the judiciary.

The legal system was based on the Portuguese model. The court system had two levels: Circuit courts and the Supreme Court. The Supreme Court was the appellate court of last resort.

The Constitution provides for the right to fair public trial, the right of appeal, and the right to legal representation; however, in practice, the judicial infrastructure suffered from severe budgetary constraints, inadequate facilities, and a shortage of trained judges and lawyers, which caused delays from 3 to 9 months in bringing cases to court and greatly hindered investigations in criminal cases.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights and did not restrict academic freedom.

Two government-run and six independent newspapers and newsletters were published sporadically, usually on a monthly or bi-weekly basis; resource constraints determined publishing frequency.

All parties freely distributed newsletters and press releases stating their views and criticizing the Government, the President, and one another.

Television and radio were state operated. There were no independent local stations due to financial and market constraints; however, there were no laws prohibiting such stations. The Voice of America, Radio International Portugal, and Radio France International were rebroadcast locally. The law grants all opposition parties access to the state-run media, including a minimum of 3 minutes per month on television.

There were no cases of defamation during the year.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association, and the Government generally respected these rights in practice. The Government required that requests for authorization for large-scale events be filed 48 hours in advance, and it usually granted the required permits.

Unlike in the previous year, there were no reports that security forces killed or injured demonstrators.

*c. Freedom of Religion.*—The Constitution provides for religious freedom and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Unlike in the previous year, no curfews were imposed.

The Constitution does not prohibit forced exile; however, there were no reports of anyone being sent into forced exile.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Regarding the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year, there were no reports that the Government granted refugee status or asylum; there also were no known requests for refugee or asylum status. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens have exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the election of the President, who as head of state approves the Prime Minister, who appoints government ministers.

President Menezes was elected in July 2001; in December 2001, he dissolved the National Assembly and called for new elections. In a March 2002 election deemed free and fair by international observers, the MLSTP won 24 seats, the MDFM coalition won 23 seats, and the Ue-Kedadji coalition won 8 seats; Gabriel Arcaño Ferreira da Costa was named Prime Minister. In September 2002, President Menezes dismissed Costa and in October 2002, a 13-member coalition government

was formed under Maria das Neves, the first woman to hold the position of Prime Minister. In March, four MDFN ministers resigned from the Government; in September, Menezes dismissed das Neves for corruption and appointed Damiao Vaz D'Almeida as Prime Minister.

After a July 2003 failed military coup attempt, President Menezes signed a framework agreement with the rebels, which included a pledge to establish a national consensus on the country's developmental priorities. During the year, the Government held the National Forum for National Reconciliation, which was initiated with 59 town hall meetings across the country that allowed the first-ever inclusion of the country's rural population in such decision-making. In the subsequent 3-day plenary session, government leaders and 200 representatives agreed to a plan of action, which recommended: The conversion from political party-based to geographically-based representation in the National Assembly; improvement in living conditions of the army; land and agricultural reform; establishment of legal and regulatory measures to manage the country's oil wealth; and improvement in the education and health sectors.

Official corruption was widespread. During the year, an investigation into the diversion of funds from the sale of donated rice implicated Prime Minister das Neves, who was dismissed in September and subsequently fled the country.

There were no laws that provided for public access to government information; however, the Government took steps during the year to improve transparency.

There were 5 women in the 55-seat National Assembly, 1 of the 14 Cabinet Ministers was a woman, and the President of the 3-member Supreme Court was a woman.

#### *Section 4. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A small number of domestic human rights groups generally operated in the past without government restriction, investigating and publishing their findings on human rights cases; however, with the general improvement in human rights, such groups were inactive during the year. Government officials generally had been cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for the equality of all citizens regardless of sex, race, racial origin, political tendency, creed, or philosophic conviction. The Government actively enforced these provisions; however, women faced discrimination.

*Women.*—While the extent of the problem was unknown, domestic violence against women occurred, including rape. Although women have the right to legal recourse—including against spouses—many were reluctant to bring legal action or were ignorant of their rights under the law. Tradition inhibited women from taking domestic disputes outside the family.

The Constitution stipulates that women and men have equal political, economic, and social rights. While many women have access to opportunities in education, business, and government, in practice, women still encountered significant societal discrimination. Traditional beliefs left women with most child-rearing responsibilities and with less access to education and to professions; a high teenage pregnancy rate further reduced economic opportunities for women. An estimated 70 percent of households were headed by women.

*Children.*—A number of government and donor-funded programs operated to improve conditions for children, notably an ongoing malaria control project and acquisition of school and medical equipment.

Education was universal, compulsory through the 6th grade, and tuition-free to the age of 15. In practice, some rural students stopped attending school after the 4th grade. Students were responsible for buying books and uniforms; however, the Government provided both free to children from poor families. Enrollment in primary school was estimated at 74 percent. After grade 6 or age 15, whichever comes first, education is no longer free; transportation and tuition costs prevented some poor or rural-based students from attending secondary school. There were no differences between the treatment of girls and boys in regard to education.

Nutrition, maternity and infant care, and access to basic health services have improved, especially in urban areas. Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

During the year, a social-services program tried to collect street children in three centers where they received classes and training. Conditions at the center were good; however, because of overcrowding, some children were sent back to their families at night, and these children frequently ran away. Children who stayed full time at the center did not run away.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law does not mandate access to buildings, transportation, or services for persons with disabilities. There were no reports of discrimination against such persons; however, local organizations have criticized the Government for not implementing accessibility programs for persons with disabilities as it promised.

#### *Section 6. Worker Rights*

*a. Right of Association.*—The Constitution provides for freedom of association, and workers generally exercised this right in practice. Only two unions existed in the very small formal wage sector: The General Union of Workers and the National Organization of Workers of Sao Tome and Principe. Both represented government workers, who constituted the majority of wage earners, and members of farmers' cooperatives.

There are no laws prohibiting anti-union discrimination; however, there were no reports of such discrimination.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides that workers may organize and bargain collectively; however, due to its role as the principal employer in the wage sector, the Government remained the key interlocutor for labor on all matters, including wages. There are no export processing zones.

The Constitution provides for the freedom to strike, even by government employees and other essential workers. During the year, threatened strikes, mostly by government workers, were averted through negotiation. There were no laws or regulations prohibiting employers from retaliation against strikers; however, there were no reports of retaliation against workers for activities related to labor organization.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18; however, child labor was a problem. The law prohibits minors from working more than 7 hours a day and 35 hours a week. Children were engaged in labor in subsistence agriculture, on plantations, and in informal commerce, sometimes from an early age. Although no cases of child labor abuses have been prosecuted, the law states that employers of underage workers can be fined.

*e. Acceptable Conditions of Work.*—Working conditions on many of the cocoa plantations—the largest wage employment sector—were extremely harsh. The legal minimum wage was \$35.57 (350,000 dobras) per month for civil servants. The average salary for plantation workers did not provide a decent standard of living for a worker and family, and the real value of their pay was further eroded by a 9 percent rate of inflation. Working two or more jobs was so common that the Government modified its hours so civil servants could pursue a second career; the labor law specifies areas in which civil servants may work if they pursue a second job. Civil servants in “strategic sectors,” such as the court system, the ministries of finance, customs, education, and the Criminal Investigation Police, earned up to 400 percent more than their counterparts in the remainder of the public sector.

In the past, plantation workers and their families were provided free (but inadequate) housing, rudimentary education for their children, and health care; however, in recent years, most plantations have moved to a wage-only compensation system.

The legal workweek is 40 hours, with 48 consecutive hours mandated for rest. Shopkeepers worked 48 hours a week. The law prescribes basic occupational health and safety standards. Inspectors for the Ministry of Justice and Labor are responsible for enforcement of these standards; however, resource constraints hindered their efforts. Employees have the right to leave unsafe working conditions.

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## SENEGAL

Senegal is a moderately decentralized republic dominated by a strong presidency. In 2000, Abdoulaye Wade, backed by a coalition of opposition parties, became President in an election generally viewed as both free and fair. The rebel leadership signed a ceasefire with the Government on December 30. The judiciary was subject to executive influence and pressure.

The armed forces were professional and generally well disciplined. The police and the paramilitary gendarmerie are somewhat less professional and disciplined. The civilian authorities maintained effective control of the security forces. A few members of the security forces committed isolated human rights abuses.

The economy is market based with modest foreign investment, particularly in the tourism sector. The population was estimated at 10 million. The economy is predominantly agricultural. The rate of economic growth was 6.3 percent, and inflation was well below 1 percent. The Government received external assistance from international financial institutions and other sources, amounting to 26 percent of the national budget.

The Government generally respected its citizens' rights; however, there were problems in some areas. Security forces were responsible for at least one death during the year. Unlike in the previous year, there were no reports of torture or that police beat suspects during questioning; however, arbitrary arrest, prolonged pretrial detention, and impunity remained problems. Unlike in the previous year, the Government did not limit freedom of speech or association; however, the Government detained a private journalist during the year. Domestic violence, discrimination against women, female genital mutilation (FGM), trafficking in persons, and child labor remained problems.

There were reports that MFDC (Movement of Democratic Forces of the Casamance) rebels in Casamance continued to commit armed robberies and rapes; however the MFDC's violence against civilians and government forces declined significantly during the year.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings by the Government or its agents; however, gendarmes killed a civilian protester (see Section 2.b.).

There was no action taken against the government soldiers responsible for the 2003 killing of a man in Mandina Mancagne.

There were isolated incidents of violence between military and Casamance rebel forces; however, there were no reports of civilian casualties. For example, in April, rebels attacked a military de mining team, which resulted in the deaths of three soldiers.

During the year, newspapers reported three cases of mob violence that resulted in four deaths. Three victims had been accused of robbery, and one had been accused of rape.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

Human rights groups criticized the Government for its unwillingness to take responsibility and resolve cases of disappearances linked to government security forces from previous years.

There were no developments in the 2002 disappearance of five Casamance fishermen.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such treatment, and there were no reports that government officials employed them during the year.

Unlike in the previous year, there were no reports that police beat journalists.

Human rights groups said MFDC rebels continued to sexually assault women in northern Casamance, specifically in the villages of Djibidjone and Sindian. Rebels used sexual assault as a weapon to gain material support from villagers. The Government established an office in Casamance to process claims of sexual abuse; however, it was not open at year's end.

There were no developments in the investigation into the October 2003 assault on Talla Sylla, leader of the opposition political party Jef Jel and vocal critic of President Wade. Many NGOs believed the assault was politically motivated and carried out by individuals close to President Wade; however, this remained unproven. The case was under judicial investigation at year's end.

Land mines continue to claim civilian victims in Casamance. During the year, the nongovernmental organization (NGO) Handicap International reported the cases of 17 landmine victims. It was unclear whether government forces or rebels laid the mines.

Prison conditions were poor, and prisons remained overcrowded. During the year, at least five prisoners apparently died of disease while in custody. Human rights groups claimed prisons did not meet international standards. The National Organi-

zation for Human Rights (ONDH), a local human rights NGO, identified overcrowding as the major problem facing the country's prisons. According to media reports, the Government has not constructed a new prison since 1960. Due to old and overburdened infrastructure, prisons experienced drainage problems during the rainy season and stifling heat during the summer. Prisons lacked doctors and medicine to provide care for sick inmates, forcing them to be evacuated for treatment.

At year's end, there were no developments, nor were any likely, in the case of six prison guards accused of torturing Alioune Badara Mbengue while he was in detention in 2002.

Women generally were held separately from men and juveniles generally were housed separately from adults. Although pretrial detainees were usually held separately from convicted prisoners, as required by law, they were occasionally kept with convicted prisoners due to limited space. Local NGOs reported that prisoner separation regulations were not enforced consistently.

The Government permits prison visits by independent human rights monitors. In August, ONDH began a national survey of prison conditions with the Government's consent and assistance. Amnesty International's Dakar bureau commended prison authorities for openly discussing prison needs and shortcomings, and a U.N. High Commissioner for Refugees (UNHCR) representative stated detention procedures had improved. Representatives of the Assembly for the Defense of Human Rights (RADDHO) were able to gain access to prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the authorities at times arbitrarily arrested and detained persons.

The police force contains 10 departments as part of the Directorate General of National Safety. In each of the country's 11 regions, police have at least 1 police station and at least 1 mobile safety brigade. Dakar has more than 15 police stations, which are spread throughout the city. Most police chiefs were well educated and well trained. A foreign government has also helped facilitate training of the police force in a number of areas, such as crisis response, airport security, hostage negotiation, and trafficking in persons.

Impunity was a problem. No members of security forces responsible for human rights violations in the past, including disappearances and police brutality, were charged or prosecuted during the year; however, authorities punished some cases of corruption. During the year, the Government arrested a group of customs officers at the Port of Dakar for fraudulent and corrupt practices in clearing incoming goods. The officers were released and were awaiting trial at year's end. In 2003, a police chief was charged with corruption; however, his case was still pending at year's end. NGOs that worked with prostitutes accused police officers of corruption, claiming police officers took money from prostitutes to overlook noncompliance with the legalized prostitution regime and other laws.

Although the law specifies that warrants issued by judges are required for arrests, the law also grants the police broad powers to detain prisoners for lengthy periods of time before filing formal charges. Police officers may hold suspects without filing formal charges for up to 48 hours after arrest, up to 96 hours if authorized by a public prosecutor, and up to 192 hours in cases involving threats to state security; and these provisions were respected in practice. During the first 48 hours of detention, the accused has no access to an attorney but has the right to a medical exam and possible access to family. If necessary, a prosecutor can also demand a medical examination of the accused. The accused has the right to an attorney after this initial period of detention at his/her own expense. For those who could afford representation, this right was respected in practice. The Government does not provide legal aid to indigents prior to trial. Bail is possible, but was rarely used.

The accused may not be held in custody for more than 6 months pending trial for minor crimes. In cases involving murder, threats to state security, and embezzlement of public funds, there are no limits on the length of pretrial detention. Judges are allowed the time necessary to investigate these more serious cases. A court may review such extensions on appeal. Judges could order release pending trial with the prosecutor's consent. If a prosecutor disagrees with a judge's decision to order release, the order is frozen until the appeals court decides to grant or deny the release.

The authorities may detain a prisoner for long periods while building their case; police were rarely prosecuted for violations of arrest and detention procedures. Prisoners were routinely held in custody unless and until a court demanded their release. Despite the 6 month limit on detention for most crimes, the average time between charging and trial was 2 years. ONDH claimed detainees were held for years awaiting trial. Judicial backlogs of up to 400 cases contributed to long periods of

pretrial detention. Since judges lacked sufficient time to review all cases, orders to extend detention were often signed without individual consideration of the facts to avoid releasing potentially guilty detainees. The Government continued to detain foreigners in police custody who had finished serving prison sentences and were awaiting repatriation. In May, RADDHO criticized authorities at Dakar's Central Prison for holding foreign nationals in inhumane conditions while they awaited repatriation. RADDHO claimed 120 detainees were held in a 120 square-yard cell, a charge that prison authorities disputed.

Military authorities stationed in Casamance continued to reduce the number of human rights abuses committed by security forces under their command. Although NGOs confirmed that there were fewer complaints of arbitrary arrests, lengthy detention, and abuse during detention, there were no available statistics. Unlike in previous years, there were no reports that government forces detained Casamancais for suspected membership in the MFDC.

On July 7, the National Assembly unanimously adopted an amnesty law for MFDC rebels.

*e. Denial of Fair Public Trial.*—The Constitution provides for a judiciary independent of the executive, the legislature, and the armed forces; however, in practice, the judiciary was subject to government influence and pressure. Low pay, poor working conditions, and family and political ties made magistrates vulnerable to outside pressure. Since the executive branch controls judicial promotions, judges were subject to executive influence. During the year, judges were transferred for what NGOs and the media considered as political reasons. For example, a senior judge, who had served as the Dean of Judges in Dakar and as President of the Regional Court of Dakar, was transferred from Dakar to the Louga region, a move human rights groups believed resulted from the judge's resistance to political pressure in a high-profile case in 2003. Ministry of Justice officials have substantial authority to influence judicial procedures by keeping suspects in pretrial detention.

Based on French civil law, the judiciary is composed of ordinary courts and several higher and special courts, including the Council of State, the Constitutional Council, the Court of Final Appeal, and the Accounting Court. These courts remained understaffed, and many of the special courts, including those that deal with unlawful enrichment, treason, and official malfeasance, were dormant. Muslims have the right to choose Muslim-based laws contained in the Family Code for marriage and succession cases. While civil court judges are empowered to preside over civil and customary law cases, some disputes are turned over to religious judges for adjudication, particularly in rural areas. There is a separate system of military courts for the armed forces and gendarmerie. The right of appeal exists in all courts, including military courts, except the special Unlawful Enrichment Court, which was established to try corruption cases against public officials. Military courts may try civilians only if they were involved with military personnel who violate military law.

Defendants are presumed innocent and have the right to a public trial, be present in court, confront witnesses, present evidence, and have an attorney. Some defendants were denied legal representation at public expense due to a lack of funds. Evidentiary hearings may be closed to the public and the press, but defendant and counsel have access to all evidence presented and may introduce their own evidence before the investigating judge decides to refer a case for trial. A panel of judges presides over ordinary courts in civil and criminal cases. Jurors also sit on the panels during special sessions of the criminal court.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary invasion of the home, and the Government generally respected this prohibition in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; and, unlike in the previous year, the Government generally respected these rights in practice and did not restrict academic freedom. However, some journalists reported they felt intimidated about criticizing the President in the press. The independent media were active and expressed a wide variety of views without restriction. There were at least 15 independent and 3 government-affiliated dailies and several weekly newspapers and magazines. Publishers were required to register prior to starting a publication; however, government approval was routine.

Radio was the most important medium of mass information and the main source of news for citizens outside urban areas. There were more than 25 privately owned radio stations, and all of the locally owned stations broadcast national news and political commentary. Community radio leaders criticized the lack of transparency in

the system for requesting and granting radio frequencies. After the Ministry of Communication receives a request for a frequency, the request is forwarded to the Agency of Regulation and Communication (ART), which renders a technical judgment based upon frequency strength and location. Once ART has evaluated the technical feasibility and passed on its recommendation, the Ministry of Communication decides whether to grant the frequency.

A government monopoly controlled local television and was an important source of news. While there were no privately owned domestic television stations, French- and South African-owned satellite television services offered international programming and news. Neither of these international services provided domestic news coverage.

Compared to the previous year, there were fewer reports that opposition members and journalists were threatened or harassed after criticizing the President; however, journalists were arrested.

Unlike in the previous year, there were no reports that police beat journalists during the year or that journalists were expelled from the country.

On July 9, Madiambal Diagne, editor of a private daily newspaper, was arrested for printing what the Government claimed to be "confidential" material and threatening public order. After spending more than 2 weeks in detention, Diagne was released. Domestic and international observers criticized Diagne's arrest, and journalist and civil society groups conducted peaceful demonstrations to demand his release.

In January, the Court of Appeals overturned Abdou Latif Coulibaly's 2003 3 month prison sentence but upheld a monetary damages award. No action was taken against police officers who beat journalist Ibrahima Fall in January 2003.

The High Audiovisual Council (HCA) exists to ensure equitable coverage between different religious and political viewpoints but, in practice, lacked the means to do so. A local NGO criticized the HCA for being inefficient and for lacking coherent policies. As a result, according to various human rights groups, there was a troubling growth in radio stations controlled by single religious, political, or ethnic groups.

In July, the HCA criticized the government run television station RTS for failing to respect its obligation to broadcast at least once per month a debate program on national issues reflecting a diversity of opinions. Shortly after these remarks were made, RTS began broadcasting a debate program that included opposition political party members. The HCA also questioned the lack of equal television coverage for all religious groups. Human rights groups accused RTS of not respecting pluralism in its broadcasts.

In May, police officials and press representatives met at a workshop to discuss press freedom and security concerns. According to the country's largest journalist union, this meeting contributed to the absence of violent confrontations between journalists and police officers during the year.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Local NGOs agreed that respect for freedom of assembly had improved greatly under President Wade's administration.

There was one reported killing of a demonstrator during the year. On September 16, gendarmes were dispatched to manage young demonstrators demanding electricity for the Casamance rural community of Mampatim. The gendarmes responded to what they perceived as an increasingly aggressive demonstration by shooting and killing a 19-year-old protestor and injuring three other protestors. An investigation into the incident was ongoing at year's end.

Unlike in the previous year, the Government did not attempt to dissolve any organizations.

The Government did not go through with the threatened dissolution of the Association of Families of the Victims of the Joola, and the association did not vacate government premises by year's end.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Any group religious or otherwise that wants to form an association with legal status must register with the Ministry of Interior in accordance with the civil and commercial code. Registration was generally granted.

In January, the Government ordered a police investigation and provided improved security services for the Archbishop of Dakar following a threatening letter sent to the Archbishop that contained death threats against the country's Catholic clergy.

For a more detailed discussion, see the 2004 International Religious Freedom report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Some public employees, including teachers, are required by law to obtain government approval before departing the country; however, human rights groups noted that this law was only enforced against teachers and not other public servants.

Government security forces maintained checkpoints in some parts of Casamance for security purposes, but freedom of movement increased over the previous year. There continued to be military checkpoints in Ziguinchor and near the borders with Guinea-Bissau and The Gambia. Security forces generally allowed travelers to proceed after checking documents and searching vehicles.

During the year, there were fewer armed robberies and assaults committed by MFDC rebels against civilians in Casamance.

The Constitution prohibits forced exile, and the Government did not employ it.

During the 22-year Casamance conflict, tens of thousands of Casamançais were forced to flee their villages due to fighting, forced removal, and land mines. Because of improved security conditions, internally displaced persons (IDPs) and refugees were returning to their villages at year's end. During the year, the Government continued to help returning IDPs and refugees reconstruct their homes and villages.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee or asylum status. The Government cooperated with the office of the UNHCR and other such humanitarian organizations in assisting refugees and asylum seekers. Human rights groups criticized the 1- to 2-year delays in providing identification documents to refugees, without which refugees were unable to find work in the formal sector.

Since conflict with Mauritania in 1989, the country has offered temporary protection for Mauritanian refugees, who generally lived in dispersed locations in the river valley along the Mauritanian border and enjoyed free movement within the country. However, most refugees could not obtain current refugee documents from the authorities and sometimes encountered administrative difficulties when using their expired refugee application receipts. While no formal repatriation agreement existed, both governments continued to permit generally unsupervised and largely informal repatriation. Due to the mobile nature of this population, the absence of identification documents, and cases of fraud, the exact number of remaining Mauritanian refugees was unknown. The UNHCR office in Podor and NGOs working with Mauritanian refugees estimated the number to be approximately 20,000. Several hundred Bissau Guinean and Anglophone African refugees remained in the country.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Citizens exercised their right to vote during the 2000 presidential election that ended the Socialist Party's 40 year domination of government. After 26 years in the opposition, Abdoulaye Wade, backed by a coalition of opposition parties, defeated the incumbent president in what was considered to be a free and fair election. There were reports of several incidents of pre election violence and minor procedural irregularities; however, the majority of political parties and civil society accepted the result. In a 2001 national referendum, 94 percent of voters accepted a new Constitution.

The 2001 legislative and 2002 local elections took place without incident. In the 2001 legislative elections, characterized as free and transparent by international and national observers, President Wade's coalition won 49.6 percent of the vote and 89 of 120 seats in the National Assembly. In 2002, President Wade's coalition won 52 percent of the vote in the first local elections held since 1996. As a result, President Wade's governing coalition won control of 281 of the 441 rural, regional, and city councils.

There were 78 legally registered political parties.

On August 16, after months of debate on the best method to update the national voter registration list, the National Assembly adopted a proposal to redo the entire list, requiring all eligible voters to re-register or register for the first time. The law

also mandated that a new national identity card would be the sole form of identification accepted for voter registration. The Government has until early 2006 to finish the project.

The Ministry of the Interior was responsible for the organization and implementation of elections, an arrangement opposition political parties criticized because of the Minister's partisan affiliation with President Wade. During the year, the National Electoral Observatory (ONEL) oversaw and supervised elections and had the power to order bureaucrats to obey electoral laws and initiate legal action against individuals and parties who violated these laws. Under pressure from opposition political parties, though, the Government created a committee tasked with establishing an autonomous electoral committee to replace ONEL.

The Constitution provides citizens the right to access government information freely; however, this right was limited in practice.

There were 25 women in the 120-seat National Assembly and 7 women in the 40-member Cabinet. Political parties often placed women low on electoral lists, making it difficult for them to win seats in the National Assembly.

The Government sought ethnic and geographic balance in hiring for civilian and military positions and in sharing power. There were a significant number of non-Wolof deputies in the 120-seat National Assembly and in the 40 member Cabinet. Some of these ethnic minorities included members of the Diola, Pular, Sereer, and Mancagne tribal groups.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The Government's National Committee on Human Rights had a broad membership, including government representatives, civil society groups, and independent human rights organizations. The committee, which received its budget from the Government, had the authority to investigate abuses, including torture, on its own initiative. Unlike in previous years, the Committee did not publish its annual report on human rights protection in the country.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution states that "men and women shall be equal in law" and prohibits discrimination based on sex, race, class, or language; however, gender discrimination was widespread in practice, and the anti discrimination laws often were not enforced. According to local NGOs working to protect and promote women's rights, women continued to suffer discrimination.

*Women.*—Domestic violence is against the law; however, there were credible reports that domestic violence against women, usually wife beating, was common. The law criminalizes assaults and provides for a punishment of 1 to 5 years in prison and a fine. If the victim was a woman, the prison term and fine are both increased. Domestic violence that causes lasting injuries is punishable with a prison sentence of 10 to 20 years. If an act of domestic violence causes death, the law prescribes life in prison. Some women's rights groups felt that the harsh sentences under the law caused judges to require higher burdens of proof before finding potential offenders guilty, resulting in fewer total convictions for domestic violence. The Committee to Combat Violence Against Women (CLVF), a local NGO that assisted domestic violence victims, viewed the laws as important but criticized the Government's failure to permit associations to bring suit on behalf of victims.

Police usually did not intervene in domestic disputes, and most persons were reluctant to go outside the family for redress. In an interview on domestic violence, a practicing attorney told the press that judges rarely gave maximum sentences for crimes against women.

The law prohibited rape; however, it remained a problem. The law provides for 5 to 10 years' imprisonment for rape; however, rapes resulting in death qualify for life imprisonment. The law was rarely enforced in practice, as it was nearly impossible for victims to provide judges with sufficient proof to merit convictions. A women's rights NGO criticized the country's lack of rape shield laws and the common practice of using a woman's sexual history to defend men accused of rape.

The Wolof, the country's largest ethnic group, did not practice FGM; however, other ethnic groups did. Sealing, one of the most extreme and dangerous forms of FGM, was sometimes practiced by the Toucouleur, Mandinka, Soninke, and Bambara, particularly in rural areas. In the regions of eastern Saint Louis, Matam, Tambacounda, Ziguinchor, and Kolda, where FGM was most prevalent, it was estimated that a majority of girls undergo FGM. The NGO Tostan estimated FGM was

still practiced in thousands of villages throughout the country, particularly in the north, northeast, and southeast. In June, the Minister of Family claimed that almost 100 percent of the women in the country's northern Fouta region were FGM victims, as were 60 to 70 percent of women in the south and southeast. The practice extended to urban areas as more persons left rural villages for cities. Some girls were as young as 1-year-old when FGM was performed on them.

FGM is a criminal offense under the law, carrying a sentence of 6 months' to 5 years' imprisonment for those directly practicing FGM or ordering it to be carried out on a third person. Many citizens ignored the law against FGM. However, the Government has fought to end the practice. For example, in April, authorities convicted and sentenced the parents of 11 young girls for forcing them to submit to FGM; a foreign national was convicted and sentenced for performing the ritual. The girls were reported to be between the ages of 1 and 7.

The Government had programs to educate women about the dangers of FGM, and there were national and local governmental action plans against FGM, piloted by the Ministry of Family, Social Development, and Solidarity. Despite FGM's continued existence, progress continued in reducing the practice during the year. Since 1997, 1,367 communities, more than one quarter of all practicing villages, officially renounced FGM. Villages that declared themselves against FGM undertook extensive basic education programs, social mobilization activities, and inter village and inter generational awareness programs.

Sexual harassment is prohibited by law and punishable by a prison term of 5 months' to 3 years' imprisonment and a fine of \$100 to \$1,000 (50,000 to 500,000 francs); however, the Government did not effectively enforce the law, and sexual harassment was a problem. Women's rights groups claimed sexual harassment victims found it difficult, if not impossible, to present sufficient proof to justify prosecutions.

Women faced pervasive discrimination, especially in rural areas where traditional customs including polygyny and rules of inheritance were strongest. Under national law, women have the right to choose when and whom they marry, but traditional practices restricted a woman's choice. The minimum age of consent to marry is 21 years for males and 16 years for females. Under certain conditions, a judge may grant a special dispensation for marriage to a person below the age requirement. This law was not enforced in some communities where marriages were arranged. Women typically married young (usually by the age of 16 in rural areas) and averaged 5 live births. Under family law, a woman's consent is required for a polygynous union; however, once in a polygynous union, a woman need not be notified or given prior approval to the man's subsequent marriage. A study of marriage practices indicated that slightly less than 50 percent of the country's marriages were polygynous.

Only an estimated 20 percent of women have paid employment, and traditional practices made it difficult for women to purchase property. Due to the fact that men are legally considered the head of household, women paid higher taxes than men for the same salary (they were taxed as single individuals without children), and employers paid child allowances to men but not to women.

In urban areas, women encountered somewhat less discrimination and were more active in government, politics, and business. Urban women usually received equal pay for equal work. Approximately 14 percent of lawyers were women. Urban women were more likely to benefit from government efforts to improve the respect for women's legal rights to divorce, alimony, and child support, and to seek education and employment.

*Children.*—The Government was committed to children's rights and welfare. The Ministry of Family, Social Development and Solidarity is responsible for promoting children's welfare and is assisted by the Ministry of Health and the Ministry of Education, which focus on child survival and education.

The Constitution provides for free education, and education policy declares education to be compulsory for children ages 6 to 12; however, attendance was not enforced. Many children did not attend school for lack of resources or available facilities.

The Government continued working to improve its education programs during the year. In December, the Government committed 40 percent of the national budget to education. Officials also made progress on two other national education initiatives: ensuring universal education, and increasing the length of time for compulsory education. The Government continued to increase the number of classrooms and encouraged more children, particularly girls, to enter and stay in school. Due to government, NGO, and international donor efforts, school enrollment reached almost 80

percent in 2003–2004 school year, with a greater than 77 percent enrollment rate for girls.

Although the situation improved, young girls still encountered greater difficulties in receiving an education. For example, when families could not afford for all of their children to attend school, parents tended to remove their daughters from school, rather than their sons. Only 23 percent of women over 15 years of age were literate, compared with 43 percent of men.

To better protect children, the Government made the age of the victim an aggravating factor for some crimes. If a rape victim is a minor, the penalty is 10 years' imprisonment. The law punishes sexual abuse of children (pedophilia) with 5 to 10 years' imprisonment. If the offender is a family member, the punishment is 10 years. Because of social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished.

FGM was performed primarily on girls (*see* Section 5, Women).

Trafficking and commercial exploitation of children were problems (*see* Section 5, Trafficking).

Child labor was still a problem; however, the Government continued to fight child labor practices (*see* Section 6.d.).

Many children have been displaced due to the Casamance conflict and often lived with extended family members, neighbors, or in children's homes. The Government lacked adequate resources to effectively support these children. According to NGOs in Casamance, displaced children suffered from psychological effects of conflict, malnutrition, and poor health.

Local and international NGOs actively worked to promote children's rights through workshops and assistance programs.

*Trafficking in Persons.*—There was no national law prohibiting trafficking in persons, and trafficking of women and children occurred in the country. In the majority of cases, traffickers could not be prosecuted effectively under other statutes. The law does prohibit pimping and kidnapping, which could be used in some trafficking cases. The High Commissioner for Human Rights was the Government's coordinator on human trafficking issues. On July 22, the Government signed a bilateral accord with Mali to repatriate trafficked Malian children.

Research indicated the country was a source, transit, and destination point for trafficking. Internal trafficking was also a problem. Reliable statistics as to the extent of the trafficking problem were unavailable. Young boys were trafficked from surrounding nations, such as The Gambia, Mali, and Guinea-Bissau, and internally to participate in exploitive begging. Young girls were trafficked internally and sometimes abroad for commercial sexual and labor exploitation. The country was a transit, source, and destination country for trafficking of adult women from Nigeria, Guinea, and other West African countries for sexual and labor practices.

There were no government or NGO estimates on the problem and no government or NGO campaigns to educate the country against the dangers of trafficking. The Government offered few assistance or protection services for victims due to limited resources.

The Government operated a children's center where child trafficking victims could receive assistance and a child protection hotline to field calls concerning at-risk children.

*Persons With Disabilities.*—There were no reports of official discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services.

The Government established schools for children with disabilities and provided grants for persons with disabilities to receive vocational training. The Government managed centers for persons with disabilities in each region where they could receive training and funding for establishing businesses.

No laws mandate accessibility for persons with disabilities.

In September, police authorities forcibly moved beggars with disabilities from Dakar for violating anti-begging provisions in the law; however, these same laws were not enforced among other populations, such as young children.

*National/Racial/Ethnic Minorities.*—The country's southern Casamance region, which lies south of The Gambia, is unique in its multi ethnic composition and the prevalence of Christian and animist religious beliefs compared with the remaining Islamic regions of the country. Wolofs, the country's majority ethnic group, were a significant minority in Casamance. While the country's many ethnic groups have coexisted relatively peacefully, some observers have cited inter ethnic tensions between Wolofs and southern ethnic groups as playing a significant role in the long-running Casamance rebellion that was characterized by grievous human rights

abuses. During the year, there was little violence in Casamance, and the Government and MFDC rebel leaders signed a formal ceasefire on December 30.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide all workers with the right of association and the freedom to form or join unions, and workers exercised this right in practice. The Labor Code requires the Minister of the Interior to give prior authorization before a trade union can exist legally, and the Government can also dissolve trade unions by administrative order; however, it did not dissolve any trade unions. Approximately 4 percent of the total work force worked in the private industrial sector, and most of these workers were unionized. Although they represented a shrinking percentage of the working population due to a loss in industrial jobs, the country's 16 labor associations, each consisting of multiple unions, wielded significant political influence because of their ability to disrupt vital sectors of the economy and the significant ties between union and political party leaders.

*b. The Right to Organize and Bargain Collectively.*—The law provides unions with the rights to organize and to bargain collectively, and these rights are protected in practice. The Constitution and the Labor Code provide for the right to strike, but with significant restrictions; however, workers exercised this right in practice. Unions representing members of the civil service must notify the Government of their intent to strike at least 1 month in advance; private sector unions must notify the Government 3 days in advance. There are no special laws or exemptions from regular labor laws in the one export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports such practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Constitution bans the exploitation of child labor, and the Government enforced this ban in the formal sector; however, there were reports that forced child labor occurred.

In 2003, the Government adopted four regulations on child labor that set the minimum working age, working hours, working conditions, and barred children from performing particularly dangerous jobs; however most child labor occurred in the country's informal economic sector where labor regulations were not enforced.

The minimum age for employment was 15; however, children under the age of 15 continued to work in traditional labor sectors, such as automotive garages, animal husbandry, and fishing, particularly in rural areas where there was no enforcement of child labor laws. Some religious instructors in Koranic schools brought young boys from rural villages to urban areas and held them under conditions of servitude, forcing them to beg on a daily basis in unsanitary and dangerous conditions under the threat of physical punishment. Young girls worked as domestics, usually receiving little to no remuneration for their work.

On July 22, the Minister of Labor signed a Time-Bound Program with the International Labor Organization (ILO) to reduce the worst forms of child labor, which the Government and the ILO identified as child begging, sexual exploitation of children, underage domestics, fishing, and animal husbandry. The Ministry of Family worked separately with UNICEF and the Italian Government to combat child labor.

The Ministry of Labor (MOL) and its Social Security Inspectors were in charge of investigating and initiating lawsuits in child labor cases. Inspectors can visit any institution during work hours to verify and investigate compliance with labor laws. Inspectors can also act on tips from trade unions or ordinary citizens; however, in practice, inspectors did not initiate visits because of a lack of resources and relied on unions to report violators. MOL inspectors closely monitored and enforced minimum age rules within the small formal wage sector, which included state owned corporations, large private enterprises, and cooperatives.

As a result of the 1998 International Program for the Elimination of Child Labor, which ended in December 2003, some children who worked as garbage scavengers were placed in apprenticeship and literacy programs. Young girls employed as underage domestics in Dakar received vocational training or were returned to their parents. The program also spurred awareness campaigns to increase girls' enrollment in school and to educate the public on the dangers of pesticides to children and adults working in agriculture.

*e. Acceptable Conditions of Work.*—The law mandates a monthly minimum wage, and the Ministries of Labor and Finance determine wage rates after negotiating with the unions and management councils. The national minimum wage was \$0.42 (209.10 CFA francs) per hour, which did not provide a decent standard of living for a worker and family.

Within the formal sector, the law mandates for most occupations a standard work-week of 40 to 48 hours with at least one 24 hour rest period, 1 month per year of annual leave, enrollment in government social security and retirement plans, safety standards, and other measures. Enforcement was uneven, particularly outside of the formal sector.

While there are legal regulations on workplace safety, they often were not enforced. There is no explicit legal protection for workers who file complaints about unsafe working conditions. Workers had the right to remove themselves from situations that endangered health or safety; however, it was seldom exercised due to high unemployment and a slow legal system.

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## SEYCHELLES

Seychelles is a multi-party republic governed by President James A. Michel and the Seychelles People's Progressive Front (SPPF). In April, ex-President France Albert Rene handed over power to Michel after serving as President since a 1977 coup. The leader of the opposition Seychelles National Party (SNP), Wavel Ramkalawan, argued that Rene misused the handover provision in the Constitution, charging that Rene wanted to allow Michel to establish himself politically prior to elections scheduled for 2006; however, the SNP recognized Michel as President. In 2001, President Rene and the SPPF won reelection with 54 percent of the vote. Some international observers concluded that the overall result was decided fairly; however, other international observers said that the election was not entirely free and fair. December 2002 elections for the National Assembly were judged to be free and fair by international observers. The President and the SPPF dominated the country through a pervasive system of political patronage, control over government jobs, contracts, and resources. The judiciary was inefficient, lacked resources, and was subject to executive interference.

The President has complete control over the security apparatus, which included a National Guard force, the army, the Presidential Protection Unit, the coast guard, and police. There also was an armed paramilitary Police Mobile Unit (SMU), which together with police had primary responsibility for internal security. The army, National Guard force, and coast guard were responsible for external security and some internal security. The Presidential Protection Unit was responsible for the President's security. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The economy was market-based, although there was significant government control over the exchange rate and the import and export of goods. According to a census conducted in 2003, the population was 82,000. The economy is based primarily on tourism; however, the fishing industry also is an important sector. The Government estimated the rate of economic growth to be negative 3 percent in 2003. Wages kept pace with inflation largely because the Government maintained an artificially high exchange rate. The lack of progress towards privatization, shortages of foreign exchange, and the pervasive presence of inefficient state enterprises led to an economic recession that continued at year's end.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. President Michel was not free to act independently because ex-President Rene and the SPPF continued to wield substantial power. There was one political killing. Police brutality was a problem. The Government sometimes infringed on privacy rights. There were some restrictions on freedom of the press. Violence against women continued, and child abuse remained a problem. Women's rights were limited. Discrimination against foreign workers also was a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There was a report of a politically motivated killing. According to an opposition newspaper report, on July 25, agents of the Government accidentally killed Claude Monnaie, confusing him for an opposition party activist. By year's end, no one was charged.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture; however, there were reports of beatings by security forces. In November, police received a record number of complaints of police bru-

tality. During the year, the Supreme Court reported that there were eight cases of police brutality, all of which were pending at year's end. Unlike in the previous year, there were no reports of beatings with electrical wires, or of families denied access in cases where the detainee had been severely beaten.

In mid-November, police officers allegedly beat a man and sexually abused a woman after police picked up the couple in Anse Royale.

Conditions at the Long Island prison remained Spartan. In 2003, the Grand Police High Security Prison was established on Mahe for more violent criminals. During the year, the total number of inmates increased to 193, of whom 8 were women; there were 16 prisoners under the age of 23, and 8 were noncitizens. Family members were allowed monthly visits, and prisoners had access to reading but not writing materials.

Men were held separately from women, and juveniles were held separately from adults. Pretrial detainees generally were held separately from convicted prisoners.

There was no regular system of independent monitoring of prisons; however, local and international nongovernmental organizations (NGOs) were allowed to visit. During the year, the Assistant Commissioner of Prisons from Mauritius, a Canadian NGO focused on prison conditions worldwide, and the African Commission on Human and People's Rights made visits; however, no local NGO visited the prisons.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits such practices; however, legal restraints were not always respected.

The Police Commissioner reports to the Defense Forces Chief of Staff and commands the police and the armed SMU. Regular police are unarmed and must work with the army on issues of internal security.

The Constitution provides that persons arrested must be brought before a magistrate within 24 hours, with allowances made for boat travel from distant islands; however, police did not always uphold this requirement. For example, according to legal sources, in February, a man who was suspected of theft was arrested on a Friday, held over the weekend, and released on a Monday with no charges filed. A similar situation occurred in June. Despite these isolated examples, police appeared to have reduced their detention of individuals on a Friday or Saturday specifically to allow for a longer period of detention without charge. When the practice was used, police released such persons on Monday before the court could rule on a writ of habeas corpus.

The law also provides for detention without charge for up to 7 days if authorized by court order, and, in practice, this provision generally was respected.

Unlike in previous years, there were no reported cases that police used extended periods of detention under harsh conditions to extort confessions from suspects.

Detainees have the right of access to legal counsel, and unlike in the previous year, there was no reported case of security forces withholding this right. Free counsel was provided to the indigent. Bail was available for most offenses.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was inefficient and subject to executive interference.

The judicial system includes magistrates' courts (or small-claims court), the Supreme (or trial) Court, the Constitutional Court, and the Court of Appeal. The Constitutional Court convenes weekly or as necessary to consider constitutional issues only. The Court of Appeal convenes three times per year for 2 weeks in April, August, and October to consider appeals from the Supreme Court and Constitutional Court only.

All members of the Supreme Court are appointed for 7 years and may be reappointed by the President on the recommendation of the Constitutional Appointment Committee. The Chief Justice was a naturalized citizen, and one other judge was from the country; the remaining judges were hired from other Commonwealth countries, including Mauritius, India, Sri Lanka, Nigeria, and Zambia. The Bar Association criticized the Government for not advertising domestically that judicial positions were available, since approximately 30 citizens practiced law either domestically or abroad. There were also several justices of the peace responsible for small-claims cases, and there were allegations that many justices of the peace were appointed because of their affiliation with the SPPF. Legal entities of the Government, such as the Attorney General's Office, were reluctant to pursue charges of wrongdoing or abuse of power against senior officials.

Defendants have the right to a fair public trial. Depending on the gravity of the offense, criminal cases were heard by a magistrates' court or the Supreme Court. A jury was used in cases involving murder or treason. Trials were public, and the accused was considered innocent until proven guilty. Defendants have the right to counsel, to be present at their trial, to confront witnesses, and to appeal.

An 18 member Family Tribunal heard and decided all matters relating to the care, custody, access, and maintenance of children, except paternity cases, which remained under the courts (*see* Section 5). The Family Tribunal was empowered to offer protection orders to victims of family violence. During the year, 451 cases came before the Tribunal, including a case in which the Tribunal prevented the removal of a child from the country's jurisdiction.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy and freedom from arbitrary searches; however, the Government sometimes infringed on these rights. The law requires a warrant for police searches and seizures; unlike in previous years, there were no reports that members of the police drug squad entered homes and detained persons without a warrant.

The law requires that all electronic surveillance be justified on the grounds of preventing a serious crime and approved by a judge; however, there were reports that the Government maintained telephone surveillance of some political figures.

There were reports that members of the opposition were barred from receiving postings in administrative positions in the education sector (*see* Section 2.a.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, it also provides for restrictions on speech “for protecting the reputation, rights, and freedoms of private lives of persons” and “in the interest of defense, public safety, public order, public morality, or public health.” As a result, both freedom of speech and of the press were limited because civil lawsuits could easily be filed to penalize journalists for alleged libel.

The government controlled Seychelles Broadcasting Corporation (SBC) continued to ban a local singer's music from being broadcast on the grounds that the songs were seditious.

The Government had a near monopoly of the media and owned the only television station, all radio stations the most important means for reaching the public and the only daily newspaper, the Nation. The government-owned media adhered closely to the Government's position on policy issues and gave the opposition and news adverse to the Government only limited attention. While both opposition parties published an assortment of newsletters and magazines, there was publication of only one significant opposition newspaper, the weekly Regar. Government officials have sued Regar for libel numerous times in recent years, most recently in 2003. This case had not been heard by year's end.

In November, the editor of Regar appeared in court to defend the newspaper's publication, despite a court order not to publish, of a letter written by three judges to the Chief Justice. The editor was charged with contempt of court for publishing the article. There was no resolution to the case at year's end.

Journalists did not practice self-censorship.

The license fees for a private radio or television station were prohibitively expensive and were a deterrent to the establishment of such stations. The license fees for a private newspaper were not as prohibitive.

The law allows the Minister of Information Technology to prohibit the broadcast of any material believed to be against the “national interest” or “objectionable”; however, the law was not used during the year. The legislation also requires telecommunications companies to submit subscriber information to the Government.

There were no government restrictions on the use of the Internet.

Academic freedom was limited because persons could not reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the SPPF. There are no universities; secondary school teacher appointments were largely apolitical. The Government controlled faculty appointments to the Polytechnic, the most advanced learning institution.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice; however, while generally permitting SPPF rallies, the police on occasion refused to grant such permission to the SNP.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Although it was not used during the year, the law

allows the Government to deny passports to any citizen if the Minister of Defense finds that such denial is "in the national interest." While the resident departure tax of approximately \$49 (SR 250) was payable in local currency, government foreign exchange regulations and the foreign exchange shortage hindered many citizens from being able to afford foreign travel.

The law prohibits forced exile, and the Government did not use it. Several claims to reacquire property of some individuals who returned from voluntary exile following the 1977 coup remained in the court system, and no action on those cases occurred during the year.

The law provides for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has not established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, the issue did not arise during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in the 2001 presidential elections and in the 2002 National Assembly elections. Suffrage was universal.

In the 2001 presidential election, approximately 90 percent of eligible voters participated. President Rene was reelected with 54 percent of the vote; SNP candidate Wavel Ramkalawan received 45 percent, and independent candidate Dr. Philip Boule received 1 percent. Ramkalawan challenged the election results, accusing the SPPF of intimidation, vote buying, and election rule misuse, but in 2003 he withdrew his court case. Observers from the Southern African Development Community noted "minor hitches" but stated their satisfaction with the election and in particular observed transparency during vote casting and counting. However, the Commonwealth Organization observers reported that while the presidential elections were peaceful, they were not entirely free and fair. Their report described instances of intimidation during voting and the lack of open competition during the campaign.

In the 2002 National Assembly elections, judged to be free and fair by international observers, the opposition SNP party won 11 of the 34 seats.

France Albert Rene's SPPF party continued to use its political resources and those of the Government to develop a nationwide organization that extended to the village level. The opposition parties have been unable to match the SPPF's organization and patronage, in part because of financial limitations. In the current budget, the SPPF was allocated \$49,300 (SR 271,500), the SNP \$38,700 (SR 213,000), and the Democratic Party \$2,800 (SR 15,500). These amounts were based on percentages received by the political parties nationally in the 2002 legislative elections.

Some members of opposition parties claimed that they lost their government jobs because of their political beliefs and were at a disadvantage when applying for government licenses and loans.

There was widespread public perception of corruption in the executive branch, especially in the process of privatization of government-owned businesses and government-owned land distribution. There were reports that recent sales of major government-owned assets were decided without independent review. There were also complaints in the opposition newspaper that in at least two cases, the identity of the purchasers of these properties was never revealed.

There are laws allowing public access to government information; however, the Government does not enforce them.

There were 10 women in the 34-seat National Assembly, 7 by direct election and 3 by proportional representation, and there were 2 women in the 12-minister Cabinet. There were four female principal secretaries in the government service.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups, including churches, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The Center for Rights and Development (CEFRAD) had a 5-year action plan that stressed respect for human rights, participation in a civil society, and sensible approaches to development; however, CEFRAD did not claim any results from its 5-year plan by year's end. CEFRAD also established ties with other national and international NGOs.

In June, the African Commission on Human and People's Rights, a branch of the African Union, assessed the overall human rights situation in the country. The group found that the country demonstrated a broad respect for human rights, but it noted that army involvement in police operations was a point of concern.

A government-run National Humanitarian Affairs Committee (NHAC) operates with a diverse range of members from both civil society and the Government. The International Committee of the Red Cross acts as a technical adviser to the NHAC.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution affirms the right to be free from all types of discrimination, but it does not prohibit discrimination based on specific factors. In practice, there was no overt discrimination in housing, employment, education, or other social services based on race, sex, ethnicity, nationality, or disabilities.

*Women.*—Domestic violence against women, particularly wife beating, was an increasing problem. Police seldom intervened in domestic disputes, unless the dispute involved a weapon or major assault. The few cases that reached a prosecutor often were dismissed, or, if a case reached court, the perpetrator usually was given only a light sentence. Rape, spousal rape, and domestic abuse are criminal offenses. There was growing societal concern about domestic violence and increased recognition of the need to address it. During the year, one local NGO held awareness campaigns and training programs for women and girls regarding domestic abuse.

Prostitution is illegal but remained prevalent.

The law prohibits sexual harassment but was rarely enforced.

The society largely was matriarchal. There were no reports of societal discrimination against unwed mothers, and more than 70 percent of births were out of wedlock during the year; fathers were required by law to support their children. There was no officially sanctioned discrimination in employment, and women were well represented in business. Inheritance laws did not discriminate against women.

*Children.*—The Division of Social Affairs in the Ministry of Social Affairs and Manpower Development worked to protect children's rights, and in practice, they were fairly effective, given the resource constraints.

Children were required to attend school through the 10th grade. Free public education was available through the secondary level until age 18. Students had to buy school uniforms but did not have to pay for books or tuition. However, parents were sometimes asked to contribute some supplies. Parents contributed up to two thirds of the cost of post secondary education and training based on their income for both in-country and overseas schools. According to government figures, all children between the ages of 6 and 16 attended school, and the percentages of boys and girls enrolled was roughly equal. There was a noncompulsory 5th year of secondary school. After completing secondary school, students can go to the Polytechnic School for Vocational Training, go abroad for university studies, or go to apprenticeship or short term work programs. Children in the apprenticeship or short term work programs received a training stipend, which was less than the minimum wage.

The age of consent was 15 years. Girls were not allowed to attend school when they were pregnant, and many did not return to school after the birth of a child. Girls and boys had equal access to medical care.

The Family Tribunal was responsible for collecting and disbursing child support payments made by family members. In December 2003, the Auditor General confirmed that there were missing child support funds totaling \$255,400 (SR 1,297,615). At year's end, the funds had not been recovered, and it was unlikely that further action would be taken in the case. Social security funds were transferred to cover the child support obligations.

The law prohibits physical abuse of children. Sexual abuse of children, usually in low-income families, was a problem; however, there were only a few cases of sexual abuse, generally by stepfathers and older brothers, reported during the year. Ministry of Health data and press reports indicated that there were a significant number of rapes committed against girls under the age of 15. Very few child abuse cases were prosecuted in court. The strongest public advocate for young victims was a semiautonomous agency, the National Council for Children. There was criticism that police failed to investigate vigorously charges of child abuse.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no legislation providing for access to public buildings, transportation, or state services; however, there was no reported discrimination against persons with disabilities in housing, jobs, or education.

*Section 6. Worker Rights*

*a. Right of Association.*—The law provides workers with the right to form and join unions of their choosing; however, police, military, prison, and fire fighting personnel may not unionize. Between 15 and 20 percent of the workforce was unionized.

*b. Right to Organize and Bargain Collectively.*—The law provides workers with the right to engage in collective bargaining; however, free collective bargaining did not take place. The Government has the right to review and approve all collective bargaining agreements in the public and private sectors. There was little flexibility in setting wages. In the public sector, which employed 57 percent of the labor force, the Government set mandatory wage scales for employees. The employer generally set wages in the private sector in individual agreements with the employee, but, in the few larger businesses, the Government set wage rates.

The law authorizes the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits, and in practice, workers frequently obtained recourse against their employers through the Ministry.

Strikes are illegal without first exhausting arbitration procedures and are rare. There is 1 export processing zone, the Seychelles International Trade Zone (SITZ), with 24 participating companies. The SITZ was bound only by the Seychelles Trade Zone Act and was not obliged to adhere to labor, property, tax, business, or immigration laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Constitution states that the minimum age for employment is 15, “subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education,” and in practice, these requirements were followed. It is a criminal offense punishable by a fine of \$1,090 (SR 6,000) to employ a child under the age of 15. The Ministry of Employment and Social Services enforced child labor laws and investigated abuses of child labor. The Ministry handled such complaints within its general budget and staffing; no cases that required investigation were reported.

*e. Acceptable Conditions of Work.*—There is no official private sector minimum wage. However, according to the Ministry of Employment, the minimum wage is \$412 (SR 2,225) per month for public sector employees. The Government encourages but does not require the private sector to grant the minimum public sector wage. Even with the free public services that were available, primarily health care and education, independent labor unions believed that a single salary at the low end of the pay scale did not provide a decent standard of living for a worker and family. Private employers historically paid higher wages than the Government to attract qualified workers; however, economic problems during the year led to downward pressures on wages.

The legal maximum workweek varied from 45 to 55 hours, depending on the economic sector; in practice, some workers may work up to 60 hours per week. Government employees worked fewer hours. Each full time worker was entitled to a 30 minute break per day and a minimum of 21 days of paid annual leave. Workers were permitted to work overtime up to 60 additional hours per month. The Government generally enforced these regulations.

Foreign workers did not enjoy the same legal protections. There continued to be a growing trend to admit foreign workers, primarily from China, India, the Philippines, Thailand, and Madagascar, to work in the construction and commercial fishing sectors, because few citizens chose to work in these sectors. These workers were sometimes paid lower wages and forced to work longer hours than citizens.

The Ministry of Employment and Social Affairs has formal responsibility for enforcing the Government’s comprehensive occupational health and safety regulations, and the Ministry of Health enforced such standards. During the year, an International Labor Organization (ILO) team found serious deficiencies in the management and effectiveness of government monitoring and enforcement efforts; however, there was no known government response to the ILO criticisms. Occupational injuries were most common in the construction, marine, and port industries. Safety and health inspectors rarely visited job sites. Unlike in the previous year, there were no work-related deaths. Workers do not have the right to remove themselves from dangerous or unhealthy work situations without risking their continued employment, and if they took such action, they were considered as having resigned.

## SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected President and a unicameral legislature. In 2002, the devastating 11-year civil conflict officially ended, and the Government, backed by a large U.N. peacekeeping force, asserted control over the whole country. Ahmed Tejan Kabbah was re-elected President in 2002, and his Sierra Leone People's Party (SLPP) won a large majority in Parliament. Many international monitors declared the elections free and fair; however, there were numerous reports of election irregularities. In May, the first local government elections in 32 years were held in 311 wards nationwide. National and international monitors declared the elections free and fair; however, subsequent claims of substantial electoral irregularities emerged. The U.N. Mission in Sierra Leone (UNAMSIL) handed over responsibility countrywide to the Sierra Leone Armed Forces (RSLAF) and Sierra Leone Police (SLP) and continued to withdraw its forces, which by year's end numbered approximately 4,000. In accordance with the extension of its mandate from the U.N. Security Council, UNAMSIL rescheduled its complete withdrawal to June 2005. The Truth and Reconciliation Commission (TRC) completed public hearings to air the grievances of victims and the confessions of perpetrators from the civil war and released its final report on October 5. During the year, the Special Court of Sierra Leone (SCSL) war crimes tribunal began trials of three Civil Defense Force (CDF) indictees and three Revolutionary United Front (RUF) indictees, while five others awaited trial. The judiciary generally demonstrated independence, but at times, it was subject to corruption.

Among the Government's security forces, the SLP officially has primary responsibility for internal order; however, on occasion, the RSLAF and UNAMSIL shared responsibility with police in security matters. The RSLAF is responsible for external security under the Ministry of Defense. Civilian authorities maintained control of security forces throughout the year. Some members of the security forces committed human rights abuses.

The country had a market-based economy and remained extremely poor; per capita Gross Domestic Product (GDP) was approximately \$150, and the population was approximately 6 million. Approximately two-thirds of the working population engaged in subsistence agriculture. Limited agricultural production continued, and industrial mineral companies began rehabilitating mining sites to resume extraction; illegal diamond mining continued, but legal exports increased from \$75 million in 2003 to \$127 million by year's end. Approximately 60 percent of the Government's budget came from foreign assistance. The infrastructure was devastated by years of fighting and decades of corruption and mismanagement.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. One man died in police custody during the year. Security forces raped women and children; members of UNAMSIL were accused of murdering a prostitute. Although conditions in some prisons improved, many detention centers were overcrowded and unsanitary, which resulted in numerous deaths during the year. Members of the SLP continued to arrest and detain persons arbitrarily. There were reports of extortion by police. Prolonged detention, excessive bail, and insufficient legal representation remained problems. The Government at times limited freedom of speech and the press during the year. Criminal libel laws received extensive press attention during the year with the imprisonment of a journalist on charges of seditious libel. Instability in border areas, as well as occasional incursions into the country by Liberian combatants, who sometimes raided villages for food, continued during the year. Violence, discrimination against women, and prostitution remained problems. Female genital mutilation (FGM) remained widespread. Abuse of children was a problem; however, numerous children who fought as child soldiers continued to be released and participated in reintegration programs during the year. There were reports of trafficking in persons, and new anti-trafficking legislation was passed by the Parliament. Residents of non-African descent faced institutionalized political restrictions. Forced labor continued to be a problem in rural areas. Child labor remained a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, on March 13, a man died at the Central Police Station while in police custody. Although excessive force was suspected, police sources claimed that the man was already injured when he was first brought into custody for fighting. Police released him to a friend after a few hours,

but the man later was returned to the police station, where he died. Four police were investigated for negligence and reprimanded.

In November 2003, guards severely beat three boys, one to death, following an escape attempt at a juvenile detention center. During the year, the Ministry of Social Welfare, Gender, and Children's Affairs launched an investigation, and new guards trained in coping tactics replaced the original guards. The SLP's Criminal Investigation Division distributed 300 flyers describing the guard accused of murder and requesting information on his whereabouts; however, he remained at large at year's end.

The case of three RSLAF soldiers accused of beating a Fullah businessman to death in June 2003 was still at trial at year's end.

In April, UNAMSIL soldiers were accused of murdering a prostitute, who was found dead after last being seen with the men. An investigation was ongoing at year's end.

During the year, a local human rights organization began preliminary investigations into allegations of the existence of a mass grave in Kamakwie. UNAMSIL carried out preliminary investigations in 2003 of mass graves found in both Bo and Pujehun Districts. The sites reportedly included graves in Sahn and Bendu Mahlen, which together may hold more than 300 bodies.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

Former RUF rebels continued to hold some persons, including women and children, as forced or common law spouses or laborers. Some women reportedly remained with their captors due to intimidation by their captors and a lack of viable options (*see* Section 5). The Ministry of Social Welfare, Children, and Gender maintained a database, with the help of UNICEF, which attempted to track children separated from their families during the war. International NGOs continued to work to secure the release of women and children from their captors, often with government assistance.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—

The Constitution prohibits such practices; however, there were reports that security forces beat and raped persons, and that police stole, extorted, and accepted bribes.

RSLAF forces and the SLP sometimes acted on individual informal complaints outside of the established chain of command and scope of duty (*see* Section 1.a.). In February, RSLAF soldiers allegedly beat a farmer in the Pujehun district after the local chief claimed that the victim owed him palm oil.

There were reports that security forces beat journalists during the year (*see* Section 2.a.). There were also reports that security forces harassed civil society groups that worked on mining issues (*see* Section 2.b.).

There were reports that security forces raped women and children during the year. For example, at year's end, a policeman was in custody at Pademba Road Prison awaiting trial for raping a 12-year-old girl in Freetown. In August, a police officer in Kenema allegedly impregnated a prisoner and then fled to Freetown. Although the officer claimed that their sexual relationship was consensual, his position of authority over the 18-year-old woman brought into doubt her ability to consent freely to sexual relations.

A prison officer in Moyamba allegedly raped a female detainee in 2003. The officer had not been charged by year's end.

After a police investigation, the 2003 case against a police officer accused of raping an elderly woman in Lunsar was dropped for lack of evidence.

Unlike the previous year, there were no reports that UNAMSIL staff or soldiers raped persons. A UNAMSIL investigation into an alleged rape of a minor girl in Makeni in May 2003 was being conducted at year's end. The Personnel Conduct Committee continued to operate, and the UNAMSIL Human Rights Section held training sessions on preventing sexual abuse during the year for newly arrived peacekeepers.

In November, a third country national SCSL staff member was released on bail after being charged for an August rape of a young girl. Although the victim recanted her testimony, the trial was still ongoing at year's end. The staff member complained about the lack of access to medical treatment, legal and diplomatic representation, and the sanitary conditions at Pademba Road Prison.

In December, the magistrate court in Kenema released and then ordered the re-arrest of a soldier who had been charged during the year with raping an 8-year-old girl in Kailahun. The soldier presented evidence that he was impotent; however, subsequent press reports indicated that he had a pregnant wife and two children, and the magistrate concluded that he had made his original decision on false evidence. At year's end, the SLP had not executed the re-arrest order. There were no

reports of action taken in reported cases of rape allegedly committed by RSLAF soldiers in previous years.

On multiple occasions, police did not intervene while crowds beat alleged thieves. During the year, Guinean forces illegally occupied the Yenga area in the northern part of the country, and the Government accused them of trespassing and harassing the indigenous population. In September, the President of Guinea signed an agreement acknowledging Sierra Leone's dominion over the land. The presidents of each country assured one another that there would no longer be a dispute between the countries over Yenga; however, Guinean forces still occupied the area at year's end.

Prison conditions improved in some locations during the year; however, conditions in most facilities were poor. International human rights observers who visited maximum-security Pademba Road Prison reported that prisoners had adequate access to food, medical care, recreation, and vocational skills training. However, in May, an inmate in the men's unit at Pademba Road Prison presented a formal complaint to the Freetown Magistrate regarding inadequate medical treatment. In September, newspapers reported that 15 Pademba Road prisoners began a hunger strike to protest the poor conditions at the prison, including inadequate food and unsanitary living quarters. After visits to the Western Area, Kono, Bombali, Kambia, Port Loko, and Kenema District, human rights observers reported that conditions frequently fell below minimum international standards because of overcrowding, unhygienic conditions, and insufficient medical attention. Such conditions resulted in numerous deaths during the year.

Many problems resulted from the poor state of the judiciary; for instance, case backlogs in the courts led to severe overcrowding. There were approximately 1,400 detainees in facilities built for about half that number. For example, Pademba Road Prison, which was designed to house 325 prisoners, held approximately 840 prisoners. In November, a Commonwealth judge inspected Pademba Road Prison and described the conditions as "deplorable." After meeting with prisoners, some of whom had been held for as many as 8 years, the judge said the delay in justice was a "time bomb." Shortly after the judge's visit, 45 prisoners escaped while being transported from the court to the prison. There are 12 district prisons in the country, 8 of which were functioning. A prison renovation program sponsored by the U.N. Development Program was in progress at all detention facilities to mitigate overcrowding.

Conditions in holding cells in police stations were extremely poor, especially in small stations outside of Freetown. During the year, international monitors visited the SCSL detention facilities and reported that they met acceptable standards.

Government policy precluded family visits to prisoners at Pademba Road Prison except in exceptional circumstances and on a case-by-case basis; however, the International Committee for the Red Cross (ICRC) provided a messaging service that allowed prisoners to communicate with their families.

International observers who visited Liberian combatants throughout the year at Mape and Mafanta Internment Camps reported that conditions were adequate except that a number of juveniles were held with adults; however, in February, a Liberian detainee at Mape Internment Camp reportedly died as a result of unsatisfactory health services. Approximately 420 former Liberian combatants were detained at the 2 camps at year's end.

According to a U.N. Human Rights report, prisons in Koidu, Bo, Kenema, and Kabala were using detainees for work outside of the prison without appropriate compensation.

Male and female prisoners were held separately. Adults and juveniles were sometimes incarcerated together. Juvenile detainees did not have adequate access to rehabilitative services, such as education or vocational training. Pretrial detainees were held with convicted prisoners.

International monitors, including UNAMSIL and the ICRC, had unrestricted access to visit Pademba Road Prison and other detention facilities, including the SCSL detention facilities. Prison Watch, a local human rights group, reported on detention facilities throughout the country. Unlike last year, there were no reports that human rights groups were restricted from visiting detention facilities.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

The SLP, which has primary responsibility for maintaining internal order, received insufficient resources, lacked investigative or forensic capabilities, and was widely viewed as corrupt and incompetent. During the civil war, numerous officers were killed or fled their posts, which resulted in a reduction of the country's police force from approximately 9,500 officers to 7,000. Budget constraints have impeded

recruitment efforts, as have the lack of basic educational skills of applicants, many of whom had no schooling during the civil war. During the year, the Inspector General of Police continued efforts to increase SLP personnel levels, to bring more accountability to top SLP officials through systematic rotations, and to assume primary security responsibility from UNAMSIL. There were approximately 7,900 police officers by year's end.

In February, President Kabbah and Vice-President Berewa visited a police station in Kono and urged police officers to refrain from committing human rights violations.

During the year, there were frequent reports that police officers took bribes at checkpoints, falsely charged motorists with violations, and impounded vehicles to extort money. However, there were other anecdotal reports that police behavior in Freetown improved dramatically during the year; reportedly, police no longer routinely harassed and demanded payment from businessmen in the Lebanese community, and there were no makeshift roadblocks in Freetown to extort money.

The law requires warrants for searches and arrests in most cases; however, arrest without warrant was common. There were judicial protections against false charges; however, prisoners often were detained for prolonged periods on false charges. Detainees have the right of access to family or counsel; however, access to counsel was often delayed, and family visits were restricted at maximum-security Pademba Road Prison (*see* Section 1.c.). There are provisions for bail, and there was a functioning bail system; however, international observers described frequent cases of excessive bail. Many criminal suspects were held for months before their cases were examined or formal charges were filed.

There were numerous instances of arrest without charges for purely civil causes; arrests for breach of contract or debt cases were the most common. For example, in March, police reportedly detained a woman in Koidu because of a private business debt.

During the year, police arrested demonstrators (*see* Section 2.b.).

At year's end, approximately 89 RUF/AFRC/West Side Boys who had experienced prolonged pretrial detention were charged. During the year, a visiting Commonwealth judge filed a writ of habeas corpus, leading to the release of 12 former soldiers who had reportedly rebelled against the Government and who had been held since 1996. In addition, 16 West Side Boys were released on August 21. Trials for many of those charged began on October 22; however, at year's end, no testimony had been given due to repeated court cancellations.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary at times was subject to corruption.

The judicial system consists of the Supreme Court, appeals courts, the High Court, whose justices are chosen by the President, and magistrate courts. Local chieftaincy courts administer customary law with lay judges; appeals from these lower courts are heard by the superior courts.

Judicial presence outside the capital district improved during the year. By year's end, there were magistrate courts functioning in all 12 judicial districts, which at times were presided over by justices of the peace. Also, magistrates were permanently stationed at five provisional headquarters in Bo, Moyamba, Makeni, Port Loko, and Kenema. The magistrates visited the remaining seven judicial districts at least once per month.

The Constitution and the law provide for a speedy trial; however, in practice, the lack of judicial officers and facilities often produced long delays in the judicial process. Trials were usually fair; however, there was evidence that corruption influenced some cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training.

Traditional justice systems continued to supplement extensively the central government judiciary in cases involving family law, inheritance, and land tenure, especially in rural areas. There were reports that local chieftains at times exceeded their mandates and executed harsh punishments. For example, in August, there were reports of Councils of Chiefs administering flogging as punishment.

In April, associates of the port director severely beat a port authority official investigating corruption. At the trial, the port director allegedly bribed all 12 jurors, and the suspect who had been arrested for the beating was subsequently acquitted and released. The jurors later were arrested and were in police custody at year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution and law prohibit such practices, and the Government generally respected these prohibitions in practice.

No action was taken against the approximately 100 persons who destroyed dozens of homes in Kono District in 2002, allegedly to rid the area of non-Kono persons.

The RSLAF performed frequent border patrols to try to deter attacks by Liberian combatants who forced some villagers to be porters, and UNAMSIL maintained a battalion in Kenema that supported border patrols; however, the porous border with Liberia made such cross-border raids difficult to stop completely. Raids continued into the early part of the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times limited these rights in practice.

More than 50 newspapers were published in Freetown during the year, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent, and several were associated with opposition political parties. Reporting was often politicized and inaccurate, in large part because of poor training of journalists, insufficient resources, and a lack of commitment to objectivity. Corruption among journalists was widespread. The number of newspapers fluctuated weekly. Newspapers openly and routinely criticized the Government and its officials, as well as opposition parties and former rebel forces.

Due to low levels of literacy and the relatively high cost of newspapers and television, radio remained the most important medium of public information. Several government and private radio and television stations broadcast, featuring domestic news coverage and political commentary.

The Independent Media Commission regulated independent media outlets. Although it was an independent body, some media observers alleged that the Government influenced the Commission. The annual license fee for single channel radio stations previously was \$2,000 (4 million Leones when established in 2002), but, because radio journalists and media monitors claimed that this fee was prohibitively expensive and would limit severely the number of independent radio stations, the fee schedule was revised downward during the year. Fees ranged from \$212 (521,000 Leones) for community radio stations operating at 100 watts to \$2,000 (approximately 4.9 million Leones) for rebroadcasts of programming like Voice of America and British Broadcasting Corporation. By year's end, all radio stations had paid the revised fees. Newspapers were charged an annual \$42 fee (approximately 103,000 Leones). By year's end, 21 of 36 newspapers had paid the fee while the others risked being banned.

In September, the SLP assaulted two journalists outside the CID. Allegedly, the journalists had gone to CID headquarters seeking information. No action was taken against the officers responsible.

In September, members of the ruling party, the SLPP, reportedly beat a journalist because of a story he was investigating. No further action was taken in this case.

The Public Order Act of 1965 criminalizes both defamatory and seditious libel; however, the law was rarely applied and only in cases involving top officials. Punishment for first-time offenders can be up to 3 years' imprisonment, and subsequent seditious libel offenses can bring terms of up to 7 years.

On October 5, Paul Kamara, editor of the For Di People newspaper, was found guilty of seditious libel against President Kabbah. Kamara received two concurrent 2-year sentences, and his newspaper was banned from publishing for 6 months. The sentences drew international attention, and at year's end, the Sierra Leonean Journalists' Association and other media advocates continued working to secure his pardon. Also at year's end, For Di People had resumed publishing.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

Several large demonstrations took place during the year, including opposition party political rallies. Although some demonstrations were marred by violence, most were relatively peaceful. There were no reported incidents of violent demonstration during the year in Freetown; peaceful social and cultural assemblies and parades were frequent.

In February, the Government refused an assembly permit to the Methodist Women's Organization, a local civil society group. The Government claimed the group's rally could incite problems. The Methodist Women appealed the Government's response, but they were unsuccessful.

In February, Kono authorities reportedly harassed members of the Campaign for Just Mining, a local civil society group, after it hosted a public discussion regarding mining practices in the district. Also in Kono, police harassed and intimidated area agencies that met to discuss mining practices.

In March, the Criminal Investigative Division (CID) arrested five men wearing shirts that called for the release of CDF leader Samuel Hinga Norman. The men were reportedly protesting peacefully outside of the SCSL, where Norman was being held. Reportedly, the men were arrested for the controversial message on their clothing. Other protesters standing outside of the SCSL calling for the extradition of former Liberian President Charles Taylor were not arrested.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. There were numerous civic, philanthropic, and social organizations, and the registration system was routine and nonpolitical. Throughout the year, the Revolutionary United Front Party (RUF), the political party formed from the RUF, continued to exist, although it had serious problems with membership and organization.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, there were frequent reports that police officers who ran security roadblocks outside of the capital often extorted money from motorists.

The Constitution does not provide for forced exile, and the Government did not use it.

The Liberian border remained officially closed, at times, due to the civil conflict in Liberia; however, authorities permitted refugees, returnees, and other persons to move between the two countries regularly. There were some unconfirmed reports of bribery or coercion at border crossing points. At year's end, the border was open to official travel.

NGOs estimated that approximately 10,000 to 20,000 unregistered internally displaced persons (IDPs) remained, mostly in urban areas. Two camps for war-wounded persons remained open, one in Grafton and another for amputees in Freetown.

Approximately 26,000 refugees were repatriated during the year, bringing the total of those repatriated to 245,732 since 2000. An estimated 1,700 persons remained in refugee camps in Guinea, and 2,700 persons remained in Liberia; smaller numbers remained in Cote d'Ivoire, the Gambia, Ghana, and other countries; they were expected to integrate locally in those countries. Approximately 5,900 refugees lived in camps, while the rest were urban non-camp refugees.

The large influx of IDPs and refugees and the lack of resources caused tension with local residents; however, there were no reported incidents of violence. There were numerous reports that refugees and IDPs returned to find their homes occupied.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, in practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status and asylum and cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees.

The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 Convention Related to the Status of Refugees or its 1967 Protocol. During the year, the Government continued to provide temporary protection to Liberians who had fled the conflict in their home country. At year's end, there were approximately 47,000 Liberian refugees living in the country by year's end, according to the UNHCR. Some camps, at times, were unable to provide adequate food or shelter for the influx of refugees, which sometimes caused instability in border areas. However, UNHCR reported that food provisions were made according to a U.N. standard of 2,100 calories per day per person and that every family was given private quarters. UNHCR also reported that they were rehabilitating the shelters and that vulnerable persons received priority consideration.

UNHCR and international aid workers reported that refugees were sexually exploited in camps by locally employed staff of international NGOs in exchange for extra food and other aid materials. Steps were taken to combat this problem by conducting sensitization campaigns and setting up mechanisms for reporting, inves-

tigating, and punishing those responsible; however, reporting and handling of these cases remained inconsistent.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, the May 2002 elections were marred by irregularities, although many observers judged them to be free and fair.

Presidential and parliamentary elections were held in May 2002; 11 political parties were represented in the elections. President Kabbah of the SLPP was re-elected with 70 percent of the popular vote. The RUFPP fielded presidential and parliamentary candidates, but it won only 1.7 percent of the vote. In Parliament, the SLPP won 83 of the total 112 seats; only 2 other parties won seats. Only the SLPP was represented in the Cabinet after two cabinet members, who were earlier considered to be independent, joined the SLPP following the elections. Many international monitors declared the elections free and fair; however, there were credible reports of significant abuse of incumbency, uneven voter registration, manipulation of vote counting, and partisan action by the National Electoral Commission (NEC). There also were reports of voter coercion by party bosses and traditional leaders.

In May, the first local elections in 32 years were held. International and domestic monitors judged them free and fair at the time; however, shortly after the election, there was clear evidence of electoral fraud by the SLPP in Koya III District. Well after the completion of the elections, evidence of widespread electoral fraud by both the SLPP and the All People's Congress also emerged.

On September 3, NEC Chairman Eugene Davies resigned, citing political interference by the Government in the functioning of the NEC, tampering with the local election results by the SLPP, and inadequate terms and conditions of work. The NEC was created in 2002 and is independent from the Government.

Only citizens can vote, and the Citizenship Act restricts the acquisition of citizenship at birth to persons of "patrilineal Negro-African descent." Since legal requirements for naturalization effectively denied citizenship to many long-term residents, a large number of persons of Lebanese ancestry, who were born and resided in the country, could not vote (*see* Section 5). While a small percentage of the Lebanese population had been naturalized and did vote, others insisted that naturalization was second-class citizenship and rejected it.

Corruption in the executive and legislative branches was very common, according to some senior government officials, and the public strongly resented that government officials were widely assumed to divert public funds for private use. The President publicly supported the Anti-Corruption Commission (ACC), established in 2001. At year's end, the ACC had 135 corruption cases under investigation, had won 13 corruption cases, and had secured indictments against 6 high-level officials.

There were 16 women in the 112-seat Parliament, 3 women in the Cabinet, and 1 on the Supreme Court. A significant number of women were employed as civil servants.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. There were 41 human rights NGOs registered with the NFHR by year's end, and all reportedly were active. The majority of domestic human rights NGOs focused on human rights education, while only a few NGOs actively monitored and reported human rights abuses. The Campaign for Good Governance oversaw widespread monitoring activities.

Human rights monitors traveled freely throughout the country. Intensive reporting, data collection, and investigations continued in formerly rebel-held areas. Representatives of various international NGOs, foreign diplomats, the ICRC, and U.N. human rights officers were able to monitor trials and to visit prisons and custodial facilities during the year.

UNAMSIL had eight provincial human rights offices in addition to the UNAMSIL Human Rights Section in Freetown, which conducted training, monitoring, reporting, and advocacy throughout the year. During 2003, the UNAMSIL Human Rights Section led a campaign to establish a National Human Rights Commission as man-

dated by the 1999 Lome Peace Accord. At year's end, legislation regarding the Commission's mandate had been passed, but the commission members had not been appointed.

The SCSL, the U.N.-Sierra Leone war crimes tribunal established in 2002 to try those who "bear the greatest responsibility for the commission of crimes against humanity, war crimes, and serious violations of international humanitarian law," indicted 13 persons in 2003: Former RUF leader Foday Sankoh; Sam "Maskita" Bockarie, Sankoh's deputy; RUF commander Morris Kallon; AFRC commander Akex Tamba Brima; RUF and AFRC/RUF commander Issa Sesay; CDF leader Sam Hinga Norman; AFRC commander Brima Kamara (AKA Bazy); AFRC leader Santigie Kanu (AKA Five-Five); AFRC leader Johnny Paul Koroma (AKA JPK); RUF commander Augustine Gbao; Kamajor leader Allieu Kondewa; Kamajor leader Moinina Fofana; and former Liberian President Charles Taylor. Four of the 13 were not in custody at year's end: Sankoh, who died in July 2003 from a pulmonary embolism while in custody; Bockarie, who was killed in May 2003 in Liberia; Taylor, who was exiled to Nigeria in 2003; and Koroma, who escaped from police custody in January 2003 and remained at large. All of those indicted were charged with crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other serious violations of international humanitarian law. Specific charges included murder, rape, extermination, acts of terror, sexual slavery, conscription of children into an armed force, attacks on U.N. peacekeepers, and looting and burning of homes from 1997 to 1999.

Trials for CDF leaders Norman, Fofana, and Kondewa began in June, and trials for RUF leaders Sesay, Kallon, and Gbao began in July. They were ongoing at year's end.

On October 5, the TRC, established in 2002 to provide a forum for publicly airing the grievances of victims and the confessions of perpetrators from the civil war, released its final report. The report contained a separate child-friendly version, since children played such a large role as both victims and perpetrators of violence during the war. The report concluded that years of bad governance, endemic corruption, and denial of basic human rights created the conditions that made the conflict inevitable. The Commission offered a number of recommendations on legal, political, and administrative reforms, but, by year's end, the Government had taken no concrete action. By the time the TRC's hearings were concluded in July, approximately 10,000 citizens had participated in the process.

The U.N. and numerous NGOs, both domestic and international, continued to educate and sensitize the population about the TRC and the SCSL, and the Government supported these efforts.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination against women and provides for protection against discrimination on the basis of race and ethnicity; however, the Government did not enforce these provisions effectively.

*Women.*—Domestic violence against women, especially wife beating, was common. The police were unlikely to intervene in domestic disputes except in cases involving severe injury or death. In rural areas, polygyny was common. Women suspected of marital infidelity often were subjected to physical abuse; frequently, women were beaten until they divulged the names of their partners. Because husbands could claim monetary indemnities from their wives' partners, beatings often continued until the woman named several men even if there were no such relationships. There also were reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

Rape was recognized as a societal problem and was punishable by up to 14 years' imprisonment. There were reports that some women and girls abducted during the war remained with their captors due to intimidation and a lack of options. There also were reports of the sexual abuse of refugees in refugee camps (*see* Section 2.d.). Cases of rape were underreported, and indictments were rare, especially in rural areas. Medical or psychological services for rape victims were very limited. Rape victims were required to obtain a medical report to file charges; however, government doctors charged \$20 (approximately 50,000 Leones) for such an exam, which was prohibitively expensive for most victims. Human rights monitors urged the Government to eliminate or lower the cost of medical reports. The International Rescue Committee (IRC) expanded its operations since 2003; by year's end, it ran centers in Freetown, Kenema, and Kono to perform medical examinations and provide counseling for victims of sexual assault. The IRC also conducted workshops in Kono, Freetown, Kailahun, Kenema, and Bo.

FGM was practiced widely at all levels of society, although with varying frequency. The less severe form of excision was practiced. UNICEF and other groups

estimated that 80 to 90 percent of women and girls had undergone the practice; however, some local groups believed that this figure was overstated. FGM was practiced on girls as young as 5 years old. No law prohibits FGM. Although a number of NGOs worked to eradicate FGM and to inform the public about its harmful health effects, active resistance by women's secret societies, in which FGM commonly occurred as part of initiation rites, countered efforts to stop the practice.

In August, a secondary student died from complications derived from a female circumcision. Police completed an investigation but, by year's end, no indictments had been filed.

During the year, the Director of Public Prosecutions filed charges against the 10 women arrested in 2002 in connection with the death of a 14-year-old girl following an FGM rite. The trial continued at year's end.

Prostitution was widespread and not prohibited by law; however, prostitutes sometimes were arrested and charged with loitering or vagrancy. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves and their children.

The Constitution provides for equal rights for women; however, in practice, women faced both legal and societal discrimination. In particular, their rights and status under traditional law varied significantly depending upon the ethnic group to which they belonged. All women born in the Western Area, which is governed by General Law, had a statutory right to own property in their name. Some women born in the provinces, which are governed by customary laws that vary from chiefdom to chiefdom, did not. In the Temne tribe, women could not become paramount chiefs; however, in the Mende tribe, there were several female paramount chiefs. Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas, women performed much of the subsistence farming and had little opportunity for formal education.

In September, the Deputy Minister of Education formally recognized a study conducted by the British Council, which revealed that girls were being denied an education more often than boys and that traditional beliefs were keeping women confined to the household.

Women were active in civic and philanthropic organizations. Domestic NGOs, such as 50/50 and Women's Forum, raised awareness of gender equality and women's issues, and they encouraged women to enter politics as candidates for Parliament.

*Children.*—The Government was committed to improving children's education and welfare; however, it lacked the means to provide them with basic education and health services. The Ministry of Social Welfare, Gender, and Children's Affairs had primary responsibility for children's issues.

The law requires school attendance through primary school; however, only 42 percent of school-aged children were enrolled in school, according to UNICEF. Schools, clinics, and hospitals throughout the country were looted and destroyed during the 11-year insurgency, but, by year's end, the majority had been rebuilt. A large number of children received little or no formal education. Formal and informal fees largely financed schools, but many families could not afford to pay the fees. The average educational level for girls was markedly below that of boys, and only 6 percent of women were literate. At the university level, male students predominated.

FGM was performed commonly on girls (*see* Section 5, Women).

Child prostitution was a problem (*see* Section 5, Trafficking). To address the issue of child prostitution in the capital, the Freetown City Council introduced a regulation that would bar minors from nightclubs, a common venue for commercial sex transactions.

*Trafficking in Persons.*—During the year, Parliament passed legislation that prohibited trafficking in persons; however, there were reports that persons were trafficked from and within the country.

The country was one of origin, transit, and destination for international trafficked persons. The majority of victims were women and children. There was no quantitative study on trafficking, and no specific figures existed on the number of persons trafficked. Children were trafficked from the provinces to work in the capital as laborers and commercial sex workers and to diamond areas for labor and sex work. Persons were trafficked from neighboring countries for domestic and street labor and for commercial sex work. Persons were trafficked out of the country to destinations in West Africa, including Nigeria, Cote d'Ivoire, Guinea, and Guinea-Bissau for labor and sex work. Persons were also trafficked to Lebanon, Europe, and North America. The country served as a transit point for persons from West Africa and possibly the Middle East.

In an effort to combat the trafficking of persons into the sex trade, government authorities became more vigilant in their efforts to close brothels, which were perceived as perpetuating trafficking. The Government also began to publicize trafficking issues through government-sponsored radio programs and official statements in the press.

The SLP takes the lead on trafficking issues. The Government worked closely with NGOs on trafficking-related issues to develop training programs but was hampered by a lack of resources and an incomplete understanding of the problem. The Government supported prevention programs, including children's education and women's business initiatives.

*Persons With Disabilities.*—There was no government policy or program directed particularly at persons with disabilities. No law mandates accessibility to buildings or provides assistance to persons with disabilities. Public facility access and discrimination against persons with disabilities were not considered public policy priorities. There was no outright discrimination against persons with disabilities in housing or education; however, given the high rate of general unemployment, work opportunities for persons with disabilities were few. A few private agencies and organizations provided job training for persons with disabilities.

Despite the prevalence of those disabled by polio, there was little government assistance to this group. For example, in September, the SLP evicted without notice residents at a facility for polio victims.

Some of the numerous individuals maimed in the fighting, or who had their limbs amputated by rebel forces, received special assistance from various local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help victims acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to ex-combatants, who received assistance through the demobilization process.

*National/Racial/Ethnic Minorities.*—The ethnically diverse population consisted of at least 13 ethnic groups that all spoke distinct primary languages and were concentrated outside urban areas; however, all ethnic groups besides the Krio used Krio as a second language. Little ethnic segregation was apparent in urban areas, and interethnic marriage was common. The two largest ethnic groups were the Temne in the North and the Mende in the South. Each of these groups was estimated to make up approximately 30 percent of the population. There were reports of interethnic tension.

Ethnic loyalty remained an important factor in the Government, the armed forces, and business. Complaints of ethnic discrimination in government appointments, contracts, military commissions, and promotions were common.

Residents of non-African descent faced institutionalized political restrictions (see Section 3). Legal requirements for naturalization, such as continuous residence in the country for 15 years, or the past 12 months and 15 of the previous 20 years, effectively denied citizenship to many locally born residents, notably members of the Lebanese community.

*Other Societal Abuses and Discrimination.*—On October 5, a prominent gay activist was killed in her office. Media reports initially indicated that she was raped repeatedly, stabbed, and her neck broken. International human rights groups identified the killing as a possible hate crime. Police investigators were investigating the case at year's end; however, initial investigation suggested that the victim died of asphyxia and that there was no evidence of rape or stabbing. The primary suspect in the case was a recently dismissed domestic employee, who was also being investigated for theft. At year's end, the former employee's case was before the court.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association, and, in practice, workers had the right to join independent trade unions of their choice. Police and members of the armed services were prohibited from joining unions. Approximately 30 to 60 percent of the workers in the formal sector in urban areas, including government workers, were unionized, but attempts to organize agricultural workers and mineworkers have met with little success. All labor unions generally joined the Sierra Leone Labor Congress (SLLC), but membership was voluntary. There were no reliable statistics on union membership.

The law does not prohibit antiunion discrimination against workers or employer interference in the establishment of unions; however, there were no reports of such cases during the year. An employee fired for union activities could file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions were made to a tribunal.

*b. The Right to Organize and Bargain Collectively.*—The Regulation of Wages and Industrial Relations Act provides the legal framework for collective bargaining, and the Government protected this right in practice. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. Most enterprises were covered by collective bargaining agreements on wages and working conditions. The SLLC provided assistance to unions in preparations for negotiations; in the case of a deadlock, the Government could intervene. Although most cases involving industrial issues continued to go through the normal court system, the Industrial Court for Settlement of Industrial Disputes heard approximately 10 cases during the year.

There are no export processing zones.

Workers had the right to strike, although the Government could require 21 days' notice; workers exercised this right in practice.

No law prohibits retaliation against strikers, even for a lawful strike; however, the Government did not take adverse action against the employees and paid some of them back wages.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced and compulsory labor, including by children; however, forced labor remained a problem (see Section 6.d.). Under the Chiefdom's Council Act, individual chiefs may impose forced labor as punishment, and have done so in the past. They also may require members of their villages to contribute to the improvement of common areas, a practice that occurred only in rural areas. There is no penalty for noncompliance. There were reports of bonded labor in rural areas, and debt bondage was common among the thousands of alluvial diamond diggers and miners.

Unlike in the previous year, there were no reports that Liberian forces used persons for forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—During the year, the Government took important steps to create legal protections against the worst forms of child labor; however, child labor was a problem. The Government drafted omnibus domestic legislation to combat child labor modeled on the U.N.'s International Bill of Rights for Children; however, the draft was not put before Parliament at year's end. The Ministry of Mineral Resources enforced regulatory prohibitions against the worst forms of child labor. The ministry also was charged with protecting children in the country's vulnerable diamond mining areas; however, enforcement was not always effective.

Moreover, UNICEF worked closely with the Government to execute successfully its own post-war reintegration plan in which 98 percent of registered displaced children, that is, child soldiers, were returned to their homes.

Nevertheless, child labor remained a problem due to strong traditions.

Children routinely assisted in family businesses and worked as petty vendors. Adults employed a large number of street children to sell, steal, and beg. In rural areas, children worked seasonally on family subsistence farms. Hundreds of children, including some who were 10 years old and younger, mined in alluvial diamond fields, working for relatives. Because the adult unemployment rate remained high, few children were involved in the industrial sector or the formal economy.

Foreign employers hired children to work as domestic laborers overseas at extremely low wages and in poor conditions. The Department of Foreign Affairs and International Cooperation was responsible for reviewing overseas work applications to see that no one under the age of 14 was employed for this purpose; however, the reviews were ineffective.

The Constitution prohibits forced and bonded labor by children; however, such practices continued to exist. Unlike last year, there were no reports of bonded labor by children in rural areas or that former RUF commanders forced children to mine diamonds. There were reports that children whose parents sent them to friends or relatives for education in urban areas were forced to work on the street. There also were reports that adults asked orphanages for children to be used as household help.

During the year, the Government made some progress in the areas of prevention and law enforcement related to impermissible child labor. Relevant government agencies facilitated the efforts of World Vision, an NGO that conducts reintegration programs for child laborers. In a national effort, World Vision registered 389 child prostitutes in Freetown and between 1,400 to 2,000 child miners in Kono, all of whom then had access to the NGO's services.

*e. Acceptable Conditions of Work.*—In December, the Government raised the minimum wage from approximately \$9 (21,000 Leones) per month to approximately \$16 (40,000 Leones) per month; this was the first adjustment in the minimum wage since 1997. The minimum wage did not provide a decent standard of living for a

worker and family. Most workers supported an extended family, often including relatives who were displaced by the insurgency in the countryside. It was common to pool incomes and to supplement wages with subsistence farming and child labor (*see* Section 6.d.).

Although not stipulated by law, the standard workweek was 40 hours (60 hours for security personnel). Employers negotiated work hours with employees at the time of hire, and overtime was to be paid if an employee's workweek exceeded that figure.

Although the Government set health and safety standards, it lacked the funding to enforce them properly. Trade unions provided the only protection for workers who filed complaints about working conditions. Initially, a union could make a formal complaint about a hazardous working condition; if this complaint was rejected, the union could issue a 21-day strike notice. If workers were to remove themselves from dangerous work situations without making a formal complaint, they risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

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## SOMALIA<sup>1</sup>

Somalia has been without a central government since its last president, dictator Mohamed Siad Barre, fled the country in 1991. In 2000, the Djibouti Conference, made up of local and regional leaders, established a Transitional National Government (TNG) and selected a 245-member Transitional National Assembly (TNA), which elected Abdiqassim Salad Hassan as Transitional President. Administrations in the northwest (Somaliland) and northeast (Puntland) of the country did not recognize the results of the Djibouti Conference, nor did several Mogadishu-based factional leaders. Since October 2002, the Inter-Governmental Authority for Development (IGAD) has sponsored the Somalia National Reconciliation Conference (SNRC), which was led by Kenya in association with Ethiopia, Djibouti, Eritrea, and Uganda. Representatives of the self-declared Republic of Somaliland did not participate in the SNRC; however, all other major political and military leaders attended the conference, as well as elders, religious leaders, and members of civil society. The SNRC concluded in October, following the August 29 selection of a 275-member clan-based Transitional Federal Assembly (TFA), which replaced the TNA, and the October 10 election of Abdullahi Yusuf Ahmed as Transitional Federal President. In December, Yusuf Ahmed appointed Ali Mohammed Ghedi as Prime Minister. All transitional institutions, which were based in Kenya, had 5-year terms. During the year, the TFA adopted but did not implement the Transitional Federal Charter, which replaced the 1990 Constitution; however, for the many issues about which the Charter is silent, the Constitution still applies. There is no national judicial system.

In the northwest, the self-declared Republic of Somaliland continued to proclaim its independence within the borders of former British Somaliland but did not have international recognition. Somaliland's Government included a parliament, a functioning civil court system, executive departments organized as ministries, six regional governors, and municipal authorities in major towns. Presidential elections, deemed credible and significantly transparent, were held in April 2003 and resulted in a close victory for the ruling United People's Democratic Party (UDUB).

Leaders in the northeast proclaimed the formation of the State of Puntland in 1998. In 2001, traditional elders elected Jama Ali Jama as the President of Puntland. Yusuf refused to accept the elders' decision, and he seized by force the town of Garowe, reportedly with Ethiopian support. In 2002, President Yusuf seized Bosasso and controlled Puntland in general. In addition to Yusuf's and Jama's competing claims on the Puntland presidency, General Adde Musse in 2003 attempted to seize Puntland with Somaliland support. After intensive mediation efforts by traditional elders, Musse reconciled with Yusuf, and the two shared power. With the October election of Yusuf as Transitional Federal President, Puntland Vice President Mohammed Abdi Hashi succeeded as interim President until January 8, when the Puntland Parliament elected General Adde Musse as President.

During the year, serious inter-clan and intra-clan fighting continued in the central regions of Hiran and Middle Shabelle, the southern regions of Bay, Bakol, Gedo, Lower Shabelle, Middle Juba, Lower Juba, and in Mogadishu. Infighting among fac-

<sup>1</sup>The United States does not have diplomatic representation in Somalia. This report draws in part on non-U.S. Government sources.

tions of the Rahanweyn Resistance Army (RRA), which controlled Bay and Bakol, continued as RRA leaders fought to assert control over Baidoa. No group controlled more than a fraction of the country's territory.

Clan and factional militias, in some cases supplemented by local police forces, continued to function with varying degrees of effectiveness throughout the country. Police and militia members committed numerous, serious human rights abuses throughout the country.

The country's population was estimated to be 8.3 million. The country was very poor with a market-based economy in which most of the work force was employed as subsistence farmers or nomadic herders. Drought, floods, ethnic fighting, the Indian Ocean tsunami, and the displacement of more than 400,000 persons exacerbated the country's already extremely poor economic situation. Unemployment and malnutrition were widespread. The livestock ban imposed by Saudi Arabia continued in effect at year's end.

The country's human rights record remained poor, and serious human rights abuses continued. Citizens did not have the right to change their government because of the absence of an established central authority. Politically motivated killings occurred, and numerous civilians were killed in factional fighting. Kidnapping remained a problem. Prison conditions remained harsh and life threatening. Arbitrary arrest and detention remained problems. Impunity was a problem. In most regions, the judicial system relied on some combination of traditional and customary justice, Shari'a (Islamic) law, and the pre-1991 Penal Code. Citizens' privacy rights were limited. There were restrictions on freedom of speech, press, assembly, association, religion, and movement. Violence and discrimination against women, including the nearly universal practice of female genital mutilation (FGM), continued. Abuse of children remained a problem. Abuse and discrimination against clan and religious minorities in the various clan regions persisted. There was no effective system for the protection of workers' rights, and there were isolated areas where local gunmen forced minority group members to work for them. Child labor and trafficking in persons remained problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Political violence and banditry have been endemic since the 1991 collapse of the central government and the Siad Barre regime. Since that time, tens of thousands of persons, mostly noncombatants, have died in inter-factional and inter-clan fighting. The vast majority of killings during the year resulted from clashes between militias or from unlawful militia activities; several occurred during land disputes, and a small number involved common criminal activity. Numerous killings continued as a result of inter-clan and intra-clan fighting between the following groups: The RRA sub-factions in Bay and Bakol regions; the Somali National Front sub-factions in north Gedo; the Awlyahan and Bartire sub-clans in Buale; the Dir and Habargidir sub-clans in Galkacyo; the Dir and Marehan sub-clans in Galgudud; the former TNG and gunmen in Mogadishu; Abgal intra-clan fighting in and around Jowhar; Habar Gidir intra-clan fighting in Mudug; Puntland's forces and those of Somaliland in the disputed regions of Sool and Sanaag; and General Mohammed Said Hersi Morgan's Somali Patriotic Movement and those of the Juba Valley Alliance in Kismayu.

During the year, hundreds of civilians were killed, mostly by militia members. For example, on February 29, fighting between Marehan and Dir militiamen in Herale village in Galgudud resulted in 12 deaths and numerous injuries; the fighting reportedly was triggered by the April 2003 killing of a Marehan businessman by Dir clansmen. In May, fighting in Mogadishu between 2 militias from the same clan who were loyal to 2 separate businessmen resulted in more than 100 civilian deaths, hundreds of injuries, and thousands of internally displaced persons (IDPs). On September 22 and October 29, fighting between Somaliland and Puntland forces in the disputed Sool and Sanag regions resulted in more than 200 deaths. Between December 1 and 6, factional fighting in Gelinsor town in Mudug resulted in approximately 100 deaths, numerous injuries, and thousands of IDPs.

No action was taken against the responsible members of the security forces or militias who committed killings in 2002 and 2003.

There were landmines throughout the country; however, statistics on the number of deaths caused by landmines were not available at year's end. According to the NGO Geneva Call, 40 persons were killed by landmines in 2003.

Attacks against humanitarian and NGO workers resulted in at least two deaths during the year (*see* Section 4). There were no further developments in the investigations into the 2003 killings of four humanitarian and NGO workers.

During the year, there were several apparently politically motivated killings by unknown assailants. In each case, the victim had made statements in support of the deployment of international peacekeeping forces to the country to facilitate the relocation of the Transitional Federal Government (TFG) from Kenya to Mogadishu, a proposal opposed by various armed groups: Some preferred the protection of individual cabinet members' militias to the imposition of foreign forces, particularly those drawn from neighboring countries; other groups were believed to be allied with domestic Islamist groups opposed to any central government. On November 5, in Mogadishu, unknown gunmen shot former General Mohamed Abdi Mohamed, who died from his injuries on November 9. On November 9, two masked men shot and killed Mohammed Hassan Takow as he walked from a mosque to his home; Takow was the personal assistant to warlord Mohammed Dere. During the year, four other former senior military commanders from the Siad Barre regime who publicly supported the deployment of peacekeepers were shot and killed. No suspects had been identified in these cases or in other politically motivated cases from previous years.

Inter-clan fighting resulted in numerous deaths during the year. For example, inter-clan fighting during May and June in Bulo Hawa resulted in approximately 60 deaths, numerous injuries, and more than 3,000 IDPs. Among the dead was Mohammed Hassan Ali, a prominent local doctor, and seven children killed when a bomb they had found exploded. On August 14, 17 persons were killed and more than 30 others injured as a result of fighting between the Luway and Dabarre sub-clans of the Digil-Mirifle clan in Tuger Hosle village, Dinsor. There were no developments in the reported killings due to inter-clan fighting in 2003 and 2002.

*b. Disappearance.*—There were no reports of politically motivated disappearances, although cases easily might have been concealed among the thousands of refugees and displaced persons.

During the year, there were numerous kidnappings by militia groups and armed assailants who demanded ransom for hostages. The Dr. Ismael Jumale Human Rights Center (DKJHRC) reported that at least 200 abductions occurred in Mogadishu during the year. For example, on October 31, gunmen kidnapped a businessman in Mogadishu and demanded a ransom of \$25,000 (385 million shillings); the businessman was released after negotiations between his family and elders representing the kidnappers.

There were no investigations or action taken against the perpetrators of kidnappings that occurred during the year, in 2003, or in 2002.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The unimplemented Transitional Federal Charter prohibits torture, and the Puntland Charter prohibits torture “unless sentenced by Islamic Shari’a courts in accordance with Islamic law”; however, there were some reports of the use of torture by the Puntland and Somaliland administrations and warring militiamen against each other or against civilians. Observers believed that many incidents of torture were not reported. Prison guards beat inmates in prison.

On August 15, in Hargeisa, Somaliland police arrested and detained 16-year-old Zamzam Ahmed Dualeh and Omar Jama Warsame, her taxi driver, on espionage charges; both allegedly were beaten in detention, and Dualeh claimed that six policemen tortured and raped her. The Government charged that Dualeh, who was arrested at the home of Vice President Ahmed Yusuf Yasin, was trying to obtain secret information about Yasin; Dualeh claimed that she had mistaken the Vice President’s home for that of a deputy minister, who she claimed was a relative. On December 15, Dualeh was tried as an adult without legal representation and sentenced to 5 years’ imprisonment. The four attorneys retained by local human rights activists to represent Dualeh were detained and sentenced to 4 years’ imprisonment after they asked the judge to withdraw from the case due to alleged bias; on December 11, the attorneys were released on appeal after they paid a fine. Human rights groups, including Amnesty International, petitioned the Government to release Dualeh or retry her as a juvenile with legal representation. Somaliland President Dahir Rayale Kahin Dualeh subsequently “pardoned” Dualeh, who was released on December 12.

Security forces, police, and militias also injured persons during the year. Acts of violence, including several killings, continued against supporters or members of the new TFG (*see* Section 1.a.).

There continued to be reports of rapes, largely committed by militia members; the DIJHRC reported 31 such cases in 2003. In a November 16 press release, the Mogadishu-based Somali Young Women Activists reported that former TNG militiamen displaced, robbed, and sexually assaulted the members of more than 20 families in the Lower Shabelle region. There continued to be reports of rapes of Somali

women and girls in refugee camps in Kenya during the year. The majority of the rapes were perpetrated by Somali bandits who crossed over the border; a small number of the rapes were committed by Kenyan security forces and police. During the year, there were 16 reported rapes and 9 defilements of Somali refugees in Kenyan refugee camps, according to the U.N. High Commissioner for Refugees (UNHCR). The rapes usually followed looting attacks by bandits and occurred when women and girls left the camps to herd goats or collect firewood or at night when bandits entered the refugee camps. Many of the rapes reportedly resulted in pregnancies.

There were several attacks on humanitarian and NGO workers by militia and other groups, which resulted in deaths and injuries (*see* Section 4).

No action reportedly was taken against TNG, Somaliland, and Puntland forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2003 or 2002.

Although reliable statistics were not available, a large number of persons were killed and injured as a result of inter-factional and inter-clan fighting (*see* Section 1.a.).

Prison conditions remained harsh and life threatening. Hareryale, a prison built to hold 60 inmates, reportedly held hundreds of prisoners during the year, including children. Overcrowding, poor sanitary conditions, a lack of access to adequate health care, and an absence of education and vocational training persisted in prisons throughout the country. Tuberculosis was widespread. Abuse by guards reportedly was common in many prisons. The detainees' clans generally paid the costs of detention. In many areas, prisoners were able to receive food from family members or from relief agencies. Ethnic minorities made up a disproportionately large percentage of the prison population.

Men and women generally were held separately; however, juveniles frequently were held with adults in prisons. A major problem continued to be the incarceration of juveniles at the request of families who wanted their children disciplined. Pretrial detainees and political prisoners were held separately from convicted prisoners.

The Puntland Administration permitted prison visits by independent monitors. Somaliland authorities permitted prison visits by independent monitors, and such visits occurred during the year. The DIJHRC visited prisons in Mogadishu during the year.

*d. Arbitrary Arrest or Detention.*—In the absence of constitutional or other legal protections, various factions continued to engage in arbitrary detention.

Corruption within the various police forces was endemic. Police forces throughout the country engaged in politics. The former TNG had a 3,500-officer police force and a militia of approximately 5,000 persons. In Somaliland, more than 60 percent of the budget was allocated to maintain a militia and police force composed of former troops. Abuses by police and militia members were rarely investigated, and impunity was a problem.

On August 15, Somaliland police arbitrarily arrested, detained, and allegedly tortured a 16-year-old girl (*see* Section 1.c.).

Authorities in Puntland and Somaliland arrested journalists during the year (*see* Section 2.a.).

On September 18, gunmen from the Puntland town of Eyl boarded a Yemeni ship in the Indian Ocean, detained the crew, and demanded money; there were unconfirmed reports that the ship was carrying arms. After Puntland authorities sent a group of elders to meet with the community of Eyl and to negotiate with the gunmen, the crew was released; no action was taken against the gunmen.

*e. Denial of Fair Public Trial.*—The unimplemented Transitional Federal Charter provides for an independent judiciary; however, there is no national judicial system. The Charter also provides for a High Commission of Justice, a Supreme Court, a Court of Appeal, and courts of first reference. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most regions relied on some combination of traditional and customary law, Shari'a, the Penal Code of the pre-1991 Siad Barre Government, or some elements of the three. For example, in Bosasso and Afmadow, criminals were turned over to the families of their victims, who then exacted blood compensation in keeping with local tradition. Under the system of customary justice, clans often held entire opposing clans or sub-clans responsible for alleged violations by individuals.

There were three functioning Shari'a-based entities—one in the Daynile area and two in the Beledweyne area; however, both largely acted as administrative units, not courts.

The Somaliland Constitution provides for an independent judiciary; however, the judiciary was not independent in practice. Although Somaliland has a Constitution based on democratic principles, it continued to use the pre-1991 Penal Code. There was a serious lack of trained judges and of legal documentation in Somaliland, which caused problems in the administration of justice. Untrained police and other persons reportedly served as judges.

The Puntland Charter has been suspended since the infighting between Abdullahi Yusuf and Jama Ali Jama began in 2001. The Charter provides for an independent judiciary; however, the judiciary was not independent in practice. The Puntland Charter also provides for a Supreme Court, courts of appeal, and courts of first reference. In Puntland, clan elders resolved the majority of cases using traditional methods; however, those with no clan representation in Puntland were subject to the Administration's judicial system.

The unimplemented Transitional Federal Charter provides for the right to be represented by an attorney. The right to representation by an attorney and the right to appeal did not exist in those areas that apply traditional and customary judicial practices or Shari'a. These rights more often were generally respected in regions that continued to apply the former government's Penal Code, such as Somaliland and Puntland; however, during the year, Somaliland police tried a 16-year-old girl as an adult, denied her legal representation, and sentenced her to 5 years' imprisonment (*see* Section 1.d.).

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The unimplemented Transitional Federal Charter provides for the sanctity of private property and privacy; however, looting and forced entry into private property continued in Mogadishu, although on a smaller scale than in previous years. The Puntland Charter and the Somaliland Constitution recognize the right to private property; however, authorities generally did not respect this right in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The unimplemented Transitional Federal Charter and the Somaliland Constitution provide for freedom of speech and the press; however, there were incidents of harassment, arrest, and detention of journalists in all areas of the country, including Puntland and Somaliland. The Puntland Charter provides for freedom of the press "as long as they respect the law"; however, this right was not respected in practice.

A law requires all media to register with the Minister of Information and imposes penalties for false reporting; however, the law had not been enforced by year's end. Critics alleged that if enforced, the law would provide authorities with censorship powers.

The print media consisted largely of short, photocopied dailies, published in the larger cities and often linked to one of the factions. Several of these newspapers nominally were independent and criticized faction leaders.

Somaliland has two daily newspapers—one government and one independent. There also was an English language weekly newspaper.

The majority of citizens obtained news from foreign news broadcasts, primarily the British Broadcasting Corporation, which transmitted a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of Somaliland, operated small radio stations. An FM station begun in 2002 by the TNG continued to operate. A radio station funded by local businesses operated in the south, as did several other smaller FM stations in various towns in central and southern parts of the country.

Journalists were harassed during the year. For example, on January 21, Puntland authorities in Garowe briefly detained Ali Bashi Mohammed Haji, a reporter from Radio Banadir, and Mohammed Sadak Abdu Guunbe, a reporter from Radio Shabelle, for allegedly sending sensitive political reports to their radio stations in Mogadishu; Puntland authorities later apologized.

On April 21, Puntland authorities arrested Abdishakur Yusuf Ali, editor of the independent weekly *War-Ogaal*, after he published an article accusing Puntland Finance Minister Abdirahman Mohamud Farole of corruption in connection with food relief; on June 1, Ali was released.

On August 31, the Republican Police in Somaliland arrested Hassan Said Yusuf, editor-in-chief of the independent Somali-language daily *Jamhuuriya* and its weekly English-language edition, for publishing false information; Yusef had published an article the previous day that criticized Somaliland's position on the SNRC talks in Kenya. On September 5, Yusuf was released on bail, and on October 4, he was acquitted of all charges.

There were no further developments in the 2002 and 2003 cases in which journalists were harassed and arrested.

In September 2003, Somaliland's information minister, Abdullahi Mohammed Duale, issued a statement banning independent television and radio stations in Somaliland, alleging that they posed a threat to national security; the ban remained in effect at year's end. Somaliland Television, which operated under a temporary license, was exempt from the ban.

Authorities did not restrict access to the Internet.

There were restrictions on academic freedom, and academicians practiced self-censorship. Abdi Samatar, a professor and vocal critic of the Somaliland administration, was banned from travel to Hargeisa, Somaliland, because of his academic research. In Puntland, academics were required to obtain a government permit before conducting academic research. There were two universities in Mogadishu, two in Somaliland, and one in Puntland; however, there was no organized higher education system in most of the country.

*b. Freedom of Peaceful Assembly and Association.*—The unimplemented Transitional Federal Charter and the Somaliland Charter provide for freedom of assembly; however, the lack of security effectively limited this right in many parts of the country. The ban on demonstrations continued; however, demonstrations occurred throughout the country during the year. The Government of Somaliland banned political demonstrations following the closely contested April 2003 multiparty elections (see Section 3).

The unimplemented Transitional Federal Charter provides for freedom of association; however, the Charter was not enforced during the year. The Puntland Charter provides for freedom of association; however, the Puntland Administration banned all political parties. The Somaliland Constitution provides for freedom of association, and this right was generally respected in practice. Legislation that governs the formation of political parties limits the number of political parties allowed to contest general elections to three. An ad hoc commission, nominated by the President and approved by the House of Representatives, was responsible for considering applications. The law provides that approved parties that win 20 percent of the vote in Somaliland elections would be allowed to operate. There were three approved parties operating after the April 2003 elections.

Professional groups and local NGOs operated as security conditions permitted.

*c. Freedom of Religion.*—There was no legal provision for the protection of religious freedom, and there were some limits on religious freedom. The unimplemented Transitional Federal Charter establishes Islam as the national religion. Some local administrations, including Somaliland and Puntland, have made Islam the official religion in their regions.

Only Shafi'iyyah, a moderate Islamic doctrine followed by most citizens, is allowed in Puntland. Puntland security forces monitored religious activities very closely.

Under the regulations in Somaliland, religious schools and places of worship are required to obtain the Ministry of Religion's permission to operate. The Ministry must approve entry visas for religious groups, and certain unspecified doctrines were prohibited. In Puntland, religious schools and places of worship must receive permission from the Ministry of Justice and Religious Affairs to operate; such permission was granted routinely.

Proselytizing for any religion except Islam is prohibited by law in Puntland and Somaliland and effectively blocked by informal social consensus elsewhere in the country. Christian-based international relief organizations generally operated without interference, as long as they refrained from proselytizing.

Non-Sunni Muslims often were viewed with suspicion by members of the Sunni majority. There was strong social pressure to respect Islamic traditions. Organized Islamic fundamentalist groups, whose goal was the establishment of an Islamic state, were actively engaged in the private sector and in political activities throughout the country.

The small Christian community kept a low profile. Christians, as well as other non-Muslims who proclaimed their religion, sometimes faced societal harassment.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The unimplemented Transitional Federal Charter and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibited passage by other groups. In the absence of a recognized national government, most citizens did not have the documents needed for international travel.

In October, militiamen from the Juba Valley Alliance installed checkpoints in and around the town of Kismayu, prevented passage, and demanded tolls from travelers. In November, the checkpoints were removed after negotiations with local leaders.

The law does not prohibit forced exile; however, none of the authorities used forced exile during the year.

In December, the U.N. estimated that there were 400,000 IDPs in the country, most of them women and children. Of this number, approximately 150,000 lived in Mogadishu, with another 15,000 in the southern port city of Kismayo, and the remainder scattered around the country. The majority of IDPs reportedly lived in old schools and former government buildings. The U.N. estimated that approximately 205,000 Somalis were living as refugees in neighboring countries.

As security conditions continued to improve in many parts of the country, refugees and IDPs returned to their homes. According to UNHCR figures, 18,030 Somali refugees were repatriated during the year: 8,422 were from Djibouti; 9,513 from Ethiopia, 78 from Kenya; 3 from Libya; 4 from South Africa; and 10 from Yemen. Despite sporadic harassment, including the theft of humanitarian provisions from convoys by militiamen, repatriation generally took place without incident. In September 2003, the U.N. Independent Expert on Human Rights visited several IDP camps in Somaliland and found them among the worst he had visited. He reported that the camps were overcrowded, had poor sanitation, and there was little or no access to employment and education. No local, regional, or U.N. authorities have taken responsibility for the camps.

The 1990 Constitution and unimplemented Transitional Federal Charter do not include provisions for the granting of asylum or refugee status in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and there was no official system for providing such protection; however, in practice, government authorities provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. A small number of Ethiopian refugees remained in the country, mostly in the northeast near Bosasso. The authorities in Somaliland have cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

On July 15, an unidentified group of gunmen forced 172 Tanzanian refugees to vacate the camp in which they had lived since late 2001. By year's end, some of the Tanzanian refugees had voluntarily returned to their home country while approximately 100 others were scattered in Mogadishu.

There were reports of rapes of Somali women and girls in refugee camps in Kenya (see Section 1.c.).

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

In the absence of a fully functioning central government, citizens cannot exercise the right to change their government. In most regions, local clan leaders functioned as de facto rulers. Although many such groups derived their authority from the traditional deference given clan elders, most faced opposition from clan groups and political factions.

In 2000, the Djibouti Conference, made up of local and regional leaders, established the TNG and selected the 245-member TNA, which elected Abdiqassim Salad Hassan as Transitional President. Administrations in the northwest (Somaliland) and northeast (Puntland) of the country did not recognize the results of the Djibouti Conference, nor did several Mogadishu-based factional leaders.

In 2002, in Eldoret, Kenya, the IGAD-sponsored SNRC convened more than 400 delegates representing all clans and a wide spectrum of political, military, and traditional leaders to form a new government; Somaliland did not join the conference. Early in 2003, the SNRC moved to Nairobi, where a transitional charter was adopted but subsequently contested by several factions. In September, the SNRC adopted the Transitional Federal Charter for a 5-year TFG, which replaced the TNG, and selected a 275-member TFA, which replaced the TNA. On October 10, the TFA elected Abdullahi Yusuf Ahmed, the former President of Puntland, as Transitional Federal President; Abdullahi Yusuf subsequently appointed Ali Mohammed Ghedi as Prime Minister. On December 6, the President and Prime Minister swore in a new cabinet, which, on December 11, received a vote of no confidence in the TFA; there was no functioning cabinet at year's end.

Representatives of the self-declared Republic of Somaliland did not recognize the results of the SNRC as having any validity in its territory.

Presidential elections in Somaliland were held in April 2003, with the participation of three political parties: The Democratic United Peoples' Movement, the Solidarity Party (Kulmiye), and the Party for Justice and Democracy. The incumbent

UDUB President, Dahir Riyale Kahin, won by only 80 votes. Kulmiye initially disputed the results; however, it was resolved through mediation by traditional elders. Unofficial diplomatic observers considered the elections credible and sufficiently transparent. Parliamentary elections, which have been repeatedly postponed, were scheduled for March 2005.

In Somaliland, there is a constitution and bicameral parliament with proportional clan representation, and an elected president and vice president. The Hargeisa authorities have established functioning administrative institutions in virtually all of the territory they claim, which equaled the boundaries of the Somaliland state that achieved international recognition briefly in 1960 before entering into a union with the country. In 2001, a referendum was held with 97 percent of voters supporting Somaliland independence.

In 1998, Puntland declared itself a regional government during a consultative conference with delegates from six regions, including traditional community elders, the leadership of political organizations, members of legislative assemblies, regional administrators, and civil society representatives. Representatives of Puntland-based sub-clans chose Abdullahi Yusuf as President. Puntland has a single chamber quasi-legislative branch known as the Council of Elders, which played a largely consultative role. Political parties were banned in Puntland. Regional elections in Puntland were held during 2001; however, President Yusuf refused to step down. In November 2001, elders elected Jama Ali Jama as the new President of Puntland, and he assumed power in Garowe. Yusuf refused to accept the decision and militarily seized Garowe, which forced Jama to flee to Bosasso. In 2002, Yusuf occupied Bosasso and declared himself President of Puntland in 2002. During 2003, General Adde Musse, a former army general, organized Jama Ali Jama's militiamen, drawn primarily from the Majerten Osman Mohamoud sub-clan, and established a base in Somaliland. General Musse's forces attacked Puntland twice from their base in Somaliland without success. Puntland traditional elders then intervened and brokered a peace agreement between Musse and Yusuf, which was signed in May 2003. In May 2003, the two joined their forces and began sharing power. Mohammed Abdi Hashi, Yusuf's vice president, assumed the presidency of Puntland after Yusuf's election in October as TFG President.

Somaliland and Puntland continued to contest the Sanaag and Sool regions and the Buhodle district during the year (*see* Section 1.a.). Both governments maintained elements of their administrators at the Sanaag and Sool regions, and both governments exerted influence in various communities.

Official corruption was endemic throughout the country, and there were no laws that provided for public access to government information.

There were 22 women in the 275-seat TFA; in the TFG, there were 1 female minister and 4 deputy ministers. A woman held the post of Foreign Minister in the Somaliland Government; in addition, several women were important behind-the-scenes figures in the various factions. There were 5 women in the 69-seat Puntland Council of Elders.

Minorities held 31 seats in the TFA.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without official restriction, investigating and publishing their findings on human rights cases. Authorities were somewhat cooperative and responsive to their views. Several local human rights groups were active during the year, including the Mogadishu-based DIJHRC, Isha Baidoa Human Rights Organization in Bay and Bakol regions, and KISIMA in Kismayu. The DIJHRC investigated the continuing causes of conflict in the Mogadishu area, conducted effective human rights monitoring, protested the treatment of prisoners before the Islamic Shari'a courts, and organized periodic demonstrations for peace. KISIMA monitored human rights and organized peace marches in Kismayu. The Mogadishu-based Somali Journalists Network monitored human rights violations against journalists in Mogadishu. The Mogadishu-based Center for Research and Dialogue, women's NGOs, and other members of civil society also played an important role in galvanizing support in the country for the reconciliation talks in Kenya.

Numerous international organizations operated in the country during the year, including the Red Cross, CARE, Save the Children, and various de-mining agencies such as the Halo Trust. The TNG and Somaliland authorities permitted visits by U.N. human rights representatives during the year.

Security problems complicated the work of local and international organizations, especially in the south. There were reported incidents of harassment against NGOs, resulting in at least two deaths.

On March 19, unknown gunmen shot and killed an employee of the German Agency for Technical Assistance and a security escort after ambushing their vehicle outside of Berbera, Somaliland; another passenger was injured. Five suspects were arrested and awaiting trial at year's end; the motive for the killings remained unclear at year's end.

Attacks on NGOs also disrupted flights and food distribution during the year. In April, clan militia ambushed a Gedo Health Consortium rented vehicle near Bula Hawa in apparent retaliation for the theft of electronic items and a generator by a rival clan; the driver was seriously injured. On August 15, after a plane carrying an IGAD delegation landed at Baidoa airstrip, a man entered the plane and threatened the delegates with a hand grenade; the man was disarmed and allowed to depart the aircraft with no charges filed against him.

Despite threats in Jowhar and Kismayu, authorities did not close any NGOs during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The unimplemented Transitional Federal Charter prohibits discrimination on the basis of sex and national origin; however, societal discrimination and violence against women and widespread abuse of children continued to be serious problems. The Somaliland Constitution prohibits discrimination on the basis of sex and national origin; however, these rights were not respected in practice.

*Women.*—Domestic violence against women occurred. Women suffered disproportionately in the civil war and in the strife that followed. There was no information available on the prevalence of domestic violence in the country. There are no laws that specifically address domestic violence; however, both Shari'a and customary law address the resolution of family disputes (*see* Section 1.e.). Police and militia members raped women, and rape was commonly practiced in inter-clan conflicts (*see* Section 1.c.). Laws prohibiting rape exist; however, they generally were not enforced. There were no laws against spousal rape. There were no reports that rape cases were prosecuted during the year. There were reports of rapes of Somali women and girls in refugee camps in Kenya during the year (*see* Section 1.c.).

FGM was a widespread practice. There were estimates that approximately 98 percent of women have undergone FGM. The majority of women were subjected to infibulation, the most severe form of FGM. In Somaliland, FGM remained illegal under the Penal Code; however, the law was not enforced. In Puntland, legislation prohibited FGM in northeastern areas of the country; however, in practice the law was not enforced strictly. U.N. agencies and NGOs have made intensive efforts to educate persons about the danger of FGM; however, no reliable statistics were available on the success of their programs.

Prostitution is illegal; however, it was practiced. Because it is culturally proscribed, it was not reported.

Women were subordinated systematically in the country's overwhelmingly patriarchal culture. Polygyny was permitted, but polyandry was not. Under laws issued by the former government, female children could inherit property, but only half of the amount to which their brothers were entitled. Similarly, according to the Shari'a and local tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family than for a male victim.

Several women's groups in Mogadishu, Hargeisa (Somaliland), Bosasso (Puntland), and Merka (Lower Shabelle) actively promoted equal rights for women and advocated the inclusion of women in responsible government positions. During the year, the local NGO Save Somali Women and Children held a number of workshops on women's and children's rights, including a regular monthly "Gender Forum" in which women gathered to discuss women's rights.

*Children.*—Children remained among the chief victims of the continuing violence. Boys as young as 14 or 15 years of age have participated in militia attacks, and many youths were members of the marauding gangs known as "morian" (parasites or maggots). Even in areas with relative security, the lack of resources limited the opportunity for children to attend school. Approximately 10 to 20 percent of the school-age population attended school; more boys than girls were enrolled in school. There were three secondary schools in Somaliland and several secondary schools in Mogadishu; however, only 10 percent of those few children who entered primary school graduated from secondary school. Parents generally paid fees for their children's education. Schools at all levels lacked textbooks, laboratory equipment, and running water. Teachers were trained poorly and paid poorly. The literacy rate was estimated at 25 percent throughout the country; however, reliable statistics did not exist. There was a continued influx of foreign Muslim teachers into the country to teach in private Koranic and Madrassa schools. These schools were inexpensive and

provided basic education; however, there were reports that these schools required the veiling of small girls and other conservative Islamic practices normally not found in the local culture.

Medical care was rudimentary, and only a small percentage of children had access to adequate medical facilities.

There was no information available on the prevalence of child abuse in the country; however, it occurred. There were reports of rapes of Somali girls in refugee camps in Kenya during the year (*see* Section 1.c.).

FGM was performed on approximately 98 percent of girls (*see* Section 5, Women).

Child prostitution was practiced; however, because it is culturally proscribed, it was not reported.

Trafficking in children for forced labor was a serious problem (*see* Section 5, Trafficking).

In 2003, the U.N. Independent Expert on Human Rights visited Kismayo, Lower Juba, Bosasso, Puntland, and Hargeisa, Somaliland. He reported that children were recruited as soldiers in Puntland and that many juveniles were incarcerated with adults by their parents for disciplinary problems (*see* Section 1.c.).

Child labor was a problem (*see* Section 6.d.).

*Trafficking in Persons.*—The pre-1991 Penal Code prohibits trafficking; however, there were reports of trafficking during the year. The unimplemented Transitional Federal Charter does not specifically prohibit trafficking. The number of women being trafficked from the country appeared to be small.

Trafficking in children for forced labor was a serious problem. There were reports of a significant increase in the smuggling of children out of the country to relatives and friends in western countries where they worked or collected welfare and sent money back to family members in the country.

*Persons With Disabilities.*—In the absence of a functioning state, the needs of persons with disabilities were not addressed. There were several local NGOs in Somaliland that provided services for persons with disabilities.

*National/Racial/Ethnic Minorities.*—More than 85 percent of citizens shared a common ethnic heritage, religion, and nomadic-influenced culture. In most areas, members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, and Faqayaqub. Intermarriage between these groups and mainstream clans was restricted. Some of these groups had limited access to whatever social services were available, including health and education. Members of minority groups continued to be subjected to killings, harassment, intimidation, and abuse by armed gunmen of all affiliations.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 1990 Constitution and the unimplemented Transitional Federal Charter provide workers with the right to form unions; however, the civil war and factional fighting have resulted in the absence of any legal protection for workers' rights and the disintegration of the country's single labor confederation, the then government-controlled General Federation of Somali Trade Unions. In view of the extent of the country's political and economic breakdown and the lack of legal enforcement mechanisms, trade unions did not function freely.

The unimplemented Transitional Federal Charter, the Puntland Charter, and the Somaliland Constitution establish the right of freedom of association, but no unions or employer organizations existed.

*b. The Right to Organize and Bargain Collectively.*—Wages and work requirements in the traditional culture were established largely by ad hoc bartering based on supply, demand, and the influence of the worker's clan.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The pre-1991 Penal Code and the unimplemented Transitional Federal Charter prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Sections 5 and 6.d.). Local clan militias generally forced members of minority groups to work on banana plantations without compensation. There were reports that in Middle and Lower Juba, including the port of Kismayu, Bantus were used as forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The pre-1991 Labor Code and the unimplemented Transitional Federal Charter prohibit child

labor; however, child labor was a problem, and there were child soldiers (*see* Section 5). Formal employment of children was rare, but youths commonly were employed in herding, agriculture, and household labor from an early age. Substantial numbers of children worked. In 2002, it was reported that 32.5 percent of children between the ages of 5 and 14 worked; however, the percentage of children engaged in labor was believed to be even higher during the year. The lack of educational opportunities and severely depressed economic conditions contributed to child labor.

*e. Acceptable Conditions of Work.*—There was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year.

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## SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the President and the Parliament. President Thabo Mbeki led the African National Congress (ANC) party, which increased its seats to 279 in the 400 seat National Assembly after a free and fair national election in April. Parliament, in turn, elected the President. The Government included ministers and deputy ministers from the Azanian People's Organization (AZAPO) and the New National Party (NNP), but was dominated by the ANC. The judiciary, including the Constitutional Court, was independent but overburdened.

The South African Police Service (SAPS), which is overseen by the Department of Safety and Security, has primary responsibility for internal security, and the South African National Defense Force (SANDF), which is overseen by the Department of Defense, is responsible for external security but also has domestic security responsibilities. The SANDF and the SAPS border control and policing unit shared responsibility for border control. The Government continued to train and organize the Directorate of Special Operations, dubbed the Scorpions, to coordinate efforts against organized crime and corruption. The civilian authorities maintained effective control of the security forces. Members of the security forces committed serious human rights abuses.

The country has a market based economy. According to mid-year population estimates by Statistics South Africa, the country had a population of approximately 46.6 million. The manufacturing and services (including government) sectors, accounted for approximately 20 percent of the gross domestic product, while the agricultural and mining sectors each represented approximately 4 percent. The economy grew at a rate of 1.9 percent in 2003. Average monthly wages rose by 8.5 percent while the average consumer inflation rate in 2003 was 6.2 percent. The distribution of income and wealth remained highly skewed along racial lines and between urban and rural citizens. Approximately 60 percent of the black African population and approximately 3 percent of the white population lived below the poverty line. Official unemployment remained high at 27.8 percent.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Deaths due to the use of excessive force by security forces and deaths in police custody were serious problems. Some members of the police beat, raped, tortured, and otherwise abused suspects and detainees. The Government took action to investigate and punish some of those involved. Prisons were severely overcrowded, and some prison employees and other prisoners abused and assaulted prisoners physically and sexually. The judiciary was overburdened, and lengthy delays in trials and prolonged pretrial detention were problems. Xenophobia continued to be a problem. Violence against women and children remained serious problems, and discrimination against women and persons with disabilities also remained problems. Child labor, including forced child labor, was a problem. Child prostitution and trafficking in persons were serious problems. Vigilante violence and mob justice continued throughout the country.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, police use of lethal force during apprehensions resulted in a significant number of deaths, and deaths in police custody were a problem. The Government investigated and punished some abusers and worked to prevent future abuses.

For example, on January 4, two Witdraai police officers, Inspector Johannes Liebenberg and Constable Wayne van Wyk, allegedly shot and killed a Khomani

San civilian who was trying to break into a house (*see* Section 5). The Government's Independent Complaints Directorate (ICD) investigated the case and forwarded it to the Director of Public Prosecution (DPP) who began prosecuting the officers for murder. On January 13, SAPS members allegedly shot and killed a civilian who was fleeing the scene of a crime. The ICD investigated the case and forwarded it to the DPP who ordered that a formal inquest be held.

The ICD investigated deaths in police custody and deaths as a result of police action, and continued to improve their cooperation with the SAPS. According to the ICD, there were 380 deaths as a result of police action. Between April 1, 2003 and March 31, there were 334 deaths in police custody that resulted from a variety of causes, including natural causes.

In October, SAPS members Superintendent Buitendag, Inspector Austin, and Inspector Pansegrouw were acquitted due to insufficient evidence on charges related to the 2002 torture and killing of Inspector Leonard Hlagala.

There were reports of deaths resulting from political violence between ANC and Inkatha Freedom Party (IFP) supporters in KwaZulu-Natal in the run-up to the April 14 national and provincial elections. Press reports estimated that there were at least 10 and perhaps as many as 30 politically related deaths between late 2003 and the April election, compared with 325 political fatalities during the 1999 election, of which 190 were in KwaZulu-Natal. The media also quoted KwaZulu-Natal Premier S'bu Ndebele as saying the killing of Kasavelin Stanley Chetty, an Esourt councilor, was "politically motivated." According to press reports, the killing was preceded by a series of death threats to councilors who defected to the ANC.

Unlike in the previous year, there were no reports of politically motivated killings between the United Democratic Movement and the ANC in Western Cape.

Fear and the threat of violence still existed in the rural areas. Violence in the province was mainly taxi-related but had political overtones as the process to transform and formalize the IFP-dominated taxi industry continued. Approximately 12 taxi owners and 16 passengers were killed in KwaZulu-Natal taxi-related shootings since November 2003. On December 4, unknown assailants opened fire and injured 18 members of a taxi association. Other forms of violence such as faction fighting remained higher than in other provinces.

The trial of 22 right wing Afrikaners charged with murder, high treason, terrorism, and sabotage in the 2002 Soweto bombings was ongoing at year's end.

The appeal of right wing Afrikaners Leon Peacock, Hercules Viljoen, and Alan Rautenbach, who plotted to blow up the Vaal Dam in 2001 and were convicted of sabotage had not been heard by year's end.

Episodes of vigilante action and mob justice were reported. While exact figures were not available, vigilante attacks were particularly prevalent in Gauteng, the Western Cape, and KwaZulu Natal. On May 22, approximately 500 residents in Gauteng attacked two men accused of murders in the area and killed them by "necklacing" (placing tires around their necks and setting them on fire). On June 22, a man killed in the same manner was found on a farm in Gauteng. On August 1, a group in the Eastern Cape necklaced and killed three men accused of raping a young girl.

The trial against 14 individuals accused of hacking to death 7 persons in 2002 was on going at year's end. Twelve persons were charged with the deaths of Adam Potgieter and Samuel Moletsane in December 2002 and the trial was scheduled to begin in 2005.

A vigilante group called Mapogo A Mathamaga continued to grow in membership and reportedly had more than 90 branches and 50,000 members throughout the country, including offices in at least 9 cities. Mapogo targeted persons they suspected of property crimes against their members, tortured suspected criminals, and beat persons with clubs and whips. The group operated under several other names, such as Mapogo Crime Stop, making their activities difficult to regulate.

In 2002, Bertrams Pringle, Willie Skhosana, and Mapogo member Robert Van der Colff were charged with murder for beating Adam Potgieter and Samuel Moletsane to death for allegedly stealing construction equipment. The trial was postponed to February 2005.

Numerous court cases involving People Against Gangsterism and Drugs (PAGAD), an anti-crime group with an anti-government bias, continued throughout the year. At the start of the year, prosecutors reported there were 55 PAGAD-related cases or appeals still awaiting trial. Judicial proceedings against a number of PAGAD members, including Abubakar Jacobs, Ebbrahim Jeneker, Mogamat Issacs, Faizel Samsodien were not concluded at year's end. PAGAD leader Salie Abader's suit against authorities for "wrongful arrest and malicious prosecution" following his acquittal in 2002 for a killing had also not concluded by year's end.

On October 18, the Cape High Court imposed two life sentences on PAGAD member Mogamat Phadiel Orrie, who was charged with the murder of Cape Town couple Yusuf and Fahiema Enous in a state Witness Protection Program safe-house in December 2000.

PAGAD leader Abdus-Salaam Ebrahim remained in jail, charged with participating in the 1996 murder of a Cape Town gang leader. Members of the armed wing of PAGAD, the so-called G-force, such as Mansoer Legget, Ebrahim Jeneker, and Abdullah Maansdorp, were all serving multiple life sentences. In May, the trial of PAGAD member Shaheem "Doc" Ismail resumed for the attempted killing of a Cape Town judge. Also in May, PAGAD gunman Faizel "Bunnylick" Samsodien received a 25-year jail sentence for a 1999 shooting of members of a rugby team. A third trial began in late May of five PAGAD members from Delft for three killings in 1999.

There continued to be reports that xenophobia led to a number of violent attacks on foreigners (*see* Section 5). From December 24 to 26, a number of attacks on Somali refugees took place in the Western Cape, Eastern Cape and Gauteng. Seven Somali nationals were killed during these incidents, one in Khayelitsha, three near George, one in Johannesburg and one in Port Elizabeth. At year's end, police were investigating the cases, but no arrests were made. In September 2003, Catholic social workers in Cape Town claimed that xenophobia was a major contributing factor in the deaths of as many as 28 refugees during the previous 18 month period. There were no developments by year's end in the case of three Angolans and one citizen killed in January 2002 in clashes between locals and refugees in the Joe Slovo area in Milnerton, a Cape Town suburb.

Killings and other violent crimes against farmers and on some occasions members of their families continued in rural parts of the country. There was widespread concern among white farmers that they were targeted for racial and political reasons; however, according to police and academic studies of farm attacks, the perpetrators reportedly were common criminals motivated by financial gain. It also was reported that in the majority of cases, the perpetrators were not farm workers. According to Agriculture South Africa (AgriSA), 838 farm attacks and 75 farm killings took place in 2003 and 652 farm attacks and 86 farm killings took place by the end of October. The Independent Committee on Motives for Farm Attacks' report was released in September 2003 and found the perpetrators in the great majority of cases appeared to be common criminals motivated by financial gain. Security forces continued to be viewed as responding to attacks, rather than preventing them.

On February 18, farm owner Mark Scott Crossley and farm workers Richard Mathebula and Simon Mathebula were charged with murder after the remains of Nelson Chisale—a former farm laborer—were found in a lion camp. The three allegedly beat the former employee and tossed him into an enclosure at a breeding project for rare white lions. The three were denied bail and the case was postponed until January 2005. The case against a fourth man, Richard Mnisi, was withdrawn when he became a state witness.

On June 21, a white employer, Jewell Crossberg, shot and killed a farm worker (and Zimbabwean national), Jelous Dube, in Musina. Crossberg told police he had mistaken his victim for a baboon, but farmworkers who witnessed the shooting said the killing was triggered by the victim's failure to report to work the day before. Crossberg was arrested but released on bail of \$1,230 (R8,000). Some expressed concern about the manner in which the bail application was handled, saying that it was "very unusual" that a culprit could be taken straight to the court without first being sent to a police cell.

On February 17, the High Court in Nelspruit found Gerrit Maritz, a white employer, guilty of the February 2003 killing of farm worker Jotham Mandlaki for failing to show up for work and sentenced him to 2 years in prison or a fine of \$5,538 (R36,000). Several human rights groups expressed shock at the lightness of the sentence.

In Limpopo Province, where traditional beliefs regarding witchcraft remained strong, there were occasional reports of attacks on persons accused of witchcraft by their rural communities (*see* Section 1.f.). Traditional leaders cooperated with Ministry of Safety and Security programs and reported threats against persons suspected of witchcraft to the police. The press reported that on November 9 two men killed four elderly women accused of witchcraft in Nontshinga Village in the Eastern Cape. One of the suspects wanted in connection with the murders was shot and killed by police after attacking a police officer and the second suspect remained under arrest at year's end. Some of the suspects accused of the February 2003 killing of a man suspected of involvement in witchcraft in KwaZulu Natal remained in custody at year's end and the trial was scheduled to begin in February 2005.

Muti killings—killing, especially of children, to obtain body parts for traditional healing—continued during the year. On July 30, attackers hacked off a young boy's

hand, ear, and genitals. The boy died 10 days later. SAPS estimated that there were an average of 150 to 300 such killings each year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution's Bill of Rights prohibits such practices; however, some police officers beat, raped, tortured, and otherwise abused suspects. Some incidents of torture and ill treatment by police and SANDF members occurred during interrogation, arrest, detention, and searches of persons' homes.

In 2002, a SAPS member allegedly assaulted a pregnant woman and solicited a bribe to stop the case against her minor son, whom he was investigating. The ICD investigated charges of assault with intent to do grievous bodily harm; however, the Director of Public Prosecutions declined to prosecute the case.

During the year, the police officer who set a dog on Titus Mahlatse in July 2003 was acquitted on the basis that the victim gave contradictory statements.

Incidents of police harassment against foreigners continued, particularly during coordinated police raids of areas where foreign nationals resided. Some state hospitals reportedly routinely refused emergency treatment to indigent foreigners, despite regulations that required such treatment.

The press reported that many refugee seekers claimed they were whipped, beaten and subjected to other brutal treatment at the hands of immigration personnel. The Director of South Africa's Home Affairs Department promised to investigate these allegations; however, no investigation had begun by year's end. Four South African soldiers who were arrested in August at Madimbo military base near Beitbridge on allegations of ambushing, stripping, raping, and robbing illegal Zimbabwean immigrants. They subsequently appeared in court facing various charges.

There were reports that police abused homosexuals (*see* Section 5).

In July, there were reports that SANDF troops, stationed in the Democratic Republic of the Congo (DRC) as part of the U.N. peacekeeping mission, raped young girls. An independent U.N. investigation team from the Office of Internal and Oversight Services was sent to investigate allegations of widespread sexual abuse of children by peacekeeping soldiers from various countries. A SANDF colonel was sent home after he was accused of molesting his young male interpreter; however, the colonel was not investigated or prosecuted after his return to South Africa.

Vigilante action and mob justice resulted in attacks on suspected criminals, some of whom were killed (*see* Section 1.a.).

There were incidents in which white employers abused their black African farm laborers. Nongovernmental organizations (NGOs) claimed that rural police and courts refused to arrest or prosecute whites in many cases.

Most prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. Severe overcrowding in some prisons led to poor health; as many as 75 inmates may occupy a cell designed to hold 40 inmates. The Department of Correctional Services (DCS), which manages prisons, reported in its 2003–04 annual report that there were 240 prisons in the country with a total capacity of approximately 114,787. There were 184,576 prisoners in custody of whom 53,876 were awaiting sentences, putting overcrowding at 63 percent. This overcrowding was especially visible among prisons for juveniles. For example, a 332 percent occupation rate was reached in the juvenile section of the Durban prison; however, the Government began building new prisons during the year.

The natural death cases in the country's prisons, primarily due to HIV/AIDS, increased sharply over the past few years and continued to grow.

Prison employees and other prisoners abused and assaulted prisoners physically and sexually. There were reports that some detainees awaiting trial contracted HIV/AIDS through rape. According to the Institute for Security Studies (ISS), some of the inmates intentionally infected other inmates with HIV/AIDS in a process called "slow poison" to control or punish them. Approximately 42 percent of all prisoners were living with HIV/AIDS. In 2003, the DCS identified health as a priority; however, health services remained inadequate.

There were reports that prison employees stole food and money from prisoners. According to NGOs, 70 percent or more of prisoners used drugs, provided to them illegally by guards or other persons with access to them. In many of these cases, offending police or correctional officers were suspended or expelled from their services.

The Jali Commission, which the President appointed in 2002, continued to investigate allegations of corruption and sexual abuse in prisons. The Commission began in 2002 and reported finding widespread irregularities involving prisoners leaving the premises illegally, nepotism, drug trafficking, irregular appointments of per-

sonnel, and massive medical aid fraud. In 2003, the Commission also highlighted evidence of extortion, abuse of parole procedure, abuse of disciplinary enquiries and appeal procedures, and educational qualifications fraud.

On July 28, the head of Grootvlei Prison, Tatolo Setlai, who allowed prisoners to secretly videotape corrupt activities in the jail in 2002, was acquitted on 20 criminal charges. Of the 22 wardens implicated on footage taken by the prisoners, 19 were dismissed, 1 died of natural causes, and 2 faced disciplinary hearings.

Violence among prisoners, particularly sexual violence, was a serious problem.

Human rights groups raised serious concerns regarding C MAX prisons, which were designed to hold the country's most dangerous criminals, including the Government's criteria for transferring prisoners from other prisons to a C MAX facility and the restrictive, solitary conditions of the prisons.

Problems remained at the Lindela Repatriation Center, the largest detention facility for undocumented immigrants in the country, particularly as a result of the overcrowding of cells. The Department of Home Affairs conducted sweeps of squatter camps and sent illegal immigrants to Lindela to await repatriation. Some of the refugees alleged that Home Affairs employees, Lindela employees, and police requested bribes. Male and female prisoners were held separately.

Juveniles were sometimes held with adults. There were credible reports that youths held with adults were vulnerable to sexual exploitation, including rape. Pre-trial detainees were generally held together with convicted prisoners.

Some immigrant children detained in the Lindela Repatriation Center received the same general treatment as adult detainees and, most were provided with separate sleeping facilities from adults only after October. In contrast to 2003, children were provided with food and clothing. In February, as a result of a court case brought by Lawyers for Human Rights, some children were transferred to Dyamambo Youth Center.

The Government generally permitted independent monitoring of prison conditions, including visits by human rights organizations; however, organizations were sometimes told that only lawyers were able to visit prisoners and some groups were routinely denied access. The Judicial Inspectorate visited all prisons regularly.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, prolonged pretrial detention continued to be a problem.

SAPS is the primary instrument of state policing, with a presence throughout the country. The SAPS, under the Ministry of Safety and Security, continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service oriented police force; however, it remained ill equipped, overworked, and undertrained. According to the 2003–04 SAPS annual report, there were 106,233 police officers and 28,624 civilians working in SAPS, with a shortage of personnel estimated to be 20,000. The majority of police resources remained focused on former white areas and business districts, and police service was unevenly distributed across the provinces, ranging from 313 residents per police officer in the Free State to 669 residents per police officer in Limpopo Province.

SAPS continued to create partnerships between local police forces and the communities they served. Municipalities also maintained metropolitan police forces in major cities under local control, such as in Johannesburg, Durban, Pretoria, and Cape Town; however, SAPS continued to have deficiencies in mid level leadership and institutional memory that were detrimental to its overall performance.

The ICD received 1,473 allegations of criminal offences by police. There were 101 cases of corruption, representing a 3.8 percent decrease from the previous year. There was a 47 percent increase in reports of serious criminal offences allegedly committed by SAPS members and a 27.6 percent increase in incidents of misconduct; most cases were for neglect of duty (86.4 percent). The other cases related to failure or refusal to perform duties and gross discourtesy.

Broad efforts to reform police practices continued, and the ICD investigated reports of police misconduct and corruption; however, the number of reported incidents of abuse increased. The Government made efforts to address abuses with an official anti torture policy and training programs for police and SANDF officers that included human rights.

The Bill of Rights provides that every detained person has the right to be informed promptly of the reasons for their detention; to be advised promptly of the right to remain silent and the consequences of waiving that right; to be charged within 48 hours of arrest; to be detained in conditions of human dignity; to consult with legal counsel at every stage of the legal process; to communicate with relatives, medical practitioners, and religious counselors; and to be released (with or without bail) unless the interests of justice require otherwise. Courts and police generally

respected these rights; however, there continued to be a problem with prison conditions and bringing detainees to trial expeditiously.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences and prohibits bail in certain cases.

According to ISS, prisoners waited an average of 3 months, but some as long as 2 years, for a trial. At any time during the year, 28,000 persons waited for more than 3 months for a trial. This problem primarily was the result of an understaffed, underfunded, and overburdened judiciary (both magistrates and prosecutors) (*see* Section 1.e.).

The National Director of Public Prosecution (NDPP) was preparing cases against persons who were denied amnesty, failed to apply for amnesty, or were implicated in human rights abuses during the Truth and Reconciliation Commission (TRC) process. In the first case, charges were brought against Gideon Nieuwoudt, Johannes van Zyl, and Johannes Koole for the Pebco Three killing in 1985 (*see* Section 4).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary was understaffed, underfunded, and overburdened.

The Constitutional Court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. The lower courts include Magistrates' Courts, Divorce Courts, Small Claims Courts, and Courts of Chiefs and Headmen. Magistrates' Courts—including regional and district courts—have civil and criminal jurisdiction. The country also has a range of special courts, including the Labor Appeals Court, Labor Court, Land Claims Court, Special Income Tax Courts, Special (Consumer) Court, and the Electoral Court.

Judges and magistrates hear criminal cases and determine guilt or innocence. There is a presumption of innocence for criminal defendants. The law requires that a panel of lay assessors, along with a magistrate, hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in bail applications and sentencing.

The Bill of Rights provides for due process, including the right to a fair, public trial within a reasonable time after being charged, and the right to appeal to a higher court. It also gives detainees the right to state funded legal counsel when "substantial injustice would otherwise result"; however, a general lack of information for accused persons regarding their rights to legal representation and the Government's inability to pay for these services were continuing problems.

The Government operated 46 justice centers in the country, composed of the Departments of Justice, Correctional Services, Welfare and Health, and SAPS, to speed up the administration of justice, free up the court rolls, and alleviate overcrowding in prisons. However, serious backlogs in the numbers of cases that have gone to trial remained.

There was public concern regarding the capacity of the criminal justice system to deal with the high level of crime, and instances of vigilante justice reflected this concern (*see* Section 1.a.).

There were no reports of political prisoners.

The Land Claims Court settled cases previously screened and evaluated by the Commission on Restitution of Land Rights. Claims only could be filed for land dispossessions that occurred after the promulgation of the Natives Land Act of 1913. The Commission ceased accepting applications after 1998, but the cases have moved slowly, which caused increasing tension and frustration. At the end of March, 48,825 restitution claims were settled, involving 662,307 beneficiaries. Of this figure, 17,631 claims resulted in the restoration of land. The rest resulted in financial compensation remedies; however, the budget for restitution was inadequate to meet the demands of the restitution program.

On January 28, the President signed into law the Restitution of Land Rights Amendment Bill, which allows the Minister of Agriculture and Land Affairs to "purchase, acquire in any other manner, or expropriate land" to speed up the restitution process. Before land may be expropriated, the Minister is required to give adequate notice of the intention and arrange for fair compensation. The Bill allows landowners recourse through the courts if they feel the compensation amount received is not adequate. There were no expropriations by year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, there were a few allegations of police abuse and other criticisms against government legislation and practice.

There were a few allegations of police abuses during sweeps and home searches. In July, residents of Salt River in Cape Town claimed that police assaulted them and damaged their homes after allegations that they hid drugs. In August, residents of Woodstock in Cape Town complained about police officials' heavy-handed approach during the confiscation of drugs, ammunition, and cash in a surprise raid.

In 2002, the Regulations of Interception and Provision of the Communication Related Information Bill, which provides for state monitoring of all telecommunications systems for criminal investigations, including cell phones, the Internet, and e mail, was signed into law. However, the Bill had not been implemented by year's end.

The Promotion of Access to Information Act is to assist authorities in obtaining personal information and is used solely in criminal investigations; however, opposition parties and human rights NGOs objected to its broadly defined provision that enabled the Government to access an individual's personal information.

A 2003 South African Human Rights Commission (SAHRC) report indicated that there were reports of farmers illegally evicting farm residents.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities (*see* Section 1.a.). Some survivors of attacks and their families were living in "witch villages," which had no running water or electricity, for safety in Limpopo Province. Although some persons returned to their homes, many persons remained in the villages and requested government assistance for schools and basic infrastructure, some of which was provided.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, these rights can be limited by law in some circumstances. Several apartheid era laws that remained in force posed a potential threat to media independence.

The independent media was active and expressed a wide variety of views; however, some journalists expressed concern that the Government heavily influenced and wanted to control the media.

Print media reached only 20 percent of the population, and most major newspapers experienced a drop in readership during the year. Due to socio-economic and demographic circumstances, the majority of the population received news through radio broadcasts from the government-owned South African Broadcasting Corporation (SABC) and community radio stations.

The SABC continued to own and control the majority of the television and radio outlets. The SABC was managed by black African executives and provided broadcasting in the country's main African languages. SABC offered news coverage of the Government and the leading opposition parties, but the opposition accused it of pandering to the ANC when it gave exclusive and complete coverage to President Mbeki's January 11th speech on the ANC's election manifesto. Further allegations of the ANC's desire to control the SABC were raised when former SABC news editor and ANC stalwart Snuki Zikalala was appointed Managing Director of News and Current Affairs at SABC on April 15.

Low power, not for profit community radio stations continued to play an important role in informing the mostly rural public; however, they often had difficulty producing content and maintaining staff. Government broadcast regulators regularly issued new community radio licenses and also withdrew a few for non-compliance with the terms of issuance. At least two radio stations that were refused, Alex Radio and Radio Pretoria, appealed to the Constitutional Court to overturn the decision. Their cases were pending at year's end.

SABC TV, which broadcast in seven languages, reported on March 11 that 89 percent of all television viewers watched SABC channels at some point during the day. The SABC's three channels together reached 18.1 million viewers.

The only commercial television station, e.tv, reached 37 percent of the total population. Most of e.tv's schedule consisted of newscasts and foreign produced programs. E.tv continued to struggle to provide its mandated 30 percent locally produced content, and sought to have certain aspects of its licensing agreement relaxed. Midi Television, a black owned consortium composed of a number of associations and syndicates representing workers, women, and persons with disabilities, held majority ownership of e.tv. Satellite programming was also available.

There were several government agencies with media related responsibilities, such as the Independent Communications Authority of South Africa (ICASA). The ICASA was not completely independent from the Department of Telecommunications.

High ranking government officials on occasion reacted sharply to media criticism of government programs and problems and at times accused journalists, particularly black African journalists and editors, of disloyalty and white journalists and editors

of racism. Some journalists believed that the Government's sensitivity to criticism caused self censorship in the media.

Several laws remained in effect that permitted the Government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. While these laws were not used often, journalists perceived them to be a threat to constitutional rights. In July, during a riot in Diepsloot, police invoked an apartheid-era law to restrict the access of the media, stating it was for the journalists' own safety.

The Foreign Publication Board reviewed and judged written and graphic materials published in or imported into the country. The Board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

On September 1, a protester was shot and killed in Johannesburg; at year's end, the Government was investigating whether the victim was killed by security forces, a private security firm, or by another demonstrator.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Cases of discrimination against a person on the grounds of religious freedom can be taken to the Constitutional Court.

While there were occasional reports of desecration and vandalism or verbal or written harassment, no violent incidents reported.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution does not prohibit forced exile; however, there were no reports of forced exile during the year.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. The law also provides for a broader definition of refugee status to be granted if a person satisfies the definition set forth in the 1969 Organization of African Union's Convention on Governing the Specific Aspects of Refugee Problems in Africa. In practice, the Government provided protection against refoulement, the forcible return of persons to a country where they feared persecution. The Government granted refugee status and asylum. The Immigration Act, which was signed into law in 2002, was amended during the year. These amendments included updating and amending the schedule of countries exempt or not exempt from visas; providing a 14-day non-renewable transit permit for refugees; and changing the powers and composition of the Immigration Advisory Board.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. According to incomplete statistics provided by the Department of Home Affairs, the Government received 16,532 new asylum applications during the first 9 months of the year. The majority of recognized refugees came from the DRC, Angola, and Somalia; there also were refugees from Rwanda, Burundi, and the Republic of the Congo.

Lawyers for Human Rights criticized the Department of Home Affairs for not following the provisions of the Immigration Act and the Refugee Act. Applicants for asylum and NGOs assisting refugees reported that immigration authorities requested bribes to process applications for permits to remain in the country. There were reports that police and immigration officials abused refugees and asylum seekers (see Section 1.c.). Lawyers for Human Rights also reported asylum seekers being denied entry and repatriated immediately upon arrival at airports without benefit of formal asylum processing.

On March 9, the Constitutional Court ruled on whether certain provisions of the Immigration Act that allowed immigration officers to declare persons at ports of entry illegal foreigners and have them detained. The Court recognized that persons believed to be illegal foreigners have the right to due process and administrative justice.

Despite numerous procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the Government wrongfully deporting

aliens who were in the country legally. In late 2003, the Government denied entry to a group of Liberian asylum seekers; however, there were no reports of the forced return of persons to countries where they feared persecution during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. On April 14, the third democratic national election was held. The election was largely peaceful; however, a few incidents of political violence occurred in KwaZulu-Natal in the weeks before the election. The IFP registered a number of complaints with the Independent Electoral Commission including large numbers of special votes, posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. The IFP challenged the legitimacy of the election in KwaZulu-Natal at the Electoral Court; however, they later withdrew its court action and accepted the election results.

Thabo Mbeki was reelected for a second term as President and Head of State. Three parties the ANC, the NNP, and the AZAPO shared executive power. ANC members occupied 26 of the 28 ministerial positions and increased its parliamentary strength in the election, from 266 seats to 279. The official opposition, the Democratic Alliance, increased its seats from 38 to 50. Twelve political parties were represented in Parliament. Both the IFP and the NNP lost support; however, the NNP was represented in government as a result of an earlier agreement with the ANC. On August 6, the NNP announced that it would merge with the ANC but elected representatives would continue to hold their seats in the national and provincial legislatures as NNP members until September 2005.

There continued to be reports of inter party rivalry and violence during the year (*see* Section 1.a.).

The two houses of Parliament are the National Assembly (NA), with 400 members, and the National Council of Provinces (NCOP), with 90 members. The NCOP, created to give a greater voice to provincial interests, was mandated to approve legislation that involved shared national and provincial concerns according to a schedule in the Constitution and to concur on other legislation. There was an 18 member Council of Traditional Leaders that the Constitution accords an advisory role in matters of traditional law and authority.

The Government made progress in the fight against corruption; however, there was still a widespread view that corruption was prevalent within the Government, particularly in the police and the Department of Home Affairs. In April, Parliament passed the Prevention and Combating of Corrupt Activities Act, which for the first time defines the scope of corrupt activities, as well as complements several existing anti-corruption laws. Government anti-corruption entities also made significant progress by expanding their operations and working towards greater interagency cooperation.

In July, head of the NDPP Bulelani Ncguka resigned amidst media reports that parliamentarians and their travel agents misused official vouchers to pay for personal expenses. An internal parliamentary investigation starting in 2003 audited the accounts of as many as 179 parliamentarians for misusing up to \$2.5 million (R16 million). The incident became public after 7 travel agents were arrested in connection with the alleged scam, and in August the "Scorpions" unit of the NDPP submitted to Parliament the names of 23 parliamentarians that they wanted to question in connection to the scandal. No politicians had been charged by year's end; however, the investigation remained ongoing.

The Promotion of Access to Information Act of 2000 provides for access to information. The Government generally complied with the Act, but there were problems with implementation. Civil society organizations, such as IDASA and the Open Democracy Advice Center, complained of lack of compliance, based on a study conducted in 2003. More than two-thirds of requests for information went unanswered or were answered outside the period provided for in the legislation. If a government department refuses to provide information, an internal appeal can be launched. If this also fails, the requestor may appeal a decision to the High Court. This is a timely and costly process, and consequently excludes groups or individuals who cannot afford the process. Results of the study also indicated a bias against journalists of newspapers perceived to be critical of the Government. In November 2003, IDASA launched a court case against four political parties under the Promotion of Access to Information Act to disclose the private sources of funding.

The Government and ANC promoted women's participation in government. There were 131 women in the 400 seat NA, and 21 women among the 54 permanent dele-

gates of the NCOP. Women occupied three of four parliamentary presiding officer positions (speaker and deputy speaker of the NA, and chair of the NCOP). Women held 12 of 28 ministerial positions, as well as 10 of 21 deputy ministerial slots.

There were approximately 140 members of minorities, i.e. non-black Africans in the NA. There were 6 members of minorities in the cabinet.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Many organizations participated in governmental bodies that gathered public input and tried to fashion policies related to human rights.

The UNHCR and the National Consortium on Refugee Affairs continued their "Roll Back Xenophobia" campaign to raise public awareness of the situation and rights of refugees and the difference between refugees and economic migrants. The campaign entered its second phase, focusing on a more holistic approach towards ending xenophobia through partnerships with the Department of Home Affairs, SAPS, and the South African Council of Churches.

The government created SAHRC was responsible for promoting the observance of fundamental human rights at all levels of Government and throughout the general population. The SAHRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. On June 23, the SAHRC launched the fifth Economic and Social Rights Report, which reviewed the Government's performance in promoting housing, food, water, social security, education, land, environment, and health rights. The SAHRC also focused on a variety of other human rights problems, including racism, freedom of expression, person with disabilities, refugees, and prisoners.

The Office of the Public Protector investigated abuse and mismanagement by the Government, and acted as an office of last resort to which citizens reported unfair treatment by government entities. Such complaints generally took the form of concerns over lost pension checks or unfair hiring practices. The office handled an increasing number of complaints but was hampered by severe resource constraints.

The TRC, created to investigate apartheid era human rights abuses, made recommendations for reparations for victims, and granted amnesty in return for full disclosure of politically motivated crimes. The TRC concluded its activities at the end of 2001 and released its final report in March 2003. In April 2003, the President announced a one time payment of \$4,600 (R30,000) to 18,000 apartheid victims approved by the TRC. At the end of October, more than 16,000 victims already received payments; however, 1,800 had not been paid due to incorrect banking and other details. The Khulumani Victims Support Group continued to lobby the Government for additional reparations.

During the year, the first TRC-related case since the 1990s was prosecuted by the National Prosecuting Authority (NPA). Former security agents Gideon Nieuwoudt, Johannes "Slang" (Snake) van Zyl, and Johannes Koole were charged with three counts of kidnapping, murder, and assault to do grievous bodily harm, in connection with the 1985 killings of the "Pebco Three," Qaquwili Godolozzi, Champion Galela, and Siphon Hashe. The TRC denied amnesty to Nieuwoudt, Van Zyl, Herman Barend du Plessis, and Gerhardus Johannes Lotz for failure to make a full disclosure. They were arrested and released on bail during the year. The case was postponed to April 2005, pending the review proceedings of the amnesty re-hearing case, also involving Nieuwoudt.

Gideon Nieuwoudt, former security police intelligence unit head in the Eastern Cape in the 1980s, also re-applied for amnesty along with two former colleagues, Wybrand du Toit and Marthinus Ras, for the so-called Motherwell killings in 1989. They admitted to killing Warrant Officer Glen Mgoduka, Sergeant Amos Faku, Sergeant Desmond Mpipa, and Xolile Sakati, were convicted in criminal court for the murders, and were refused amnesty after an initial hearing in 1997. In a civil case in 2001, the Cape High Court ordered their application to be heard again by a new panel and their amnesty hearing began on March 22. Closing arguments were heard on September 28 and 29, and the applicants were awaiting a decision from the amnesty committee at year's end.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual orientation, or marital status; however, entrenched attitudes and practices, as well as limited resources, restricted the practical effect of these protections in some cases. The Pro-

motion of Equality and Prevention of Unfair Discrimination Act places a responsibility on the State and any person in the public domain to promote equality. The Act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socio economic areas.

*Women.*—There was a high rate of domestic violence, including physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of former partners. The law defines victims of domestic violence, facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and arrest abusers without a warrant. The law extends legal protection from domestic abuse to persons who are not in legal or common law marriages. Violating a protection order is punishable by a prison sentence of up to 5 years, or 20 years if additional criminal charges are brought.

Societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials hampered the implementation of domestic violence legislation, and it was difficult for women's cases to be prosecuted effectively. It was believed that the number of women who filed complaints represented only a fraction of those who suffered abuse, and doctors, police officers, and judges often treated abused women poorly. According to estimates from NGOs, one in four women were in abusive relationships.

The Government financed 25 shelters for abused women; however, there was a need for more shelters, particularly in the rural areas. The SAPS was in the process of converting all Child Protection Units (CPU) to Family Violence, Child Protection, and Sexual Offenses (FCS) Units; at year's end, there were 22 CPUs and 40 FCSs. FCS investigating officers and other police officers were trained annually in gender sensitivity. The Government conducted domestic violence awareness campaigns, such as the annual 16 Days of Activism.

Rape, including spousal rape, is illegal; however, it remained a very serious problem. According to the 2002–03 SAPS annual report, the incidence of rape decreased slightly in comparison with previous years, although it still remained extremely high due to a poor security climate and societal attitudes condoning sexual violence against women. According to Amnesty International, only 1 out of 35 rapes in the country was reported to the authorities. The 2002–03 SAPS report noted that 90 percent of rape victims were known to their rapists, 45 percent of all rapists were HIV positive, and approximately 14 percent of all victims were younger than 12 years old. Only 5 percent of all rape cases ended with a conviction, with 40 to 60 percent of cases being withdrawn; however, SAPS reported an increase in the number of sexual offense convictions to 471. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups occasionally criticized judges for using questionable criteria, such as the victim's behavior or relationship to the rapist, as a basis for imposing lighter sentences.

Rape, sexual assault, and sexual harassment of black African female farm workers by farm owners, managers, and by other farm workers were common.

The Government operated 52 sexual offenses courts throughout the country, designated waiting rooms for victims, established counseling, installed more than 2,000 intermediary facilities at courts, and trained judicial officers. The SOCA established five rape care centers, known as Thuthuzela centers, which specialized in rape care management and streamlined a network of existing investigative, prosecutorial, and medical and psychological services in the hospital where it was located.

In December 2003, two adults and a minor were arraigned on homicide charges after a group of men in Khayelitsha raped Lorna Mlosana and beat her to death after they found out she was HIV/AIDS positive. In January, the accused were denied bail and they remained in detention awaiting trial at year's end.

Virginity testing occurred in KwaZulu-Natal, especially related to the Reed Dance ceremony in which only "maidens" could participate. Polygyny continued to be practiced by several ethnic groups. Exacting a bride price ("lobola") also was a traditional practice of some ethnic groups.

The law specifically prohibits female genital mutilation (FGM) as unfair discrimination, and the Commission for Gender Equality, the Study of Violence and Reconciliation, and People Opposed to Women Abuse all reported that there were no cases of FGM during the year.

Prostitution is illegal; however, it was widespread and practiced rather openly, including in a number of brothels. On October 4, seven police officers were arrested on charges of corruption and extortion for demanding sex from prostitutes in return for not arresting them.

There were reports that women were trafficked into the country for prostitution, or were trafficked to foreign territories such as China and Macao (*see* Section 5, Trafficking).

The law prohibits sexual harassment; however, sexual harassment remained a widespread problem. On March 18, in the Cape High Court a woman won the first case of its kind when she successfully sued her employers for failing to protect her against sexual harassment.

Discrimination against women remained a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system. In practice women experienced economic discrimination in areas such as wages, extension of credit, and access to land. For example, township housing transfer schemes favored existing titleholders who tended to be men. Rural areas were often administered through traditional structures that do not typically grant land tenure to women, which was a precondition for access to housing subsidies. On July 30, the Constitutional Court heard three cases fighting to repeal the law that prohibits black African women from inheriting property unless specified in a will. The SAHRC brought one of these cases as a class action suit for women and children in similar circumstances.

On October 15, in another case, the Constitutional Court ruled that the practice of allowing the eldest male descendant to inherit everything and exclude children whose parents were not married is unconstitutional and invalid. The judgment also provided a formula for calculating inheritances, including for children of unmarried parents and partners in polygynous unions.

Women, particularly black African women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and micro enterprises, which did not provide job security or benefits.

In July, the Department of Labor (DOL) and the Commission for Employment Equity reported that in 2001 and 2002 there was a drop in representation of females at professional and middle management levels. According to the report, black females were especially less likely to hold high-level positions. Women never held more than 21 percent of top management positions and earned on average 76 percent of what their male counterparts earned. The Presidency continued its efforts towards gender equity in its offices. After the April 14 election, President Mbeki increased the number of women in the cabinet to 12 out of 28, and appointed 4 women as premiers in the country's 9 provinces.

Female farm workers often experienced discrimination and their access to housing often was dependent on their relationship to male farm workers. Many female farm workers were denied maternity leave in violation of the law or were allowed only enough time to give birth before having to return to work.

The Department of Trade and Industry provided incentive grants to promote the development of small and medium businesses and micro enterprises for women, young persons, and persons with disabilities.

A number of governmental bodies and NGOs monitored and promoted women's human rights. Numerous active women's rights groups focused on such areas as violence against women and the economic advancement of women.

*Children.*—The Government was generally committed to children's welfare.

The law provides greater educational opportunities for disadvantaged children traditionally black African children through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages 7 to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. According to the 2003 Review of Public School Financing, 96 percent of 7 to 15 year olds and 88 percent of 16 to 19 year olds were enrolled in school. While in general, there were comparable attendance numbers for boys and girls, a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes contributed to high drop out rates and lower secondary school pass rates for girls.

Approximately 60 percent of nonpersonnel education resources were devoted to the 40 percent most needy schools. Each of the nine provincial departments of education had responsibility for the schools in their provinces, which resulted in the uneven distribution of educational facilities. The disparity affected the poorer provinces of Eastern Cape, Limpopo, and KwaZulu Natal most severely. The availability and quality of primary schooling continued to be a problem, especially in rural areas where schools often were not easily accessible or where children worked (*see* Section 6.d.). In May, Human Rights Watch (HRW) reported that children attending farm schools, which are public schools on private commercial farms (13 percent of all state-funded schools), were among the poorest in terms of resources and were vulnerable to the farmers on whose land they occupied. Most schools in rural and urban KwaZulu Natal reportedly faced many problems of inadequate learner support materials, long vacant teaching posts, overcrowding, late pupil registration, and vacation time vandalism. To address these problems, the Government continued to

build new schools and introduced basic skills development and prevocational training into the curriculum.

There continued to be reports of widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. The law requires schools to disclose sexual abuse to the authorities; however, administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies. Girls were often raped on the school premises, and the victims' age generally ranged from 4 to 14. Alcohol and substance abuse by perpetrators was often a contributing factor.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. On June 1, the press reported that a student at Phezulu High School died from a brain aneurysm after being beaten by the principal for being late. The principal reportedly was suspended. The South African Council of Educators was also investigating two other reports of abuse of students by teachers. In addition, there continued to be racially motivated violence among students in schools. On April 7, the case against a white mother, her daughter, and her daughter's boyfriend for assault and defamation following a November 2003 attack on Nosipho Mkhize, a black African girl in Cape Town, was heard in the Blue Downs Equality Court, and the court ordered the mother, Shannon Ferreira, to pay \$1,538 (R10,000) to a charity of Mkhize's choice. On July 6, the charges of defamation and assault, which were brought in a civil case, were dropped and the parties reached an out of court settlement that included a public apology to Nosipho Mkhize and her family.

The Government continued to increase its social welfare programs to children affected by poverty and the loss of parents. The number of children who received child support, care dependency, and foster care grants grew from 349,000 in 2000 to approximately 3.9 million by the end of 2003. The Government progressively extended child support grants to cover children up to the age of 14.

In practice it sometimes was difficult for persons, including children, in rural areas to obtain access to health care facilities and other social welfare programs.

HIV/AIDS activists, physicians and opposition parties continued to widely criticize the Government for failing to adequately protect young children from HIV/AIDS transmission through the provision of anti retroviral (ARV) medication to pregnant and breast feeding women. Although the Government responded to a Constitutional Court finding that they must provide programs to prevent the transmission of HIV from mothers to children by expanding the number of antenatal clinics providing nevirapine to HIV positive mothers, the national and provincial governments did not implement the program in all provinces in a timely way. Significant improvements were achieved in three provinces and programs were being developed in other provinces during the year. Following research reports, the Government again raised concerns about the use of nevirapine mono-therapy for the prevention of transmission from mothers to their children and this was likely to further delay effective program implementation. The Government was unable to provide for the rapidly growing number of children who were affected by HIV/AIDS, including both infected children and AIDS orphans.

Following extensive consultations, in November 2003, the cabinet approved guidelines and a plan of action by the Department of Health to guide government implementation of anti-retroviral treatment through public health facilities. This was linked to large budget increases and President Mbeki's announcement of a target of 53,000 citizens in treatment by March 2005. Implementation of programs to reach this goal was very slow as provinces undertook facility certification and staff training.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims.

There were fewer reports of child rape during the year than in previous years; however, it remained a serious problem. Over the past few years, the country had several nationwide campaigns against violence towards women and children that may account for part of the progress. Between February 2002 and June 2003, the police reported 21,494 cases of rape of children, no including attempted rape. Observers believed that these figures represented a small percentage of the actual incidents of child rape, because most cases involved family members and were not reported. The country had a low conviction rate for rape and child abuse. The minimum sentence for rape of a child was life in prison; however, judges have the dis-

cretion to grant more lenient sentences. In a prominent case in July, a child rapist and murderer was given six life sentences.

The law prohibits virginity testing, but was not always enforced. For example, virginity testing occurred in KwaZulu-Natal, especially related to the Reed Dance ceremony in which only “maidens” could participate.

Traditional male circumcision was still prevalent in various parts of the country. Initiation practices, which included circumcisions, continued during the year; however, there were fewer reports of deaths as a result of them. The House of Traditional Leaders attempted to address the issue of unsafe initiation practices and designed strategies to prevent deaths and the spreading of diseases, such as HIV/AIDS. On March 3, the Western Cape provincial government launched an initiation village in Cape Town to ensure a clean, safe, and healthy environment to prevent deaths or serious injury for young men who undergo the initiation. The Department of Health in the Eastern Cape provided 30 vehicles during the June initiation season to monitor initiation practices and also provided mobile clinics to give medical care where needed. The private medical sector also became involved to prevent deaths. In June, a Pretoria medical clinic offered free circumcisions to 50 initiates.

In contrast with previous years, there were no reports of FGM.

Child prostitution increased during the year (*see* Section 5, Trafficking).

NGOs provided shelter, medical, and legal assistance for child prostitutes and a hotline for victims of child abuse. The Government donated land and buildings for various shelters for victims of sexual abuse, street children, and orphans.

Child labor was a problem (*see* Section 6.d.).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and trafficking in persons was a problem. The Government worked on a comprehensive anti-trafficking bill; however, it was not passed by year’s end. Despite this, the Government used a number of already existing laws to prosecute traffickers for offences, such as prostitution and sexual exploitation of children, related or integral to their trafficking activities. These laws include the Child Care Act, the Sexual Offenses Act, the Domestic Violence Act, and the Prevention of Organized Crime Act.

The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and permitting a female under 16 to stay in a brothel for the purpose of prostitution. A 2003 government-established task team continued to develop a plan of action to combat the sexual exploitation of children.

The Government was prosecuting a high profile case against a prominent brothel and several child prostitution cases in Cape Town at year’s end. In one case, the Court made a decision based on existing legislation including abduction. Deportations were used in cases involving trafficking in persons victims from other countries and perpetrators of major offenses were fined.

The media reported that on November 18 police rescued 14 girls between the ages of 10 and 15 from several houses in Rosettenville, Johannesburg, where a Nigerian child prostitute syndicate was holding them. As part of this operation, police reportedly arrested 59 Nigerians, 57 in Johannesburg and 2 in Durban.

Several anti-trafficking in persons conferences and an awareness campaign were organized. A police unit operated at the Johannesburg International Airport to check for potential trafficking in persons with some successes; however, there was evidence of corruption at low levels of the police, immigration customs, and private services at the airport. Police reported officers sometimes helped traffickers move victims out of the transit area of the airport for minimal amounts of money. The border police incorporated trafficking in persons into their training manuals, and both police and judicial officials continued to receive training in anti-trafficking in persons activities.

The country cooperated with neighboring countries; however, police units handling trafficking problems were understaffed and information sharing with neighbors was sometimes hindered by corruption. The country used its 52 Sexual Offenses courts to handle trafficking cases and relied heavily on NGOs to provide witness protection.

The country was a transit and destination point for the trafficking of persons, including children, from other countries in Africa, Asia, and Europe for prostitution and forced labor. Domestic and international organized crime syndicates trafficked women into the country for the sex industry. The extent of trafficking operations was not known. The International Organization for Migration (IOM) reported there were 12 major routes for trafficking operations, such as from Lesotho, China, Malawi, and Eastern Europe to the country.

Child prostitutes were often highly sought after because of the belief they were more likely to be disease-free. The NGO Molo Songololo estimated that there were approximately 30,000 children working as prostitutes in the country.

Although there was considerable variation in the profiles of trafficked persons and their traffickers, in most cases traffickers lured women with promises of employment, marriage, or educational opportunities abroad.

According to the IOM, there were several major criminal groups in the country that trafficked women: Bulgarian and Thai syndicates, the Russian and the Chinese Mafia, and African criminal organizations, mainly from the DRC. Traffickers also included male citizens and African refugees.

Trafficked women and children who worked in the sex industry often lived with other trafficked victims in segregated areas; were frequently under constant surveillance; usually had no money or identifying documents; were often indebted to the agents who arranged their travel; often worked long hours, in some cases up to 18 hours each day, on weekends, and when ill; and sometimes were fined by their trafficker for infractions of strict rules.

*Persons With Disabilities.*—The Constitution prohibits discrimination on the basis of disability; however, in practice government and private sector discrimination in employment existed. Society increasingly was open to the protection of the rights of persons with disabilities. The law mandates access to buildings for persons with disabilities; however, such regulations rarely were enforced, and public awareness of them remained minimal. The National Environmental Accessibility Program, an NGO comprising persons with disabilities as well as service providers, had a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary. The law provides persons with disabilities with protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information; however, enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. It was estimated that persons with disabilities constituted only 0.02 percent of the public service workforce, compared with 5.9 percent of the general population.

In August, the Legal Resources Center filed a class action suit in the Pretoria High Court representing 50,000 citizens who were disabled by work-related accidents in the previous 11 years. They claimed the Government had reneged on its statutory obligation to provide them with their source of income.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination and requires employers with 50 or more employees to ensure that previously disadvantaged groups, defined for legal purposes as Blacks including “Africans,” “Colored,” and “Asians,” are represented adequately at all levels of the workforce; however, they remained underrepresented in the workforce, particularly at the professional and managerial levels. The Government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally.

Notwithstanding the country’s anti-discrimination legislation, the Commission for Employment Equity reported in its July 2003 annual report that racial imbalances in the workplace still existed, and that only 19 percent of positions at the top management level in 2002 were held by Blacks and approximately 31 percent of professionally qualified employees were Black. The report makes it clear that Black women by far remained the worst off in terms of the number and quality of senior or skilled jobs. Employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action.

There were an overwhelming number of Black workers in unskilled, low paid jobs, where they amounted to 83 percent of the workforce. In occupations such as newspaper vendors, garage attendants, car washers, gardeners, and garbage collectors, Blacks accounted for 98 percent of the workforce.

The armed forces struggled with the process of integrating black Africans into the predominantly white officer corps. In contrast to 2003, there were no reports of racism among SANDF troops in the DRC.

Xenophobia led to attacks on foreigners. Foreigners faced harsh reactions from anti immigrant groups such as the Unemployed Masses of South Africa, which criticized immigrants for job losses. The SAHRC held hearings on xenophobia from November 2 to 4 to investigate the extent of xenophobia in the country, and its human rights implications. Testimonies told how foreigners are often mistreated and dis-

criminated against by police and the business community, and how the situation is worsened by corruption within the Department of Home Affairs and the SAPS. The SAHRC is scheduled to issue a report to Parliament, offering guidance on action to combat this problem; however, the report had not been issued by year's end.

The continued killings of mostly white farm owners by black African assailants created concern among white farmers that they were being targeted for racial and political reasons (*see* Section 1.a.). There also were reports that white employers abused and killed black African farm laborers, and complaints that the white employers received preferential treatment from the authorities (*see* Section 1.a.).

On April 13, the media reported that there was an outbreak of violence against Indian residents in Free State province.

*Indigenous People.*—The Khoikhoi, nomadic herders of cattle and sheep, were the first indigenous people in the country, and lived mainly in the southwestern Cape. Only a few thousand Khoikhoi remained, some of whom worked as farmers or laborers on farms. Under the law the Khoikhoi have the same political and economic rights as other citizens; however, their participation was limited, due to fewer opportunities, minimal access to education, and relative isolation.

The SAHRC conducted an inquiry into alleged human rights violations against the Khomani San community in the Andriesvale-Askham area in the Kalahari on October 26–29. The police shooting and killing of a community member, Optel Rooi, in January sparked the SAHRC hearing. The community alleged the police did not investigate the community's complaints, and that the police assaulted them physically and verbally. The community also alleged negligence by the Land Claims Commission, by not supporting them after the community received 6 farms valued at \$2.3 million (R15 million) in 1999. The SAHRC concluded the hearing. The report has not been made public, but the DPP decided to prosecute Inspector Johannes Liebenberg and Constable Wayne van Wyk for the murder of Optel Rooi.

The media reported that the Northern Cape government's land reform program resettled 500 to 1,000 San families in February from Schmidtsdrift to Platfontein in the Northern Cape. Provincial authorities also implemented a similar project in Killarney and with the Moso Emerging Crop Trust project.

*Other Societal Abuses and Discrimination.*—There was some official and societal violence and discrimination against homosexuals. The press reported that police assaulted a homosexual man in Khayelitsha, Western Cape on June 14, and that Khayelitsha police laughed at a gay man who reported an assault. A lesbian claimed that two policemen beat and raped her on September 9 and 10 because they wanted to show her what happens to a woman "who tries to be a man." The officers claimed that she was drunk and resisted arrest. An investigation into the incident was ongoing at year's end.

Although the Government conducted campaigns to reduce or eliminate discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS remained a general problem. There were reports of human rights abuse of HIV infected or affected individuals by their families and communities.

#### Section 6. Worker Rights

*a. The Right of Association.*—The law provides for freedom of association, and workers exercised this right in practice. All workers with the exception of members of the National Intelligence Agency (NIA) and the Secret Service, were entitled to join a union. Union membership in the private sector continued to decline steadily, as a result of job layoffs and declining formal sector employment. Total union membership was approximately 3.9 million persons, which constituted approximately 26 percent of the economically active population, with 485 registered unions.

Although labor laws protected farm workers, some farm workers' unions encountered difficulties trying to organize workers because union organizers were considered trespassers on private property. In addition, farm workers or farm residents who attempted to organize were harassed, dismissed, and evicted. The DOL and unions enlisted the cooperation of AgriSA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. The DOL reported that 4.5 percent of the agricultural labor force was unionized.

*b. The Right to Organize and Bargain Collectively.*—The law defines and protects the rights of workers to organize and bargain collectively and workers exercised these rights in practice.

The law provides for the right to strike, and workers exercised this right in practice. Although members of the SANDF were allowed to join a union, they were prohibited from striking. Strikes by workers in essential services, such as police and hospital workers, are prohibited. If disputes between workers in essential services

and their employees cannot be resolved through collective bargaining or conciliation, they are referred to arbitration. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.). According to DOL officials, there were no figures available for children subjected to compulsory labor, but there was anecdotal evidence that children of tenants were forced to work for landowners for little or no wages, in return for the child's family occupying land or accommodation (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor is prohibited by law; however, it remained a problem in the informal sector. The Government generally enforced child labor laws in the formal sectors of the economy; however, child labor was widespread in informal and agricultural sectors, particularly in the former homeland areas. The death of parents by HIV/AIDS has increased the number of children who have to support themselves.

The law prohibits employment of a child who is under 15 years of age; who is under the minimum school-leaving age (where the age is 15 or older); or who is over 15 but under 18, if the employment is inappropriate for the child's age, or if the work places at risk the child's well being, education, physical, or mental health, or spiritual, moral, or social development, or has been prohibited by the Minister of Labor through various regulations.

Child laborers from Zimbabwe and Mozambique worked in the country on commercial farms, for the taxi industry, or as domestic servants.

There were reports that children were forced into prostitution and anecdotal evidence that some children worked in conditions that amounted to bondage (see Section 5, Trafficking).

During the year, the DOL recruited, trained, and empowered inspectors to follow up on transgressors and enforce existing policies. Violation of the laws regulating child employment is punishable by a maximum prison sentence of 3 years or a fine of \$2,308 (R15,000). In July, a North West farmer was found guilty of 24 charges of child labor and sentenced to 2 years in jail or a fine of \$2,300 (R15,000). The farmer had employed children from surrounding villages, one as young as age 8, to harvest peanuts. DOL inspectors also were investigating a case of child labor against a Ventersdorp commercial farmer in the North West Province that involved a 13-year-old boy who was seriously injured while allegedly working on the farm.

In some cases, DOL inspectors opted to resolve the problem of child labor through counseling of employers, parents, and children or by enlisting the services of professionals in the welfare and education departments. There were also reports that inspectors had difficulty gaining access to farms where incidents of child labor were reported.

The DOL started an awareness program aimed at educating farmers about the rights of children.

*e. Acceptable Conditions of Work.*—There was no legally mandated national minimum wage; however, the Government set minimum wages by occupation, though not all occupations had yet come under review. Annual negotiations between employers or employee associations and unions set wage rates on an industry-by-industry or plant-by-plant basis for unionized workers in the formal economy. Such negotiated wages generally were sufficient to provide a decent standard of living for a worker and family; however, in those sectors in which workers were not organized sufficiently to engage in the collective bargaining process many unskilled or rural workers were unable to provide a decent standard of living for themselves and their families.

The law gives the Minister of Labor the authority to set wages, including for farm laborers and domestic workers. In March 2003, the Minister of Labor introduced a minimum wage for farm workers and in November 2003 increased the minimum wage to \$132.60 (R861.90) a month in urban areas and to \$107.70 (R700.05) a month in rural areas. According to the DOL, compliance with the minimum wage rate ranged from 65 to 90 percent, depending on province. In March, the Minister of Labor ordered that the wages of farm workers be increased by between 9 and 10 percent annually.

Minimum hourly rates for domestics depended on the number of hours worked and could range from \$0.60 (R3.88) to \$0.80 (R5.23). The Government also extended the Unemployment Insurance Fund (UIF) benefits to vulnerable workers such as domestics and farm workers, which increased their security in the workplace. The DOL reported that the majority of domestic employers complied with the dispensation on minimum wages and conditions of work. DOL inspectors conducted home

visits to check whether employers were complying with the Domestic Worker Sectoral Determination and the UIF Act.

In February, the Labor Court ordered a Durban textile firm to pay \$18,461 (R120,000) to 60 of its workers for failing to comply with sectoral minimum wages.

The law standardizes time and a half pay for overtime, establishes a 45 hour workweek, and authorizes 4 months of maternity leave for women. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the law concerning overtime and leave.

Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries, and the country's industrial and mining processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the act and monitoring compliance with its provisions. The law specifically makes it an offense for a company to discriminate against an employee who asserted a right granted by the law (for example, to leave a hazardous work site) and required mine owners to file annual reports that provided statistics on health and safety incidents for each mine being worked.

Four firms in KwaZulu-Natal were inspected in a blitz action on March 29 and 30, and 17 contravention orders were issued on health and safety violations. In April, the Labor Court fined a KwaZulu-Natal firm \$4,154 (R27,000) for failure to maintain a safe working environment in 2001 following a female employee's birth of still-born twins after emergency services could not enter a locked building.

There were no laws or regulations, other than in the mining industry, that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law protects employees from retaliation who disclosed dangerous workplace conditions to the appropriate authorities.

On September 1, an explosion at a Sasol plastics plant killed 11 workers and injured 142 employees. Workers at the plant and the Congress of South African Trade Unions representatives claimed that there had been inadequate oversight of safety procedures. Sasol, the DOL, and police launched a probe into the incident.

Despite government efforts to improve the plight of farm workers, working conditions on farms generally remained poor. A 2000 DOL survey found that employment conditions in the agricultural sector were deplorable and the majority of farm workers "live in circumstances of absolute and relative poverty"; the majority of farm workers were not unionized; and they were exploited by employers. Some white farmers still gave the predominantly black farm workers cheap alcohol (a system of payment known as "tot") in lieu of wages, according to a SAHRC report released in September 2003. Farmers continued to illegally evict workers; set their dogs on their employees; there was lack of access to service delivery; lack of compliance with labor legislation; lack of information on HIV/AIDS; and unacceptable levels of violence and crime against farm workers and farm owners.

Many farmers did not accurately measure working hours, and they often required their laborers to work 11 hours per day and 6 days per week. In addition, 12 hour days were common during harvest time, and few farmers provided overtime benefits. HRW reported low wages and the absence of basic services in farm workers' housing.

Health and safety regulations often were not observed during the use of chemicals in agricultural work. An investigation continued during the year into the June 2003 death of an employee while cleaning an underground tank at a wine farm in the Western Cape.

Illegal foreign workers had no protection under the law. They often were reported to be underpaid and forced to work long hours in very poor, unsanitary, and unsafe conditions.

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## SUDAN

Sudan has an authoritarian government in which all effective political power lies in the hands of President Omar Hassan al Bashir and the National Congress (NC) Party inner circle, who have been in power since a 1989 military coup instigated and supported by the fundamentalist National Islamic Front (NIF). In 1999, Bashir broke with the ideological leader of the NIF, Hassan al Turabi, disbanded Parliament, suspended parts of the Constitution, and declared a state of national emer-

gency that abrogated basic liberties and remained in effect at year's end. In 2000, Bashir was reelected, and his NC/NIF political party won 340 out of 360 seats in the Parliament in deeply flawed elections boycotted by all major opposition parties. NC/NIF members and supporters continued to hold key positions in the Government, security forces, judiciary, academic institutions, trade unions, professional associations, and the media. The judiciary was not independent and was subject to outside influence from the executive and security forces.

The regional Intergovernmental Authority on Development (IGAD), under Kenyan leadership, continued to seek an end to the country's 21-year North-South civil war. A cessation of hostilities, first signed in 2002, was extended and was largely respected during the course of the year, although there were some violations by both sides. On December 31, representatives of the Government and the Sudan People's Liberation Movement Army (SLPM/A) initialed a comprehensive peace agreement to be signed formally on January 9, 2005. All of the protocols, including those on wealth-sharing, power-sharing, and the status of the three contested areas were signed in June. The Civilian Protection Monitoring Team (CPMT) and the Joint Military Commission operating in the Nuba Mountains had considerable success in monitoring and curbing serious abuses during the year.

In Darfur, government and government-supported militia (jinjaweed) committed serious abuses during the year, including razing hundreds of villages of African tribes. Information available by September 9 indicated that genocide had been committed in Darfur, and the Government and the jinjaweed bore responsibility. A U.N. International Commission of Inquiry was investigating this issue at year's end. The World Health Organization reported that, as a result of the conflict, at least 70,000 civilians died, more than 1.5 million civilians were internally displaced, and an estimated 200,000 refugees fled to neighboring Chad.

In addition to the regular police and the Sudan People's Armed Forces, the Government maintained an external security force, an internal security force, a militia known as the Popular Defense Forces (PDF), and a number of police forces. The security forces were under the effective control of the Government. Members of the security forces committed numerous, serious human rights abuses.

The country's mostly agricultural economy continued to be crippled by the civil war, destruction of infrastructure, economic mismanagement, and the existence of more than 4 million internally displaced persons (IDPs) and refugees in a country with an estimated population of 38 million. The country took further steps towards transitioning from a socialist to a market based economy; however, the Government and NC supporters remained heavily involved in the economy. Corruption, mismanagement, and increasing military expenditures limited the impact of increased oil revenue and Islamic banking and financial assets. The Government took important steps to reform its finance and foreign exchange systems. Real gross domestic product grew an estimated 5.9 percent.

The Government's human rights record remained extremely poor, and, although there were improvements in some areas, numerous, serious problems remained. Citizens were unable to change their government peacefully. Security forces and associated militias were responsible for extrajudicial killings and disappearances. Government forces, allied militias, and insurgent groups killed and injured thousands of civilians in conflict. Security forces regularly beat, harassed, arbitrarily arrested, and detained incommunicado opponents or suspected opponents of the Government, and there were reports of torture. Security forces and associated militias beat refugees, raped women abducted during raids, and harassed and detained IDPs. Government security forces and pro government militias acted with impunity.

Prison conditions remained harsh and life-threatening, and prolonged detention remained an issue. The Government used arbitrary arrest and detention under state of emergency provisions. The authorities did not ensure due process in civilian or military courts. The Government infringed on citizens' privacy rights. Humanitarian relief flights significantly improved access throughout the South during the year; however, obstructions to humanitarian access, particularly to the Darfur region, continued.

The Government continued to restrict freedom of speech, press, assembly, association; restricted freedom of religion and movement; and arrested and harassed those who exercised these rights. There were credible allegations of conversions of non Muslims to Islam as a condition of employment or other privileges. Members of local human rights NGOs were occasionally harassed. Violence and discrimination against women and abuse of children remained problems. Female genital mutilation (FGM) remained widespread, although it was becoming less common. Abductions and trafficking in persons occurred but appeared to decline. Discrimination and violence against ethnic minorities, and government denial of workers' rights persisted. Security forces and associated militias were responsible for forced labor (including

forced child labor) and forced military conscription of underage young men. Child labor was widespread. Credible sources indicated that, unlike in previous years, slavery did not appear to be a significant problem.

Antigovernment insurgent groups and associated militia forces also committed numerous, serious abuses. The SPLM/A, the Sudanese Liberation Army (SLA), and the Justice and Equality Movement (JEM) were guilty of abuses including killings, beatings, rape, robbery, destruction of property, forced conscription, restricting freedom of movement of populations under their control, kidnapping, restricting access of relief workers and supplies, and killing of NGO workers.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings by the Government or its agents; however, there were reports of numerous extrajudicial killings (*see* Section 1.g.).

Unlike in the previous year, there were no reports that government forces and allied militia pursued a systematic scorched earth policy aimed at removing populations from the areas of the oil pipeline and oil production; however, violence in Darfur increased significantly. The Government attacked civilian facilities and housing, which resulted in numerous civilian deaths, including of children (*see* Section 1.g.). Deaths resulted from landmines during the year (*see* Section 1.g.).

In September, two men died while in government custody after being arrested in a crackdown on supporters of Hassan Al-Turabi. The Government reported that they arrested two members of the security services in connection with this incident, but no known action had been taken by year's end.

Unlike in the previous year, there were no reports that police killed persons while forcibly dispersing demonstrations.

Unlike in the previous year, there were no reports that forced conscriptions resulted in deaths.

There was a rash of violence, with killings committed by both the Government and SPLM/A, in the Shilluk Kingdom after Dr. Lam Akol defected from the government-affiliated SPLM-United to the main SPLM/A. The CPMT confirmed that government-supported militias killed two Shilluk farmers on April 2. The CPMT also confirmed that, on June 4, SPLM/A soldiers killed 24 civilians working as charcoal makers on Akwra Island; they killed another person the next day.

Violence continued in the oil producing areas. On April 6, SPLA soldiers attacked a Sudan Pile Company vehicle traveling on the Leer-Adok oil road, killing two civilians and injuring another.

Rebel groups operating throughout the country were responsible for killings (*see* Section 1.g.).

Interethnic conflict resulted in deaths during the year (*see* Section 5).

Genocide committed by the Government and jinjaweed occurred in Darfur during the year (*see* Section 1.g.).

*b. Disappearance.*—There were continued allegations that the Government was responsible for the arrest and subsequent disappearance of persons suspected of supporting rebels; however, unlike in previous years, there were no such allegations that this took place in government controlled zones in the South and the Nuba Mountains.

There were no confirmed reports of abductions in the southern part of the country, largely due to the cessation of hostilities in much of the South. In the past 15 years, an estimated 15,000 Dinka women and children have been abducted; between 10,000 and 12,000 persons, primarily Dinka, remained abducted or unaccounted for at year's end. Observers believed that some of those abducted in the past were sold into de facto slavery as forced laborers, while some others were drafted into the military. In some cases, the abductees escaped or eventually were released or ransomed; in other cases, they were killed. Few persons who were previously abducted were returned during the year.

The Committee to Eradicate the Abduction of Women and Children (CEAWAC) continued to report a lack of necessary funding to document, rescue, and transport abductees back to their families (*see* Section 5). The Government did not identify the abductors or forced labor owners and has not prosecuted them.

There were no further developments, and none were expected, regarding approximately 10,000 persons abducted by government supported militia in northern Bahr el Ghazal during the last 20 years.

There were multiple reports during the year that rebel forces in Darfur abducted persons, including government officials and humanitarian aid workers (*see* Section 4).

Unlike in the previous year, there were no reports of abductions by SPLA forces and allied militias.

There also were reports of periodic intertribal abductions of women and children in the Eastern Upper Nile (*see* Section 5).

The Ugandan Lords Resistance Army (LRA) kidnapped children in Uganda and brought them into the southern part of the country (*see* Section 5).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, government security forces continued to torture, beat, and harass suspected political opponents and others. Impunity continued to be a serious problem.

In accordance with Shari'a, the Criminal Act provides for physical punishments including flogging, amputation, stonings, and "crucifixion" the public display of a body after execution. The Government officially exempts the 10 southern states, in which the population is mostly non-Muslim, from Hudud law—the part of Shari'a which permits physical punishments, including flogging, amputation, and stoning. During the year, there were a number of sentences of flogging and cross-amputation, but few were carried out.

On April 14, a young Christian woman was fined and lashed for not wearing a headscarf. The case of a 16-year-old girl convicted of adultery in 2003 and sentenced to 100 lashes received media attention when a human rights lawyer won the suspension of her sentence in late January because she was a Christian and a minor. There was no further information regarding the appeal of Mohamed Hassan Hamdan, a 16-year-old sentenced in October 2003 to "cross amputation" for armed robbery.

At least one person died as a result of torture while in the custody of government security forces in Khartoum (*see* Section 1.a.).

On January 5, Waiel Taha, a student at the University of Khartoum who was active in the Sudan Organization Against Torture, was arrested. While in detention, he was hit in the genitals, beaten with a water hose, and threatened with rape. He was later released.

There were reports that government security forces tortured and beat persons suspected of supporting the rebels in Darfur. Amnesty International (AI) provided numerous reports of beatings and torture of persons detained in Darfur, including one incident in mid-March following an SLA attack on Buram in which a number of civilians were arrested and subsequently beaten with sticks and gun butts, tied upside-down to a tree, and tied together in the back of a truck for 4 days without food and water.

There were also reports of detentions and torture by the rebels in Darfur. The African Union's Ceasefire Commission for Darfur (AU CFC) reported that, on October 27, the SLA stopped 3 commercial buses and detained 18 Arab passengers, whom they took to an SLA base and beat repeatedly.

Security forces beat and mistreated refugees and injured persons while dispersing demonstrations (*see* Sections 2.b. and 2.d.).

Soldiers, PDF members, and pro government militia forces raped women (*see* Section 1.g.). There was a clear and documented pattern of rape and sexual abuse directed at IDPs of all ages in Darfur (*see* Sections 1.g. and 5).

Government forces and allied militias were responsible for injuring many civilians during attacks on rebel forces, during raids on civilian settlements, and during bomb attacks on civilian targets (*see* Section 1.g.).

SPLM/A and affiliated forces were responsible for a number of civilian injuries and for raping women (*see* Section 1.g.).

Prison conditions remained harsh, overcrowded, and life-threatening. Most prisons were old and poorly maintained, and many lacked basic facilities such as toilets or showers. Health care was primitive, and food was inadequate. Prison officials arbitrarily denied family visits to prisoners. High ranking political prisoners reportedly often enjoyed better conditions than did other prisoners.

The Government routinely mistreated persons in custody. There were reports that security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors.

Male and female prisoners were held separately.

Juveniles often were held with adults. To provide proper care for their children, many women prisoners took the children into the prison where education was unavailable.

Pretrial detainees were held separately from convicted prisoners.

The Government did not permit regular visits to prisons by human rights observers. No independent domestic human rights organizations monitored prison conditions.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention without charge; however, in practice, the Government continued to use arbitrary arrest and detention under the state of emergency provisions.

There are a number of police forces, including regular police units, the Popular Police Force (PPF), and Public Order Police (POP). The PPF is a parallel pro government force that received higher pay than the regular police. The POP is a law enforcement entity that enforced Islamic law (Shari'a), including enforcing proper social behavior, such as restrictions on alcohol and "immodest dress." Effectiveness varied depending on the strength of the local militias and security forces. Police corruption was a problem, and police officers supplemented their incomes by extorting bribes from the local civilians.

Under the Constitution and the Criminal Code, an individual may be detained for 3 days without charge, which can be extended for 30 days by order of the Director of Security and another 30 days by the Director of Security with the approval of the prosecuting attorney. Under the National Security Act, which supercedes the Criminal Code, an individual accused of violating national security may be detained for 3 months without charge, which the Director of Security may extend for another 3 months. Under the state of emergency, the Government is not constrained by the National Security Act and reportedly detained individuals indefinitely without judicial review. Security forces often held persons, including criminal detainees, incommunicado for long periods of time in unknown locations without access to their lawyers or family members.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system.

In general, the Government detained persons for a few days before releasing them without charge or trial; however, there were exceptions, particularly for persons perceived as political opponents.

There were reports that security forces tortured, detained without charge, and held incommunicado political opponents (*see* Sections 1.a and 1.c.). Detentions of such persons generally were prolonged. Security forces arrested numerous persons suspected of supporting the rebels in Darfur, some of whom were tried, convicted, and sentenced to death under Special Courts (*see* Section 1.e.). Security forces frequently harassed political opponents by summoning them for questioning, forcing them to remain during the day without questioning, and then ordering them to return the following day—a process that sometimes continued for weeks.

Authorities continued to detain political opponents of the Government. There was an increase in detentions of members of Hassan al-Turabi's Popular National Congress (PNC), including several major crackdowns leading to dozens of arrests and detentions, which the Government claimed were in response to coup plotting. Turabi himself has been held without charge since September. A trial of 28 persons charged with coup plotting was ongoing at year's end (*see* Section 1.e.). Several supporters of the eastern-based Beja Congress were detained in Kassala and Port Sudan, including 12 members arrested in Port Sudan on October 12.

Journalists were arrested and detained during the year (*see* Section 2.a.).

Security forces continued to detain persons because of their religious beliefs and activities (*see* Section 2.c.). Detentions based nominally on religion generally were of limited duration; however, the Government routinely accused persons arrested for religious reasons of common crimes and national security crimes, which resulted in prolonged detention. Security forces often targeted southern women in IDP camps because they produced and sold a traditional home brewed alcohol; such women were arrested and imprisoned for up to 6 months under Shari'a. Vagrant children accused of committing crimes were detained for indefinite periods (*see* Section 5).

Unlike in the previous year, arrests and detentions of members of nongovernmental organizations (NGOs) and civil society groups were infrequent (*see* Section 4).

Some sources believed that the SPLM/A still held several hundred prisoners of war (POWs) in indefinite detention at year's end; however, it was unknown whether this was indeed the case.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was largely subservient to the President or the security forces, particularly in cases of crimes against the state.

A Judiciary Committee nominates and the President appoints the Chief Justice of the Supreme Court. As the senior judge in the judicial service, the Chief Justice also controlled the judiciary. The President appoints the Constitutional Court's seven members. On occasion, courts displayed a degree of independence. For example, appeals courts overturned several decisions of lower courts in political cases, particularly decisions from public order courts. However, political interference with

the courts regularly occurred. Ali Dosa, a Member of Parliament arrested on charges of working with the Darfur rebels, was imprisoned for several months, although his parliamentary immunity was never lifted.

The judicial system includes four types of courts: Regular courts; military courts; special courts; and tribal courts. Tribal courts were in place in rural areas to resolve disputes over land and water rights, and family matters. Within the regular court system, there are civil and criminal courts, appeals courts, and the Supreme Court. Special Courts in Darfur operated during the year under the state of emergency to try crimes against the state. The Criminal Act governs criminal cases, and the Civil Transactions Act applies in most civil cases. Shari'a is applied in the North but not by courts in the South. There continued to be reports that non Muslims were prosecuted and convicted under Shari'a "hudud" laws (*see* Section 1.c.). Public order cases were heard in criminal courts.

The Constitution provides for fair and prompt trials; however, this was not respected in practice in many cases. Trials in regular courts nominally met international standards of legal protections. The accused normally have the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment; however, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court. There were reports that the Government sometimes denied defense counsel access to the courts. For example, in September, 28 persons were put on trial for allegedly plotting a coup in March. On October 25, the presiding judge banned the defendants' lawyers from representing them and ordered them to pick new counsel or accept government-appointed lawyers. The judge's decision was upheld on appeal, and the trial remained pending at year's end.

Only military personnel were tried in military courts. Military trials, which sometimes were secret and brief, did not provide procedural safeguards. At military trials, the defendant's attorney, called a friend of the defendant, may advise the defendant but may not address the court. Military trials did not provide an effective appeal from a death sentence. Witnesses may be permitted to appear at military trials.

The Special Courts Act created special three person security courts to deal with a wide range of offenses, including violations of constitutional decrees, emergency regulations, some sections of the Penal Code, as well as drug and currency offenses. Special courts, composed primarily of civilian judges, handled most security related cases. Attorneys could advise defendants as friends of the court but normally could not address the court. Lawyers complained that they sometimes were granted access to court documents too late to prepare an effective defense. Sentences usually were severe and implemented at once; however, death sentences were referred to the Chief Justice and the Head of State. Defendants could file appellate briefs with the Chief Justice. Special Courts operated in Darfur, as allowed under the state of emergency.

Emergency tribunals, composed primarily of military judges, continued to try banditry cases, particularly in Darfur. Defendants were not permitted access to legal representation. The emergency tribunals ordered sentences such as death by stoning and amputations during the year. Sentences were carried out quickly, with only 1 week allowed for appeal to the district chief justice. Emergency tribunals ordered executions during the year. Unlike last year, there were no confirmed reports that persons were executed the day after sentencing.

Lawyers who wished to practice were required to maintain membership in the government-controlled bar association. The Government continued to harass members of the legal profession who it viewed as political opponents; some were detained, including the Director of the Darfur Lawyers Association, Mohamed Adomo, who was later released.

Civil authorities and institutions did not operate in parts of the rebel held South and the Nuba Mountains. Parts of the South and the Nuba Mountains fell outside effective judicial procedures and other governmental functions. According to credible reports, government units summarily tried and punished those accused of crimes, especially for offenses against civil order.

Magistrates in SPLM/A held areas followed a penal code roughly based on the 1925 Penal Code. The SPLM has a judicial system of county magistrates, county judges, regional judges, and a court of appeals. While officials have been appointed for most of these positions, the court system did not function in many areas due to lack of infrastructure, communications, funding, and an effective police force. Some cases were heard at the magistrate and county levels. The SPLM recognized traditional courts or "Courts of Elders," which usually heard matters of personal affairs such as marriages and dowries, and based their decisions on traditional and

customary law. Local chiefs usually presided over traditional courts. Traditional courts particularly were active in Bahr el Ghazal. In rural areas outside effective SPLM control, tribal chiefs applied customary laws.

There were reports of political prisoners. A considerable, but unknown, number of persons were imprisoned for political reasons but on ostensibly non-political charges.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government routinely violated these rights in practice. Security forces frequently conducted night searches without warrants and targeted persons suspected of political crimes.

Unlike in the previous year, there were no reports that security personnel routinely opened and read mail or monitored telephones, and there were no reports of government forces occupying political party or NGO offices.

The Government continued to restrict the ownership of satellite dishes by private citizens through use of its licensing requirement; however, satellite dishes were widely available. A wide network of government informants conducted surveillance in schools, universities, markets, workplaces, and neighborhoods.

Unlike in the previous year, there were no reports that the Government razed squatter and IDP dwellings in the oil producing regions or that government forces and allied militia pursued a scorched earth policy aimed at removing populations from the areas of the oil pipeline and oil production, as the cessation of hostilities largely held.

Government armed forces and allied militias burned and looted villages and stole cattle (*see* Section 1.g.). The CPMT verified a number of incidents, including the March 8 looting of cattle and property and the torching of the local school in the village of Obei by government troops and affiliated militias.

Fighting in Darfur destroyed hundreds of villages as well as cattle and other property. Both government-affiliated and rebel forces were guilty of looting and razing villages and IDP camps (*see* Section 1.g.).

The Government continued forcibly to conscript citizens for military service, including high school age children (*see* Section 5).

A Muslim man may marry a non Muslim, but a Muslim woman cannot marry a non Muslim, unless he converts to Islam (*see* Section 5); however, this prohibition was not observed or enforced universally, particularly in the South and among Nubians. Non Muslims may adopt only non Muslim children; no such restrictions apply to Muslim parents.

The SPLM/A generally was not known to interfere with privacy, family, home, or correspondence in areas that it controlled; however, rebel factions continued forcibly to conscript citizens, including children of high school age. In Darfur, there were reports that opposition forces forcibly conscripted men and boys.

Unlike in the previous year, there were no reports of the SPLA forcibly recruiting refugees in northern Uganda.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—Since the civil war resumed in the South in 1983, fighting between the Government and insurgents, interethnic conflict, and famine has resulted in the death of more than 2 million persons and displacement of more than 4 million persons, including at least 2 million in Khartoum alone. During the year, the war in the western region of Darfur widened.

While all sides in Darfur violated international law and international humanitarian law, information available by September 9 indicated that genocide had been committed in Darfur, and the Government and the jinjaweed bore responsibility. U.N. Security Council (UNSC) Resolution 1564 established a U.N. Commission of Inquiry to investigate whether or not genocide had been committed, and its report was expected in January 2005.

The conflict in Darfur has roots in both government neglect of the region and ethnic tensions between nomadic pastoralists and sedentary farming communities, exacerbated by scarce resources and the Government's support of the nomad militias. The fighting intensified dramatically in 2003 and during the year when the SLA and JEM attacked government bases, and the Government intensified its support of the nomad militias. Reliable reports indicated that Government and Arab militia forces destroyed a large number of villages of African tribes, and there were tens of thousands of deaths. At year's end, there were more than 1.5 million IDPs in Darfur, and another 200,000 civilians fled into Chad where the U.N. High Commissioner for Refugees (UNHCR) coordinated a massive refugee relief effort. More than 70,000 people reportedly died as a result of the violence and forced displacement. The Government continued to support the largely Arab nomad militia, known as

jinjaweed, which terrorized and killed civilians and burned, raped, and pillaged the region.

Government and government-supported militias routinely attacked civilian villages, killing thousands. Typically, mounted jinjaweed forces, often in concert with regular government forces, conducted the attacks. Despite the Government's November commitment to refrain from aerial bombardment, helicopter gunships and Antonov bombers continued to support attacks against some villages, usually where rebel combatants were located. Some of the most serious aerial bombing attacks took place after November 9, many of which the Government either denied or claimed were defensive in nature. While some of that aerial attacks were conducted in support of military operations, credible NGO reported indicated that aerial attacks and pillaging by the jinjaweed were also conducted in areas vacated by opposition rebels and that many of the aerial attacks appeared to be indiscriminate. Victims and NGOs stated that, in the attacks, helicopters often used rockets (including flechette rounds) and cannon fire, usually against rebel forces, including those holding villages. Killings and rapes during these attacks were common.

The press, AI, and HRW reported the following incidents: In February, there were reports of a government and jinjaweed coordinated an attack on Tawila, in which 67 persons were reportedly killed and numerous women raped. On March 19, there were credible reports that members of the armed forces and military intelligence arrested eight males from Jeway Kheen and put them in a military camp for 9 days before transferring them; their whereabouts were unknown. Also in March, members of the jinjaweed militia arrested and then killed 168 individuals from 10 villages in Wadi Saleh Province in western Darfur. On May 24, a jinjaweed attack on a village south of Nyala killed 50 civilians. On May 28, an Antonov airplane accompanied by two helicopter gunships bombed a crowded village near El Fashir, capital of South Darfur, killing 12 persons. According to AI, on July 12, a bombing attack by fixed-wing aircraft on the village of Donki Dereisa in South Darfur in support of an attack by government and jinjaweed forces resulted in approximately 150 deaths. In November and December, the pace of attacks and aerial bombings accelerated. On December 18, helicopter gunships supported a Government offensive against the rebel-held South Darfur town of Labado, a town with a large humanitarian presence. Several humanitarian relief workers were killed during this period.

Jinjaweed forces routinely raped women who ventured from IDP camps in search of wood or water. The Government made a limited effort to address the problem of sexual violence in Darfur (*see* Section 5). In February, the U.N. reported that members of the jinjaweed raped 41 schoolgirls and teachers in an attack on Tawila. In June, jinjaweed militia raped 40 women from an IDP camp in Western Darfur. Effective responses by human rights and advocacy groups were occasionally hampered by intimidation and difficulties in accessing Darfur.

All sides were responsible for violations of humanitarian law, often in an escalating cycle of retaliation. For example, on November 20, 9 SLA members were ambushed between Tawila and Korma, which led to SLA attacks on Tawila that killed at least 14. The SLA attacks were followed by government attempts to retake the town, which included aerial bombardment of civilians.

Cooperation with U.N.-sponsored relief operations was often inadequate, although there was some improvement. The Government initially hindered NGO access and ability to supply needed food and other resources. After a sustained campaign of international pressure, the Government improved humanitarian access considerably in all regions, particularly Darfur. Rebel forces and bandits also obstructed the flow of humanitarian assistance to the Darfur region and were responsible for attacks on humanitarian workers.

An AU-led international monitoring force was present in Darfur; however, security remained a major problem, and reports of violence remained common at year's end.

There were reports that the Government and government-supported militia tortured and beat persons suspected of supporting the rebellion in Darfur (*see* Section 1.c.).

The rebel groups in Darfur were also responsible for numerous abuses during the year. For example, the AU CFC verified that, on August 22, SLA forces attacked the village of Gangbeda, injuring two persons and killing and injuring the villages' camels. In another AU-documented incident, the SLA attacked 20 policemen, killing 5 and injuring 7 others. Rebels attacked commerce on the roads, including humanitarian aid shipments, and seized goods, vehicles, and persons. Rebel attacks against "soft" government targets, such as police stations, contributed to the rise in lawlessness.

In the southern war zone, the SPLM/A controlled large areas of the states of Equatoria, Bahr el Ghazal, and Upper Nile and also operated in the southern por-

tions of the states of Darfur, Kordofan, and Blue Nile. The Government controlled a number of the major southern towns and cities, including Juba, Wau, and Malakal. Military activity decreased due to the continuance of the cessation of hostilities first signed in 2002; however, there was an outbreak of violence in the Shilluk Kingdom in the spring (*see* Section 1.a.). All sides in the fighting were responsible for human rights abuses and violations. The SPLM/A and its northern allies controlled the border area with Eritrea and continued to occupy the symbolically important town of Hamesh Khoreb with units of the Beja Congress rebels. The Government continued efforts to strengthen its control of the oil-producing areas in western Upper Nile, partially by employing local militias.

Government forces routinely killed, injured, and displaced civilians, and destroyed clinics and dwellings intentionally during offensive operations. There were confirmed reports that government-supported militia intentionally attacked noncombatant civilians, looted their possessions, and destroyed their villages. For example, the CPMT verified a mid-March attack by government-aligned militia forces on the village of Pakang, west of Malakal. In another case, the CPMT determined that a government militia force entered the South Sudan National Park and killed civilians near the village of Mapel.

During the violence in the Shilluk Kingdom (*see* Section 1.a.), government troops, government-affiliated militia, and government police attacked villages around Malakal and razed numerous villages, destroying as many as 700 homes, stealing cattle, and displacing tens of thousands of persons.

There were no reports that the Government prosecuted or otherwise penalized attacking militias or made efforts to protect civilian victims from attacks; government forces provided logistic and transportation support, and weapons and ammunition to pro government militias throughout the country.

The CPMT was located in Rumbek, Malakal, and Khartoum; it was staffed by experienced personnel, investigated numerous violations, and found that both sides committed human rights abuses.

The CPMT substantiated numerous reports that government forces raped women throughout the South. There were also reports that government-affiliated militias, as well as SPLM/A forces, raped women during the year.

Unlike in the previous year, there were no CPMT reports of sustained violence on the Bentiu-Adok Road.

There was no further information regarding POWs once reported held in government-controlled areas. The Government did not acknowledge holding any POWs; the SPLM alleged that they were killed during the years of fighting.

There were 15 death and 30 injuries attributed to landmines previously laid by the Government to protect garrison towns and from landmines left by the SPLM/A and its allies during the war. Other than one unconfirmed report, it appeared that no new mines were laid in the South. However, landmines were used in the Darfur conflict, and deaths resulted from landmines during the year. The U.N. Mine Action Service reported four mine incidents in Darfur during the year. In November, a landmine reportedly killed a government official during near the oil pipeline.

The SPLM/A and allied insurgent forces displaced, killed, and injured civilians, raped women, and destroyed clinics and dwellings intentionally. For example, the CPMT reported that, on July 21, SPLA forces attacked civilians transporting bamboo through Malakal: Four persons were killed, three of them executed by shots to the head and chest.

The SPLM/A, which has taken a number of POWs over the years, often cooperated with the International Committee of the Red Cross (ICRC), allowing them regular visits to the POWs (*see* Section 1.c.).

There were credible reports of SPLM/A and SLA taxation and theft of relief supplies. The SPLM/A leadership repeatedly committed itself to eliminating these practices; however, in practice, it appeared unable consistently to enforce compliance with those commitments by its forces in the field.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of thought, expression, and of the press “as regulated by law”; however, the Government severely restricted these rights in practice. Government detentions, intimidation, and surveillance of journalists and suspensions of newspapers continued to inhibit open discussion of political issues, although such discussions did take place in public forums, particularly after mid-year. Journalists practiced self censorship, and the Government confiscated entire issues of newspapers if it objected to an article.

There were a large number of daily newspapers, mainly in urban areas, and differing political views were reflected to some extent. Several newspapers also reprinted articles from the international press, some of which were critical of govern-

ment policies. There was one formally government-controlled newspaper in Arabic and one in English, although security services also controlled other newspapers. A number of independent publications were under intensive scrutiny during the year and experienced intimidation, interruption, and arrest of their editors.

The Government directly controlled radio and television and required that they reflect government policies. Television has a permanent military censor to ensure that the news reflected official views. During the year, the first private FM radio station began operating in Khartoum, broadcasting music. The Government often charged that the international, particularly the Western, media had an anti Sudan and anti Islam bias. Some foreign radio broadcasts were available in the country.

In spite of the restrictions on ownership of satellite dishes, citizens had access to foreign electronic media; the Government did not jam foreign radio signals. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored foreign news and other programs.

During the year, the Government eased restrictions on foreign journalists and allowed them access to Darfur. A few journalists and photographers were detained for taking pictures of slums, taking pictures without a license, or publishing news accounts unflattering to the Government; however, all were quickly released, and none were charged with any crimes.

A number of journalists and editors were arrested and detained during the year. For example, on January 14, the editor of one newspaper was arrested and only released after paying \$28,000 (SDD 7.28 million), which the Government claimed was a tax. Security forces summoned the chief editor of Al-Sahafa, and the chief editor of Al-Wan was detained for 18 days during September. The Government commonly employed the tactic where state's attorneys summoned the editors of newspapers and detained them all day so that they could not do their work.

There was no further information on journalist Yusuf al-Beshir Musa, whom security forces arrested in May 2003.

The Government exercised control of news reporting, particularly of political topics, the war, and criticism of the Government—particularly regarding government actions and policies in Darfur, through the National Press Council and security forces. Newspapers were prohibited from publishing articles about the war with the exception of information provided by the Ministry of Defense or official government statements. Nevertheless, the local press did report the findings of the CPMT investigations.

The National Press Council, which was directly responsible to the President, applied the Press Law. It was charged with licensing newspapers, setting press policy, and responding to complaints. In the event of a complaint, it could warn a newspaper or suspend it for up to 15 days. It also could suspend a newspaper indefinitely and suspend journalists for up to 2 weeks. The National Press Council consisted of 21 members: 7 selected by the President; 5 from the National Assembly; 7 directly elected by journalists from the Journalists' Union; and 2 selected by the Journalists' Union leadership. Observers believed the Journalist's Union was government-controlled. The National Press Council suspended journalists and newspapers during the year.

During the year, the National Security Office imposed restrictions on press freedom by suspending publications, confiscating already printed editions, conducting pre publication censorship, and restricting government advertising to pro government media only. Newspapers Al-Adwa, Al-Ayam, Al-Sahafa, al-Wan, and the Khartoum Monitor were targeted during the year. For example, in March, a court closed the Alazaminah Times for 3 days for publishing a report linking a government media official to the security forces; in September and October, two issues of Al-Adwa were confiscated; and the November 22 issue of Alwan newspaper was confiscated. No newspapers remained closed at year's end.

The Government did not restrict access to the Internet.

The Government restricted academic freedom. In public universities, the Government appointed the vice chancellors, who were responsible for running the institutions. While many professors lectured and wrote in opposition to the Government, they exercised self censorship. Private universities were not subject to direct government control; however, in some cases, professors also exercised self censorship. The Government continued to determine the curriculum.

The Government continued to harass university student groups. Although university students elected opposition parties' student unions, the Government harassed the student unions, took their files, destroyed their computers, and arrested and detained their members. On October 9, Khartoum University students burned down a building to protest a new identification policy to monitor certain students.

The SPLM/A and the umbrella opposition National Democratic Alliance provided few opportunities for journalists to report on their activities. The SPLM/A restricted the freedom of speech among populations under its control.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government continued to severely restrict this freedom. All rallies and public demonstrations in the country are banned, and no permits were authorized or issued. The authorities generally permitted only government-authorized gatherings and routinely denied permission for or disrupted gatherings they perceived were politically oriented. The Government used the state of emergency as an excuse to restrict gatherings.

Islamic orders associated with opposition political parties, particularly the Ansar (the Umma Party) and Khatimia (the Democratic Unionist Party or DUP) continued to be denied permission to hold large public gatherings during most of the year.

Security forces used excessive force, including beatings, tear gas, and firing of live ammunition to disperse unapproved demonstrations. For example, in Khartoum, at least 10 persons were injured late in the year when riot police using tear gas and batons broke up a demonstration by students from Darfur, who were asking for an end to the violence there.

No action was taken against security forces who used excessive force in 2003 or 2002.

The Constitution provides for freedom of association; however, the Government severely restricted this right in practice. There were 20 officially registered political parties; however, the law includes restrictions that effectively prohibit traditional political parties if they were linked to armed opposition to the Government. The Political Parties Act allows some formerly banned political parties to resume their activities; however, the parties were required to notify the registrar in writing to participate in elections. Observers believed that the Government controlled professional associations.

The Government restricted diplomatic, international, and regional organizations' contact with local political organizations that the Government considered to be waging war against it.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, in practice, the Government continued to place many restrictions on non-Muslims, non-Arab Muslims, and Muslims from tribes or sects not affiliated with the ruling party. The Government, which came into power in 1989 with a goal of Islamization, treated Islam as the state religion, declaring that Islam must inspire the country's laws, institutions, and policies. The three Naivasha Protocols signed on May 26 and the Nairobi Declaration of June 5 confirm the principle of freedom of religion and address how Islamic law (Shari'a) will be applied throughout the country, but they have not yet been implemented.

There were reports that security forces harassed and at times threatened use of violence against persons on the basis of religious beliefs and activities, although it was sometimes unclear whether they were harassed for religious or political reasons.

Religious organizations and churches were subject to the same restrictions placed on nonreligious corporations. Religious groups were supposedly required to register to be recognized or to assemble legally; however, in practice, registration reportedly was no longer necessary, and the churches, including the Catholic Church, have declared they are not NGOs and declined to register. Registered religious groups were supposed to be exempt from most taxes, but the churches reported that they remained subject to taxes and import duties.

While, in general, non-Muslims were allowed to worship freely in their places of worship, religious minority rights were not protected, since the Government treated Islam as the state religion with an open policy of Islamization freely promulgated. Authorities continued to restrict the activities of Christians, followers of traditional indigenous beliefs, and other non-Muslims, as well as certain Islamic groups.

Some non-Muslim businessmen complained of petty harassment and discrimination in awarding of government contracts and trade licenses. There also were reports that some Muslims received preferential treatment regarding limited government services, such as access to medical care, and in court cases involving Muslim against non-Muslim. However, non-Arab Muslims and Muslims from tribes and sects not affiliated with the ruling party, such as in Darfur and the Nuba Mountains, stated that they were treated as second-class citizens and were discriminated against in government jobs and contracts in the North and government-controlled southern areas.

The use and construction of houses of worship required government approval. Applications to build mosques generally were granted in practice; however, the process

for applications to build churches was more difficult, and the last permit was issued around 1975. The Guidance and Endowment Minister stated that his ministry had granted permission for new places of worship but that the local authorities denied permission based on criteria developed for their areas, such as that no similar church may be within a certain radius of the proposed construction and that there be a minimum number of worshippers for that church in the locality.

Under the Criminal Act, non Muslims may convert to Islam; however, conversion by a Muslim was punishable by death. In practice, authorities usually subjected converts to intense scrutiny, ostracism, and intimidation, and encouraged them to leave the country.

Although some non-Muslims have converted to obtain or keep a job, for promotions and job advancement, or for other social services or benefits, there was no evidence of forced conversions during the year. Some church leaders said that security forces in the south, in an attempt to garner votes for the referendum on north-south unity scheduled to be held 6 years after the peace agreement is signed, were rewarding persons for converting to Islam.

PDF trainees, including non Muslims, were indoctrinated in the Islamic faith. In prisons and juvenile detention facilities, government officials and government supported Islamic NGOs pressured and offered inducements to non Muslim inmates to convert. Some persons in the government controlled camps for IDPs reportedly at times were pressured to convert to Islam. Children, including non Muslim children, in camps for vagrant minors were required to study the Koran, and there was pressure on non Muslims children to convert to Islam. Unlike in previous years, there were no credible reports of abductions and forced conversion of children from Christian and other non-Muslim families.

Christian religious workers, including priests and teachers, like almost all visitors, experience delays in getting visas to visit the country. The visas were generally issued, sometimes after very lengthy delays or after the person could no longer travel. The Government controlled the travel of all visitors to a number of conflict areas by refusing or delaying travel permit issuance.

Muslims could proselytize freely in the government-controlled areas, but non Muslims were forbidden to proselytize.

Children who have been abandoned or whose parentage was unknown regardless of presumed religious origin were considered Muslims and could be adopted only by Muslims.

Unlike in the previous year, there were no reports that Islamic students abused non-Sudanese African students.

In SPLM/A controlled areas, Christians, Muslims, and followers of traditional indigenous beliefs generally worshiped freely; however, many of the region's Muslim residents have departed voluntarily over the years. The SPLM officially favored secular government; however, Christians dominated the SPLM, and local SPLM authorities often had a very close relationship with local Christian religious authorities.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted these rights in practice.

Movement generally was unhindered for citizens outside the war zones; however, travelers who failed to produce an identity card at checkpoints risked arrest. Foreigners needed permits for domestic travel outside of Khartoum, which could be difficult to obtain and were sometimes refused. Foreigners must register with the police on entering the country, obtain permission to move from one location to another, and re register at each new location within 3 days of arrival.

Foreign NGO staffs had major problems obtaining entry visas as well as work or travel permits for Darfur. There were numerous reports of delays and restrictions being imposed. In mid-year, under international pressure, the Government eased these restrictions and, in most cases, issued visas within 48 hours, although there was still a notification requirement for those going to Darfur.

Foreign diplomats could travel to many locations without a government escort but had to notify the Government of travel to Darfur, which at year's end was not blocked, although early in the year there had been some problems. Visitors were sometimes denied travel or their travel was deferred due to the Government's delays in granting travel authorization.

The Government denied exit visas to some categories of persons, including policemen and physicians, and maintained lists of political figures and other citizens who were not permitted to travel abroad. For example, in November a member of Hassan

al-Turabi's PNC was not allowed to travel to Kenya, and, in December, a DUP member was denied permission to travel.

Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly, especially for NC members.

The law prohibits forced exile, and the Government did not use it. Opposition leaders remained in self imposed exile in Cairo, Asmara, and other locations during the year.

The SPLM/A restricted freedom of movement among populations under its control. Citizens from the North or from government-controlled areas reportedly were denied permission to enter SPLM areas and were treated as foreigners. Insurgent movements in the South also required foreign NGO personnel to obtain permission before traveling to areas that they controlled; however, they generally granted such permission. NGO workers who have worked in government held areas encountered problems receiving permission to work or travel in insurgent held areas.

There were estimates that up to 4 million persons were displaced internally due to the civil war. The U.N. estimated that at least 1.5 million persons had been displaced by the conflict in Darfur and that another 200,000 had fled to Chad. Tens of thousands of persons, largely southerners and westerners displaced by famine and civil war, continued to live in squatter slums ringing Khartoum. Refugee International researchers estimated that more than 300,000 refugees and displaced persons returned home during the year.

There were frequent reports of abuses committed against IDPs, including rapes, beatings, and attempts by the Government to forcibly return persons to their homes. The Government forcibly emptied some IDP camps; for example, on November 2, the Government closed two camps (Al Jeer and Otash), using tear gas to drive IDPs out. The Government stated that it merely was moving IDPs to newer, better camps. There also were numerous credible reports that government troops harassed IDPs or denied persons access to camps. On August 3, police reportedly removed 50 newly arrived men from Kalma camp. On August 5, 48 students who attempted to enter Kalma camp were arrested, detained, and then released. There were credible reports that the Government arrested Darfuri IDPs who spoke with foreign observers. In December, the Government publicly committed itself to the principle of voluntary relocation of IDPs in cooperation with the U.N. and NGOs, and the International Organization for Migration reported a few voluntary returns. The U.N. reported that IDPs lived in a climate of fear.

The Government pressured IDPs to return home against their wishes. In one instance, foreign observers, visiting an IDP return site in Sani Deleiba set up by the Government, discovered that IDPs who had been forced home and promised assistance to rebuild their homes received two small bowls of sorghum and a piece of plastic sheeting.

The UNHCR reported that there were approximately 572,000 Sudanese refugees in neighboring countries, largely due to the conflict in the South. The largest number was in Uganda, with approximately 223,000.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has not established a system for providing protection to refugees. In practice, the Government generally provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum; however, there was no standard determination procedure, and there were reports of the forced return of refugees to their countries of origin. The Government cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees and asylum seekers and accorded refugees generally good treatment. The UNHCR reported that there were approximately 327,000 refugees in the country, primarily from Eritrea, Ethiopia, Chad, Uganda, the Democratic Republic of the Congo, and Somalia. Approximately 150,000 refugees were in camps, and the rest were scattered in urban areas throughout the country. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol; however, no statistics were available for the year.

There were reports that government officials mistreated refugees, including through beatings and arbitrary arrests. Refugees could not become resident aliens or citizens, regardless of their length of stay. The Government allowed a large number of refugees to work.

Improved security in the South due to the ceasefires increased the return of displaced populations into areas of origin that were severely affected by the war and lacked basic services. A number of refugees and displaced persons voluntarily returned to the country during the year, particularly to the Nuba Mountains region.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, in practice citizens had no genuine opportunity to change their government. Presidential and parliamentary elections were held in 2000, and there were allegations of serious irregularities, including official interference, electoral fraud, inadequate opportunities for all voters to register, and inadequate election monitoring. All major opposition parties boycotted the election. President Bashir was elected to another 5 year term, and the NC/NIF won 340 out of 360 seats in Parliament in the deeply flawed process.

In 1999, President Bashir disbanded the Parliament, suspended portions of the 1998 presidentially decreed Constitution, and decreed a state of national emergency, which suspended basic civil liberties. Parliament resumed in 2001; however, with 98 percent of the Parliament in the ruling NC Party, the Parliament did not act independently of the President. The state of emergency remained in effect at year's end, and, on December 21 Parliament voted to extend it for another year.

The law allows the existence of political parties; however, the Government continued to routinely deny permission for and disrupt gatherings that it viewed as politically oriented (*see* Section 2.b.). Security forces arrested, detained, and on occasion, beat political opponents during the year (*see* Sections 1.c. and 1.d.). The major opposition political parties for the most part remained marginalized from the political process; however, as the peace negotiations progressed during the year, opposition parties became more vocal in their demand for inclusion, and the Government sought the support of some to add legitimacy to the agreements. Hassan al-Turabi's PNC remained a proscribed political organization.

The Government continued summarily to dismiss military personnel as well as civilian government employees whose loyalty it considered suspect in a process called "separation for public interest." Throughout the year, a number of military officers were fired because they were either from Darfur or did not support the ruling party strongly enough.

The federal system of government was developing a structure of 26 states, with governors and senior state officials appointed by the President. The Government described this strategy as a possible inducement to the rebels for accommodation through a principle of regional autonomy; however, southerners were underrepresented in the central Government, and local appointees were not universally viewed as representative of their constituencies.

The NGO Transparency International reported a widespread perception of corruption.

There were no laws providing for public access to government information.

Women had the right to vote. There were 12 women in the 360 seat Parliament. There were two women in the Cabinet, two female State Ministers, and seven women on the Supreme Court.

There were approximately 55 southerners in the 360 seat Parliament, and approximately 30 Christians in the Council of Ministers.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Various local human rights groups were active in the country, but they suffered from occasional government harassment. The Government was generally uncooperative with and unresponsive to domestic human rights groups, and one human rights leader, Mudawi Ibrahim, has been detained twice.

Events in Darfur brought heightened levels of scrutiny from international NGOs, which the Government often resisted, although it did allow a number of human rights groups to visit the country. The Government initially made it very difficult for NGOs to operate in Darfur by denying visas, holding up the clearance of equipment and supplies at customs, denying permission to travel within the country, and harassing the humanitarian community, although visa issuance and access for humanitarian workers improved somewhat later in the year. Rebel attacks on relief convoys continued, as did government ripostes.

Access in the South continued to improve as the cessation of hostilities continued, although there were still some problems, notably in Southern Blue Nile.

In October, AI visited the country, as did Human Rights Watch, which made its first visit to the country in 5 years. Both groups were allowed to travel throughout the country. The president of the ICRC visited the country twice and delivered to the Government and rebel leaders confidential reports on human rights violations and recommendations for addressing these violations.

Rebels reportedly abducted NGO workers in Darfur. On October 10, a mine explosion killed two Save the Children staff members who were driving in Darfur. In De-

ember, rebels executed two other NGO workers at a roadblock near Nyala. In mid-December, three female Save the Children national staff were raped and their four male colleagues were beaten.

The U.N. also sent a number of different teams to the country to investigate the human rights situation and events in Darfur. The U.N. High Commissioner for Human Rights and the U.N. Secretary-General's Special Representative for the Prevention of Genocide visited the country, and the office of the UNHCR deployed monitors to Darfur. A UNSC Resolution created an International Commission of Inquiry to investigate events in Darfur; the team began its mission in Khartoum on November 7 and was carrying out its mandate at year's end.

The Human Rights Advisory Council, a government body composed of representatives of human rights offices in 22 government ministries and agencies whose rapporteur was the Solicitor General for Public Law, was charged with investigating human rights complaints. The Council took no known actions during the year.

The National Assembly has a broadly representative human rights committee, which had responsibility for investigating and reporting on human rights abuses to the Assembly. There was no information on reports or recommendations it made during the year.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, or religious creed; however, discrimination against women and ethnic minorities continued. Mechanisms for social redress, particularly with respect to violence against women and children, were ineffective.

*Women.*—Violence against women was a problem; however, since reliable statistics did not exist, its prevalence was unknown. Many women were reluctant to file formal complaints against such abuse, although it was a legal ground for divorce. The police normally did not intervene in domestic disputes.

Displaced women from the South were vulnerable to harassment, rape, and sexual abuse. The Government did not address the problem of violence against women, nor was it discussed publicly. The punishment for rape under the Criminal Act varies from 100 lashes to 10 years imprisonment to death. In most cases, convictions were not publicized; however, observers believed that sentences often were less than the maximum provided for by law. Pregnant unmarried women and young girls were convicted during the year of adultery (*see* Section 1.c.).

Women in Darfur were particularly vulnerable. Credible reports of rape were widespread. There were many reports of women who were raped if they left their IDP camps to gather food or wood. The Government was slow to acknowledge the severity of the problem, although it eventually appointed a commission to investigate rape allegations. The commission was neither active nor effective in stopping assaults against women. The problem was exacerbated because local authorities often required rape victims to file a police report before they could receive medical treatment, despite an August 21 decree that waived the requirement. U.N. and NGO sources confirmed that the decree was not regularly observed. Women distrusted the police and rarely filed a police report.

FGM remained widespread, particularly in the North, although it was becoming less common as a growing number of urban, educated families abandoned the practice. Unlike in the previous year, there were no reports that women displaced from South to North imposed FGM on their daughters. Some families, in a compromise with tradition, adopted the least severe form of FGM, "sunna," as an alternative to infibulation. No form of FGM was illegal under the Criminal Code; however, the health law forbade doctors and midwives from performing infibulation. The Government did not support FGM and actively campaigned against it, as did the SPLM in its zone of control. One local NGO worked to eradicate FGM.

Prostitution is illegal but widespread.

Trafficking in women remained a problem but declined in scope during the year (*see* Section 5, Trafficking).

The law prohibits sexual harassment; however, such harassment reportedly occurred, although reliable statistics were not available.

Some aspects of the law discriminated against women, including many traditional law practices and certain provisions of Shari'a as interpreted and applied by the Government. In accordance with Islamic law, a Muslim woman has the right to hold and dispose of her own property without interference, and women are ensured inheritance from their parents. However, a widow inherits one-eighth of her husband's estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. It is much easier for men than for women to initiate legal divorce proceedings.

Because, under Islamic law, a non-Muslim woman is viewed as taking on the religion of her husband at marriage, a Muslim man may marry a Christian or Jew, and their children will be considered Muslim. The same is not true for a Muslim woman, who cannot legally marry a non-Muslim unless he converts to Islam. Since traditionalist marriages are not licensed or recognized as official by the State, this prohibition usually was neither observed nor enforced in areas of the South not under government control or among Nubans (most of whom are Muslims).

Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly, particularly for NC members.

Women generally were not discriminated against in the pursuit of employment; however, women were not allowed to work after 10 p.m., in theory limiting their employment opportunities. Nonetheless, many women did work after 10 p.m., and in official positions such as airport security. Women were accepted in professional roles. More than half the professors at Khartoum University were women.

Various governmental bodies have decreed that women must dress modestly according to Islamic standards, including wearing a head covering; however, in general, police rarely enforced such decrees. Women often appeared in public wearing trousers or with their heads uncovered. These acts violated regulations against indecency, but the POP generally only issued warnings for improper dress.

A number of women's groups were active, focusing on a wide range of social and economic issues.

*Children.*—The Government's commitment to children's rights and welfare was uneven. Education was compulsory through grade eight; however, according to UNICEF, approximately half of school age children attended primary school. There were wide disparities among states and some gender disparity especially in the eastern and western regions; for example, enrollment was 78 percent in Khartoum State and only 26 percent in South Darfur State. In the North, boys and girls generally had equal access to education (50 percent and 47 percent, respectively), although girls were more affected by early marriage and the fact that many families with restricted income choose to send sons and not daughters to school.

Although there was little data on enrollment rates, it was estimated that the vast majority of the school age children of IDPs were not receiving an education because of inadequate facilities or because they could not afford the fees. Nomadic groups also were disadvantaged. In the urban areas of the South, primary school age children in basic education were estimated at 68 percent of all boys and 67 percent of all girls. The Government officially required that young men between the ages of 17 and 19 enter military or national service to be able to receive a certificate upon leaving secondary school; the certificate was a requirement for entry into a university. More than 60 percent of university students were women, in part, because men were conscripted for war.

There were significant inequalities in access to health services for children living in different areas of the country. UNICEF reported the under-5 mortality rate at 93 per 1,000 and the rate of low birthweight at 31 percent.

The Government operated camps for vagrant children called reformation camps. Police typically sent homeless children who had committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were poor, and basic living conditions often were primitive. All of the children in the camps, including non Muslims, must study the Koran, and there was pressure on non Muslims to convert to Islam (*see* Section 2.c.). Male teenagers (and, in the South, some girls) in the camps often were conscripted into the PDF. Conscripts faced significant hardship and abuse in military service, often serving on the frontline. There were reports that abducted, homeless, and displaced children were discouraged from speaking languages other than Arabic or practicing religions other than Islam.

FGM was performed frequently on girls (*see* Section 5, Women).

A large number of children suffered abuse, including abduction, enslavement, and forced conscription (*see* Sections 1.b., 5, Trafficking, and 6.c.). The Government and government-allied militias forcibly conscripted young men and boys into the military forces to fight in the civil war. Unlike in the previous year, there were no reports that the South Sudan Unity Movement conscripted boys.

Although rebel factions forcibly conscripted citizens, including children, the SPLM/A also continued to demobilize child soldiers.

The ICRC cooperated with UNICEF to remove child soldiers from the South.

*Trafficking in Persons.*—Although the law does not prohibit specifically trafficking in persons, the Constitution specifically prohibits slavery and forced labor; however, there were reports that persons were trafficked from and within the country. There

were fewer reports during the year that government and government-supported militias abducted women for use as domestic servants, forced labor, or concubines (forced marriages) due to the continuation of the North-South cessation of hostilities.

In addition to constitutional provisions, there are laws criminalizing specific conduct mentioned by the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons. Criminal law (Shari'a) and the State of Emergency Law prohibit all forms of sexual exploitation. Penalties include fines and imprisonment; however, no prosecutions took place under these laws during the year.

Unlike in previous years, there were no credible reports that children were transported to the Persian Gulf to be used as jockeys in camel races or as laborers.

There were credible reports that intertribal abductions of women and children continued in the South. Victims frequently became part of the new tribal family, with most women marrying into the new tribe; however, some victims were used for labor or sexual purposes. As intertribal fighting in the South decreased, the number of abductions also appeared to decline. The Government acknowledged that abductions occurred and that abductees were sometimes forced into domestic servitude and sexual exploitation. The CEAWAC and its 22 Joint Tribal Committees investigated abduction cases and sought to facilitate the safe return of victims. The CEAWAC documented 764 abduction cases in 2003 and reunified 196 abductees with their families.

During the past 19 years, the Lord's Resistance Army (LRA) kidnapped more than 20,000 Ugandan children, took them back to the southern part of Sudan, and forced them to become sex slaves, pack animals, or soldiers. Many of them have been killed. The Government permitted the Ugandan army access to the South to pursue the LRA. Although Ugandan military operations significantly reduced LRA numbers, the LRA continued to operate in the South and to hold child abductees.

*Persons With Disabilities.*—The Government did not discriminate against persons with disabilities but has not enacted any special legislation for persons with disabilities, such as mandating accessibility to public buildings and transportation. The law requires equal educational opportunities for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The population was a multi-ethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, who formed a majority of approximately 16 million persons, traditionally dominated the Government. The southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) numbered approximately 6 million. Although an oversimplification, the fighting in Darfur has been characterized in racial terms, as Arab Muslims against black African Muslims (see Section 1.g.).

The Muslim majority and the Government continued to discriminate against ethnic minorities in almost every aspect of society. Citizens in Arabic speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas.

There were occasional reports of intertribal abductions of women and children in the South, primarily in the eastern Upper Nile. The abductions were part of traditional warfare in which the victor took women and children as a bounty and frequently tried to absorb them into their own tribe. There were traditional methods of negotiating and returning the women who were taken in these raids. Many of these women were raped and "chose" to "marry" their abductors, rather than return home where they would be stigmatized.

There were deaths in conflicts between ethnic groups, such as continued fighting between Dinka and Nuer or among Nuer tribes.

*Other Societal Abuses and Discrimination.*—Homosexuality is a crime, but no one has been convicted on the charge.

*Incitement to Acts of Discrimination.*—The Government and government supported militias actively promoted hatred and discrimination, using standard propaganda techniques to incite tribal violence.

#### Section 6. Worker Rights

*a. The Right of Association.*—The Constitution provides for the right of association for economic and trade union purposes; however, the Government denied this right in practice. The Trade Union Act established a trade union monopoly in the Government. Only the government-controlled Sudan Workers Trade Union Federation (SWTUF) can function legally, and all other unions were banned. The Government prescribed severe punishments, including the death penalty, for violations of its labor decrees. The International Labor Organization has frequently noted that the situation of trade union monopoly is contrary to the principles of freedom of associa-

tion. The International Confederation of Free Trade Unions continued to recognize the "Legitimate" Sudan Workers Trade Union Federation (SWLTUF)—the national trade union center that functioned prior to the ban—which operated in exile.

Unlike in the previous year, there were no reports that union leaders were detained.

The law does not prohibit anti union discrimination by employers.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code denies trade unions autonomy to exercise their basic right to organize or to bargain collectively. The Labor Code defines the objectives, the scope of their activities, and their organizational structures and alliances. Union funds were the control of the auditor general.

Labor organizing committees have the right to organize and bargain collectively; however, in practice, government control of the steering committees meant that the Government dominated the process of setting wages and working conditions. A tripartite committee comprising representatives of the Government, the government-controlled SWTUF, and business set wages. The continued absence of labor legislation allowing for union meetings, the filing of grievances, and other union activity greatly reduced the value of these formal rights. Local union officials raised some grievances with employers, although few raised them with the Government. There were credible reports that the Government routinely intervened to manipulate professional, trade union, and student union elections (*see* Section 2.a.).

Specialized labor courts adjudicated standard labor disputes; however, the Ministry of Labor has the authority to refer a dispute to compulsory arbitration.

Strikes were considered illegal unless the Government granted approval, which has never been given. In most cases, employees who tried to strike were subject to employment termination; however, workers who went on strike during the year were not terminated.

There is one export processing zone located in Port Sudan, which is exempt from regular labor laws.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices continued (*see* Sections 5 and 6.d.). Unlike in previous years, credible sources indicated that slavery did not appear to be a significant problem.

The Government continued to deny that slavery and forced labor existed, but CEAWAC acknowledged that abductions had occurred (*see* Sections 1.b. and 5).

Both the Government and rebel factions continued to conscript men and boys forcibly into the fighting forces (*see* Section 5).

The SPLM/A and affiliated forces continued to force southern men to work as laborers or porters.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Constitution provides that the Government protects children from exploitation; however, the Government did not enforce the provisions, and child labor was a serious problem. Although the legal minimum age for workers was 18 years, the law was not enforced in practice. Young children worked in a number of factories, and severe poverty produced widespread child labor in the informal and rural farming economy.

There were reports that children were forcibly conscripted (*see* Section 5).

Child labor existed in SPLM/SPLA held areas, particularly in the agricultural sectors. Child labor in such areas was exacerbated by lack of schools, extreme poverty, and the lack of an effective legal minimum age for workers.

*e. Acceptable Conditions of Work.*—In April, the Ministry of Labor and Administrative Reform, the Sudanese Businessmen, and Employers Federation, and the SWTUF agreed to raise the minimum wage to \$48 (SDD 12,500) per month. The Ministry of Labor, which maintained field offices in most major cities, was responsible for enforcing the minimum wage, which employers generally respected. Workers who were denied the minimum wage could file a grievance with the local Ministry of Labor field office, which then was required to investigate and take appropriate action. There were reports that some workers, including postal and health workers, were not paid their regular wages. The Central Bank failed to pay severance pay to fired workers who sued in court for their severance pay. At year's end, they still had not been paid.

The workweek was limited by law to an 8 hour day, with a day of rest on Friday, which generally was respected. For manual laborers, there were limits on the number of hours worked per week and provisions for premium pay for work above the standard workweek.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor was minimal. The right

of workers to remove themselves from dangerous work situations without loss of employment is not recognized.

Legal foreign workers had the same labor rights as domestic workers. Illegal workers had no such protections and, as a result, typically worked for lower wages in worse conditions than legal workers. Southern IDPs generally occupied the lowest paying occupations and were subject to economic exploitation in rural and urban industries and activities.

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## SWAZILAND

Swaziland is a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the King (Mswati III). The King ruled according to unwritten law and custom, in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. Municipal elections during the year and 2003 parliamentary elections increased representative government; however, political power continued to rest largely with the King and his circle of traditional advisors, including the Queen Mother. The judiciary was generally independent; however, the King and other government officials infringed on the judiciary's independence by attempting to influence or reverse court decisions.

Both the Umbutfo Swaziland Defense Force and the Royal Swaziland Police are responsible for external and internal security. The police are under the authority of the Prime Minister, while the Defense Force reports to the Ministry of Foreign Affairs. Some communities questioned the ability of the police to operate effectively at the community level and have formed community police. Civilian authorities maintained effective control of the security forces. Some members of the security forces and the community police committed numerous human rights abuses.

The country had a free market economy, with relatively little government intervention; its population was approximately 1.1 million. The majority of citizens were engaged in subsistence agriculture and the informal marketing of agricultural goods, although a relatively diversified industrial sector accounted for the largest component of the formal economy. Unemployment continued to grow and over 40 percent of the working age population was unemployed or underemployed. The 2003 gross domestic product growth rate was 2.2 percent. A 3-year drought and HIV/AIDS rate of approximately 40 percent had a severe negative impact on economic conditions.

The Government's human rights record was poor, and the Government continued to commit serious abuses. Citizens were not able to change their government peacefully. There were a few instances of arbitrary killings by security forces. Police used excessive force on some occasions, and police tortured and beat some suspects. Lengthy pretrial detention and police impunity were problems. The Government infringed on citizen's privacy rights. The Government continued to limit freedom of speech and of the press. The Government restricted freedom of assembly and association and prohibited political activity. The police on several occasions harassed political activists. There were some limits on freedom of movement. Legal and cultural discrimination, violence against women, and abuse of children remained problems. Trafficking in persons occurred. Some societal discrimination against mixed race and white citizens persisted. Worker rights remained limited.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, there were a few reports of arbitrary killings by security forces.

For example, on May 21, Mandla Mathousand Ngubeni, who was in police custody in Matsapha on suspicion of stealing money from his workplace, died after police allegedly tortured and suffocated him. Following complaints from Ngubeni's family, the Prime Minister appointed a senior magistrate to conduct an inquest into the death. The Magistrate passed her findings to the Prime Minister's Office, but they had not been made public by year's end.

On October 28, soldiers on patrol near Matsamo border crossing shot and killed two unarmed brothers who fled when the soldiers discovered they were trying to smuggle an automobile across the border. The police were investigating the incident at year's end.

On December 13, soldiers near the Lundzi border post shot and killed a suspect trying to smuggle an automobile into the country.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law does not specifically prohibit such practices, although under the Prisons Act correctional facility officers may be prosecuted if they engage in such practices; however, government officials employed them. Security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties.

There were credible reports that police beat criminal suspects and occasionally used the “tube” style of interrogation, in which police suffocate suspects through the use of a rubber tube around the face and mouth. According to media reports, police used the Kentucky method of interrogation in which the arms and legs of suspects are bent and tied together with rope or chain, and then the person is beaten.

On May 31, during a class boycott at Ndwandwe High School in Mankayana, police detained seven students for several hours and beat them. As a result, some of the students received hospital treatment. In June, a man complained in court that after his arrest for allegedly attacking a policeman, other police officers beat him severely in the groin.

There was no action taken against members of the security forces responsible for the 2003 beating of a Swaziland Federation of Trade Unions (SFTU) member or 2002 beating of a woman accused of theft.

Police also banned and forcibly dispersed demonstrations (*see* Section 2.b.).

Government prisons and detention centers remained overcrowded, and conditions were generally poor. The application of a decree denying bail for a variety of offenses resulted in the continued overcrowding and other unfavorable conditions in facilities where suspects were held during pretrial detention (*see* Section 1.d.). There were reports that torture, lack of basic hygiene, and unsafe sexual practices, including forced sexual intercourse, were spreading HIV/AIDS among the prisoners.

Women were held in separate prison facilities, and there was one juvenile detention facility in Mdutjane; however, at times children (age 3 and under) of female inmates lived with their mothers in the women’s prison. Unlike in the previous year, there were no reports that male guards forced female prisoners to have sex.

The Government routinely permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations. During the year, the local Red Cross visited several prisons.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and lengthy pretrial detention were problems.

The police force was generally professional; however, it suffered from a lack of resources and personnel, as well as bureaucratic inefficiency. There were credible allegations that the force was susceptible to political pressure. The Government generally failed to prosecute or otherwise discipline police officers for abuses. No independent body had the authority to investigate police abuses; however, an internal complaints and discipline unit investigated reports of human rights abuses by the police but did not release these results to the public. Courts have invalidated confessions induced through physical abuse and have ruled in favor of citizens assaulted by police.

The law requires warrants for arrests, except when police observe a crime being committed or believe that a suspect might flee. Detainees may consult with a lawyer of their choice and must be charged with the violation of a statute within a reasonable time, usually 48 hours, or, in remote areas, as soon as the judicial officer appears.

Although the courts have invalidated the Non-Bailable Offenses Order the Government continued to limit the provisions for bail for crimes appearing in it. The Minister of Justice may amend the list by his own executive act. The mere charge of the underlying offense, without any evidence that the suspect was involved, was sufficient to employ the non-bailable provision. The non-bailable offense provision exacerbated ongoing judicial problems such as lengthy pretrial detention, the backlog of pending cases, and detention center overcrowding. During the year, police continued to detain suspects even though they had paid bail; however, by year’s end, all suspects who had posted bail had been released. Some suspects were held in pretrial detention for periods that exceeded their sentence.

Arbitrary arrest was a problem.

There were no developments in the 2002 detention of a young woman and the grandfather of Chief Mtfuso.

Lengthy pretrial detention was common, sometimes lasting for several years. The police justify pretrial detention on the basis that they are collecting evidence of the crime and releasing the detainee would allow the person to influence witnesses.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the King has certain judicial powers, and government officials, including the King, the Prime Minister, the Minister of Justice and Constitutional Affairs, and the traditional governor of the royal family infringed on the judiciary's independence by attempting to influence or reverse court decisions. High Court judges resisted pressure to yield any powers to those outside the judiciary; however, the Government often ignored judgments that did not favor them. For example, the Government refused to release from detention some suspects who had paid their bail (*see* Section 1.d.).

On May 4, the industrial court reinstated the Clerk of Parliament, who in 2002 had been transferred to the Ministry of Agriculture and stripped of his administrative power by the Prime Minister. The Clerk resumed his duties in June.

In November, after meetings between the judges of the Court of Appeals and the Prime Minister and Minister of Justice, and the Prime Minister's public statement on September 1 that the Government would respect the Court's judgments, the judges of the Court of Appeals resumed their functions. The judges had all resigned in 2002 after the Government declared that it would disregard the Court's ruling that held that King Mswati had no authority to rule by decree until a new constitution was put in place. When the Court of Appeals was reconstituted on November 10, it immediately threatened not to hear cases as the Government had not complied with a 2002 court decision to return 200 residents evicted from 2 chiefdoms (*see* Section 1.f.). However, once the Minister of Justice agreed to the return of the evictees on November 11, the Court of Appeals resumed hearing cases even though the first evictee did not return until the end of November and the remaining evictees had not returned by year's end.

The case against the Director of Public Prosecutions (DPP) for obstruction of justice in connection with his involvement in a car accident several years ago was pending before the High Court at year's end. The Government charged the DPP after he brought obstruction of justice and sedition charges against the Attorney General based on his attempted coercion of the High Court judges.

Judicial powers are vested in a dual system, one based on Western law, the other based on a system of national courts that followed unwritten traditional law and custom. In treason and sedition cases, the King can circumvent the regular judiciary by appointing a special tribunal, which may adopt rules and procedures different from those applied in the High Court; however, this power has not been used since 1987.

The Western-type judiciary consists of the Court of Appeals (composed entirely of expatriate, usually South African, judges), the High Court, and magistrate courts, all of which are claimed to be independent of executive and military control; however, the November events regarding the eviction case showed that the Royal family still does not always respect the Court of Appeals' rulings. The evictees were permitted to return not because of the court's ruling, but rather because they finally agreed to accept the King's (by then deceased) representative as chief. The expatriate judges serve on 2-year renewable contracts; local judges serve indefinitely with good behavior. In magistrate courts, defendants are entitled to counsel at their own expense. Court-appointed counsel is provided in capital cases or when difficult points of law are at issue. There is no trial by jury. There are well-defined appeal procedures up to the Court of Appeals, the highest judicial body. A lack of an independent court budget, lack of trained manpower, inadequate levels of salary remuneration, and poor casework management remained problems for the judiciary.

Most citizens who encountered the legal system did so through the traditional courts. The authorities may bring residents of the country to these courts for minor offenses and violations of traditional law and custom. In traditional courts, defendants are not permitted formal legal counsel but can speak on their own behalf, call witnesses, and are assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the High Court and the Court of Appeals. The public prosecutor legally has the authority to determine which court should hear a case, but in practice the police usually made the determination. Accused persons have the right to transfer their cases from the traditional courts. Prolonged delays in trials were common.

The King appoints traditional chiefs. Chiefs' courts have limited civil and criminal jurisdiction and are authorized to impose fines up to approximately \$50 (300 emalangeni), and prison sentences of up to 3 months; however, chiefs' courts only were empowered to administer customary law "insofar as it is not repugnant to nat-

ural justice or morality,” or inconsistent with the provisions of any law in force. Accused persons are required to appear in person without representation by a legal practitioner or advocate, but the defendant may appeal the court’s decision.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires a warrant from a magistrate before police may search homes or other premises; however, at times police did not respect this requirement. Police officers with the rank of sub-inspector or higher have the authority to conduct a search without a warrant if they believe that evidence might be lost through the delay in obtaining a warrant. Searches without warrants occurred. For example, in February, police officers stopped and searched the vehicles of approximately 30 members of the People’s United Democratic Movement (PUDEMO) who were returning from a Women’s League Congress in South Africa. The police confiscated some documents.

There were instances of physical surveillance by the police on members of labor unions and banned political groups. For example, on May 1, police and military used video cameras to record meetings of union members.

Despite an order issued by the Court of Appeals in 2002, the Government continued to block the return of residents of kaMkhweli and Macetjeni, who were evicted for refusing to transfer their allegiance from their traditional chiefs to Prince Maguga, a brother of the King, who claimed authority over the two areas in 2002. On three occasions during the year, police prevented Macetjeni evictee Madeli Fakudze, brother to one of the deposed chiefs, from returning to his home. Following the Justice Minister’s statement on November 11 that the evictees were free to return, Madeli Kakudze went to his home. Police re-evicted him 2 days later. Fakudze appealed to the King, who ordered that Fakudze be allowed to return to his home. Fakudze did so in late November. The Government said it would allow all 200 evictees to return in phases; by year’s end, only 1 evictee had returned.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and the Press.*—The law does not provide for freedom of speech or of the press, and the Government limited these rights in practice. The Government also discouraged critical news coverage of the royal family, and journalists practiced self-censorship in regard to the immediate royal family and national security policy.

There was one daily independent newspaper and one daily newspaper owned by Tibiyo Taka Ngwane, the King’s investment company. Both newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste; however, the Government used the same media to rebut such allegations. With some exceptions, the Government continued to withhold its advertising from the independently owned daily newspaper.

There were two government-owned radio stations and one independent radio station, which broadcast religious programs. There was a privately owned television station, which was officially independent; however, the owner’s mother is the daughter of the previous king, Sobhuza, and its reporting favored the status quo. The government-owned television and radio stations, the most influential media in reaching the public, generally followed official policy positions. Government broadcast facilities retransmitted Voice of America and British Broadcasting Corporation news programs in their entirety.

Private companies and church groups owned several newsletters and magazines.

The editors and owners of the largest daily newspaper, the Times of Swaziland (TOS), have on several occasions been summoned to one of the royal residences where they were required to explain news articles or editorials deemed to be disrespectful of the monarchy. These visits have usually been followed by retractions or apologies from the TOS. In July, a TOS reporter was physically attacked by a senator and her husband after the reporter implicated her in an extramarital affair. The senator’s husband detained the reporter in his car and then released him after the reporter agreed not to follow up on the story.

The Government did not restrict access to the Internet.

The practice of self-censorship and the prohibition on political gatherings restricted academic freedom by limiting academic meetings, writings, and discussion on political topics.

*b. Freedom of Peaceful Assembly and Association.*—The law does not provide for freedom of assembly, and the Government restricted this right in practice. A decree prohibits meetings of a political nature, processions, or demonstrations in any public place without the consent of the Commissioner of Police. The authorities routinely withheld permission to hold such meetings.

During the year, the police forcibly dispersed several demonstrations and meetings. On September 23, during the celebration of the 21st anniversary of the PUDEMO, police detained six PUDEMO members for 3 hours and beat six others, who were treated at a nearby clinic for their injuries. On October 16, in Macetjeni, the Operational Support Service, a special police unit, used stun grenades to disperse a crowd of 200 who were attending a prayer service organized to honor Macetjeni residents evicted in 2002 (see Section 1.f.).

During the year, police harassed, arrested, and disrupted the meetings of pro-democracy activists and members of banned political parties. On April 17, police halted a procession in support of human rights in Big Bend, organized by the Swaziland Agricultural Plantations Union and the National Constitutional Assembly, a nongovernmental organization (NGO) that advocates separation of powers and observance of human rights. On June 24, police arrested and questioned a leader of the banned Ngwane National Liberatory Congress Women's Wing, and seized protest signs displayed inside the Bosco Skills Center in Manzini during ceremonies in observance of African Child Day; she was released later that day.

In August, police used tear gas to disperse a Swaziland Youth Conference rally.

Unlike the previous year, the police did not ban or disperse any meetings held by workers' unions.

There was no action taken against police officers responsible for forcibly dispersing demonstrations in 2003 or 2002.

The law does not provide for freedom of association, and the Government restricted this right in practice. Political parties were banned, although political organizations operated without calling themselves parties (see Section 3).

*c. Freedom of Religion.*—There is no formal legal provision for freedom of religion; however, the Government generally respected freedom of religion in practice, although authorities on occasion disrupted or cancelled prayer meetings that were considered to have political objectives.

New religious groups or churches are expected to register with the Government upon organizing in the country. There is no law describing the organizational requirements of a religious group or church. All religions were recognized unofficially. Groups were registered routinely, and there were no reports that any groups was denied registration during the year.

On September 2, in Lomahasha, three primary school children who are members of the Jehovah's Witnesses were expelled from school for refusing to pray during school assemblies.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the Government.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law does not provide for these rights, and the Government placed some limits on them in practice. Citizens may travel and work freely within the country; however, under traditional law, a married woman requires her husband's permission to apply for a passport, and an unmarried woman requires the permission of a close male relative. Nonethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the prejudice that mixed-race and white persons were not real citizens (see Section 5). Political dissenters often had their citizenship questioned and could experience difficulty in obtaining travel documents. The Constitutional Review Commission made a recommendation that effectively could render a child stateless should it be born to a Swazi mother and a foreign father; however, the draft constitution had not been ratified by year's end.

The law prohibits forced exile, and the Government did not use it.

The Government treated several thousand ethnic Swazis living across the border in South Africa, who were not citizens, as virtually indistinguishable from citizens and routinely granted them travel and citizenship documents.

On July 1, in an attempt to control emigration, especially the exodus of nurses seeking overseas employment, the Government blocked overseas employment agencies from obtaining or transferring foreign currency, which is necessary to make arrangements for jobs abroad. This effectively stopped citizens from being able to gain employment abroad.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of

persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. According to the UNHCR, there were an estimated 1,000 refugees in the country, the majority from central Africa and Angola.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens are not able to change their government peacefully. The King retains ultimate executive and legislative authority, and political parties are prohibited. Passage of legislation by Parliament requires the King's assent to become law, which he is not obliged to give. When Parliament is not in session, the King can legislate by decree under his residual emergency powers. The King chooses the Prime Minister and, in consultation with the Prime Minister, also chooses the Cabinet, many senior civil servants, and the heads of government offices.

According to law, 55 seats in the 65-seat House of Assembly are popularly contested, and the King appoints the remaining 10 members. In October 2003, parliamentary elections took place that commonwealth observers concluded were not free and fair and that Parliament has no real authority. Election procedures generally were carried out in an orderly fashion; however, police arrested several persons for using forged voter registration certificates and for trying to vote more than once. Alleged irregularities led to legal challenges in three constituencies. PUDEMO boycotted the elections; however, members of other organized but banned political groups participated, and three opposition members were elected to Parliament. As required by law, the elected members of the House of Assembly nominated 10 members from the public to serve in the Senate (upper house). The King appointed an additional 20 Senate members.

In March, elected Member of Parliament Marwick Khumalo was forced to relinquish his position as Speaker of the House under pressure from the King's advisors, due to personal differences with the members of the royal family.

In May 2003, the Constitutional Drafting Committee released a draft Constitution, and the Government commenced a civic education program in each administrative center (Tinkhundla) to allow citizens to comment on the draft. Because only individuals and not groups were permitted to comment on the draft constitution, many civic groups complained that the process of drafting the constitution was not inclusive. In addition, many civic groups have criticized the content of the constitution, claiming, among other things, that there is no separation of powers. Both the House of Assembly and Senate passed the Constitution but because the two sides could not agree on the final version, the King is expected to call in February 2005 to ratify a single version.

Several traditional forums existed for the expression of opinion, including community meetings, national councils, and direct dialogue with area chiefs; however, these local channels were not intended as a vehicle for political change.

Chiefs were custodians of traditional law and custom and were responsible for the day-to-day running of their chiefdom and maintaining law and order. For example, chiefs had their own community police who could arrest a suspect and bring the suspect before an inner council within the chiefdom for a trial. Chiefs were an integral part of society and acted as overseers or guardians of families within the communities and traditionally reported directly to the King. Local custom mandates that chieftaincy is hereditary.

The press reported that some Members of Parliament engaged in fraud, kickbacks and scams, and three sitting Members of Parliament were free on bail pending trial for fraud. The former Speaker of the House of Assembly was alleged to have misappropriated \$8,000 (50,000 emalangeni) while in office and fraud charges were leveled against the Chair of the Swaziland Electricity Board. There were credible reports that unqualified businesses were awarded contracts due to the owners' relationship with government officials.

There is no law permitting public access to government documents, and public documents were difficult to access. For example, few persons were able to obtain copies of the draft constitution while it was being debated by Parliament.

Women generally had full legal rights to participate in the political process; however, in accordance with societal practice, widows in mourning (for periods that can vary from 6 months to 3 years) are prevented from appearing in certain public places and in close proximity to the King, and as a result, can be excluded from voting or running for office. There were 5 women in the 65-member House of Assembly, 10 women in the 30-seat Senate, and 3 female ministers in the Cabinet. Two women served as principal secretaries, the most senior civil service rank in the ministries.

There were 3 members of minorities in the 30-seat Senate. There were no members of minorities in the House of Assembly or in the Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally receptive but unresponsive to their views. Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the Government. In October, Amnesty International issued a report criticizing the absence of rule of law and making a series of recommendations for the draft constitution. By year's end, the Government had not acted on any of these recommendations.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

In general, the law does not prohibit discrimination based on race, sex, disability, language, or social status and women and mixed race citizens sometimes experienced governmental and societal discrimination. Labor law forbids employers from discriminating on the basis of race, sex, or political affiliation.

*Women.*—Domestic violence against women, particularly wife beating, was common, despite traditional restrictions against this practice. Women have the right to charge their husbands with assault under both the Western and the traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Rural women often had no relief if family intervention did not succeed, because the traditional courts could be unsympathetic to “unruly” or “disobedient” women and were less likely than the modern courts to convict men for spousal abuse. The press reported that a chief threatened a woman with eviction for refusing to wear mourning clothes for her deceased husband.

Rape also was common and regarded by many men as a minor offense. Additionally, a sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. In the modern courts, the acquittal rate was high and sentences were generally lenient. On September 18, at the Manzini bus terminal in front of a cheering crowd, bus conductors and taxi drivers raped and sexually assaulted an 18-year-old student because she was wearing a miniskirt. Police arrested three suspects in the case and the suspects remained in custody at year's end.

Prostitution is illegal, and beginning in July police mounted a campaign to enforce the law prohibiting it. Some sex workers, afraid of being arrested, abandoned apartments rented for such purposes. To combat the HIV/AIDS pandemic, government officials encouraged an NGO to distribute condoms in public places, including where prostitutes were known to congregate.

The law provides some protection from sexual harassment, but its provisions were vague and largely ineffective. Several NGOs provided support for victims of abuse or discrimination. Despite the law's requirement for equal pay for equal work, men's average wage rates by skill category usually exceeded those of women.

Women occupy a subordinate role in society. In both civil and traditional marriages, wives are legally treated as minors, although those who married under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement. A woman generally must have her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, obtain a job.

The dualistic nature of the legal system complicated the issue of women's rights. Since unwritten law and custom govern traditional marriage, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. In traditional marriages, a man may take more than one wife.

In 2002, King Mswati allegedly instructed his agents to take three young women into royal custody while he considered whether to marry them. During 2002 and 2003, the King took 2 of the 3 women to be his 10th and 11th wives. The mother of one of the women sued the monarchy alleging that her daughter was kidnapped by royal emissaries, but she later postponed the suit indefinitely. The third woman was reportedly living with the Queen Mother, but had not been taken as a wife. In August, the King selected a 16-year-old girl as his most recent fiancée.

A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes was ignored. Traditional mar-

riages consider children to belong to the father and to his family if the couple divorce. Children born out of wedlock are viewed as belonging to the mother. Under the law, a woman does not pass citizenship automatically to her children. Inheritances are passed through male children only.

Women routinely executed contracts and entered into a variety of transactions in their own names. The Ministry of Home Affairs is responsible for coordinating women's issues, but took no notable actions during the year. Although gender sensitization was not part of the formal school curriculum, some schools organized debates and other mechanisms to address gender issues. The University of Swaziland Senate also had a subcommittee that encouraged students and faculty to hold seminars and workshops on gender issues.

*Children.*—The Government was committed to children's rights and welfare, but the growing number of orphans and vulnerable children (OVC) challenged that commitment. The Government passed a number of laws that directly addressed children's issues. The Government did not provide free, compulsory education for children; the Government paid teachers' salaries while the student paid fees for books and contributed to the building fund. The Government promised to pay for OVC tuition and school fees by November 30, but failed to do so. Supplemental money sometimes must be raised for building maintenance, including teachers' housing. In rural areas, families favor boys over girls if they do not have enough money to send all their children to school. The country had a 70 percent primary school enrollment rate. Children were required to start attending school at the age of 6 years. Most students reached grade 7, the last year of primary school, and many went on to finish grade 10. The public school system ends at grade 12. A government task force continued to educate the public on children's issues.

In general medical care for children was inadequate and characterized by long waits for medical care, poor nursing care in public hospitals, and overcrowded and understaffed hospitals. Most prescription drugs were available in urban facilities, but rural clinics had inadequate supplies of certain drugs.

Child abuse was a serious problem, and the Government did not make specific efforts to end such abuse. Rape of children was also a serious problem, with news reports of rapes of children 1-year-old and younger. Children convicted of crimes sometimes were caned as punishment. The law prohibits prostitution and child pornography, provides protection to children under 16 years of age from sexual exploitation and sets the age of sexual consent at 16 years of age; however, female children sometimes suffered sexual abuse, including by family members. There were reports that Mozambican and Swazi girls worked as prostitutes in the country (see Section 5, Trafficking). Children, including street children, were increasingly vulnerable to sexual exploitation.

Child labor was a problem (see section 6.d.).

There was a growing number of street children in Mbabane and Manzini. A large and increasing number of HIV/AIDS orphans were cared for by aging relatives or neighbors, or struggled to survive in child-headed households. Some lost their property to adult relatives. The National Emergency Response Committee on HIV and AIDS, a private group partly funded by the Government and by international aid, and other NGOs assisted some AIDS orphans. With over 10 percent of households headed by children, UNICEF supported school feeding programs, established a number of neighborhood care points and provided nutritional support to children weakened by AIDS.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports of trafficking. Underage Mozambican and Swazi girls reportedly worked as prostitutes in the country. A women's organization in South Africa estimated that 15 Swazi women per month were trafficked into South Africa for purposes of "forced cohabitation" often involving sexual abuse. There is no government agency specifically responsible for combating trafficking.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services; however, government buildings under construction included improvements for those with disabilities, including accessibility ramps.

*National/Racial/Ethnic Minorities.*—Governmental and societal discrimination was practiced widely against nonethnic Swazis, namely white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population were nonethnic Swazis. Nonethnic Swazis have experienced difficulty in obtaining official documents, including passports (see Section 2.d.). Nonethnic

Swazis also suffered from other forms of governmental and societal discrimination such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

*Other Societal Abuses and Discrimination.*—Societal discrimination against homosexuals was strong, and homosexuals often concealed their sexual preferences.

The Government prohibits persons who are HIV positive from joining the military. There is a social stigma associated with being HIV positive, and this discouraged persons from being tested; however, education was slowly eroding the cultural prejudice.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form associations, including trade unions, and workers exercised this right in practice; however, the Government continued to harass labor unions. Workers in “essential services” such as the police, may not form unions. Approximately 80 percent of the formal private sector was unionized.

In May, an International Confederation of Federal Trade Unions delegation visited the country to investigate reports that the police and the military could not form an association, violating the ILO convention; however, it had not reported any finding by year’s end.

On May 1, at the Labor Day celebration, police and military used video cameras to record meetings of union members.

The law prohibits anti-union discrimination; however, anti-union discrimination continued to be prevalent, and manufacturers continued to refuse to recognize duly elected unions. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that management in various industries dismissed workers for union activity. The allegations of union discrimination were most common in the garment sector.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the Government generally respected this right in practice. Collective bargaining was widespread, and several collective bargaining agreements were reached during the year. There are no export processing zones.

The Industrial Relations Act (IRA) does not permit “strikes”; however, it provides that employees who are not engaged in “essential services” have the right to participate in peaceful protest action to promote their socioeconomic interests. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts; however, penalties were not imposed for the lockouts that occurred during the year. The IRA empowers the Government to mediate employment disputes and grievances through the Labor Advisory Board. When disputes arose, the Government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted, and a secret ballot of union members has been conducted. The IRA prohibits protest actions in “essential services,” which included police and security forces, correctional services, fire fighting, health, and many civil service positions.

The country participated in the 2003 ILO Annual Conference.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and the Government generally enforced this prohibition effectively; however, there were reports that such practices occurred (*see* Section 5, Trafficking). The SFTU cited the 1998 Administrative Order as a form of forced labor, because it reinforced the tradition of residents performing tasks for chiefs without receiving compensation and allowed the chiefs to fine their subjects for failing to carry out the manual labor.

*d. Prohibition of Child labor and Minimum Age for Employment.*—The law prohibits child labor; however, child labor was a problem. The law prohibits the hiring of a child below the age of 15 in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children were working under the supervision of a teacher or other authorized person. Legislation limits the number of night hours that can be worked on schooldays, and limits children’s work hours overall to 6 per day and 33 per week. Employment of children in the formal sector was not common; however, children below the minimum age frequently were employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also were employed as domestic workers, and as herd boys in rural areas. Children were victims of prostitution and trafficking in persons (*see* Section 5). The Ministry of Labor was responsible for enforcement, but its effectiveness was limited by personnel shortages.

*e. Acceptable Conditions of Work.*—There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately \$50 (300 emalangeni), for an unskilled worker \$70 (420 emalangeni), and for a skilled worker \$100 (600 emalangeni). These minimum wages generally did not provide a worker and family with a decent standard of living. Wage arrears, particularly in the garment industry, were a problem.

Labor, management, and government representatives have negotiated a maximum 48-hour workweek in the industrial sector except for security guards, who worked up to six 12-hour shifts per week. The law permits all workers 1 day of rest per week. Most workers received a minimum of 12 days' annual leave. The IRA provides for overtime pay. The Labor Commissioner conducted inspections in the formal sector; however, the results of these inspections generally did not result in enforcement of the law. In particular, there were allegations that women who tried to take maternity leave were dismissed, that employers paid employees at casual or probationary wage scales regardless of their position or length of service, and that some supervisors physically abused employees.

The law provides for protection of workers' health and safety. The Government set safety standards for industrial operations, and it encouraged private companies to develop accident prevention programs; however, the Labor Commissioner's office conducted few safety inspections because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers had no formal statutory rights to remove themselves from dangerous work places without jeopardizing their continued employment, nor did any collective bargaining agreements address the matter. There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal; these provisions frequently were invoked.

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## TANZANIA

The United Republic of Tanzania is a multiparty state led by the President of the mainland, Benjamin Mkapa. The Zanzibar archipelago, although integrated into the country's governmental and party structure, has its own president and parliament and continues to exercise considerable autonomy. In 2000, President Mkapa was elected to a second term, and the ruling Chama Cha Mapinduzi (CCM) party made significant gains in elections that were considered free and fair on the mainland, but which were seriously marred by irregularities and politically motivated violence on Zanzibar. The national judiciary was formally independent but was under-resourced, corrupt, inefficient, and subject to executive influence.

The police force, under the Ministry of Home Affairs, has primary responsibility for maintaining law and order. Citizens' patrols known as "Sungusungu" continued to support the police force, including in refugee camps. The military was composed of the Tanzanian People's Defense Force (TPDF). The People's Militia Field Force (FFU) was a division of, and directly controlled by, the national police force. While civilian authorities maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Members of the security forces committed numerous human rights abuses.

The country continued its transition from a centrally directed economy to a market-based economy. Agriculture provided 82 percent of employment for the population of approximately 37 million, according to 2002 estimates. In 2003, the gross domestic product growth rate was 5.3 percent. Wages did not keep pace with inflation during the year. The Government encouraged foreign and domestic investment; however, pervasive corruption, mismanagement, poor infrastructure, and a large external debt constrained economic progress. In addition, an estimated HIV/AIDS prevalence rate of between 9.6 percent and 24 percent continued to place an increasing burden on the country's resources through rising medical expenditures, absenteeism from work, labor shortages resulting from morbidity and mortality, and training of replacement labor.

The Government's human rights record remained poor; although there were improvements in a few areas, serious problems remained. Citizens' right to change their government was severely circumscribed in the 2000 general elections on Zanzibar; the May by-elections on the mainland were marred by detentions and intimidation, and harassment of opposition parties increased dramatically from the previous year. Security forces committed unlawful killings. Police officers tortured, threatened, and otherwise mistreated suspected criminals and prisoners during the year.

Prison conditions remained harsh and life threatening; however, some improvements were made during the year. Arbitrary arrest and prolonged detention remained problems. Pervasive corruption continued. The Government limited freedom of privacy, speech, the press, assembly, and association. The Government forcibly expelled refugees and refused persons seeking asylum or refugee status. The Government pressured Burundian refugees to repatriate voluntarily. In the west, anti-refugee resentment and hostility continued. The Commission on Human Rights and Good Governance investigated several cases of abuse during the year. Sexual and gender-based violence and discrimination against women and girls remained problems, including in refugee camps. Female genital mutilation (FGM) remained a serious problem in some regions of the country. Trafficking of children and child prostitution were problems. Discrimination against national, racial, and ethnic minorities and persons with HIV/AIDS persisted. Workers' rights were limited and child labor continued to be a serious problem. Mob justice remained widespread and resulted in several unlawful killings.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, security forces continued to use excessive, lethal force against citizens.

During the year, the police killed several suspected criminals. In May, police killed a suspected criminal when he reportedly tried to escape apprehension in Zanzibar. In June, police killed two suspected criminals in Mwanza.

Unlike in the previous year, there were no reports of killings in police custody.

There were no reported prosecutions of police who killed suspects in 2002, 2003, or during the year.

During the year, the use of excessive force by security forces resulted in at least two deaths. During the mainland's local elections in November, police shot and killed a 17-year-old boy after a mob burned government vehicles and police fired their weapons at a Dar es Salaam voting site. An investigation was pending at year's end.

On December 1, outside a voter registration office on the island of Pemba, a member of a paramilitary unit fired into a crowd, killing a 16-year-old student and seriously wounding two other persons. According to the island's regional police commander, a mob had thrown stones at members of the paramilitary unit during the registration of voters. At year's end, police were investigating the killing.

There was no additional information available about the reported cases of killings in 2002 by security forces.

Unlike in the previous year, there were no reports that organized vigilante groups, known in Swahili as Sungusungu, committed unlawful killings during neighborhood patrols.

There was no additional information available about the 2003 killing by vigilantes of a night guard in coastal Tanga.

At year's end, there was no additional information on the status of four Sungusungu members arrested and charged with the September 2003 killing of suspected thief Haridi Hussein in Lukobe village, Morogoro.

Mob justice against suspected criminals persisted, despite government warnings against it. Throughout the year, the media reported numerous incidents in which mobs killed suspected thieves; the suspects were stoned, beaten, hacked to death with machetes, or doused with gasoline and set on fire. For example, in January, a mob caught and killed a suspected thief in Dar es Salaam. At the end of July, a mob killed a suspected rapist in Zanzibar.

The Government sometimes prosecuted cases of mob justice, but government officials reported difficulties in prosecuting cases due to the unwillingness of witnesses to cooperate.

During the year, on Zanzibar, authorities conducted three investigations into killings that resulted from mob justice in recent years. Two investigations were unable to find sufficient evidence to continue with prosecution. One case was pending in the courts at year's end.

During the year, villagers reportedly killed a refugee suspected of stealing (see Section 2.d.).

In some instances, the widespread belief in witchcraft, particularly in Shinyanga region, led to the killing of alleged witches by those claiming to be their victims or aggrieved relatives of their victims, or by mobs. In July, local Swahili newspaper Nipashe reported that more than 1,000 persons were killed on suspicion of witchcraft since 1995. A 2002 report by the World Health Organization estimated that

500 elderly women accused of witchcraft—often connected with an event such as crop failure—were killed every year.

During the year, the Government prosecuted some individuals accused of killing suspected witches and denounced the practice of killing those suspected of witchcraft. For example, in early August, a mob armed with machetes, stones, and knives killed seven persons accused of practicing witchcraft in Makete in Iringa region. Police charged 22 persons with these murders. By year's end, no additional information was available on this case.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there continued to be numerous reports that police officers tortured, threatened, and otherwise mistreated suspected criminals and prisoners during the year. Beatings and floggings were the methods most commonly used. The Government seldom prosecuted police for abuses.

On May 14, police were accused of pulling on a suspected detainee's genitals in Shinyanga. There was no additional information available about this case by year's end.

Unlike in the previous year, there were no reports that police used torture to extract confessions. There were no further developments in the September 2003 torture of Sasi Marwa.

Caning and other forms of corporal punishments were used in schools (*see* Section 5). Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders. Overall use of caning in schools and by courts was declining.

There were numerous reports that the TPDF beat civilians without cause. For example, after the death of a soldier in Arusha in early April, soldiers went on a rampage, beating civilians indiscriminately. An estimated 20 civilians were injured, some severely. By year's end, there were no reports that any disciplinary action had been taken against these soldiers.

During the year, city police in Dar es Salaam continued to use excessive force and confiscate the goods of petty street traders while attempting to relocate them.

There was no action taken against police officers responsible for the September and November 2003 beatings with clubs of Dar es Salaam street traders.

Security forces used excessive force to disperse large gatherings (*see* Sections 2.b. and 2.c.).

In remarks published on January 20 about the police's use of force, Speaker of the National Assembly Pius Msekwa said police had legal authority to use force, including beating up unruly suspects.

In remarks published May 25, Inspector General of the Police Omar Mahita, speaking at a human rights workshop, said police officers should respect the Constitution and stop abusing and harassing members of the public. In addition, during the year, opposition party parliamentarians denounced the use of excessive force by police.

There was no additional information in the case of the January 2002 bomb explosions in Zanzibar Town.

Prison conditions remained harsh and life threatening. The prisons, some of which were built during the colonial era, were designed to hold between 2,000 and 2,699 persons; however, on August 1, the total prison population was 43,526. Three prisons—Maswa, Babati, and Kahama—were overcrowded by over 1,200 percent. A total of 45 percent of all prisoners were awaiting trial. In 2003, the Chief Commissioner said that the Government was financially incapable of building more prisons and remand houses.

The Community Services Act allows persons convicted of minor offenses to be sentenced to community service instead of jail time; however, by year's end, the Act still had not been used. During the year, the Government trained police and magistrates in the implementation of the Community Services Act.

A National Parole Board was responsible for identifying prisoners eligible for parole. During the year, the board released on parole 253 prisoners. Since 1999, the National Parole Board has released 728 prisoners.

Prisoners were subjected to poor living conditions. The daily amount of food allotted to prisoners was increased during the year; however, authorities did not allow convicted prisoners to receive food from outside sources except for religious reasons. For example, during the month of Ramadan, Muslim prisoners were allowed to receive food from outside sources for their evening meal. Authorities often moved prisoners to different prisons without notifying prisoners' families. In violation of the law, some rural district courts forced remandees who were awaiting trial to pay for their upkeep and transport.

Prison dispensaries offered only limited treatment, and friends and family members of prisoners generally had to provide medication or the funds with which to purchase it. Diseases were common and resulted in numerous deaths. According to government officials, the leading causes of death in order of occurrence were tuberculosis, HIV/AIDS, HIV/AIDS plus tuberculosis, and malaria. There were reports that guards abused prisoners during the year.

During the year, the Government's Human Rights and Good Governance Commission released a report on prison conditions. Based on visits to selected prisons throughout the country, the report identified serious overcrowding and poor living conditions as persistent problems. Following the report's release, the Prisons Department increased prisoners' food rations, procured mattresses for prisoners, and changed prisoners' uniforms.

The Prisons Act requires prisoners to be separated based on age and gender, and female prisoners were held separately from male prisoners in practice. Unlike in the previous year, women sent to remand prison did not report that they were forced to sleep naked and subjected to sexual abuse by wardens.

Because there were very few juvenile detention facilities in the country, juveniles frequently were not separated from adult prisoners during the day. Juveniles are handled separately under the Department of Social Welfare, which manages juvenile courts and juvenile remand homes. Prisoners between the ages of 18 and 21 are considered "young prisoners" and slept separately from the older adult prison population. There was one separate youth prison in Morogoro.

Pretrial detainees were held with convicted prisoners; they were allowed to receive food from the outside.

There were no developments in the case of deceased prisoner Issa Shabani, whose family accused the Ukonga prison guards in September 2003 of beating him to death and covering up their action.

Unlike in the previous year, there were no reports of deaths in custody.

By year's end, no trial date was set for 5 police officers charged in the 2002 case of 17 prisoners who suffocated to death in an overcrowded jail cell in Mbeya.

Local nongovernmental organizations (NGOs) and diplomatic observers were permitted to monitor prison conditions; however, international organizations did not request permission to monitor prison conditions during the year. The ICRC visited prisoners at the International Criminal Tribunal for Rwanda, in Arusha. The Government permitted the U.N. High Commissioner for Refugees (UNHCR) to visit prisons holding refugees in Dar es Salaam and in the west.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were problems.

The police force was underfunded and inefficient. The use of excessive force, police corruption, and impunity were serious problems. Citizens often complained that police were slow to investigate crimes and prosecute criminals. Although police are not attorneys, they prosecute most crimes in the lower courts; many judicial experts criticized this arrangement, saying that it allowed police to manipulate evidence in many criminal cases and sometimes resulted in cases being thrown out of court. According to NGO reports, police often lost evidence, and suspects with sufficient means successfully avoided prosecution by bribing police officers. Communities perceived a general lack of protection amid an increase in crimes committed by armed criminals. The general lack of trust in the police force and in the court system contributed to a high incidence of mob justice during the year (*see* Section 1.a.).

There was no additional information about the internal investigation of a police officer accused of harassing and attempting to obtain a bribe from a local businessman. Despite these actions and those of the Prevention of Corruption Bureau (PCB), there continued to be numerous reports in the press and complaints from civil society groups and citizens about police corruption during the year (*see* Section 3).

During the year, the Government revamped the training curriculum for new police officers in accordance with international human rights standards.

The People's Militia Laws grant legal status to the traditional Sungusungu neighborhood and village anticrime groups. Local governments appoint the members with the help of individual households who decide which among them will join the Sungusungu watch. The Sungusungu were most commonly found in rural areas such as the Tabora, Shinyanga, and Mwanza regions, and in refugee camps. Members of Sungusungu have authorities similar to those given to police, including the authority to arrest persons; however, Sungusungu do not have the authority to carry firearms. They carry wooden clubs for their protection. In return, they were expected to be held accountable for any abuses. Residents of a neighborhood in which Sungusungu operated were required by law and custom to either donate a small

sum to the Sungusungu for patrols or, if they did not have money, to provide one person from their household to participate in patrols.

In refugee camps, in addition to a regular police contingent, Sungusungu groups composed of refugees acted as security forces.

The law requires that a person arrested for a crime, other than a national security detainee as defined under the Preventive Detention Act, be charged before a magistrate within 24 hours of arrest; however, in practice the police often failed to comply with this provision. In some cases, accused persons were denied the right to contact a lawyer or talk with family members. Prompt access to counsel was limited by the lack of lawyers practicing in rural areas.

The law restricts the right to bail and imposes strict conditions on freedom of movement and association when bail is granted. Judges set bail on a discretionary basis based on the merits of each case; however, there was no provision for bail in cases of murder or armed robbery. Bribes often determined whether bail was granted.

Under the Preventive Detention Act, the President may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. This act requires that the Government release detainees within 15 days of detention or inform them of the reason for their detention. The law allows a detainee to challenge the grounds for detention at 90-day intervals. The Preventive Detention Act was not used during the year. The Court of Appeals ruled that the Act cannot be used to deny bail to persons not considered dangerous to society; despite this ruling, however, the Government has not introduced corrective legislation. The Government has additional broad detention powers under the law, which permit regional and district commissioners to arrest and detain for 48 hours persons who may "disturb public tranquility."

The Government arbitrarily arrested numerous persons, particularly supporters and members of opposition political parties. Arbitrary political arrests increased during the year (*see* Section 3).

For example, following a series of bombings in March on Zanzibar, police arrested 45 individuals and reportedly detained members of the Civic United Front (CUF), a political party, and of a religious NGO, Uamsho (*see* Section 2.c.). All of the individuals arrested in connection with the bombings were released within 2 months; the police did not confirm that any had been charged. One member was allegedly beaten while in custody.

In May, police arbitrarily arrested several members of the opposition party CHADEMA in Karatu district. All members were eventually released and no charges were brought.

Police continued to make arbitrary arrests and use the threat of them to extort money.

By year's end, there were no developments in the 2002 case of opposition leader Christopher Mtikila, who was accused of making seditious comments about the nationality of President Mkapa.

Police arrested refugees for leaving the camps without permits (*see* Section 2.d.).

Authorities acknowledged that some prisoners waited several years for trial, sometimes because they did not have the means to bribe police and court officials. Observers estimated that approximately 5 percent of persons held in remand ultimately were convicted, and often those convicted already had served their full sentences before their trials were held. A government official estimated that it took up to 5 years for homicide cases to reach the High Court. By year's end, some suspects had spent as many as 10 years in prison without having their cases heard before a court. The chairman of the Commission on Human Rights and Good Governance, Justice Robert Kisanga, criticized the criminal justice system, and highlighted a need to explain why suspects were detained for so long without trial.

There was no additional information available about the cases of 12 inmates in Keko who had been imprisoned for as many as 10 years without trial, or a civil suit against the Government by 18 CUF members who spent more than 2 years in prison without being convicted.

During the year, President Mkapa issued presidential pardons for at least 8,185 prisoners.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary remained underresourced, corrupt, inefficient, and subject to executive influence, although there were no reports of executive interference during the year.

Independent observers continued to criticize the judiciary, particularly at the lower levels, as corrupt and inefficient, and they questioned the system's ability to provide a defendant with an expeditious and fair trial. Clerks took bribes to decide

whether or not to open cases and to hide or misdirect the files of those accused of crimes. Magistrates occasionally accepted bribes to determine guilt or innocence, pass sentences, withdraw charges, decide appeals, and determine whether cases were judged as civil or criminal matters. In addition, there were few courts available to citizens, and the cost of traveling to the nearest court was often prohibitive.

The Government made no progress in addressing judicial corruption. Judicial ethics committees failed to offer recommendations to improve the credibility and conduct of the judiciary.

The legal system has five levels of courts combining the jurisdictions of tribal, Islamic, and British common law. Christians and Muslims are governed by criminal law. In family law and civil matters, Christians are governed by customary law, which is composed of approximately 120 types of tribal law, unless they can prove to a judge that customary law does not apply to them (for example, if they have not been living in a traditional community or are foreigners). In certain civil matters such as marriage, divorce, child custody, and inheritance, Muslims are governed by Islamic law. Islamic law was applied only to adjudicate civil cases in which both parties were Muslims. In family matters, the content and application of some customary and religious laws were discriminatory towards women (*see* Section 5).

The court system consists of primary courts, district courts, magistrates' courts, a High Court on Zanzibar and one on the mainland, and a Court of Appeal, which serves as the highest court for both the mainland and Zanzibar. Primary courts, which are present in each administrative region, have jurisdiction for civil suits related to customary and Islamic law, and civil and Christian matrimonial suits. Judges were appointed by the Chief Justice, except those for the Court of Appeal and the High Courts, who were appointed by the President. All courts, including Islamic courts, were staffed by civil servants.

Zanzibar and the mainland have separate judicial systems, with the exception of the Court of Appeal. Zanzibar's court system, excluding its Kadhi courts, generally parallels that of the mainland. In Zanzibar, Kadhi Courts operate in place of primary courts. The Kadhi courts have jurisdiction in civil cases arising from Islamic law and custom. The Kadhi court system consists of Kadhi courts and the Court of the Chief Kadhi. Appeals from the Court of the Chief Kadhi go to the High Court of Zanzibar for final rulings; cases in the Kadhi system cannot be appealed to the Court of Appeal. All other cases can be appealed to the Court of Appeal. Cases concerning Zanzibar constitutional issues were heard only in Zanzibar's courts.

While the majority of judges on Zanzibar were Muslim, there were very few Muslim judges, if any, on the mainland; consequently, some Muslim groups complained that it was inappropriate for Christian judges on the mainland to continue administering Islamic law for Muslims in family matters.

Criminal trials were open to the public and to the press; courts were required to give reasons on record for holding secret proceedings. The Prevention of Terrorism Act excludes everyone except the interested parties from trials of terrorist suspects and suppresses information to protect the identity of witnesses in those trials.

There was no trial by jury. The law provides for a right to defense counsel only for serious offenses. The Chief Justice assigns lawyers to indigent defendants charged with serious crimes such as murder, manslaughter, and armed robbery. There were only a few hundred practicing lawyers in the country, and most indigent defendants charged with lesser crimes did not have legal counsel. The law prohibits counsel from defending clients in primary or district level courts. The law provides for the presumption of innocence, and provides criminal defendants with the right of appeal.

There was a separate court for young offenders; however, this court was underutilized and many juvenile offenders were tried in adult courts. Some cases continued to be sent through the traditional court system, where they were processed faster due to a less significant backlog than in the regular civil court system. The law provides for military tribunals; however, military tribunals have not been used since independence. Military courts did not try civilians. Defendants in civil and military courts could appeal decisions to the High Court and the Court of Appeal.

In 2003, the Government, in cooperation with the local community and with funding from donor countries, began a pilot program known as Quick Start to rehabilitate court facilities and increase the number of primary courts. By year's end, the program was only active in Arusha and Manyara regions.

Unlike in the previous year, Burundian mediation councils no longer handled domestic abuse cases for Burundian refugees in Tanzania's refugee camps. In refugee camps, Burundi mediation councils, mostly composed of male refugee elders, often handled minor offenses. Serious offences, including rape and murder, were supposed to be investigated by police stationed in the camps and referred to the national courts for prosecution. However, in practice, national courts did not adequately pros-

ecute most cases involving refugees. Refugee camps were affected by delays and limited access to courts.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution generally prohibits such actions without a search warrant; however, the Government did not consistently respect these prohibitions in practice. The Prevention of Terrorism Act permits the police to conduct searches without a warrant in certain urgent cases; there were no reports that the act has ever been implemented in practice.

Only courts can issue search warrants; however, the law also authorizes searches of persons and premises without a warrant, if necessary, to prevent the loss or destruction of evidence connected with an offense, or if circumstances are serious and urgent. In practice, members of security forces rarely requested warrants and often searched private homes and businesses at will.

The security forces reportedly monitored telephones and correspondence of some citizens and foreign residents.

The Zanzibar Government enforced the Zanzibar Spinsters and Female Divorcees Protection Act, which makes it a criminal offense for any woman to become pregnant out of wedlock, under punishment of incarceration. In theory, the law could also be applied to men; however, because DNA testing was not available in Zanzibar, only women have been sentenced under the law. From 2000 to the end of 2003, 47 cases were brought to court, and 30 women have served jail time. During the year, one woman was convicted under the act but served a suspended sentence. Female members of the Zanzibar House of Representatives advocated appeal or reform of the law; however, by year's end, no changes had been made to the law.

Unlike in the previous year, there were no reports that the Sungusungu forced widows to remarry.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech, but does not expressly provide for freedom of the press, and in practice, the Union Government partially limited these rights, and the semi-autonomous Zanzibar Government heavily limited these rights. The only private newspaper published on Zanzibar, *Dira*, remained banned. The law limits the media's ability to function effectively. The print media were subject to considerable government restrictions, including the enforcement of a code of ethics. Although the code is considered voluntary, the Government has fined and suspended newspapers under this code. Libel laws that impose criminal penalties intimidated journalists, and journalists practiced self-censorship. On the mainland, the Government allowed political opponents unrestricted access to the media. There were no reports that the Government restricted academic freedom.

Citizens on the mainland generally enjoyed the right to discuss political alternatives freely; however, freedom of speech was severely restricted. The law requires political parties to support the continuation of the Union. Opposition political party members and others openly criticized the Government and ruling party; however, under the law, persons using "abusive language" against the country's leadership were subject to arrest. Harassment of opposition parties increased dramatically from the previous year.

Authorities occasionally restricted political and religious speech by Muslims during the year (see Section 2.c.).

The mainland and Zanzibar have separate media policies. During the year, there were more than 110 newspapers published in English and Kiswahili, including 19 dailies and 53 weeklies. Many of the mainland's newspapers were privately owned. There were a dozen periodicals in the country, some of which were owned or influenced by political parties, including the CCM and the CUF. Mainland publications, including one government-owned newspaper, regularly reported events that portrayed the Government critically.

Approximately 26 radio stations and 15 television stations broadcast in Dar es Salaam and in a few other urban areas. Many radio stations and all but one television station were privately owned. The Government occasionally circumscribed activities of the broadcast media; for example, radio stations could not broadcast in tribal languages. On Zanzibar, the Government controlled radio and television; however, many residents were able to receive mainland broadcasts. In April, the Ministry of Information withdrew its decree requiring all radio stations to broadcast government-produced news programs at specified times during the day.

Unlike in previous years, the Zanzibar Government did not use the Zanzibar News Act to harass, detain, or interrogate journalists. However, many press freedom

advocates said the existence of the Act severely limited freedom of the press, and Reporters Without Borders stated that there was no press freedom in Zanzibar.

There were a few reports of harassment of the media during the year. For example, in April the CCM Director for Information, Enzi Talib, reportedly harassed journalist Salma Said and chased her out of his office. The accounts of the confrontation conflicted: The journalist said she was harassed for reporting that was critical of the CCM; the party official alleged that the journalist had sold stolen press credentials to foreign journalists.

During the year, the Zanzibar Government issued a provisional passport to Ali Nabwa, the editor of the banned newspaper Dira, after immigration officials revoked his citizenship in 2003.

Journalists and NGOs belonging to the Media Law Reform Project continued to complain that the Government has deliberately weakened press freedom and limited information to the press through several laws, including the Newspaper Registration Act, the National Security Act, the Regional Commissioner's Act, and the libel law. For example, journalists who reported arrests could be charged with obstructing police activity under the Police Act. Other laws authorize the Government to prevent television filming of the swearing-in of opposition Members of Parliament (M.P.s). Media groups continued to call for the abolishment of what they deemed to be draconian legislative prohibitions. In addition, they criticized the lack of access to government information and protection for journalists' sources and whistle blowers.

On November 24, the High Court of Zanzibar ruled that Dira, which the Government banned in November 2003, had violated registration procedures and could not resume publishing; the Court made no ruling on whether Dira had violated media ethics. At year's end, Dira's management was reapplying for a new license.

The Government reportedly continued to pressure newspapers throughout the year to suppress or change articles unfavorable to it. During the year, there continued to be reports that the Government withheld lucrative government advertising from newspapers deemed too critical of the administration. In addition, according to press freedom observers, the Government attempted to weaken the media by maintaining prohibitively high taxes on newsprint and advertising.

Early in the year, President Mkapa said that the media should explain to the public how it earned enough capital to operate, rather than criticize the Government.

Libel law, which imposes criminal penalties for defamation, intimidated journalists and caused many to practice self-censorship. While the law specifies that the plaintiff has the burden of proof for demonstrating malicious intent, many media observers criticized the courts for ignoring this provision, and for imposing heavy, politically motivated penalties on the media. As of May, there were more than 80 libel suits pending in high courts, with damages demanded ranging between \$47,000 to \$9 million (50 million to 10 billion shillings).

In August, in an effort to facilitate media self-regulation, the Government appointed 12 media professionals as "assessors," in charge of assisting courts to evaluate a journalist's or publication's efforts in newsgathering, writing, editing, or broadcasting.

On February 20, the Tanzanian High Court fined the Kenyan weekly, *The East African*, \$927,000 (1 billion shillings) in damages in a defamation case. Dr. Salim Ahmed Salim, former secretary general of the Organization of African Unity, filed the suit in response to a 2002 editorial that said the diplomat had defended a former commerce minister against corruption charges. The Court also ordered *The East African* to publish an apology.

Lack of media access to government information remained a serious problem. Civil service regulations prohibit government workers from divulging government information to the media, effectively allowing only a handful of high-level government representatives to relay information to the media (*see* Section 3).

During the year, the Government continued to be unresponsive to journalists' requests for information, although it made efforts to improve. The Government continued to place information officers in ministries and to build the capacity of a Communications Directorate, which was opened under the President's office in 2003; however, by year's end, some ministries still lacked an information officer. The changes were intended to increase transparency and access to information; however, press freedom observers and government officials criticized the creation of the Communications Directorate for duplicating the functions of *Maelezo*, the Government's information services department. Some journalists criticized the Communications Directorate for being inaccessible; many noted that it was too early to conclude that access to government information had improved.

During the year, the Media Council operated with limited effectiveness as a mediator between the public and the media. The Council supported press clubs; it also

sought to resolve defamation disputes before they reached a court of law, and to adjudicate cases in which journalists allegedly infringed on the voluntary code of professional ethics. Typically, the Media Council is allotted 3 months to mediate a dispute, including the negotiation of the extent of damages and an appropriate compensation, if applicable. After 3 months of unsuccessful negotiation, then the plaintiff may take the case to court. As of September, the Council had mediated more than 20 cases, and none had gone to court.

According to the Media Institute of Southern Africa, freedom of the press continued to be threatened by lack of training, mediocrity, low salaries, and corruption in the profession of journalism.

There were no reports that the Government restricted access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. Security forces interfered with citizens' rights to assemble peacefully, particularly for political rallies or demonstrations on several occasions. To hold rallies, organizers are required to obtain police permission in advance. Police have the authority to deny permission on public safety or security grounds or if the permit seeker belonged to an unregistered organization or political party. Authorities arrested citizens for assembling without the appropriate permit. The Government sometimes prevented opposition parties from holding rallies. For example, on January 8, police banned a demonstration on Zanzibar by a new political party, SOFT, Solidarity of Force Three.

On June 24, police banned Ibrahim Lipumba, the chairman of CUF, from addressing a rally.

Authorities forcibly dispersed religious gatherings during the year (*see* Section 2.c.).

In March, the Government banned the religious organization Uamsho from holding a demonstration (*see* Section 2.c.).

On April 20, police reportedly used excessive force to disperse student demonstrators protesting a new Student Loan Bill at the University of Dar es Salaam.

The Constitution provides for freedom of association; however, the Government limited this right in practice. The Government imposed stringent registration requirements for political parties, and unregistered parties were prohibited from holding meetings, recruiting members, or fielding candidates (*see* Section 3).

The Registrar of Political Parties has sole authority to approve or deny the registration of any political party and is responsible for enforcing strict regulations on registered parties. Under the law, citizens may not form new political parties independently, but must comply with certain requirements to register them with the Office of the Registrar.

Parties that the Government granted provisional registration may hold public meetings and recruit members. Provisionally registered parties have 6 months to submit lists of at least 200 members in 10 of the country's 26 regions, including 2 regions in Zanzibar, to secure full registration and to be eligible to field candidates for election.

During the year, the Government implemented the 2002 NGO Act, which requires all NGOs to register with a government-appointed NGO Registration Board. Failure to register or meet any of the Act's other requirements is a criminal offense (*see* Section 4). There were no reports that NGOs were denied registration on the mainland. The Zanzibar Human Rights Association's registration request, which has been pending for several years, remained pending at year's end.

Unlike in the previous year, the Government did not suspend registration of religious NGOs on the grounds that many were being formed for the purpose of evading taxes.

The Tanzanian People's Party and the Popular National Party, which were deregistered in 2002 for a lack of compliance with their respective constitutions, remained unregistered at year's end.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, there were some limits on freedom of religion.

In March, Zanzibari police used tear gas to disperse a demonstration by Uamsho (also known as the Islamic Revival or Center for Islamic Propagation), an umbrella organization for fundamentalist Muslim organizations. The group does not recognize Zanzibar's Mufti Law and therefore had refused to seek a permit from the mufti's office as required. The Office of the Mufti and the police had publicly warned Uamsho that its demonstration would be illegal. Reportedly, the demonstrators included some minors and were armed with stones and machetes. Seven demonstrators suffered minor injuries when the police broke up the demonstration. Police arrested 32 demonstrators; 2 Uamsho leaders faced charges in connection with the

demonstration, and by July they had been released on bail, and their case was pending.

On May 28, Zanzibari police arrested Islamic activist Sheikh Kurwa Shauri; no charges were filed. The Government of Zanzibar subsequently deported Shauri to Dar es Salaam, in accordance with a 1993 government order by then President Salmin Amour, which banned Shauri from the island after he was accused of disrupting the peace and fomenting inter-religious conflict.

By March, the Government had dropped all charges against six Muslims arrested in 2003 for sedition against Christianity and the Government, and all had been released by year's end.

The Government banned religious organizations from involvement in politics. Politicians are prohibited by law from using language designed to incite one religious group against another or to encourage religious groups to vote for certain political parties. The law imposes fines and jail time on political parties that campaign in houses of worship or educational facilities.

Government policy forbids discrimination against any individual on the basis of religious beliefs or practices; however, individual government officials allegedly favored persons who shared the same religion in the conduct of business.

Societal violence based on religion occurred on occasion. During March, there was a series of small explosions and firebombings in and near Stonetown on Zanzibar; the targets included a vehicle belonging to a church and the mufti's house, which was damaged slightly. The police arrested 45 persons, including some Uamsho members, in connection with the bombings; the Uamsho members alleged that they were beaten while they were in custody. In May, Zanzibari police confirmed that they had released these individuals. Uamsho representatives said that none of their members faced charges in the bombings.

During the year, there were other attacks on Zanzibar that appear to have been motivated by religious conflict. In April, practitioners of traditional religion burned portions of a tourist hotel on Zanzibar because the proprietor refused to allow them to practice rituals that would purportedly rid the hotel of witches. In May, unknown perpetrators used human waste to desecrate a church on Zanzibar's Pemba Island.

While Muslim-Christian relations remained generally stable in rural areas, tensions increased during the year in urban centers due to some Muslim groups' claims of discrimination in government hiring, education, and law enforcement practices. The Muslim community claimed to be disadvantaged in terms of its representation in the civil service, government, and parastatal institutions, in part because both colonial and early post-independence administrations refused to recognize the credentials of traditional Muslim schools. As a result, there was broad Muslim resentment of certain advantages that Christians were perceived to enjoy in employment and educational opportunities. Muslim leaders complained that the number of Muslim students invited to enroll in government-run schools was not equal to the number of Christian students.

There were reports that at certain Muslim religious rallies in urban centers, some participants publicly criticized Christianity, which, on occasion, resulted in fighting. The Government made some efforts to resolve the tensions between Muslim and Christian communities. For example, in May, Foreign Minister Jakaya Kikwete, a Muslim, attended a choir service at a Pentecostal Church.

During the year, Muslim fundamentalist organizations engaged in increasingly confrontational proselytizing in Zanzibar, Morogoro, Mwanza, and Dar es Salaam. Anti-Christian slogans became more prevalent in newspapers and pamphlets, and on clothing. Muslims threatened tourist establishments in Zanzibar, warning proprietors who catered to Western customers that they risked retribution for serving alcohol. On the mainland, Christian evangelical organizations also reportedly engaged in confrontational proselytizing, including the distribution of leaflets branding Muslims as "unbelievers" or "servants of Satan." In addition, Christian newspapers increasingly criticized Islamic practices and reprinted articles that were perceived to be anti-Muslim.

There were signs of increasing tension between secular Muslims and Muslim fundamentalists, as the latter believed that the former had joined with the Government for monetary and other benefits. Some Muslim groups accused the Government of being a Christian institution, and charged that Muslims in power were interested only in safeguarding their positions.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them; however, bureaucratic inefficiency and corruption delayed im-

plementation in practice, and respect for the right of asylum deteriorated during the year.

Mainlanders were required to show identification to travel to Zanzibar, although the requirement largely was ignored in practice. Zanzibaris needed no special identification to travel to the mainland. Mainlanders were not allowed to own land in the islands, except in partnership with foreign investors. There was no prohibition against mainlanders working in the islands; however, in practice few mainlanders were hired.

Police and the TPDF sometimes set up roadblocks in rural parts of the country and in Zanzibar. Government officials manning these roadblocks sometimes solicited bribes to allow passage.

Passports for foreign travel at times were difficult to obtain, mostly due to bureaucratic inefficiency and officials' demands for bribes.

The Constitution does not permit the forced exile of its citizens, and the Government did not use forced exile in practice.

During the year, the Legal and Human Rights Center (LHRC) alleged that the Citizenship Act continued to be used by the director of immigration services to reject citizenship for reasons of personal prejudice.

The citizenship of Ali Nabwa, the managing editor of *Dira*, has not been restored; however, he had not been deported by year's end.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government frequently did not provide protection against refoulement, the return of persons to a country where they feared persecution; on a number of occasions, particularly in October and November, the Government refouled refugees and refused persons seeking asylum or refugee status. The Government also deported between 400 and 700 persons whom it claimed were Burundians living in local villages in Ngara district. The Government at times did not cooperate with the UNHCR during the year. For example, on some occasions, the Government did not allow the UNHCR to be present at screenings for refugees as they arrived at the border or did not inform the UNHCR about arrival of new asylum seekers.

The Government applied ad hoc asylum procedures. The determination of refugee status rests solely with the Minister of Home Affairs (MHA), who was authorized to grant or reject applications for asylum. The MHA can declare any group of persons to be refugees by notice in the Government Gazette, and the Government determined Burundians and Congolese to be prima facie refugees. The Minister may also decide on cases individually. These individuals are required by law to register with the Director for Refugee Services and subsequently appear before a National Eligibility Committee (NEC) in which the UNHCR participates as an observer. In practice, this procedure was not observed. Cases were not heard by the NEC and instead were decided by local government officials.

Despite the MHA's mandate, the army and regional and district commissioners exercised a great deal of independent control over refugees in their regions. For example, the district commissioners, including the District Commissioner of Kibondo, continued to restrict access into and out of the camps and to prohibit refugees from leaving camps without a permit. Refugees caught outside the restricted areas were arrested, imprisoned, and deported to the countries from which they sought refuge, often without due process. Relatives of the accused often were not notified of their detention. In addition, the TPDF screened refugees as they arrived at the border and sometimes did not allow the UNHCR to be present.

In Kigoma, government officials (immigration, police, and MHA) screened new arrivals at the only official entry point in Kigoma, Kibirizi 1; the regional commissioner closed the other points in 2003. They often rejected asylum seekers and immediately handed them to Immigration Services for deportation. The majority of these refugees were Burundians. Unlike in the previous year, government officials permitted the UNHCR to have access to rejected cases, and sometimes allowed it access to the screening process.

During the year, the Kibondo District Commissioner repeatedly visited camps and urged refugees to return home; however, unlike in the previous year, there were no reports that the Kibondo District Commissioner ordered the staff of refugee way stations not to receive new refugees arriving from Burundi.

At year's end, the number of UNHCR-assisted refugees in the country was approximately 407,000: Approximately 249,000 Burundian refugees, 153,000 Congolese refugees, 2,000 refugees of mixed origin, and almost 200 Rwandan refugees living in 12 UNHCR-assisted camps in the northwest; there were also approximately 200,000 Burundian refugees who arrived prior to 1994 who were not being assisted by the UNHCR. In addition, there were approximately 3,000 Somalis living in a set-

tlement camp near the coast receiving some UNHCR assistance. Many Burundian refugees continued to return home under the perceived threat of refoulement. In addition, the UNHCR, with strong encouragement from the Government, increased efforts to facilitate returns to designated areas in Burundi that were considered secure. At year's end, the UNHCR had assisted in the repatriation of 82,930 refugees since January 1. Unlike in the previous year, there were no UNHCR reports that the Government did not register refugees from the Democratic Republic of the Congo (DRC), or that police were informally controlling groups of DRC refugees along the border. Rwandans no longer qualified for prima facie refugee status. The Government's relations with the UNHCR deteriorated during the later half of the year. During the year, the Government reportedly pressured the UNHCR to speed up the facilitated repatriation program. In January 2003, the Government expelled the head of a UNHCR sub-office in Ngara; he was not allowed back in the country.

During the year, there was a sharp increase in the number of reports indicating that the Government refused persons seeking asylum or refugee status.

On March 2, government officials imprisoned two Burundian refugees in the western part of the country and subsequently forced them to return to Burundi. In addition, during the first quarter of the year, in Kibondo district, security forces arrested eight other refugees and forcibly returned them to Burundi.

During October and November, the Government refused to grant asylum to approximately 100 asylum seekers, most of whom came from Kirundo province in Burundi.

The Government's application of immigration laws to refugees instead of applying the 1998 Refugees Act continued to be a problem. Sentences under Immigration laws are more stringent than those under the Refugees Act. After serving their sentences under the Immigration Act, asylum seekers and refugees often were issued Prohibited Immigrant Notices and deported.

For example, on March 21, two Burundian refugees were arrested and immediately deported to Burundi.

Anti-refugee sentiment among the 2 million citizens living in refugee-affected areas of the country was high due to pressure on local resources; the belief that refugees were responsible for an increase in crime, small arms trafficking, HIV/AIDS, and environmental degradation; and the provision of goods and services for refugees that were not available to the local population. However, many services offered by the UNHCR, NGOs, and international organizations, in particular health care and road improvement projects, were available to the local population. In December, President Mkapa announced that the Government would not allow a new influx of Burundian refugees to enter the country if the political situation in Burundi deteriorated.

The UNHCR, with government cooperation, continued to provide security for refugees, including the training of local camp security guards and the provision of subsidy payments, vehicles, and radios to police; however, during the year, crime—including at least two killings and several rapes and robberies—was a serious problem in and around the refugee camps. Between June and August, there was a sharp increase in crime in the northwest district of Ngara. There was also a sharp increase in crime in the Kigoma region during the latter part of the year. Government officials blamed refugees for the increase in crime; however, it was unclear who was responsible for the crimes. According to Refugees International, during the year, several refugees complained repeatedly about the inaction of police and refugee security guards and their lack of capacity to prevent violence and provide protection.

In May, according to the U.N. World Food Program, villagers in Kibondo district reportedly killed a refugee suspected of stealing food items from their village.

It is illegal for refugees to live outside of the camps or settlements, or to travel outside of their respective camps without permission. However, refugees often had to travel more than 5 miles to collect firewood because local supplies were inadequate; these refugees, usually women and children, were subject to theft, physical abuse, and rape. There were a number of police positions funded to patrol the camps. There were reports that police based in refugee camps sexually exploited female refugees. Women and children sometimes engaged in prostitution in the refugee camps. Under the Refugees Act, refugees must obtain permits to work, and during the year, authorities strictly enforced restrictions on movement, which imposed economic difficulties on refugees who had been illegally farming or doing business outside the camps for several years.

There were reports that some refugees engaged in vigilante justice within camps, occasionally beating other refugees. There was significant hostility and resentment against Burundian refugees during the year and continuing concern regarding violence allegedly perpetrated by some armed Burundian and Rwandan refugees. Local officials reported incidents of banditry, armed robbery, and violent crime, allegedly

perpetrated by refugees in the areas surrounding refugee camps. Rape and domestic violence remained problems in refugee camps. The UNHCR, in coordination with the Government and local NGOs, continued programs to increase awareness about sexual and gender-based violence and deal with abuses in the camps.

The Government did not adequately investigate, prosecute, or punish perpetrators of abuses in refugee camps. There were mediation councils in the refugee camps and police patrols in the camps, but many cases were not referred to local authorities.

According to the Coalition to Stop the Use of Child Soldiers, children continued to be recruited as soldiers from the country's refugee camps (see Section 5).

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, this right was circumscribed severely in the 2000 general elections on Zanzibar, and again in May by-elections held in two districts on the mainland. Serious irregularities were also observed in some districts in local elections in November.

There were general elections in 2000, in which the ruling CCM's candidate Benjamin Mkapa was elected President with 71 percent of the vote. In the parliamentary elections, the CCM won 202 of the 232 elected seats. In the Zanzibar presidential election, Abeid Amani Karume defeated the candidate from the opposition CUF party. On the mainland, international observers concluded that the elections were free and fair and conducted peacefully; however, four separate international observer teams concluded that the vote on Zanzibar was marred by irregularities, voter intimidation, and politically motivated violence. In addition, 16 CUF members were expelled from the National Parliament after they boycotted the legislature to protest the Zanzibar election results.

Although the 2003 by-elections held in 17 districts on Zanzibar were generally considered to be free and fair, in the May by-elections on the mainland, government offices dominated by the ruling CCM party frequently denied permits requested by opposition parties for rallies or demonstrations, arbitrarily detained opposition members, and intimidated and harassed opposition supporters.

On May 30, by-elections for a parliamentary seat formerly held by opposition member of the United Democratic Party (UDP) John Cheyo were conducted in Bariadi, Shinyanga. During the campaign period before the election, there were reports that police detained 30 UDP supporters and then released them. Cheyo also alleged that police fired at a UDP vehicle.

On May 30, by-elections were conducted for village councilor seats formerly held by the Tanzania Labor Party (TLP), an opposition party, in Moshi Rural. On five different occasions during the campaign, police arrested Thomas Ngawaiya, an M.P. and member of the TLP. After a party meeting the evening before the election, unidentified persons in two vehicles forced the car containing Ngawaiya and three TLP councilors to the side of the road, beat them, stabbed one, and vandalized the car. No action was taken against the perpetrators.

In November, local elections were held on the mainland. The elections were marred by violent confrontations, burned ballots, long delays prior to voting, and one death (see Section 1.a.). The Government re-administered the local elections the following week in 148 of the Dar es Salaam region's 387 electoral areas.

During the year, opposition political parties complained that the National Electoral Commission was not independent since all commissioners were appointed by the President, and were presumed to be CCM party loyalists. Opposition political parties criticized the ward executive officers responsible for registering voters because they considered the officers to be subject to CCM influence. The law prohibits independent candidates who are not running with a registered political party; requires all standing M.P.s to resign if they join another party; requires all registered political parties to support the union with Zanzibar; and forbids parties based on ethnic, regional, or religious affiliation.

On semi-autonomous Zanzibar, a separate Zanzibar Electoral Commission (ZEC) is responsible for voter registration and for the conduct of elections for Zanzibari offices. The Muafaka Accord, negotiated between the CCM and the CUF following the 2000 elections, provided for the ZEC to establish a permanent voters' registry in 2003; although the registry was not completed in 2003, the ZEC had begun to register voters on Zanzibar by year's end and was expected to complete the registry by April 2005, in advance of the general elections. At some registration sites, there were violent confrontations between paramilitary forces and citizens, one of which resulted in death (see Section 1.a.). In December, the ZEC temporarily closed as many as 10 of the 58 registration centers that were active in December, reportedly due to violence or the threat of violence. During the year, the CUF alleged that the

Government transferred paramilitary units from the mainland or from pro-CCM districts of Zanzibar into pro-CUF districts, where they registered to vote in the 2005 general elections; the CCM denied the charges.

By year's end, 16 political parties were registered. CCM controlled 296 seats, approximately 93 percent of the seats, in the National Assembly.

The Government restricted political opponents by denying their permit requests to hold rallies, harassing them, and detaining them for short periods of time (*see* Section 1.d.).

There were reports during the year that police in Zanzibar arrested, detained, and harassed CUF members (*see* Section 1.d.).

Election law provides for outgoing M.P.s to receive \$20,000 (20 million shillings) as a "gratuity," which incumbents continued to use in their re-election campaigns to facilitate their return to the national assembly. Several NGOs criticized this provision and said it made it extremely difficult for aspiring parliamentary candidates from the opposition parties to mount effective and fair competition.

On Zanzibar, both CCM and CUF have active youth wings. Each accused the other party's youth wing of committing violent attacks. During the year, members of the CUF youth wing were accused of stoning CCM offices and of the July 10 stoning of the car belonging to a CCM administrative officer.

On March 25, Deputy Ministry for Home Affairs John Chilligati banned the CUF youth wing from practicing karate. The Deputy Minister was quoted as saying that the opposition should not have their own armies and that judo and karate were military exercises.

On June 15, unidentified youths beat and robbed CUF party Chairman Ibrahim Lipumba when he was visiting a school in Bukoba; the CUF alleged that the attack was politically motivated.

Despite significant changes in the past decade, corruption remained a pervasive problem throughout the Government. There was a strong public perception of corruption in the executive branch.

There was little accountability in most government entities. The Ministry of Finance has estimated that 20 percent of the Government's budget in each fiscal year is lost to corruption, including theft, fraud, and fake purchasing transactions. According to the Controller Auditor General's annual report, more than half of the Ministry of Health's budget could not be accounted for. In 2002, only 20 out of 117 districts received a clean audit by the Controller Audit General. Transparency International reported in its annual Corruption Perceptions Index for 2004 that citizens perceived slightly less corruption than in the previous year.

The Good Governance Coordination Unit (GGCU) is charged with implementing anti-corruption legislation and with coordinating anti-corruption efforts; however, this three-person unit continued to be severely underresourced. The GGCU continued to collect information from all the ministries and publish quarterly reports, which detailed the implementation of the National Anti-Corruption Strategy and Action Plan (NASCAP), allegations of fraud and waste, and actions taken.

The PCB, the Government's leading anti-corruption entity, is responsible for investigating cases of corruption on the mainland and referring them to the courts for prosecution. The PCB does not operate in Zanzibar because corruption law is not a union matter. The PCB lacks constitutional recognition, and is under the authority of the office of the President, two factors that hindered its ability to resist political pressures and prosecute high-level corruption cases. The PCB's Director General served at the pleasure of the President and had no security of tenure. During the year, the PCB continued to refer cases to the Deputy Public Prosecutor (DPP); however, the prosecution of corruption cases remained slow and inefficient. The PCB usually required 2 years to investigate a case of corruption. If the PCB referred the case, the DPP typically required an additional 2 years to review the case's merits and decide whether to prosecute it. Only about 5 percent of corruption cases reported to the PCB's regional offices during the last 5 years have been heard by a court of law.

Between 1995 and June, the PCB received 10,319 reports of corruption and investigated 9,507 of them. Of the cases investigated, 357 were prosecuted, resulting in 48 convictions. No high-level government leaders were tried on corruption charges during the year. As of June, 5,387 cases were pending with the PCB. According to the head of the PCB's investigation unit, the PCB had 38 prosecutors. As of September, the PCB had 73 district offices in every mainland region, a hotline for the public to report cases of corruption, and a total of about 730 investigators. Anti-corruption activists criticized the Government for not providing the PCB with the capacity to monitor the implementation of recommendations that the PCB made to institutions.

According to the PCB, most corruption-related complaints involved mining; land matters, particularly title deed fraud; energy; and investment. The lack of regulations for the program to privatize state entities was also a source of corruption complaints. According to anti-corruption NGOs, most allegations of corruption involved the Tanzania Revenue Authority, local government officials, licensing authorities, hospital workers, and the media.

During the year, the Government took steps to fight corruption, acting through the GGCU, the PCB, the Commission for Human Rights and Good Governance, and the Ethics Secretariat. During the year, the Government raised the wages of civil servants to reduce the temptation to commit corruption. In addition, the Government continued to build the PCB's capacity, providing for an average of 100 new additional investigators to join the PCB each year. The Government's Commission for Leadership Ethics received the annual declarations of wealth by certain public leaders.

The Zanzibari House of Representatives has denied the request of the Union Government's Ethics Secretariat to open an office on the isles. An office of the Commission for Human Rights and Good Governance existed on the isles, but at year's end, it still had no mandate from the Zanzibar Government to investigate corruption cases.

During the year, human rights observers, members of the political opposition, and legal experts continued to accuse the CCM of engaging in corruption during elections because of CCM's use of provisions in the country's election law that allow candidates to offer hospitality, gifts, and favors—known as “takrima”—to constituents during campaigns. The groups said the law—by not defining limits on the form, amount, or duration of the hospitality that candidates can provide to the electorate—continued to provide a “loophole for corruption.” During the year's debate on the ethical nature of takrima, some political figures said the law allowing for takrima promoted the African tradition of providing hospitality and encouraged citizen participation in the electoral process; however, many observers expressed concern that the practice of takrima gave the CCM party undue influence, particularly because the CCM party received significantly larger government subsidies under the law than other parties. East African Court of Justice Judge Joseph Warioba, who chaired a presidential commission that produced a landmark report on corruption in 1996, said corruption was rampant in the political arena during the year. Warioba, a former Prime Minister, also said that takrima allowed politicians to buy votes by offering goods and cash to individuals and communities; however, there were no confirmed reports of vote buying during the year. Voting procedures witnessed by election observers during the year included provisions for a secret ballot and provided significant safeguards against a direct quid pro quo exchange of a bribe for a ballot cast. The practice of takrima nonetheless gave the wealthier parties undue influence in electoral politics. According to Edward Hoseah, the director of the PCB's investigations unit, the Government needed to draw a clear line between hospitality and bribery to avoid further encouraging electoral corruption.

Civil society's contribution to anti-corruption efforts increased. In its annual human rights report, the LHRC reported that corruption remained a widespread problem, and that the Government had only “scratched the surface.” Media experts noted that, despite frequent articles and editorials on corruption, investigative reporting was scarce and that the media itself suffered from corruption.

During the year, the Government investigated and prosecuted some cases of corruption. For example, in a high-profile case in February, a top administrator of Zanzibar's Joint Presidential Supervisory Commission was forced to resign after an internal investigation revealed that he had embezzled donor funding that had been intended for the implementation of Zanzibar's bi-partisan Muafaka Accord. The administrator was later arrested while trying to flee the country. The case was pending at year's end.

In July, police arrested a Mbulu district magistrate on charges of bribery. By year's end, no additional information was available.

In November, according to the Guardian newspaper, authorities arrested and charged two investigation officers with the Iringa Regional Crimes Office, Station Sergeant Deogratias Chale and Sergeant Germanus Ngaliluwula, with soliciting and receiving a bribe from a citizen, who paid the bribe after the officers threatened to arrest him. The case was under investigation at year's end.

During the year, international donors criticized the Government for its reluctance to take needed steps to fight corruption.

There were no laws that provided for access to information held by the Government, and in practice, citizens' access to Government information was very limited. Government officials estimated that 90 percent of all government documents were classified, including administrative forms (*see* Section 2.a.).

By law, persons holding certain public offices must make a formal declaration of their wealth to the Public Leaders' Ethics Secretariat, but the declaration forms were not made public, and it remained difficult for members of the public or journalists to gain access to this information. Persons seeking to access a form were required to pay a fee of about \$3 (3,000 shillings) and provide written justification for the request. Some of the forms were shared with the PCB during the year.

Early in the year, Parliament established the Parliamentary Online Information System (POLIS) to increase access to government information. POLIS was intended to make politics and policy making more understandable and accessible to the public. By year's end, POLIS' reach remained limited, since only about 300,000 of the country's 37 million citizens had Internet access; opposition politicians noted that most parliamentarians lacked Internet access.

The Constitution requires that women occupy at least 20 percent of seats in Parliament, and women are appointed by their respective political parties to serve in these seats, popularly known as "Special Seats." There were 60 women in the 295-seat legislature; 12 female M.P.s were elected members of the CCM; 47 female M.P.s occupied the Special Seats; and 1 female M.P. was nominated—although not appointed by year's end—by President Mkapa. Women occupied seven seats in the Zanzibar House of Representatives. There were three women in the cabinet of the national Government, and one in the cabinet of the Zanzibar Government. In addition, one woman served as a justice of the Court of Appeal.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government generally was cooperative and responsive to their views, although many human rights organizations reported the Government did not respond or was slow to respond to requests for information. The government-mandated registration process has been used to limit NGO activities. The Government of Zanzibar reportedly interpreted the existence and actions of NGOs as anti-government. In addition, there were reports that many parliamentarians harbored mistrust towards NGOs and believed they existed solely to make money.

Active domestic human rights NGOs included the Center for Human Rights Promotion, the LHRC, Tanzania Media Women's Association (TAMWA), and Tanzania Women Lawyers' Association. There were also many smaller local human rights NGOs based outside of Dar es Salaam. The Zanzibar Legal Services Center was one of the few active human rights organizations on Zanzibar. All of these organizations were independent of the Government. Government representatives met with domestic human rights NGOs, responded to their inquiries, and participated in training seminars, such as those concerning international humanitarian law, FGM, child labor, and women's rights.

The 2002 NGO Act requires all NGOs to register with a government-appointed NGO Coordination Board (*see* Section 2.b.). NGOs were concerned that this law could be used to limit their operations, and the Government could use the denial of registration as a political tool. During the year, NGOs and the Government worked cooperatively to consider revisions to the law to address these problems.

In May, the NGO Coordination Board was established, but it had not registered any NGOs by year's end.

The 2002 NGO Act does not apply to Zanzibar. The Government of Zanzibar has not responded to requests for registration by the African Human Rights and Justice Protections Network, which has been pending since 1994. The Government allowed the Lawyer's Environmental Action Team (LEAT) to reregister after having revoked its license in 2003, and LEAT operated during the year.

At year's end, the Zanzibar Human Rights Association's registration request, which had been pending for several years, remained pending.

The Prevention of Terrorism Act, which imposes strong sanctions on NGOs suspected of ties to terrorism, had not been implemented by year's end; however, Muslims believed it unfairly targeted their religiously affiliated NGOs.

In June, 24 journalists, in cooperation with the LHRC, founded the country's first Human Rights Press Club, which was intended to research, monitor, investigate and report on relevant human rights problems.

On May 14, armed assailants killed an NGO worker in Ngara district after they attacked a UNHCR-owned truck, which bore visible logos of both the UNHCR and a local NGO. After an exchange of gunfire with the assailants, members of the truck's police escort ran out of ammunition and fled. A worker with the local NGO Tanganyika Christian Refugee Services (TCRS) who refused to give the assailants his valuables was shot and later died from blood loss. The road on which the attack

took place had been subject to banditry in the past, and it was not clear whether the assailants had targeted the UNHCR, the TCRS, or other local NGOs. By year's end, police detained some Burundian refugees for questioning in relation to the attack; however, no one was charged for the crime.

During the year, there were numerous international human rights NGOs working directly and indirectly on human rights in the country. The Government allowed international humanitarian organizations to have free and open access during a prolonged drought at the beginning of the year.

The International Criminal Tribunal for Rwanda War Crimes (ICTR) continued to be hosted in Arusha. The Government has been supportive of and cooperative with the ICTR.

The Commission for Human Rights and Good Governance accepted outside requests for and initiated investigations into human rights abuses committed by the Government, companies, or individuals, such as police brutality, corruption, and violations of women's rights. The majority of the cases brought to the Commission have been labor grievances. The Commission is also mandated to act as a plaintiff in a trial; however, it does not have judicial powers. Furthermore, it has no jurisdiction over matters pending before a court or other tribunal (the Commission can make recommendation for remedies but courts must decide on them), any dispute that involves the President of the country or the President of Zanzibar, or relations between the Government and a foreign state or international organization. NGOs viewed the Commission's work favorably, and some sent cases to the Commission for investigation; however, some were critical of the Commission. During the year, in a case involving the eviction of small-scale miners, LEAT alleged that two Commissioners were biased in favor of a mining company. The Government cooperated with the Commission during the year.

The Commission has no legal mandate to operate in Zanzibar but retained an office there.

During the year, the Commission actively investigated complaints, visited regions to explain the Commission's mandate, heard evidence in a land displacement case, and released a report on the poor conditions in the country's prisons (*see* Section 1.c.). During the 12 months following July 2003, the Commission resolved 1,464 complaints and received 2,683 new complaints. However, the Commission remained underfunded, understaffed, and overburdened by a caseload of more than 5,500 unresolved complaints.

In December, the Commission ruled that District Commissioner Thomas Ole Sabaya and a police commissioner were guilty of ordering the forcible eviction of 135 villagers from Nyamuma, in the Mara Region, and the burning of their houses and food supplies to displace them from the Serengeti National Park in 2001. The Commission ordered the Government to compensate the villagers within 3 months and resettle them on the land from which the Government forced them.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race or religion; however, the Government did not always effectively enforce these prohibitions. Discrimination based on sex, age, or disability was not prohibited specifically by law but was discouraged publicly in official statements and by government policies. Discrimination against women; refugees; national, racial, and ethnic minorities; and persons with HIV/AIDS persisted, and societal ethnic tensions continued to be a problem.

*Women.*—Domestic violence against women remained widespread. The law does not specifically prohibit spousal battery. Cultural, family, and social pressures prevented many women from reporting abuses to authorities, and action rarely was taken against perpetrators of physical abuse against women. Police often had biases against pursuing domestic abuse cases; however, unlike in the previous year, there were no reports that police demanded bribes to investigate allegations. There was no available information about the number of domestic abusers prosecuted or convicted. Traditional customs that subordinate women remained strong in both urban and rural areas, and local magistrates often upheld such practices. wife beating was an acceptable practice and occurred at all levels of society. Women have been punished by their husbands for not bearing children. TAMWA estimated that as many as 50 percent of women were beaten by their husbands. Women who sought advice from mainland legal aid clinics most commonly cited domestic abuse as the reason for wanting a divorce. Generally, women tolerated domestic abuse for a long time before seeking a divorce. The courts recognize domestic violence as grounds for divorce.

The law provides for life imprisonment for persons convicted of rape; however, rape continued to be a serious problem. Several persons were prosecuted and con-

victed for rape and battery under the law during the year. Sexual and gender-based violence continued to be a problem in the refugee camps (*see* Section 2.d.).

There was no available information about estimates of the number of rape cases. One official estimated in 2003 that the majority of rape cases went unreported, and only 5 percent of actual rape cases were filed in a court of law. According to the Vuga Deputy Court Magistrate, between 2000 and June 2003, 118 rape cases were filed at the Vuga Resident Magistrate's Court in Zanzibar; by year's end, there was no information available on the number of those cases that were still pending. According to a Zanzibar High Court judge, courts often rejected cases due to a lack of evidence. Some police reportedly advised rape victims to clean themselves before going to hospitals for examinations, which contributed to the removal of important evidence. In 2003, Zanzibar's Ugunja island had only one hospital that conducted post-rape examinations, and it did so only on Thursdays. Since rape victims had to wait for as long as 6 days for examinations, much crucial evidence was lost. During the year, the Government's Ugunja hospital changed its policy, and began conducting post-rape examinations during all regular operating hours. However, the only public hospital on Pemba Island continued to conduct post-rape examinations only once a week. Rape and sexual abuse of girls and women with disabilities reportedly was prevalent during the year.

The law partially criminalizes female genital mutilation (FGM); however, enforcement continued to be extremely lax, and by year's end, an estimated 18 percent of the country's female population, about 4 million women, had undergone FGM. Data from anti-FGM activists suggested that the prevalence of the procedure was declining somewhat, but the data also suggested that the average age of victims had decreased to less than 10 years old, with some newborns reportedly undergoing FGM. In Singida region, FGM was often performed on infants who had become sick with malaria or other diseases, so that any deleterious effects resulting from the procedure would not raise suspicion among neighbors and relatives. FGM was practiced by approximately 20 of the country's 130 tribes and was most prevalent in 11 mainland regions, including Arusha, Singida, Kilimanjaro, Morogoro and Dar es Salaam. In the rest of the country, the prevalence rate of FGM was estimated to be less than 5 percent. In some regions, practitioners continued to openly perform mass circumcisions involving hundreds of girls annually. The most common types of FGM were the excision of the clitoris and labia minora; however, infibulation, the most severe form of mutilation, was also practiced, mainly in the northern highlands and the central zone.

The law prohibits the practice of FGM on any female younger than 18 years of age. Penalties range from 5 to 15 years of imprisonment, or a fine not exceeding \$277 (300,000 shillings), or both. The law does not provide legal protection for women 18 years of age or older, and does not establish a minimum fine. The law was largely perceived to target the parents or relatives of the victim; it was not widely perceived to target the practitioners, or "ngaribas," hired to perform FGM.

During the year, five arrests and two successful prosecutions were reported. In Singida region, a 1-year-old girl died in April following a circumcision. The girl's father reported the case, and police arrested the victim's mother and grandmother, who had arranged the circumcision. Both were sentenced to 10 years of imprisonment.

No action was taken in the 2002 death of a young girl following an FGM procedure in Dodoma.

Enforcement of the anti-FGM law was difficult because many police officers and many communities were not aware of the law; police did not have adequate resources to protect victims; and victims were often reluctant to testify against family members and neighbors who forced them to undergo FGM. Some witnesses feared reprisals from supporters of FGM. For example, in one incident during the year, members of a community in Dodoma region brandished machetes and threatened a neighbor who had reported a case of FGM to local authorities.

Corruption also made it difficult to enforce the anti-FGM law. Some villagers reportedly have given local leaders sums as great as \$277 (300,000 shillings) to be allowed to have their daughters circumcised, without fear of arrest or prosecution. In addition, most cases have been dismissed from courts under the pretense of lack of evidence, often despite strong evidence from the victims and even confessions from their parents or guardians, or the FGM practitioners.

Reducing the practice of FGM remained difficult because some regional government officials favored or profited from the practice, or feared speaking out against it because of the perceived political consequences of opposing FGM and the power of traditional leaders who supported FGM. The communities that were aware of the law prohibiting FGM viewed it as an unjust threat to a cultural tradition. A lack of medical information on the harmful and long-term health effects of FGM re-

mained a problem. Many communities believed FGM increased fertility, reduced sexual desires leading to prostitution, and reduced infant mortality. Many fathers believed they would receive higher "bride prices" for daughters who had undergone FGM. In addition, practitioners of FGM, ngaribas, relied on the practice for income. Cash payments usually varied between \$1 (1,000 shillings) and \$5 (5,000 shillings); non-cash payments have involved one goat per circumcision performed.

The Government developed a National Plan of Action for the Elimination of FGM, but it was not widely circulated. During the year, many anti-FGM activists continued to criticize the central Government for its a lack of commitment to hold some M.P.s and local government officials accountable for failing to enforce the anti-FGM law.

During the year, the Anti-Female Genital Mutilation Network (AFNET) and a coalition of anti-FGM NGOs engaged in awareness-raising activities and conducted research on FGM. During the year, anti-FGM groups continued to sensitize the ngaribas about the harmful effects of FGM and train them for other lines of work.

The law prohibits prostitution; however, prostitution, including child prostitution, remained common. Poor rural woman and young girls immigrating to urban areas were most at risk. There were reports during the year that female refugees engaged in prostitution, although the number of such reports decreased from the previous year.

The law prohibits sexual harassment against women in the workplace. Male colleagues sometimes harassed women seeking higher education, and the authorities largely ignored the practice. The extent of the problem was unknown.

The Constitution provides for equality of woman; however, inheritance, marriage, and land laws do not consistently support full equality, and in practice women's rights often were not respected. The Ministry of Gender, Community Development, and Children and the Ministry of Justice were responsible for protecting the legal rights of women. Women generally were not discouraged from seeking employment outside the home; however, in the public sector, which employed 80 percent of the salaried labor force, certain statutes restricted women's access to some jobs or hours of employment (*see* Section 6.e.). While progress on women's rights was more noticeable in urban areas, strong traditional norms still divided labor along gender lines and placed women in a subordinate position. Discrimination against women was most acute in rural areas, where women were relegated to farming and raising children and had almost no opportunity for wage employment.

Civil society activists reported widespread discrimination against women in matters of inheritance. The Land Act, which came into effect during the year, overrides customary law if customary law denies women their right to use, transfer, and own land; however, the land courts that were supposed to hear these cases had not been established by year's end. Women's rights of co-occupancy was recognized by the law; however, this provision was not enforced in practice, and married women whose unions had not been legalized under customary, Hindu, Muslim, Christian, or civil marriage laws were particularly vulnerable when they separated from their husbands, either by divorce or death.

The immigration laws discriminate against women by penalizing women who marry foreigners. If a Tanzanian woman marries a foreign man, the foreign man is not eligible to apply for citizenship or a residency permit. Since the Government does not recognize dual citizenship, the Tanzanian woman who marries a foreign man may have difficulty residing legally in the country, and in practice, the woman may be forced to give up her Tanzanian citizenship. This increasingly was a problem in the refugee camps for women who married Burundian men.

Women in Zanzibar and on many parts of the mainland faced discriminatory restrictions on inheritance and ownership of land and other property because of concessions by the Government and courts to customary and Islamic law. For example, many of the regional tribal laws that compose the country's customary law completely prohibit widows from inheriting land from their deceased husbands, even when land is marital property, and subject the widows to being inherited by men from her husband's family. While provisions of the Marriage Act provide for certain inheritance and property rights for women residing on the mainland, the Act is not applicable in Zanzibar. In addition, the application of customary, Islamic, or statutory law depended on the lifestyle and stated intentions of the male head of household. The courts have upheld discriminatory inheritance claims, primarily in rural areas.

Under Zanzibar law, unmarried women under the age of 21 who become pregnant were subject to 2 years' imprisonment (*see* Section 1.f.).

Several NGOs organized workshops and seminars, and some ran legal aid clinics addressing a wide range of woman right's issues.

*Children.*—Government funding of programs for children's welfare increased during the year. The Government made some constructive efforts to address children's welfare, including working closely with UNICEF and other international and local organizations to improve the well being of neglected children and of the country's estimated 2 million orphans.

The law provides for 7 years of compulsory education through the age of 15. Primary education was compulsory, free, and universal on both the mainland and Zanzibar; however, there were inadequate numbers of schools, teachers, books, and other educational materials to meet the demand. Fees were charged for enrollment beyond Form 2, the equivalent of the second year of high school; as a result, some children were denied an education. Parents had to pay for books and uniforms. In some cases, children were unable to attend school because poorly paid teachers demanded money to enroll them or because teachers were absent. The primary school dropout rate was between 30 and 40 percent. UNICEF stated that the net primary school enrollment/attendance rate was 47 percent. The literacy rate was approximately 70 percent; for girls, it was 57 percent compared with 80 percent for boys. The rate of girls' enrollment in school was lower than that of boys and generally declined with each additional year of schooling. Only 6 percent of boys and 5 percent of girls were enrolled in secondary school. In some districts, the attendance of girls continued to decline because girls often had to care for younger siblings, do household work, and enter early marriages, often at the behest of parents. Despite a law to permit pregnant girls to continue their education following maternity absences, the practice of forcing pregnant girls out of school continued.

Corporal punishment in schools was a problem.

During the year, several NGOs, including UNICEF and World Vision, had HIV/AIDS awareness programs for children.

FGM was performed on girls, primarily in the central region and among the pastoralist tribes (*see* Section 5, Women).

The law criminalizes child prostitution and child pornography, and under the law, sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the law was not effectively enforced in practice. At an ILO workshop, the Zanzibar Labor Minister, citing a report published in 2001 by the International Labor Organization (ILO), said sex tourism involving the commercial sexual exploitation of children under the age of 18 remained a problem in Zanzibar (*see* Section 5, Trafficking).

It was customary for girls as young as 14 years of age to be considered adults for the purposes of sexual intercourse and marriage. Child marriages are sanctioned under the law with parental consent for girls 12 years of age and older. There were reports of child prostitution and other forms of trafficking in children (*see* Section 5, Trafficking).

According to the Coalition to Stop the Use of Child Soldiers, which identified an unspecified NGO as its source, the recruitment of children from the country's refugee camps for use as child soldiers continued during the year. UNHCR personnel working in the refugee camps designated for Burundians investigated these allegations, but they were unable to confirm the recruitment of any children. During the year, UNICEF reported that there were no sudden declines in the school attendance rates of refugees, which they said would have given an indication of the recruitment of child soldiers.

Trafficking in persons, including children, and commercial sexual exploitation were problems (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

UNICEF estimated there were 2 million child orphans, most of them orphaned by AIDS. There were significant numbers of street children in both Dar es Salaam and Arusha. Street children had limited access to health and education services because they lacked a fixed address and money to purchase medicines or pay for uniforms or books. In the refugee camps, orphans were generally absorbed into other families. Those who were not absorbed generally qualified as extremely vulnerable individuals and received additional support and counseling.

*Trafficking in Persons.*—The law does not prohibit all forms of trafficking, and there were reports that persons were trafficked to, from, and within the country. The Sexual Offences Special Provisions Act prohibits trafficking of persons, but not forced labor, and trafficking remained a problem. Trafficking was punishable by 10 to 20 years of imprisonment, or a fine of \$100 (100,000 shillings) to \$300 (300,000 shillings). Other laws could be used to prosecute trafficking, such as labor laws against forced and bonded labor. According to the Ministry of Home Affairs, two cases of trafficking were reported during the year. Of the six trafficking cases re-

ported since 2001, four cases were still pending in courts at year's end. The remaining two cases were under investigation.

On September 26, police reportedly arrested 31 persons suspected of forming part of an international trafficking ring. The ring used the country as a transit point, along with Kenya and South Africa, for trafficking persons from India to the U.S.

On July 14, a court heard the case of a woman and a man arrested for allegedly trafficking five children from the Iringa region to Dar es Salaam, but the children, who were the key witnesses, were not available to testify. By year's end, the police were attempting to find the children to recommence the hearing.

Police continued to investigate the rise of child trafficking in Iringa region. By year's end, no additional prosecutions had resulted from this investigation.

According to Zanzibar Labor Minister Iddi Ramadhani Mapuri, citing a rapid assessment report published in 2001 by the ILO, children under the age of 18, most of whom were allegedly from the mainland, were engaged in commercial sexual exploitation in Kiwengwa and Nungwi on Northern Ugunja.

The Ministry of Labor, Youth Development, and Sport; the Ministry of Community Development, Women's Affairs, and Children; and the police share responsibility for combating trafficking. The Government cooperated with authorities in other countries on international trafficking and sexual abuse cases. In a case pending at year's end, the Government was cooperating with Interpol to extradite a British man wanted for sexual abuse of children in India. He was operating a series of homes for street children and orphans in the country.

The country was a source and destination country for trafficked persons. Children were trafficked from rural to urban areas for work (*see* Section 6.d.). The ILO and UNICEF reported that children who left home to work as domestic laborers ("house girls") in other towns or villages often were subjected to commercial sexual exploitation. There were unconfirmed reports that women and girls may have been trafficked to South Africa, the Middle East, North Africa, and Europe. The country was also a destination for trafficked persons from India and Kenya. Unlike in the previous year, there were no reports that persons from the mainland were trafficked to Zanzibar to work as prostitutes or in the tourism industry.

Unlike in the previous year, there were no reports that children in the country's large refugee population were highly vulnerable to being trafficked to work on farms; however, although UNHCR personnel were not able to verify the report, the Coalition to Stop the Use of Child Soldiers reported that some refugee children were recruited as soldiers during the year (*see* Section 5, Children).

Children in low-income families were at significant risk of being trafficked, and girls were more vulnerable than boys since girls were considered more of an economic burden on their families. Girls who completed primary school but did not enter secondary school were at particularly high risk. The country was also experiencing a boom in the number of child-headed households as more adults succumbed to HIV/AIDS-related disease and death, leaving their dependents at very high risk for child labor and trafficking.

The methods of trafficking varied. Some trafficking victims were sent with assistance from their family; some went on their own to escape life in rural areas; and some were brought by someone who had offered to help them find work in the city, legitimate or otherwise. The Center for Human Rights Promotion reported that men recruited village girls who had completed primary school but were not entering secondary school. They offered the girls money and employment, and promised a better life if the girls accompanied them to urban areas. These girls reportedly ended up in prostitution or domestic labor. Another method of trafficking that occurred in the country was the traditional practice of low-income parents entrusting a child to a wealthier relative or respected member of the community, who was charged with caring for the child as one of his or her own. Some persons took advantage of this traditional practice and placed the child in a situation where he or she was at risk of being exploited or abused. Sometimes placement and transport to households was organized by small-scale free-lance agents who recruited children from rural villages.

There was no evidence of institutional involvement in trafficking by government agencies; however, there were reports that government officials or their relatives engaged in trafficking. There were also isolated reports that some police officials accepted bribes to ignore commercial sexual exploitation. The Government took no action against government officials engaged in trafficking.

The Government provided short-term medical training and health care supplies to an NGO working with trafficking victims, and in cases where trafficked foreign women were arrested for prostitution, the women were repatriated to their country of origin. The Government also participated in the ILO's Timebound Program to Eliminate the Worst Forms of Child Labor, to help end child prostitution and child

domestic labor (*see* Section 6.d.). Under the Timebound Child Labor Program, small domestic NGOs worked with trafficking victims, including child prostitutes and domestic laborers, to provide them with education, shelter, and legal information.

The Government took some steps to prevent trafficking in persons. A child labor committee, which included local government officials, identified children who were particularly vulnerable to trafficking and determined eligibility for additional services. There were no government or NGO media campaigns to inform the public about the dangers of trafficking specifically, but there were media campaigns to educate persons about the worst forms of child labor.

*Persons With Disabilities.*—Although there was no official discrimination against persons with disabilities, in practice, persons with physical disabilities effectively were restricted in their access to education, employment, and other state services due to physical barriers. The Government did not mandate access to public buildings, transportation, or government services for persons with disabilities and provided only limited funding for special facilities and programs. Rape and sexual abuse of girls and women with disabilities was reportedly prevalent.

The Department of Social Welfare has responsibility for coordinating disabilities matters. The Ministry of Education, the Ministry of Justice, and the Ministry of Labor were responsible for enforcing the protection of rights of persons with disabilities for education, legal claims, and labor rights respectively.

*National/Racial/Ethnic Minorities.*—The Asian population, which was viewed unfavorably by many African citizens, consisted of approximately 50,000 persons. There were no laws or official policies that discriminated against Asians; however, as the Government continued to place more emphasis on market-oriented policies and privatization, public concern regarding the Asian minority's economic role increased.

During the year, there were reports of sporadic violent clashes between pastoralist and agriculturalists, but none resulted in death. For example, on June 26, pastoralists were alleged to have injured five farmers in Mbeya region.

*Indigenous People.*—Pastoralist tribes experienced discrimination in schools for wearing traditional dress or ornaments. Government policy requires all children attending schools to wear uniforms.

The Barabaig and other nomadic persons in the north continued to seek compensation for past government discrimination, which included government efforts to make them adopt a more modern lifestyle and to restrict their access to pastoral lands that were turned into large government wheat farms.

*Other Societal Abuses and Discrimination.*—In August, the Zanzibar President assented to a bill that outlaws homosexuality and lesbianism. The law, which took effect in September, establishes a penalty of up to 25 years of imprisonment for men who engage in homosexual relationships, and 7 years for women in lesbian relationships. By year's end, there were no reports that anyone was punished under the law. Homosexuals faced societal discrimination.

The Tanzania Parliamentarians' AIDS Coalition addressed discrimination against persons infected with HIV/AIDS. However, there were reports that discrimination—including limitations on housing, healthcare, and education—continued to occur against the estimated 3.5 million persons in the country living with HIV/AIDS. There were isolated reports that private employers fired or did not hire persons based on the perception that they had HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions without prior authorization; however, in practice, many private sector employers adopted anti-union policies or tactics that limited this right. All workers, including those classified as essential service workers, were permitted to join unions. The Union and Zanzibar Governments do not share the same labor laws, and they enforce them separately. The labor law that applies to the mainland applies to both public and private sector workers. The mainland's law requires a trade union for employees to consist of at least 20 members, and for employers, 4.

In April, the President assented to two labor bills that Parliament passed after consultations with unions and employers; however, by year's end, the Ministry of Labor had not implemented the new laws because it had not yet established transitional arrangements, such as training for labor dispute mediators.

The labor law in Zanzibar applies only to private sector workers. Workers are not allowed to join mainland-based labor unions. In addition, the Zanzibar labor law requires that a union consist of 50 members to be registered, and it stipulates that trade union officers must possess a sufficiently high literacy level.

The sole labor federation, the Trade Union Congress of Tanzania (TUCTA), had 317,000 members, which constituted less than 2 percent of the total workforce of 18 million. Approximately 27 percent of the workforce that is engaged in paid, "formal sector" employment was unionized. In the agricultural sector, which was the country's single largest employer, an estimated 5 to 8 percent of the work force was unionized.

On the mainland, the law permits the Registrar of Trade Unions to impose large fines, imprisonment, or both for failing to register a trade union. The Registrar also was permitted to deregister the smaller of two trade unions when more than one existed in an industry and to order the smaller union to rescind memberships. The Registrar can suspend a trade union for contravening the law or the union's own rules, suspend a union for 6 months on grounds of public order or security, and invalidate a union's international trade union affiliation if certain internal union procedures are not followed. The Registrar did not use these powers during the year; however, union leaders and other labor rights observers continued to criticize the excessive powers that the law vests in the Registrar of Trade Unions.

In any given mainland trade union, only one union leader may be legally occupied full time in carrying out his trade union functions. All others must work full time in the enterprise or industrial sector in which they have been elected.

On the Zanzibar isles, particularly on the island of Pemba, political opposition members claimed that the Government discriminated against them in hiring. The Government was the largest employer in the isles.

On the mainland, the Security of Employment Act prohibits discriminatory activities by an employer against union members; however, during the year, there were several reports of anti-union discrimination in the formal private sector. Employers found guilty of anti-union activities were required under the law to reinstate workers. The Warioba Commission found that bribes often determined whether a worker dismissed from his job was actually reinstated. Most labor unions reported that private sector employers, particularly those that privatization and economic reforms have attracted to the country, practiced anti-union discrimination. Some of these investors reportedly have threatened to terminate or lay-off employees who want to join trade unions. Some employers also have not allowed unions to call for and hold recruitment meetings at their work places. For example, at Geita Gold Mining, Ltd (GGM), the code of conduct and access agreement signed between the mining union, TAMICO, and GGM prohibits workers who have joined TAMICO from undertaking any trade union activity at the work place, including meetings. To gain access to workers, trade union officials had to request access permission from management 3 days in advance of a visit. GGM management effectively denied recognition to the mining union TAMICO. According to a study TUCTA conducted during the year, approximately 85 percent of the interviewed workers reported the use of pressure by management, including the threat of termination of employment, to discourage workers who wanted to join TAMICO.

At the Analabs Company, a subcontractor for GGM, Simon Martin, a chairperson of a newly formed trade union branch, reportedly was transferred to another region of the country, and when he reported for work at his new station in January, he was dismissed on accusations of theft. The Industrial Court ordered Analabs to reinstate the worker after the company failed to provide evidence to support the charges; however, as of year's end, management had refused to implement the order. In addition, on August 2, about 900 GGM workers went on strike after management refused to discuss TAMICO's demands for recognition and after reconciliation by the Ministry of Labor's Labor Commission failed. The case was referred to the Industrial Court on August 18. No additional information was available at year's end.

There were reports during the year that some employers were deducting union dues from workers' paychecks, but they were late in sending the dues to unions or they failed to send remittances altogether. For example, in the case of the Tanzania Local Government Workers' Union (TALGWU), as of January 2002, local governments owed TALGWU approximately \$195,000 (210 million shillings).

The labor law in Zanzibar does not protect trade union members from anti-union discrimination, and there were several reports of anti-union discrimination during the year in Zanzibar.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and workers and employers practiced it freely during the year; however, the law does not apply to the public sector. The Government set wages administratively for employees of the Government and state-owned organizations, who number less than 5 percent of the work force.

On the mainland, workers had the legal right to strike, only after they exhausted protracted mediation and conciliation procedures leading ultimately to the Industrial Court. A union that is not satisfied with the decision of the Industrial Court could conduct a legal strike if a minimum of two-thirds of its members voted in favor of striking; however, this vote must be taken in the presence of a government labor officer, which some labor rights observers said made it intimidating for unions in the public sector to decide to strike. The mediation and conciliation procedures can prolong a dispute for months without resolving it.

On the mainland, there were no laws prohibiting retribution against legal strikers. During the year, there were at least three formally sanctioned strikes. In addition, frustrated workers staged illegal wildcat strikes and walkouts pending a resolution of their cases in the Industrial Court.

On Zanzibar, the law prohibits all workers from striking.

There are two Export Processing Zones on Zanzibar and three on the mainland. EPZ working conditions on the mainland were comparable to those in other areas; however, on Zanzibar, there were unconfirmed reports of labor abuses. Labor law protections applied to EPZ workers.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor; however, it does not specifically cite forced labor by children, and there were reports that such practices occurred (see Section 6.d.). Subsequent laws have limited the prohibition by allowing for unpaid work for community development projects and prison labor. In some rural areas, villagers still were obligated by law to work without pay in the village community gardens or on small construction projects such as repairing roads.

According to a survey of the mining company GGM, conducted during the year by TUCTA, 85 percent of GGM workers interviewed reported that they were forced by circumstances to work overtime, under perceived threat of termination.

The Prisons Act allows for prisoners to work without pay on projects within the prison, such as on agriculture so that the prison could be self-sufficient. In practice, prisoners were used to do forced labor on projects outside of the prison, such as road repair and government construction projects.

There continued to be reports that forced and compulsory labor by children occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—On the mainland, the law establishes 15 years as the minimum age for contractual employment and prohibits children from working near machinery, or engaging in underground work; however, this provision was often not respected in practice, and child labor continued to be a problem. The mainland's law provides that children between the ages of 12 and 15 may be employed on a day-to-day basis, but they must have parental permission, may only work between the hours of 6 a.m. and 6 p.m., and must return to the residence of their guardian at night. Employers are obliged to maintain registers listing the age of workers, working conditions, the nature of employment, and commencement and termination dates. The Employment Ordinance, however, does not apply to children working on family farms or herding livestock.

According to a comprehensive survey conducted by the Ministry of Labor between 2000 and 2001, almost 40 percent of children between 5 and 17 years old (4.7 million out of an estimated 12 million children) were engaged in economic activities. Of these 4.7 million children, the survey estimated that 1.2 million were engaged in the worst forms of child labor. These "worst forms of child labor" included the sectors of commercial agriculture, mining, domestic service, or prostitution. Approximately 76 percent of all working children worked in commercial agriculture. The survey estimated the overall labor force participation rate of children to be 60 percent in rural areas and 28 percent in urban areas.

The ILO and UNICEF reported that children who left home to work as domestic laborers in other towns or villages often were subjected to commercial sexual exploitation. According to the Conservation Hotel, Domestic, and Allied Workers Union (CHODAWU) and the ILO, the majority of domestic child laborers in the country were girls, mostly between the ages of 13 and 15. Most of them worked between 12 and 14 hours each day, 7 days a week, without rest or being compensated for the extra time worked; sometimes they worked under abusive and exploitative conditions. According to a 2003 survey by the TAMWA, almost 60 percent of a sample of house girls said they had been pressured into having sex or were forced to have sex with the males in the families they served.

The ILO estimated that 3,000 to 5,000 children engaged in seasonal employment on commercial farms, sometimes in hazardous conditions. In mining regions, between 1,500 and 3,000 children worked in unregulated gemstone mines as "snake boys," crawling through narrow tunnels to help position mining equipment and

working with explosives. Children could also be found working as fishermen, barmaids, street vendors, car washers, and garbage scavengers, among other jobs. They also worked in semi-skilled crafts such as carpentry and auto repair. Girls as young as 7 years old, and increasingly boys, were involved in prostitution within the country and were sometimes trafficked (*see* Section 5, Trafficking).

During the year, there was a sharp increase in the use of child labor in the Zanzibar isles, according to Zanzibar Labor Minister Iddi Ramadhani Mapuri, who drew information from a rapid assessment report published in 2001 by the ILO. Mapuri said the use of child labor in Zanzibar was becoming rampant and that combating it would require the immediate cooperation of many institutions. The report he cited indicated that children were being used in fishing, clove picking, domestic labor, petty business such as selling cakes, and commercial sexual exploitation near tourist attractions (*see* Section 5, Trafficking in Persons).

The Labor Ministry is responsible for enforcement of labor laws; however, there were only about 30 labor inspectors in the country. Their capacity to monitor labor laws was limited, and their meager salaries made them vulnerable to corruption. Prosecutions were few.

By year's end, the Ministry of Labor was developing a community-based monitoring system to gather information and identify child labor trends, partly to compensate for the lack of labor inspectors. The Labor Ministry lacked a centralized database for information on enforcement activities, so it remained difficult to determine the number of labor investigations, indictments, or prosecutions conducted annually; labor experts in the country estimated the number to be minimal. District or community level Child Labor Coordinating Committees and subcommittees identified and monitored cases of child labor, but they did so with varying degrees of effectiveness. Representatives of the ILO, UNICEF, and local NGOs state that these problems were not due to a lack of political will to fight child labor but rather to a lack of resources.

Several government ministries, including the Ministry of Labor, Youth Development, and Sports, have special child labor units. The Government continued to implement, in collaboration with the ILO, a "Timebound Program to Eliminate the Worst Forms of Child Labor." The program sought to eliminate child labor in commercial agriculture, mining, domestic work, and prostitution in 11 districts by 2010. The program builds capacity, develops media programs, identifies children most in need of withdrawal, and provides rehabilitation, education, and alternative training for rescued children. By year's end, the ILO reported that about 9,000 children had been withdrawn from the worst forms of child labor since 2002.

Under the Timebound Program, several local NGOs continued to identify and withdraw children from exploitative child labor. The Kiota Women's Health and Development Organization worked to rehabilitate exploited girls who work as prostitutes or domestic servants. Another organization, CHODAWU, established village level inspections to identify cases of exploitative labor. CHODAWU also coordinates with grassroots child labor committees to withdraw children from exploitative situations.

*e. Acceptable Conditions of Work.*—The legal minimum wage for employment in the formal sector was \$53 (48,000 shillings) per month. Even when supplemented with various benefits such as housing, transport allowances, and food subsidies, the minimum rate did not always provide a decent standard of living for a worker and family, and workers depended on their extended family or on a second or third job. Despite the minimum wage, most workers, particularly in the growing informal sector, were paid much less; it reportedly was not rare for domestic workers to earn around \$6.50 (7,000 shillings) per month.

There were many reports that employers regularly fired employees shortly after hiring them; employers reportedly used this tactic to avoid having to adhere to a law requiring them to provide certain benefits and salary minimums to employees who have worked for them for more than 3 months.

There was no standard legal workweek for private sector workers; however, a 5-day, 40-hour workweek was in effect for government workers. Most private employers retained a 6-day, 44- to 48-hour workweek. In general, women could not be employed between 10 p.m. and 6 a.m., although this restriction was usually ignored in practice.

Several laws regulate safety in the workplace. The Ministry of Labor and Social Welfare and Youth Development managed an Occupational Health and Safety Factory Inspection System; however, its effectiveness was limited. Labor standards were not enforced in the informal sector, and a large percentage of the workforce was employed in the informal sector.

Workers could sue an employer through their union if their working conditions did not comply with the Ministry of Labor's health and environmental standards. A labor complaint must be filed before a labor officer, who convenes a hearing where the employer and employee state their cases. The employee or employer can appeal that decision to the Minister of Labor and Social Welfare and Community Development. Some labor officers accepted bribes from employers not to accept or certify these complaints. There were no reports that workers who lodged and won such complaints faced retribution; however, workers did not have the right to remove themselves from dangerous situations without jeopardizing their employment if they lodged a complaint and lost. Legal foreign workers have the same wage and working condition rights as other workers.

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## TOGO

Togo is a republic dominated by President Gnassingbe Eyadema, who came to power in 1967 following a military coup. Eyadema and his Rally of the Togolese People party (RPT), strongly backed by the armed forces, continued to dominate political power and maintained firm control over all levels of the country's highly centralized government. In 2002, the newly elected National Assembly modified the Constitution, which had limited the President to two 5-year terms, and permitted President Eyadema to seek re-election. Contrary to a public statement that he would not seek re-election, President Eyadema ran against four opposition party leaders and one independent candidate in June 2003, and his RPT party declared victory, claiming 57.22 percent of the vote. The election was marred by voter inability to access their registration cards, and the Government failed to investigate allegations of irregularities, including intimidation of opposition party monitors and the stuffing of ballot boxes. The executive branch continued to influence the judiciary.

The security forces consist of the army (including the elite Presidential guard), navy, air force, the Surete Nationale (including the national police), and the Gendarmerie. The police and Gendarmerie perform domestic intelligence functions. Approximately 75 percent of the army's officers and soldiers are from the President's Kabye ethnic group. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority. Members of the security forces committed serious human rights abuses.

According to the Ministry of Economy and Finance, approximately 72 percent of the country's estimated working population of 2.3 million (out of an estimated population of 5 million) was engaged in agriculture, but there was also an active commercial sector. Approximately 4 percent of the population was engaged in the private commercial and industrial sector, 2 percent in the public sector, and 22 percent in the informal sector. Economic growth continued to lag behind population growth. Anti-corruption efforts continued, but the Government's budgetary and fiscal discipline continued to be weak. International and bilateral donors announced the release of some funds and laid out conditions that must be met for the resumption of full assistance.

The Government's human rights record remained poor; although there were a few improvements, serious problems remained. Citizens' right to change their government was restricted in practice. Security forces committed unlawful killings and beat civilians. Impunity was a serious problem. The Government jailed and at times tortured political opponents and critics of the Government. Prison conditions remained very harsh. Arbitrary arrest and detention were problems. Prolonged pre-trial detention was common. The judiciary did not ensure fair and expeditious trials. Security forces infringed on citizens' privacy rights. The Government and the security forces restricted freedom of speech and of the press and harassed journalists and political opponents. The Government restricted freedom of assembly, association, and movement. The National Commission for Human Rights (CNDH) continued to be dominated by supporters of the President. The Government did not impede work of international NGOs during the year. Violence and societal discrimination against women remained problems. Female genital mutilation (FGM) persisted among some ethnic groups. Trafficking in women and children remained a problem. Favoritism among certain ethnic groups remained a problem. The Government limited workers' rights to collective bargaining. Child labor was a problem.

In April, the Government began formal political consultations with the European Union. Subsequently, the Government adopted a new press code; released 500 prisoners, including some described by opposition parties and human rights groups as political prisoners, and began discussions with the political opposition.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, during the year, two persons died of alleged abuse while in custody. On January 7, Kouma Tengue was arrested for assaulting and injuring a young man. He died 3 days later while in police detention in Keve, a small town in the southeastern region. The private press, Togolese League of Human Rights (LTDH), and the International Federation of Leagues of Human Rights (FIDH) reported that Tengue's autopsy revealed that he died from a violent shock (his face and body bore signs of beating) and not by drowning as the security officer maintained.

On August 14, Army Lieutenant Innocent Kondoh Kpandang died in the civil prison of Lome after 15 months in detention for alleged participation in coup-plotting. According to press reports Lieutenant Kpandang died after prison officials refused to allow him access to medical treatment for a chronic condition.

The Government took no action against the security force members who killed three civilians in two separate clashes related to the June 2003 presidential election.

Unlike in the previous years, there were no deaths resulting from clashes during demonstrations.

There was no action taken, nor was any action likely to be taken, in the cases of unlawful killings from previous years.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and physical abuse of prisoners and detainees; however, there were reports such practices occurred. Some former prisoners credibly claimed that security forces beat them during detention; however, there were fewer reports than in previous years. The LTDH and the FIDH reported that Kouma Tengue died from beatings while in custody (*see* Section 1.a.). Impunity remained a problem, and the Government did not publicly prosecute any officials for these abuses.

Security forces reportedly detained and tortured opposition members (*see* Section 1.d.).

Security forces harassed, intimidated, and beat journalists (*see* Section 2.a.).

Security forces forcibly dispersed demonstrations and injured persons (*see* Section 2.b.).

There was no action taken, nor was any likely to be taken, against those responsible for the 2002 alleged beating of two opposition Action Committee for Renewal (CAR) party members by security forces.

Prison conditions remained very harsh, with serious overcrowding, poor sanitation, and unhealthy food. In December, Lome's central prison, meant to hold 500 prisoners, held 1600 inmates, including 64 women prisoners. More than 85 percent of inmates were pretrial detainees. Medical facilities were inadequate, and disease and drug abuse were widespread. Sick prisoners reportedly had to pay approximately \$2.75 (1,500 CFA francs) to guards before being allowed to visit the infirmary. There were reports that prison security officials sometimes withheld medical treatment from prisoners (*see* Section 1.a.). Lawyers and journalists reported that prison guards charged prisoners a small fee to shower, use the toilet, or have a place to sleep.

The children of convicted women were often incarcerated with their mothers, who were housed separately from the male prisoners. Juvenile prisoners were held separately from adults. Pretrial detainees were not held separately from convicted prisoners.

Unlike in previous years, local NGOs were allowed access to all prisons in the country. An international NGO, Human Rights Certification (HRC), visited prisons during the year to investigate the presence of political prisoners; local NGOs, African Committee for the Promotion and Support of Human Rights and the African Center for the Rehabilitation of Victims of Torture and Repression, also visited prisons in June and reported lack of medical facilities. The LTDH was allowed full access after the Government began consultations with the European Union (EU) in April.

Diplomatic representatives were given access to their detained citizens.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the Government generally disregarded these prohibitions.

Police were generally ineffective and corrupt. Security Forces for the Presidential Election was established to avoid possible clashes during elections and was composed of members of various police units; however, it was disbanded after the 2003

elections. Impunity was a problem. The Government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances.

The law authorizes judges, senior police officials, prefects, and mayors to issue warrants. Although detainees have the right to be informed of the charges against them, police sometimes ignored this right. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. Family members and attorneys officially had access to a detainee after 48 or 96 hours of detention; however, authorities often delayed, and sometimes denied, access. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail; however, in practice detainees often were held without bail for lengthy periods with or without the approval of a judge.

Unlike in the previous year, the Government did not use brief investigative detentions of less than 48 hours to harass and intimidate opposition activists and journalists.

The Government at times resorted to false charges of common crimes to arrest, detain, and intimidate opponents. For example, on May 20, Marc Palanga, the Union of Forces for Change (UFC) leader in Kara, was released after spending 15 months in prison. He had been arrested in February 2003 on suspicion of gun possession and accused of making false allegations against Lieutenant Colonel Ernest Gnassingbe, the President's son and former commander of the Kara Para commando military base during an earlier detention. Palanga was finally tried and sentenced on May 3 to 7 months in prison for assaulting gendarmes and assisting with the prison escape of Mazama Katassa; he was released 17 days later. Palanga reported that he had been beaten regularly while in detention.

On May 28 Daniel Koffi Aganon, UFC youth president, and Vincent Godevi, UFC youth member, were sentenced to 8 years in prison for alleged possession of arms. They had been arrested in June 2003 for organizing demonstrations and distributing political handouts protesting the 2003 presidential election results. The Government released them and other prisoners on August 17 under a presidential amnesty.

Aganon reported that during his 3-month detention he was beaten with a police baton while his hands and feet were tied, in an attempt to force a confession. Aganon reported that police also beat Vincent Godevi while in custody.

In December, various media outlets reported that Hemou Kpatcha, former prefect, was incarcerated in October for providing Togolese identification documents to former Prime Minister and regime critic Agbeyome Kodjo in the 1980s. At year's end, Kpatcha had been detained for 2 months without formal charges. The Government refused to answer inquiries from human rights NGOs and refused to allow them to meet with Kpatcha.

After forcibly dispersing demonstrations during the year, members of the security forces arrested and detained participants, sometimes without charges (*see* Section 2.b.).

A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention—in some cases several years—and confinement of prisoners for periods exceeding the time they would have served if tried and convicted. Lawyers estimated that in December 85 percent of the prison population was pretrial detainees (*see* Section 1.c.).

One of the Government's 22 commitments to the European Union was to release all political prisoners; however, the Government claimed it held no political prisoners or detainees. The Government subsequently released an estimated 500 prisoners after a monitoring visit by HRC raised questions about why some were in detention. Many of the released prisoners had been detained for months without trial (*see* Section 1.e.).

The military officers and soldiers arrested in May 2003 for connections to the alleged coup-plotting of Lieutenant Colonel Kouma Bitenewe were not among the estimated 500 prisoners released in August.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the executive branch continued to exert control over the judiciary.

There were three associations of magistrates in the country: The Union of Magistrates of Togo (SMT), the National Association of Magistrates (ANM), and the Professional Association of Magistrates of Togo (APMT). A majority of the APMT members were supporters of President Eyadema. Judges who belonged to the pro Eyadema APMT reportedly received the most prestigious assignments, while judges who advocated an independent judiciary and belonged to the ANM and SMT often

were assigned to second-tier positions. For example, in Lome, the presidents of the Constitutional Court, Supreme Court, Court of Appeals and First Instance Court were members of the APMT as were the Public Prosecutor and the Attorney General. In Kara, the president of the Court of Appeals and the president of the First Instance Court were members of the APMT.

The Constitutional Court stands at the apex of the court system. The civil judiciary system includes the Supreme Court, Appeals Courts, and First Instance Court. A military tribunal exists for crimes committed by security forces; its proceedings are closed. The court system remained overburdened and understaffed.

The judicial system employs both traditional law and the Napoleonic Code in trying criminal and civil cases. Trials are open to the public, and judicial procedures generally are respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses and present evidence on their own behalf.

In rural areas, the village chief or council of elders is authorized to try minor criminal and civil cases. Those who reject the traditional ruling can take their cases to the regular court system, which are the starting point for cases in urban areas.

Although the Government stated that there were no political prisoners in the country, they released 500 prisoners during the year. Those released included seven members of the main opposition party UFC, who were arrested in 2003 for various alleged misdeeds at the time of the presidential election. The UFC confirmed that Daniel Koffi Aganon, youth leader and Vincent Godevi, UFC youth member, arrested in June 2003, and their comrades Ayi Hillah, Ahlin Kokou Byll, Kossi Nayo, Georges Damessi, and Epiphane Tossavi, arrested in May 2003, and convicted on May 28, were released on August 17 (*see* Section 1.d.). On August 17, the Government also released the former Mayor of Lome who was accused of corruption and misappropriation of public funds and detained for nearly 3 years without trial.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; however, security forces often infringed on these rights. In criminal cases, a judge or senior police official may authorize searches of private residences, and in political and national security cases the security forces need no prior authorization. Unlike in previous years, there were no reports that police conducted searches without warrants.

Unlike in previous years, there were no reports that security forces entered private residences for the purpose of disrupting meetings among opposition political figures.

In June, former president of the National Assembly and regime critic Dahuku Pere addressed a letter to the Minister of Interior requesting the return of three boxes of documents gendarmes confiscated when they searched the house of Kpindji-Nade Alfa, a member of Pere's political party, in June 2003. At year's end, the Government had taken no action on this request.

Citizens believed that the Government monitored telephones and correspondence, although such surveillance was not confirmed.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, while there were some improvements in the media environment, there continued to be significant problems. The Government sometimes harassed and intimidated journalists. Independent newspapers were not permitted to circulate in Kara until mid-July. Unlike in the previous year, there were no reports that security forces interfered with the distribution of newspapers. There were reports that the Government interfered with radio stations during the year. Journalists practiced self censorship.

On August 24, the National Assembly approved a revised press code which eliminated most prison sentences but maintained them for journalists who: incite ethnic or racial hatred; incite the population to violate national laws; incite armed and security forces to rebellion; or incite the population to theft and destruction of property. In addition, any person or organization that publishes articles under a false name could be subject to a prison term. The revised code also increases financial penalties against journalists accused of a range of transgressions, including insulting or reporting false information regarding the president or other government officials. The law sets standards of professionalism for journalists and requires that the licenses of journalists be revoked if they are convicted more than once of offenses such as defamation or if they violate standards of professional conduct. In addition, the law requires independent newspapers to ensure their reporting staffs are at least one-third "professional journalists," a status accorded only by the Government.

The Constitution established the High Authority of Audiovisual and Communications (HAAC) to provide for the freedom of the press, ensure ethical standards, and

allocate frequencies to private television and radio stations. Although nominally independent, in practice the HAAC operated as an arm of the Government. In November, the Government annulled the 1996 law that established the HAAC, and passed a new law which specified that the HAAC is independent from all political and administrative authorities. Other changes included increasing the number of HAAC seats from seven to nine and specifying that journalists or communications specialists must fill at least two seats. Under the new law, three seats are chosen by the President, three by the Senate, and three by the National Assembly. The law also allows the HAAC to manage its budget independently of the Government. In July 2003, the Togolese Council of Editors of Private Press (CTEP) received a substantial grant from President Eyadema ostensibly intended to strengthen the professionalism of independent journalists. Media organizations that predate the CTEP, including the Association of Press Editors and Union of Editors and Press insisted that the Government used the CTEP to guide resources to select publications.

On September 16, President Eyadema reportedly convoked CTEP members to his office to demand that they reinstate Lucien Messan as chairman after the organization removed him from his position on September 3, apparently due to lack of transparency in his management of the organization's funds. Messan was reinstated effective October 1.

There was a lively independent press, most of which was heavily politicized, and some of which was highly critical of President Eyadema. More than 15 privately owned newspapers were published with some regularity. The only daily newspaper, *Togo-Presse*, was government-owned and controlled. There were several independent newspapers that published on weekly and biweekly schedules. The official media heavily slanted their content in favor of the President and the Government.

Radio remained the most important medium of mass communication. Some private radio stations broadcast domestic news; however, they offered little of the political commentary and criticism of the Government that was widespread in the print media.

The government-owned Togo Television was the only major television station in the country. Four smaller television stations operated during the year but their broadcasts were limited to certain geographic areas. TV-2, RTDS, and TV7 carried France-based TV-5's international news programming, and TV-Zion's content was of a primarily religious nature. TV2 also carried weekly political debates through two programs, *Le Club de la Presse* (until it was canceled) and *Metro Express*, a weekly political forum where governing and opposition party leaders, human rights organizations, and other observers participated in discussions on political issues and participants criticized the Government.

In one instance members of the security forces beat journalists, and there were a few reports that government officials harassed members of the media; however, there were fewer reports than in previous years. There were no reports of journalists arrested or detained during the year. On May 15, in a widely distributed letter addressed to the human rights organization LTDH, Yves Kpeto of Radio Nana FM claimed that while covering a student demonstration on the University of Lome campus on April 30, security forces beat him, newspaper reporter Kwamivi Amouzouvi, and some University students. Kpeto wrote that the beatings took place in front of two Government ministers. Security forces confiscated Kpeto's microphone, diskette, and identification cards. The microphone and the identification cards were returned 4 days later. The diskette, which contained an interview with the Minister of Higher Education and the president of the University, were not returned to Kpeto.

In August, President Eyadema convoked Philip Evegnon, editor of the weekly newspaper *Point of the Week* (*Le Point de la Semaine*), and questioned Evegnon about anti-government remarks he had made on *Le Club de la Presse*, a live television program. According to press reports, the director of the television station that carried the program, Jaures Tcheou, resigned after the Minister of Communication threatened him. The program was cancelled shortly thereafter.

At year's end, the trial of Kodjo Saliadin had not been held. Saliadin, editor of the private journal *Tribune du Peuple*, was charged with "Outrage to the National Police" for an article that alleged a UFC activist, Anoumou Ekoe, had been arrested, and subsequently released, for participating in a UFC demonstration in September 2002.

There were reports that the Government interfered with two radio stations during the year. In October the HAAC ordered Radio Maria, a religious radio station, to stop airing a political debate program. The HAAC claimed that Radio Maria did not have the correct license to broadcast political content; however, the 1999 Decree on the General Requirements and Obligations of Private Radio and TV stations states that radio stations may broadcast political programs but not political advertising.

British Broadcast Corporation (BBC) began broadcasting its French-language program in the country on November 11. The Government ordered BBC to cease transmission on November 22, shortly after it aired an interview with exiled opposition leader Gilchrist Olympio, and BBC remained off the air at year's end.

There was no pre-publication censorship of print media in law or practice; however, journalists practiced varying degrees of self censorship. Unlike in the previous year, there were no reports that security forces interfered with the distribution of newspapers.

Opposition party websites were inaccessible at the beginning of the year; however, after the Government began consultations with the EU, the websites became accessible.

Unlike in the previous year, the Government did not restrict academic freedom; however, security forces maintained a presence at the University of Lome. According to students and professors, a government informer system continued to exist and gendarmes went undercover on campus and attended classes.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government often restricted this right in practice. During the year opposition parties held one demonstration that occurred without incident. Government officials prohibited, and security forces forcibly dispersed, student gatherings.

If a political party wishes to hold a demonstration or rally on public property, it is required to notify the Minister of the Interior; however, if a political party intends to hold a rally on private property, notification is legally not required.

Security forces forcibly dispersed student demonstrations during the year. In February, security forces permanently assigned to the University of Lome campus prevented students from holding a special general assembly to discuss student benefits. Security forces used tear gas to disperse the students.

On April 30, security forces dispersed a student demonstration on the University of Lome's campus called to protest the irregular payment of educational allowances and what students saw as preferential treatment accorded their counterparts at the new University of Kara in the northern region. Students reacted by destroying University property, including school buses, setting two police and one military vehicle on fire, and breaking the windshields on private vehicles and gendarmerie transport trucks. Security forces beat protesters, and arrested 15 persons. On May 24, nine persons, including six students, were sentenced to 18 months in prison in connection with the April campus clashes after a rushed trial and presentation of evidence that legal observers described as flimsy. The judge also convicted a photographer and two moto-taxi drivers. On September 7, the President pardoned the nine.

On July 30, the president of the University of Lome expelled Jean-Paul Edoh Nunyava Oumolou and suspended six student representatives for organizing the campus demonstrations in April. The suspended students claimed that the Government punished them because they refused to read a statement prepared by a former government official. The statement—which was read on camera by other students—accused opposition parties of inciting the demonstrations to disrupt the EU-Togo consultations. The student representatives who read the statement on television were not suspended. Oumolou was arrested December 20 while distributing a flyer on the University campus. Oumolou was charged with incitement to violence and destruction of property in connection with the April demonstration on the University campus. At year's end, Oumolou was being held at the Central Prison of Lome, awaiting trial.

The UFC member convicted for inciting a riot that resulted in the death of one civilian in the northern city of Mango in September 2003 was sentenced to 26 months in prison and pardoned by the President in April.

Under the Constitution, citizens have the right to organize associations and political parties; while there were improvements in this area, the Government denied official recognition to some associations, including some human rights groups such as LTDH, the country's first independent human rights group. Unlike in the previous year, political parties were able to elect officers and register; opposition party offices were permitted to operate in most towns in the central and northern regions.

There were many NGOs; they were required to register with the Government. The Government established requirements for recognition of associations and non-governmental organizations. The Interior Ministry issues official recognition. Upon filing with the Ministry, associations are given a receipt allowing them to begin operations. The Civil Security Division also has enforcement responsibilities when there are problems or complaints concerning an association or an organization. If an application provides insufficient information for recognition to be granted, the applica-

tion remains open indefinitely. Members of groups that are not officially recognized could organize activities but do not have legal standing.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government has established requirements for recognition of religious organizations outside the country's three main faiths, Roman Catholicism, Protestantism, and Islam, which were officially recognized. Other religions were required to register as associations. For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted them in practice. Armed security checkpoints and arbitrary searches of vehicles and individuals were common. Undisciplined acts of some soldiers manning roadblocks, such as frequent demands for bribes before allowing citizens to pass, impeded free movement within the country.

In June, former president of the National Assembly and regime critic Dahuku Pere sent a letter to the Minister of Interior asking the Government to issue a passport and identity card to his son, Roland Hezuwe Pere, and return identity papers confiscated in July 2003. Pere also claimed that police confiscated his own identity card and the passports and nationality and birth certificates of Jean-Francois Komi Kodjo, Holasse Djidjoe Kodjo, and Kekeli Kodjo, children of former Prime Minister Agbeyome Kodjo. At year's end, the Government had not responded to Pere's letter.

On September 27, police issued a national identity card and returned nationality and birth certificates to Marc Palanga, the UFC leader in Kara. His previous national identification card had been confiscated at the time of his March 2003 detention, and the nationality and birth certificates were seized in June when he applied for a new national identity card. Police refused to return two of Palanga's vehicles.

On May 12, a judge lifted a prohibition on travel outside the country previously imposed on senior UFC leaders Jean-Pierre Fabre and Patrick Lawson. The police returned Fabre's passport and national identity card on May 13. The travel ban and document seizure took place after police charged Fabre and Lawson with public disorder in May 2003, apparently in connection with a political demonstration which turned violent and the fire bombings of two Total gas stations. The Government did not allow Lawson to leave the country to attend a seminar abroad in January.

On July 28, the Government provided a new Togolese passport to Paris-based opposition leader Gilchrist Olympio through the facilitation of the Catholic Community of Sant'Egidio. The Government seized Olympio's Ghanaian passport in April 2003. In October, the UFC party reported that the Government returned the Ghanaian passport to Ghanaian authorities who returned it to Olympio.

The Government permitted citizens to use a national identity card instead of a passport for travel to other member countries of the Economic Community of West African States.

The Constitution prohibits exile, and the Government did not employ it; however, several opposition and human rights workers remained in self-imposed exile because they feared arrest. Former Army Chief of Staff, Lieutenant Colonel Kouma Bitenewe, who fled to Benin in May 2003 after he claimed that members of the Kara Paracommandos Regiment headed by Lieutenant Colonel Ernest Gnassingbe, son of the President, attacked him in Kara, remained outside the country at year's end.

Although the law does not provide for the granting of refugee status and asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, in practice, the Government has established a system for providing protection to refugees. The Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees during the year.

In 2002, UNHCR estimated there were 11,000 refugees from Ghana living in the North, near the cities of Bassar, Sotouboua, and Dankpen. A voluntary repatriation program for 508 Ghanaian refugees was not implemented because of unrest and instability in Ghana along the Togo-Ghana border in 2003 and during the year. According to the Government, there were approximately 800 refugees (mostly from Rwanda and the Democratic Republic of the Congo) registered in Lome and an approximate 1,200 additional refugees living in rural villages. According to UNHCR estimates, approximately 1,198 Togolese refugees lived in Benin and another 800 in Ghana.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to change their government peacefully; however, the Government restricted this right in practice. The Government and the State remained highly centralized. President Eyadema's national government appointed the officials and controlled the budgets of all subnational government entities including prefectures and municipalities, and influenced the selection of traditional chiefs. The National Assembly exercised no real oversight of the executive branch of the Government. The National Assembly largely approved the proposals of the President and the executive branch. Isolated cases of violence and irregularities that the appropriate governmental bodies failed to investigate marred the June 2003 presidential election. Observers invited for the election were supported by the Government and did not include groups with internationally recognized reputations as objective and neutral observers. The presence of heavily armed forces created an intimidating atmosphere. The military intimidated and harassed opposition parties. Following the June 2003 presidential elections, three opposition parties filed complaints with the Independent Electoral Commission (CENI), which referred them to the Constitutional Court. The opposition parties alleged numerous irregularities in the voting process. Neither the CENI nor the Constitutional Court seriously investigated these irregularities. The entire process, including the decision not to investigate the complaints, lacked transparency. In the end, the Government announced that President Eyadema won with 57.22 percent of the vote, a figure that could not be confirmed independently.

The Government began formal consultations in April with the EU. At the April 14 ceremony launching this process, the Government made 22 commitments in the areas of democracy, human rights, and the rule of law, which included holding a national dialogue with the traditional opposition and civil society; revision of the electoral framework and press code; ensuring freedom of association for political parties; organization of fair, transparent legislative and local elections; release of all political prisoners; and ensuring the independence of the judiciary and the national human rights commission.

A national dialogue with the traditional opposition and civil society began during the year; however, the opposition parties complained that, although invited to several meetings with the Government, they were not consulted about the agenda or structure of the dialogue. They further criticized the Government for insisting on presiding over the process itself and for declaring that the Government would be the final arbiter of any suggestions for action made by the opposition.

Long-delayed legislative elections were held in 2002, but the principal opposition parties boycotted the races. President Eyadema's RPT party won 72 out of 81 seats in the National Assembly. Three parties and one independent candidate all supportive of the Government shared the remaining nine seats. The Government said voter turnout was 67 percent, a figure contested by the main opposition parties as well as some of the government-sponsored international election observers. There were reports of intimidation and fraud.

Legislation passed in 2003 provides for the creation of prefecture, municipal, and regional councils; however, local elections scheduled for December 2003 were postponed and not rescheduled in during the year. One of the Government's commitments to the EU was to hold local elections within 12 months of April 14. The legislation empowers members of the regional councils to vote for two-thirds of members of the Senate (with the other third appointed by the President), which, along with the National Assembly, would comprise a bicameral Parliament. The legislation only provides Senate members the power to review proposed legislation.

Former National Assembly president and regime critic Dahuku Pere has not been paid the pension and lump-sum payment to which he is entitled as a former Parliamentarian, since his October 2002 departure from the National Assembly.

Official corruption was a problem. The Anti-Corruption Commission (CAC), established in 2001, was generally ineffective. According to the Government's official poverty reduction strategic paper, prepared in conjunction with the World Bank and U.N. Nations Development Program (UNDP), corruption and lack of transparency in the management of public funds was a problem throughout the Government.

There were 5 female members in the 81-member National Assembly, and there were 5 female ministers in the President's 26-member Cabinet. Members of southern ethnic groups were underrepresented in the Cabinet relative to their percentage of the general population.

*Section 4. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government generally allowed groups to investigate alleged violations of human rights; however, the Government occasionally threatened or hindered the activities of human rights activists and was inconsistent in following up on investigations of abuses. There were several domestic private human rights groups, including the LTDH, the Center for Observation and Promotion of the Rule of Law, and the Togolese Association for the Defense and Protection of Human Rights. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights groups to become inactive.

The lack of official recognition made it harder for some human rights groups to acquire technical and financial support from international organizations. For example, LTDH, the first independent human rights group in the country, was still unable to acquire official recognition.

In June, FIDH, in cooperation with LTDH, published a report critical of the country's human rights situation. When the Government convoked LTDH to participate in discussions of the country's political situation, government ministers reprimanded LTDH for working with a foreign organization to damage the country's image. LTDH asserted that at the same meeting, the Minister of Interior vowed to continue to block issuance of official recognition to the organization.

On March 3, the Ministry of Interior prohibited a human rights NGO—ONUTA—from conducting a series of seminars focused on democracy and political tolerance. The Ministry demanded that ONUTA harmonize its planned program with the views of the Government.

Unlike in the previous year, there were no reports of the Government impeding the work of international NGOs during the year.

The CNDH continued to be dominated by supporters of the President.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of ethnic group, regional or family origin, sex, religion, social or economic status, or personal, political, or other convictions; however, the Government did not provide effective redress for discrimination complaints. Discrimination against women remained a problem, as did favoritism among certain ethnic groups. Members of President Eyadema's Kabye ethnic group and other northern ethnic groups dominated much of the public sector, especially the military. Individuals with HIV/AIDS faced social discrimination, including rejection by their immediate families.

*Women.*—Domestic violence against women continued to be a problem. Police generally did not intervene in abusive situations, and women were not made aware of the formal judicial mechanisms that would give them protection. As a result, the police rarely intervened in domestic violence incidents. According to an indigenous women's rights NGO, wife beating was estimated to affect approximately 6 percent of married women.

FGM continued to be practiced on approximately 12 percent of girls. The most commonly practiced form of FGM was excision, which usually was performed on girls a few months after birth. Most of the larger ethnic groups did not practice FGM. FGM is illegal and penalties for practitioners ranged from 2 months to 5 years in prison as well as substantial fines. The law was rarely applied because most FGM cases occurred in rural areas where neither the victims nor the police understood the law. Traditional customs often superseded the legal system among certain ethnic groups. The Government continued to sponsor seminars to educate and campaign against FGM. Several NGOs, with international assistance, organized educational campaigns to inform women of their rights and how to care for victims of FGM.

The Constitution declares women equal under the law; however, women continued to experience discrimination, especially in education, pension benefits, and inheritance as a consequence of traditional law. A husband legally could restrict his wife's freedom to work or control her earnings. In urban areas, women and girls dominated market activities and commerce; however, harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. The Labor Code, which regulated labor practices, requires equal pay for equal work, regardless of gender; however, this provision generally was observed only in the formal sector. Under traditional law, which applied to the vast majority of women, a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Polygyny was practiced.

The Ministry of Social Affairs, Promotion of Women, and Protection of Children, along with independent women's groups and related NGOs, continued to campaign actively during the year to inform women of their rights.

*Children.*—Although the Constitution and family code laws provided for the protection of children's rights, in practice government programs often suffered from a lack of money, materials, and enforcement. Although the law protected children, there were many practices that discriminated against children, especially girls.

The Government provided education in state schools, and school attendance is compulsory for both boys and girls until the age of 15. According to the Government's official poverty reduction strategic paper, prepared in conjunction with the World Bank and UNDP, approximately 57 percent of children aged 5 to 11 years, mostly boys, attended school. In that age group, approximately 61 percent of boys and 53 percent of girls started primary school; however, only an estimated 43 percent of boys and 23 percent of girls reached secondary school. Approximately 3 percent of boys and 0.6 percent of girls reached the university level, literacy rates were 69 percent for adult men and 38 percent for adult women. The General Directorate of Education Planning in the Ministry of Education estimated one-third of the national budget was spent on education.

Orphans and other needy children received some aid from extended families or private organizations but little from the Government. There were social programs to provide free health care for poor children. In rural areas, traditionally the best food was reserved for adults, principally the father.

FGM was performed on approximately 12 percent of girls (*see* Section 5, Women).

There were reports of trafficking in children (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

*Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons, although other statutes against kidnapping, procuring, and other crimes linked to trafficking were used to arrest traffickers, and trafficking was a problem. Prosecution of traffickers was made difficult by the lack of legislation defining and criminalizing trafficking. The country remained a country of origin, transit, and destination for trafficking in persons, primarily children. More young girls than boys were the victims of trafficking. Trafficking in women for the purpose of prostitution or nonconsensual labor as domestic servants occurred.

Local committees were voluntarily set up in every region, and without financial or legal support, these committees investigated reports of trafficking. The Government had little or no funding to investigate traffickers or trafficking rings. The police had limited success in intercepting victims of trafficking, and prosecution of traffickers was rare. Most persons that security forces arrested or detained for trafficking ultimately were released for lack of evidence. No records were available of the number of individual traffickers who were prosecuted during the year.

Government agencies involved in anti-trafficking efforts included the Ministry of Social Affairs and Protection and Promotion for Family and Children, the Ministry of Health; the Ministry of the Interior; the Ministry of Justice; the Ministry of Labor; and the security forces (especially police, army, and customs units). The Government cooperated with the Governments of Ghana, Benin, and Nigeria under a Quadripartite Law allowing for expedited extradition among those countries.

The majority of the country's trafficking victims were children from the poorest rural areas, particularly those of Kotocoli, Tchamba, Ewe, Kabye, and Akposso ethnicities and mainly from the Maritime, Plateau, and Central regions. Adult victims usually were lured with phony job offers. Friends or family acquaintances usually approached children. Children sometimes were trafficked abroad by parents misled by false information. Sometimes parents sold their children to traffickers for bicycles, radios, or clothing.

Children were trafficked into indentured and exploitative servitude, which amounted at times to slavery. Victims were trafficked elsewhere in West Africa and to Central Africa, particularly Cote d'Ivoire, Gabon, Nigeria; Europe, primarily France and Germany; and the Middle East, including Saudi Arabia. Children were trafficked to Benin for indentured servitude and to Cote d'Ivoire and Ghana for domestic servitude. Boys were trafficked for agricultural work in Cote d'Ivoire and domestic servitude and street labor in Gabon. They were fed poorly, clothed crudely, cared for inadequately, given drugs to work longer hours, and not educated or permitted to learn a trade. There were reports that young girls were trafficked to Nigeria for prostitution.

The country was a transit point for children trafficked from Burkina Faso, Ghana, Cote d'Ivoire, and Nigeria. There were credible reports that Nigerian women and children were trafficked through the country to Europe (particularly Italy and the Netherlands) for the purpose of prostitution.

The International Labor Organization/International Program for the Elimination of Child Labor (ILO/IPEC) office in Lome reported that from September 2003 to August, local committees and security forces intercepted 1,837 children aged 6 to 17 in the process of being trafficked.

Traffickers were believed to be men and women of Togolese, Beninese, and Nigerian nationalities.

The Government provided limited assistance for victims, hindered primarily by a lack of resources. Terre des Hommes, an NGO, assisted recovered children until their parents or next-of-kin could be notified. Assistance was also available from a government-funded Social Center for Abandoned Children. NGOs have taken the lead in addressing this concern. CARE International-Togo worked with three local NGOs—Terre des Hommes, La Colombe, and Ahuefa—on reinsertion of trafficked children, sensitization of parents and communities, keeping children in schools, and supporting women's income-generating activities. During the year, ILO/ IPEC worked with other NGOs to increase awareness of the trafficking problem and to encourage the Government to pass and enact a law setting fines and penalties for anyone caught in the process of trafficking children.

During the year, local government officials worked closely with NGOs to conduct public awareness campaigns. ILO/IPEC assisted the Government in organizing and training regional and local committees, and in sensitizing and educating parents on the dangers of child trafficking and labor throughout the country.

*Persons With Disabilities.*—The Government did not mandate accessibility to public or private facilities for persons with disabilities. Although the Constitution nominally obliged the Government to aid persons with disabilities and shelter them from social injustice, the Government provided only limited assistance in practice. There was no overt state discrimination against persons with disabilities and some held government positions. However, persons with disabilities had no meaningful recourse against private sector or societal discrimination, and in practice there was discrimination against persons with disabilities.

*National/Racial/Ethnic Minorities.*—The population included members of approximately 40 ethnic groups that generally spoke distinct primary languages and were concentrated regionally in rural areas. Major ethnic groups included the Ewe (between 20 and 25 percent of the population), the Kabye (between 10 and 15 percent), the Kotokoli (between 10 and 15 percent), the Moba (between 10 to 15 percent), and the Mina (approximately 5 percent). The Ewe and Mina were the largest ethnic groups in the southern region and the Kabye was the largest group in the less prosperous northern region.

Although prohibited by law, members of all ethnic groups routinely practiced societal favoritism on the basis of ethnicity. In particular, favoritism by southerners for southerners and by northerners for northerners was evident in private sector hiring.

The relative predominance in private sector commerce and professions by members of southern ethnic groups, and the relative prevalence in the public sector and especially the security forces of members of President Eyadema's Kabye group and other northern groups, were sources of political tension. Political parties tended to have readily identifiable ethnic and regional bases: The RPT party was more represented among northern ethnic groups than among southern groups; the reverse was true of the UFC and CAR opposition parties.

In addition, due to the congruence of political divisions and ethnic and regional divisions, human rights abuses motivated by politics at times had ethnic and regional overtones.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides most workers with the right to join unions; however, security forces, including firefighters and police, did not have this right.

The Constitution also prohibits discrimination against workers for reasons of sex, origin, beliefs, or opinions. The Ministry of Economy and Finance estimated that the country's total workforce was approximately 1.6 (out of an estimated working population of 2.3 million persons). Approximately, 72 percent of the working population was in the agriculture sector where employment was not stable and wages were low. The informal sector provided for an estimated 22 percent of total employment. Approximately 60 to 70 percent of the formal sector workforce were union members or supporters.

The Labor Code prohibits foreign nationals from performing administrative or management functions in trade unions.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code nominally provides workers with the right to organize and bargain collectively; however, the

Government limited collective bargaining to producing a single nationwide agreement that had to be negotiated and endorsed by representatives of the Government, labor unions, and employers. All formal sector employees were covered by the collective bargaining agreement that set nationwide wage standards for all formal sector workers. The Government participated in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolized many sectors of the formal economy. Individual groups in the formal sector could attempt to negotiate agreements more favorable to labor through sector-specific or firm-specific collective bargaining, but this option was rarely used.

The Constitution provides most workers the right to strike; however, security forces and government health workers did not have this right. There is no specific law prohibiting retribution against strikers by employers. There were no strikes during the year.

The law allows the establishment of export processing zones (EPZs). Many companies had EPZ status, and approximately 80 were in operation. The EPZ law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing. Employees of EPZ firms did not enjoy the same protection against anti-union, as did other workers. Workers in the EPZs were prevented from exercising their freedom of association because unions did not have free access to EPZs or the freedom to organize workers.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not specifically prohibit forced compulsory labor, including by children, and children sometimes were subjected to forced labor, primarily as domestic servants (*see* Sections 5, Trafficking and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code prohibits the employment of children under the age of 14 in any enterprise; however, child labor was a problem, with many children being employed in the agricultural sector, working on family farms. Some children started working as young as 5 years of age. These children routinely missed at least two-thirds of the school year. In some cases, children worked in factories.

For some types of industrial and technical employment, the minimum age is 18. Inspectors from the Ministry of Labor enforced these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and small scale trading, very young children traditionally assisted in their families' work. In rural areas, parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as \$25 to \$35 (12,500 to 17,500 CFA francs).

The Ministry of Social Affairs, Promotion of Women, and Protection of Children was responsible for enforcing the prohibition of the worst forms of child labor; however, few resources were allotted for its implementation, and enforcement was weak.

*e. Acceptable Conditions of Work.*—The Government sets minimum wages for different labor categories, ranging from unskilled through professional positions. In practice less than the official minimum wage often was paid, mostly to unskilled workers. Official monthly minimum wages ranged from approximately \$20 to \$33 (10,000 to 16,000 CFA francs) and did not provide a decent standard of living for a worker and family. Many workers supplemented their incomes through second jobs or subsistence farming. The Ministry of Labor was responsible for enforcement of the minimum wage system but did not enforce the law in practice.

Working hours of all employees in any enterprise, except for the agricultural sector, normally are not to exceed 72 hours per week; at least one 24-hour rest period per week is compulsory, and workers is expected to receive 30 days of paid leave each year. The law requires overtime compensation, and there are restrictions on excessive overtime work; however, the Ministry of Labor's enforcement was weak, and employers often ignored these provisions.

A technical consulting committee in the Ministry of Labor sets workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice, the Ministry's enforcement of the various provisions of the Labor Code was limited. Large enterprises are obliged by law to provide medical services for their employees and usually attempted to respect occupational health and safety rules, but smaller firms often did not.

Workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs; however, in practice some could not do so.

Labor laws do not provide protection for legal or illegal foreign workers.

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## UGANDA

Uganda is a republic led by President Yoweri Museveni, who continued to dominate the Government following his reelection to a second 5-year term in 2001. He has ruled since 1986 through the Movement, an organization that continued to receive state support and function both as a political party and a state institution. Movement supporters remained in firm control of the legislative branch. Election observers believed that the 2001 presidential and parliamentary elections generally reflected the will of the electorate; however, both were marred by serious irregularities, particularly in the period leading up to the elections, such as severe restrictions on political party activities, incidents of violence, voter intimidation, and fraud. In March 2003, the Supreme Court declared unconstitutional two sections of law that prevented political parties from operating while the "Movement System" remained in place; however, severe restrictions on political activity continued, particularly for opposition parties. The judiciary generally was independent but remained understaffed, weak, and inefficient; in addition, the President had extensive powers of judicial appointment.

The Uganda People's Defense Force (UPDF) was the key security force, and a civilian served as Minister of Defense. The Internal Security Organization (ISO) remained under the direct authority of the President, and was an intelligence-gathering body; however, its operatives occasionally detained civilians. The Chieftancy of Military Intelligence (CMI), under UPDF control, detained civilians suspected of rebel and terrorist activity. The police were organized as a national force under the authority of the Ministry of Internal Affairs. The UPDF continued "Operation Iron Fist" in its 18-year war against rebels of the Lord's Resistance Army (LRA) in the northern and eastern portions of the country and in southern Sudan. A ceasefire announced by the Government on November 14 expired on December 31 after the two sides failed to agree on terms for its extension. Local leaders formed Local Defense Units (LDUs) to reinforce government efforts to protect civilians from LRA attacks. The country provided the use of its airfields and other logistical support for international peacekeepers operating in the Democratic Republic of the Congo (DRC); however, there continued to be allegations that security force members and some government officials supported militia activities in the DRC and profited from illegal trade. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority. Members of the security forces committed numerous serious human rights abuses.

The country's population was approximately 25.3 million. The economy grew at a rate of approximately 6 percent during the year. Agriculture accounted for approximately one-third of the gross domestic product, and foreign economic assistance accounted for approximately half of government expenditures. The privatization of state-owned enterprises continued. Despite government efforts to curb corruption, perceptions of widespread corruption were cited by potential investors as a major concern.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Domination by the Movement of the political process and continued restrictions on political party activity limited the right of citizens to change their government. Security forces committed unlawful killings and were responsible for short-term disappearances. Torture by security forces and beating of suspects to force confessions were serious problems. Security forces were responsible for incommunicado detention, and prison conditions remained harsh and frequently life threatening. The Government punished some security force officials who were guilty of abuses; however, impunity remained a problem. Arbitrary arrest and detention, including those of opposition supporters, and prolonged pretrial detention were problems. Poor judicial administration, lack of resources, a large case backlog, and lengthy trial delays limited due process rights, including the right to a fair trial. Security forces at times infringed on citizens' privacy rights. The Government at times restricted freedom of speech, the press, and association, and severely restricted freedom of assembly. There were some limits on freedom of religion and movement. Domestic violence against women, rape, and abuse of children, particularly sexual abuse, remained serious problems. Discrimination against women and persons with disabilities remained problems. The Government worked with nongovernmental organizations (NGOs) to combat the practice of

female genital mutilation (FGM), which occurred in some parts of the country. The Government at times employed child soldiers. Trafficking in persons was a serious problem, particularly the trafficking of children by the LRA. Vigilante justice remained a problem. There continued to be limits on worker rights. Forced labor, including by children, occurred, and child labor was common, mostly in the informal sector.

The LRA, led by Joseph Kony, committed numerous, serious abuses and atrocities. The LRA increased attacks in the northern and eastern parts of the country during the first half of the year, and rebels routinely killed, maimed, tortured, and abducted civilians, including children. The LRA used children as soldiers, held children and others in slave-like conditions, and subjected female captives to rape and other forms of severe sexual exploitation during the year. Between 32,000 and 52,000 children known as “night commuters” traveled from conflict areas or internally displaced persons (IDP) camps each night to urban centers to avoid abduction by the LRA.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike during the previous year, there were no reports of politically motivated killings or executions by the Government or its agents; however, security forces committed unlawful killings during the year and were responsible for at least three deaths as a result of torture.

On March 2, the Joint Anti-Terrorism Task Force (JATF) publicly denied having executed or detained without trial Ismael Muviru, Mutwabil Walakira, Captain Sewamuwa Daudi, and another unnamed man; Human Rights Watch (HRW) claimed the four men were executed without trial in September 2003. The UPDF, the Uganda Human Rights Commission (UHRC), and the independent Foundation for Human Rights Initiative (FHRI) reported that they had investigated the allegations and could not find any evidence to verify the claim. There also was no known response to newspaper appeals for the public to come forward with any information on the case.

There were no developments in any of the other executions committed by security forces in 2003 and 2002.

During the year, there were credible reports that persons died as a result of torture by security forces. For example, on March 26, in Mayuge District, police arrested Jackson Muluta and Aloysius Mugabi on charges of theft; later the same day, the police reported that both men had died. An autopsy conducted on Muluta revealed that he died of a hemorrhage after his skull was fractured and his spleen ruptured. The Uganda Prison Services, which denied torturing either man, conducted a separate autopsy that attributed Muluta’s death to hypoglycemia.

On July 20, in Mukono District, Isa Masifu died in his Lugazi police cell after being tortured; two other suspects were severely beaten. Seven policemen were arrested on torture and murder charges and were awaiting trial at year’s end.

There were no reports of any action taken against security forces responsible for 2003 or 2002 deaths that resulted from torture.

During the year, police use of excessive force while pursuing suspected criminals resulted in deaths. For example, on January 20, in Kasese, an LDU officer shot and killed a man suspected of stealing a goat; a child standing nearby was also killed after being hit by a stray bullet. Police were deployed to prevent a mob from killing the LDU officer, who was subsequently arrested. No further information was available at year’s end.

On March 17, in Kampala, police shot and killed Siraj Mwaikwa, a suspected mugger, as he fled arrest in Kampala.

On April 28, police shot and killed taxi driver Faisal Bagyeraki, who was wanted for numerous traffic violations, after Bagyeraki refused to stop at a roadblock in Mbarara; two other persons were injured in the incident. On May 10, after public demonstrations against Bagyeraki’s killing, police officers Herbert Bamwine and Herbert Natukwatsa were arrested and charged with murder and attempted murder; both officers remained in prison awaiting trial at year’s end.

There were no developments in 2003 or 2002 security force killings of criminals as a result of the use of excessive force.

Police forcibly dispersed meetings and demonstrations, which resulted in one death and numerous injuries (*see* Section 2.b.).

During the year, security forces killed numerous civilians during anti-LRA operations (*see* Section 1.g.).

LRA attacks continued during the year and resulted in thousands of deaths (*see* Section 1.g.).

LRA landmines resulted in deaths and injuries (*see* Section 1.g.).

Raids by armed cattle rustlers of the Karamojong ethnic group continued during the year in Katakwi, Kotido, Kumi, Nakapiripirit, Moroto, Kaberamaido, Pader, Lira, and Kapchorwa districts in the northeast. These raids resulted in the deaths of more than 100 persons and the displacement of thousands. The Government continued its Karamoja disarmament program during the year (*see* Section 5). UPDF forces killed numerous persons during clashes with armed Karamojong warriors during the year.

Interethnic violence resulted in deaths (*see* Section 5).

Incidents of vigilante justice were reported frequently during the year. There were numerous instances in which mobs beat, stoned, or burned to death individuals suspected of petty theft, witchcraft, or infidelity. For example, on June 11, residents of Kinoni Village near Mukono burned a suspected thief to death. On July 14, a mob of motorcyclists smashed the head of a passenger, poured gasoline on his body, and set him on fire for not paying the transport fee in Mbarara town.

During the year, authorities prosecuted persons who engaged in mob violence. For example, in March, six persons were tried for murder by mob justice in Nakasongola District. On June 3, Kamuli police arrested 15 persons for lynching Samuel Tigawalana, who was suspected of witchcraft.

There were reports of actual or attempted ritual killings of children during the year (*see* Section 5).

Ethnic Pokot warriors killed civilians during the year. On April 10 and 13, Pokot rustlers from Kenya killed two civilians during a cattle raid in Kabei subcountry, Kapchorwa District. In a separate attack, Pokot rustlers from Kenya and the country killed 8 civilians in Namalu sub-country, Nakapiripit District.

*b. Disappearance.*—There were no reports of politically motivated disappearances due to action by government forces; however, there continued to be reports of disappearances during the year. In most cases, the missing person was located after a period of incommunicado detention in the custody of security forces (*see* Section 1.d.).

On October 30, armed men in uniform apprehended James Kashajja, a supporter of opposition leader Kizza Besigye, at his home in Kampala, according to witnesses; Kashajja's whereabouts were unknown at year's end.

On February 2, the High Court in Kampala ordered the Army Commander to produce Captain Robert Ruteinama, who had been in military detention since his December 2003 arrest by security forces. The Army failed to produce Ruteinama, did not confirm or deny the arrest, and had not responded to the court by year's end.

Former Makerere University guild president Peter Ojur, who reportedly disappeared after he returned to the country in January 2003 after military training abroad, reappeared; Ojur was detained for several weeks in 2003 by security forces.

Rebel groups have abducted approximately 38,000 persons since 1986, according to UNICEF. The LRA continued to abduct thousands of civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as laborers, soldiers, guards, and sex slaves (*see* Sections 1.g. and 5).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were widespread and credible reports that security forces tortured and beat suspects in unregistered detention facilities to force confessions. Between January and December, the UHRC received 2,249 complaints of mistreatment; 179 of those complaints involved torture. The UHRC Tribunal confirmed many of these complaints and ordered the Government to compensate the victims. Security units involved in torture included the regular police, the UPDF, and the Violent Crimes Crack Unit (VCCU); on occasion, such torture resulted in death (*see* Section 1.a.).

On December 4, unidentified persons abducted and tortured Sam Aniga, a driver employed by Ogenga Latigo, an opposition Member of Parliament (M.P.); Aniga, who was released after 48 hours, had refused to answer questions about Latigo's alleged secret meetings.

In June 2003, at Makindye military barracks, the UHRC visited prisoners who claimed to have been arrested and tortured by the VCCU; the prisoners bore signs of torture. On April 21, the UHRC reported its findings to Parliament; however, no investigation had been conducted by year's end.

Unlike in the previous year, there were no reports that members of the LDUs, who frequently lacked training, mistreated prisoners and detainees; however, some LDU members committed abuses during the year, including killings (*see* Section 1.g.).

Police and security forces harassed and detained opposition activists (*see* Sections 1.d. and 2.b.).

There were reports that UPDF soldiers raped persons, particularly in conflict areas (*see* Sections 1.g. and 5).

During the year, the UHRC Tribunal awarded compensation to several persons who had been abused by security forces. For example, on April 1, the UHRC Tribunal awarded approximately \$35,000 (60 million shillings) to Fred Bagole as compensation for being tortured by military intelligence in Kampala District in 2001.

On April 14, the UHRC Tribunal awarded approximately \$20,500 (35 million shillings) to Jackson Cherop as compensation for his illegal arrest and torture by UPDF officers in Mbale District in 2002. In December, the Tribunal awarded \$31,000 (54 million shillings) to the family of Edrissa Omulago Isabirye, who died as a result of torture by the VCCU in 2002.

However, the Government has not compensated many complainants for the violation of their rights by police and security forces. In May, the UHRC revealed that the Government owed approximately \$412,000 (700 million shillings) awarded by the tribunal to approximately 50 persons.

No action was taken during the year against security organizations that reportedly tortured prisoners in Kigo Prison or CMI personnel who were illegally arresting and torturing persons to force them to pay their financial debts; in July 2003, the UHRC testified of such incidents before the Legal and Parliamentary Affairs Committee. No action was taken against VCCU officers responsible for the 2003 torture of Bumali Mubiri and Sam Okiring.

There were no further developments in the reported 2002 cases of torture or abuse by security forces.

During the year, civilians were killed, injured, and displaced as a result of security force operations against the LRA (*see* Section 1.g.).

During the year, the LRA continued to commit numerous atrocities, including the killing, torturing, and kidnapping of civilians, primarily children (*see* Section 1.g.).

There were numerous instances in which mobs attacked suspected thieves and other persons known or suspected to have committed crimes (*see* Section 1.a.). Motivated in part by distrust or misunderstanding of the formal judicial system, these mobs engaged in stonings, beatings, and other forms of mistreatment. Such mistreatment included tying suspects' wrists and ankles together behind their backs, stripping suspects of their clothes, parading them through the streets, and other forms of torture and inhuman or degrading treatment.

For example, in July, a mob in Mayuge District tried to lynch Peter Isabirye, a traditional healer, for allegedly kidnapping and murdering a 2-year-old boy. No action was taken against the mob or Isabirye, who escaped the mob after police intervention.

Prison conditions remained harsh and frequently life threatening, primarily as a result of the Government's severely inadequate funding of prison facilities. In addition, there were several reports that security forces and guards tortured inmates. Prison conditions came closest to meeting international standards in Kampala, where prisons provided medical care, running water, and sanitation; however, these prisons also were among the most overcrowded. There were an estimated 19,000 inmates in the country's prisons and police cells. By one estimate, the country's prisons held approximately three times their planned capacity. The central prison system continued to work with NGOs and the donor community to improve prison buildings, water and sanitation systems, food, and the provision of uniforms; however, progress was minimal during the year. Although the law provides for access to prisoners by their families, ignorance of this right and fear of prison authorities often limited family visits. Prisoners held on treason charges complained that security officers kept files on and harassed their visitors. The UHRC reported that it received allegations that officers in charge of police cells sometimes demanded bribes to allow visits.

On August 3, approximately 340 inmates at Bushenyi government prison went on strike to protest lengthy pretrial detentions and the July torture by prison wardens of inmate Moses Barishaba. Prison authorities turned over to police the staff members alleged to have committed the torture.

Inmates at most prisons grew maize, millet, and vegetables; however, the UHRC accused prison farms of overworking inmates (*see* Section 6.c.).

The Community Service Act seeks to reduce prison congestion by allowing minor offenders to do community service instead of being imprisoned. Since 2001, 1,726 offenders have been sentenced to community service in 4 pilot districts. By year's end, the program had been expanded to 10 additional districts.

There were a number of deaths in custody, some due to torture (*see* Section 1.a.). Prisons were believed to have high mortality rates from overcrowding, malnutrition,

diseases spread by unsanitary conditions, HIV/AIDS, and lack of medical care; however, accurate estimates were unavailable. According to the Prisons Department, 230 inmates died in custody between January and October. Approximately 60 percent of these deaths were due to HIV/AIDS-related diseases. During the year, government agencies sponsored or participated in several conferences on the judicial system and prison conditions and worked with international and domestic human rights organizations on prison reform efforts.

Female prisoners were held in segregated wings with female staff in most prisons; conditions were severely substandard. Due to lack of space in juvenile facilities, juveniles often were held in prisons with adults. The central prison system maintained one juvenile prison and four remand homes. School facilities and health clinics in all five juvenile institutions were grossly inadequate; prisoners as young as 12 performed manual labor from dawn until dusk. Severe overcrowding also was a problem at juvenile detention facilities and in women's wings. The remand home in Kampala, designed for 45 inmates, held more than 80 children. In Kampala jails, pretrial detainees were kept separate from convicted prisoners; however, in the rest of the country, due to financial constraints, pretrial detainees and convicted prisoners sometimes were held together.

During the year, the Government permitted access to prisons by the International Committee of the Red Cross (ICRC), foreign diplomats, and local NGOs, principally FHRI and the Uganda Prisoners' Aid Foundation. The UHRC visited numerous prisons and reported on its findings publicly; however, the UHRC also complained that it was not given access to UPDF detention facilities or "safe houses." Prison authorities required advance notification of visits, a process that was sometimes subject to administrative delays.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits such practices; however, members of the security forces arrested and detained citizens arbitrarily during the year.

The police force was widely perceived to be ineffective. Major constraints included low pay and lack of vehicles, equipment, and training. Police committed numerous abuses, and impunity was a problem. Widespread corruption resulted in the dismissal of some local police officials during the year. In conjunction with the UHRC, the UPDF continued a training program to educate officers on internationally recognized human rights standards. In addition, the police, UPDF, and the Prisons Department used a human rights manual in their training programs. The UPDF made attempts to improve relations between soldiers and civilians.

The Police Human Rights Desk received 300 allegations of police abuse during the year and reported that approximately 140 complaints had been resolved by year's end.

LDUs operated principally in rural areas. Such forces consisted entirely of volunteers and were authorized to carry arms. Their principal purpose was to provide defense to populations affected by rebellions. However, in some cases, they also participated in offensive military operations and carried out police functions. The structure and legal mandate of LDUs were often unclear. Some LDU members committed abuses during the year, including killings.

Under the Constitution, search warrants issued by competent judges or prosecutors are required to make arrests; however, in practice, suspects often were taken into custody without warrants. Despite a provision that suspects must be charged within 48 hours of arrest, many persons were detained for more than 48 hours without being charged. Suspects must be brought to trial or released on bail within 120 days (360 days for a capital offense); however, if the case is presented to the court before the expiration of this period, there is no limit on pretrial detention. Detainees must be informed immediately of the reasons for their detention, although authorities did not always enforce these procedural protections in practice. Suspects must have access to a lawyer; however, there was no provision ensuring family visitation. The Constitution provides for bail in all but capital cases and cases of treason.

The Anti-Terrorism Act permits suspects to be held for more than 48 hours without charge and states that persons convicted of terrorist acts that "directly result in the death of any person" shall be sentenced to death; however, no death sentences were carried out during the year. Several persons were detained under the Anti-Terrorism Act during the year (*see* Section 2.c.).

Security forces arbitrarily arrested political activists during the year. On July 16, the Uganda Peoples Congress (UPC) party announced that it was searching for 15 members who had been arrested in July and detained by the CMI in Lira District; 7 members were subsequently located in police stations. C.P. Okello, one of the seven, claimed to have been tortured by the CMI. On July 16, a court in Lira charged five of the missing members—Francis Odong, Gaba Otim, Joseph Eteng,

Kenneth Oting, and Cyprian Okello—with treason. At year's end, seven members were in detention and eight remained unaccounted for.

Unlike in the previous year, there were no arrests of journalists.

Mass arrests during police sweeps for criminals remained a problem. For example, on January 20, police in Masindi arrested 400 persons after several criminal killings were committed in the area; it was unknown how many remained in detention at year's end. On July 21, police in Rubaga division in Kampala arrested 100 persons for being idle and disorderly; 40 were released on bond, and 60 were detained at Old Kampala Police Station. It is unknown how many remained in detention at year's end.

The number of persons still being held as a result of 2003 mass arrests in Kampala, Mbale, and Gulu remained unknown.

During the year, the Government released and sometimes compensated persons who had been arbitrarily arrested. On June 15, the High Court awarded Pascal Gakyaro, a supporter of the Reform Agenda (RA) political group, approximately \$17,500 (30 million shillings) as compensation for his unlawful arrest and detention in January 2003; Gakyaro claimed to have been tortured during his 8 days in detention. On June 23, the Court Martial withdrew charges of terrorism and released Corporal Patrick Olupot and Umaru Okello, who were arrested in May 2003. On August 13, 22 members of a Muslim group were set free after treason charges were withdrawn; the 22 were arrested in 2003 for allegedly financing the ADF.

On May 17, the UHRC awarded approximately \$1,700 (3 million shillings) to Stephen Mwebaze, who was detained illegally for 10 days in 1999.

It was unknown whether the 10 men arrested without charge by the JATF in August 2003 remained in unofficial detention centers in Kampala; 4 other persons arrested with the 10 were executed in 2003.

No action was taken during the year against the UPDF officer who ordered the illegal 2003 arrest of Gulu State Attorney Sydney Asubo.

The 2002 case of policeman Benson Ikonyat, who was charged with terrorism after being found with army uniforms and guns at Amusu village, was ongoing at year's end.

There were no developments in other 2002 cases of arbitrary arrest or detention.

Legal and human rights groups criticized the excessive length of detention prior to trial, which in many cases amounted to several years; such lengthy pretrial detentions both violated the constitutional rights of the detainees and contributed substantially to prison overcrowding (*see* Section 1.c.). Pretrial detainees comprised 60 percent of the prison population. The average time in pretrial detention was between 2 and 3 years. During the year, the UHRC heard several cases brought by prisoners challenging the length of their detention.

During the year, there were reports that civilians were detained in military barracks and unregistered detention facilities known as safe-houses. There were credible allegations that the CMI ordered detainees held incommunicado at police stations or in so-called safe houses. For example, on April 27, the High Court ordered CMI chief Colonel Noble Mayambo to produce Titus Kiwanuka, who had been detained without charge in military barracks since March 12; Kiwanuka was subsequently charged and moved to Kigo Prison, where he was awaiting trial at year's end.

There were reports of political detainees (*see* Section 2.b.). During the last 2 years, the Government has arrested and charged with treason more than 40 persons for collaborating with the People's Redemption Army (PRA); none of the 40 had been tried by year's end. For example, on November 22 and December 13, security forces detained, respectively, Joseph Musasizi, the brother of 2001 presidential candidate Kizza Besigye, and George Owakukiroru, an elected official in the Rukungiri district government; both Musasizi and Owakukiroru, who were members of the opposition Forum for Democratic Change (FDC), were being detained at year's end. During November and December, the CMI arrested 16 persons, most of whom were opposition supporters, on charges of treason; all 16 were being detained at year's end.

The RA alleged in 2003 that more than 280 of its members had been arrested in 2003 and 2002 due to their political opinions. The Government maintained that the arrests were lawful and that some of those arrested would be prosecuted for treason.

RA supporter Dan Magarura, who in 2003 was arrested on treason charges, was released on bail in September 2003.

Patrick Biryomumaisho Kirasha and four others accused in 2003 of recruiting persons for the PRA rebel group remained in detention at year's end.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the President had extensive legal powers of judicial appointment. The President ap-

points Supreme Court, High Court, and Court of Appeal judges with the approval of Parliament. The President also nominates, for the approval of Parliament, members of the Judicial Service Commission, who make recommendations on appointments to the High Court, the Court of Appeal, and the Supreme Court. The judiciary ruled against the Government on several high-profile cases during the year; however, judicial corruption was a serious problem. For example, a High Court judge was accused during the year of soliciting a \$500,000 (850 million shillings) bribe; the case was pending at year's end. The lower courts remained understaffed, weak, and inefficient.

The Supreme Court ruled against the Government on several cases: The January 29 decision that invalidated a constitutional amendment on parliamentary rules; the February ruling that struck down a section of the Penal Code that prohibited the publication of "false news"; and the September 2 ruling that provisions of the 2000 Referendum Act were unconstitutional (*see* Section 3).

The highest court was the Supreme Court, followed by the Court of Appeal, which also functioned as the Constitutional Court for cases of first instance, the High Court, the Chief Magistrate's Court, local council (LC) level three (sub-county) courts, LC level two (parish) courts, and LC level one (village) courts. A minimum of six justices could sit on the Supreme Court and the Court of Appeal.

The LC courts had the authority to settle civil disputes, including land ownership and debt cases, and criminal cases involving children. These courts, often the only ones available to villagers, reportedly exceeded their authority by hearing criminal cases, including murder and rape. LC court decisions could be appealed to magistrates' courts; however, there often were no records made at the village level, and some defendants were not aware of their right to appeal. Unlike in the previous year, there were no reports of bribery and discrimination against women in some rural LC courts.

The civilian judicial system contained procedural safeguards, including bail and the right of appeal; however, an inadequate system of judicial administration and a lack of resources, resulting in a serious backlog of cases, limited the right to a fair trial. During the year, the High Court reduced its backlog from 84 to 51 cases. All nonmilitary trials were public.

Many defendants could not afford legal representation. The Constitution requires that the Government provide an attorney for indigent defendants accused of capital offenses, but there rarely was enough money to retain adequate counsel. The Uganda Law Society (ULS) operated legal aid clinics in four regional offices, although services remained limited due to funding constraints. The ULS also assisted defendants in military courts. The local chapter of Uganda Women Lawyers Association and the FHRI practiced public interest law from offices in Kampala. The Law Development Center operated a legal aid clinic to address cases involving children and those accused of petty crimes. A public defense service also operated; however, it lacked government funding and relied solely on donor support.

Specialized courts also existed. The Industrial Court (IC) arbitrated labor disputes. Commercial courts resolved commercial disputes, improved commercial justice, and reduced case backlogs.

The military court system often did not assure the right to a fair trial. Although the accused had the right to legal counsel, some military defense attorneys were untrained and could be assigned by the military command, which also appointed the prosecutor and the adjudicating officer. The law establishes a court-martial appeals process; however, a sentence passed by a military court, including the death penalty, could be appealed only to the senior leadership of the UPDF. Under circumstances deemed exigent, a field court martial could be convened at the scene of the crime; however, the law does not permit an appeal under this provision. In 2002, the ULS filed a petition challenging the execution of soldiers under field court martial without the right of appeal; the case had not been resolved at year's end.

During the first 8 months of the year, the VCCU arrested and detained at least 1,100 suspects on various counts, including terrorism, aggravated robbery, murder, illegal possession of firearms, and desertion. The VCCU used military courts to try by court martial civilians found in possession of military property. The Government continued to arrest and charge persons for treason, especially captured rebel fighters, and opposition supporters (*see* Section 1.d.). During the year, numerous human rights abuses continued to be committed in connection with treason cases, including political detention, detention without charge, detention in unregistered and unofficial locations, and mistreatment, including torture.

The 2000 amnesty law applies to all persons involved in insurgencies since the Movement came into power in 1986. Between January and December, 3,048 former LRA combatants were granted amnesty; 7,613 former combatants have received amnesty since 2000. The amnesty law was extended through December.

There was at least one political prisoner. Bright Gabula Africa, whose death sentence for treason was upheld by the Supreme Court in 1995, remained imprisoned pending the outcome of his appeal to the Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were some exceptions. Although the law requires that police obtain search warrants before entering private homes or offices, at times police did not obtain warrants prior to searches.

The Anti-Terrorism Act authorizes certain law enforcement officials to intercept communication to detect and prevent terrorist activities.

There continued to be reports that prison officials routinely censored prisoners' mail.

There were reports that the Government punished family members of suspected criminals and political opposition members, and some family members of political opponents to the Government had difficulties at border crossings while leaving the country (*see* Section 2.d.).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—Security forces tortured and abused civilians suspected of collaborating with the LRA; however, unlike in previous years, there were no reports that security forces killed suspected collaborators.

During the year, security forces killed and injured numerous civilians, including noncombatant children abducted by the LRA, during anti-LRA operations in the northern and eastern parts of the country. Some observers charged that UPDF tactics, including extensive use of helicopter gunships, resulted in deaths and injuries to such children and that the UPDF failed to protect noncombatants during engagements with the LRA. The UPDF denied such allegations, noting that more than 80 percent of LRA fighters were child soldiers, which made it difficult to distinguish between combatants and noncombatants during engagements with the LRA.

On April 4, at an IDP camp in Gulu, the UPDF's 309 Brigade fired a mortar and killed five civilians. In two separate incidents on December 19, LDU soldier Simon Ogwanga shot and killed a civilian in an IDP camp in Aloi sub-country, and LDU soldier Tom Ocen shot and killed two children in Kwera sub-county. Both soldiers were arrested and awaiting trial at year's end.

There also were persistent and credible reports that the UPDF failed to protect civilians threatened by the LRA. On February 5, for example, more than 40 persons were killed during an LRA attack on the Abiya IDP camp in Lira District under the protection of a small UPDF force; most of the UPDF unit had left to collect their pay, and the unit's commander allegedly had gone to Kampala without authorization.

Security forces were sometimes implicated in widespread reports of rape and sexual violence against women and girls. In some instances, perpetrators were punished after victims complained; however, most such incidents went unpunished, in part because the procedures for making such complaints were not widely known.

There were no new developments in the following 2003 killings by UPDF forces: The February killing of a Sudanese national; the July 22 and 24 killings of 21 civilians by UPDF helicopter gunships; and the October 2003 killings of two civilians by a UPDF soldiers in Gulu.

Unlike in the previous year, there were no reports that UPDF members were responsible for killings and other abuses in the DRC; however, militia groups operating in the area committed serious human rights abuses. Some of the worst abuses occurred in parts of northeastern DRC that were under UPDF influence. There were credible reports security forces and some government officials provided material support to armed groups operating in Ituri. Militia fighting resulted in the deaths of hundreds of civilians from the DRC. Independent observers often found access difficult due to hazardous security conditions and frequent impediments imposed by authorities.

LRA attacks increased during the first half of the year, and there were numerous atrocities. Civilians were summarily executed, often by gruesome methods, to terrorize local populations or as retribution for violating various LRA edicts, such as the prohibition on riding bicycles. LRA rebels also attacked private homes, schools, churches, and IDP camps in which persons were killed, injured, raped, mutilated, or abducted. During the year, LRA attacks resulted in the deaths of several thousand persons, including children; numerous injuries; and the destruction of homes and property.

During the first 3 weeks in February, LRA attacks in Lira district IDP camps resulted in more than 250 deaths and the displacement of 283,000 persons. For exam-

ple, on February 21, in Lira District, LRA rebels attacked the Barlonyo IDP camp, killed more than 200 persons, and abducted an unknown number. Most of the dead, who were predominantly women and children, were burned alive when rebels set fire to thatched roofs in the camp. Other civilians were killed by rocket-propelled grenades and anti-tank weapons. The UPDF conceded that local militia had marshaled little resistance, were unable to operate their weapons properly, and suffered from "command problems."

On May 28, LRA rebels killed 2 persons and abducted 17 during an attack on Gweno-twom village in Gulu District.

On June 8, LRA rebels killed 25 civilians, abducted 26 persons, including children, and burned 600 thatched huts in Abok IDP camp in Apac District.

No action was taken against LRA rebels who were responsible for numerous killings in 2003 and 2002.

The LRA continued to use landmines, which resulted in deaths and injuries during the year. For example, on February 25, a vehicle hired by a BBC crew hit a landmine on Lira-Okwang road; one soldier died, and the driver was seriously injured.

The LRA continued to abduct thousands of civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as laborers, soldiers, guards, and sex slaves (see Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times restricted these rights in practice. In addition, the law criminalizes offenses committed by the media and limited the media's ability to function effectively. The Government at times harassed and intimidated journalists, who continued to practice self-censorship. The Government did not restrict academic freedom.

On February 23, the Uganda Law Council upheld the regulation prohibiting lawyers from making public statements on legal matters that were before court; however, the ban continued to be widely disregarded without penalty.

Private media were generally free and outspoken. There were many privately owned publications and broadcasts. The New Vision, a government-owned daily newspaper, sometimes included reporting that was critical of the Government. The Monitor, the country's largest independent daily newspaper, consistently was critical of the Government. During the year, four independent weekly newspapers began publication. The East African, a Kenya-based weekly publication that provided extensive reporting on the country, continued to circulate without government hindrance.

Unlike in the previous year, there were no reports that persons were arrested for publicly criticizing the Government.

The Government continued to operate Radio Uganda, the only national radio station, and one television station (UTV), whose reporting was not considered to be independent. At year's end, there were at least 60 private radio stations in operation, with another 60 awaiting licensing. Several independent media outlets broadcast daily or weekly political talk shows, including recorded off-site radio public debates called "ekimeeza" (table talk), which were often very critical of the Government.

On November 25, Minister of Information James Nsaba Buturo instructed the Uganda Broadcasting Council to revoke the licenses of those stations that "abuse the President or use offensive language and fail to correct the behavior." Buturo also announced that no additional licenses would be issued for stations seeking to broadcast in Kampala; in 2003, the Broadcasting Council proposed regulations that would limit the number of FM radio stations, allegedly to prevent overburdening the airwaves and adversely affecting the quality of broadcasting. Critics charged that the restrictions targeted independent radio, which was the primary news source for 80 percent of the population.

There were four local private television stations and numerous private television stations available via satellite.

Unlike in the previous year, no journalists were arrested or detained; however, journalists were harassed during the year. On June 18, six journalists covering a court martial that involved army corruption were convicted by the same tribunal of contempt of court. Some of the six, who were sentenced and released without detention, were not provided legal counsel. At least some of the convictions were being appealed at year's end.

There were no developments in the ongoing trial of Vincent Matovu, who was arrested in January 2003 and charged with sedition for the publication of two articles.

Unlike in previous years, the Government did not ban broadcasts or publications due to editorial content; however, on April 16, the Government banned the tabloid *Entango Ya Rukundo* for allegedly publishing pornographic material.

On February 11, the Supreme Court in a unanimous decision declared unconstitutional the law prohibiting publication of "false information." On February 21, the Government dropped its case against two editors and a journalist for the *Monitor* on charges of publishing "false news" that threatened national security. The case arose from a *Monitor* report on an alleged UPDF helicopter crash in 2002.

During the year, the Government cited national security as grounds to suppress media reporting that criticized the Government or its handling of the LRA conflict, particularly reports that the LRA had killed UPDF soldiers. In January, army spokesperson Shaban Bantariza accused two *Monitor* journalists of being LRA rebel collaborators; the two journalists had covered the killing of UPDF soldiers by LRA rebels. In September, Vice President Gilbert Bukenya accused the electronic media of "painting a false image of the Government."

On September 19, the Government lifted its June 2003 ban on reporting by journalist Frank Nyakairu, who had contributed to a story about an alleged 2002 UPDF helicopter crash.

In March 2003, the UPDF warned that media outlets that published or broadcast classified information or abetted soldiers in leaking information would be subject to punishment, including the possibility of court-martial.

In November 2003, the Attorney General banned the media from reporting the declarations of assets and liabilities made by the country's political leaders; however, no action has been taken against journalists who published such information.

Media laws require that journalists be licensed to meet certain standards, such as possessing a university degree in journalism or the equivalent. A 1994 law also provides for a Media Council with the power to suspend newspapers and deny journalists access to state information. On January 14, the Media Council held its first meeting.

Unlike in the previous year, there were no reports that citizens harassed journalists. No investigations were conducted into 2003 attacks by ruling party members of Imelda Namutebi in February and Hadija Nakitende in December.

The Government did not limit access to the Internet.

Unlike in the previous year, there were no reports that police forcibly dispersed university political debates.

*b. Freedom of Peaceful Assembly and Association.*—The law restricts freedom of assembly, particularly for political groups, by prohibiting any activities that interfere with the Movement system of governance; in practice, security forces often enforced these restrictions. For groups legally authorized to operate, permits were not required for public meetings; however, groups were required to notify the police prior to such gatherings. Police denied permission to hold public rallies to several opposition political groups during the year and, on several occasions, disrupted or forcibly dispersed opposition meetings and other events. Security forces arrested and detained opposition members.

Mainstream political opposition groups, including the FDC, the Democratic Party (DP), and the UPC, generally complied with government restrictions to hold meetings only in enclosed spaces; however, the ruling Movement had frequent public demonstrations in support of President Museveni and his efforts to eliminate presidential term limits.

During the year, security forces arrested and intimidated members of the opposition and disrupted numerous rallies and political events. On April 1, the Inspector General of Police, Major General Edward Katumba Wamala, directed police officers to arrest members of any unregistered political organization that held or was attempting to hold a political rally.

On January 25, police in Mukono District detained four members of the Popular Resistance Against Life Presidency (PRALP) for attempting to organize illegal meetings; the four reportedly were released the same day, but were instructed to report to court every month.

On February 29, police in Kampala arrested two members of Uganda Young Democrats, affiliated with the opposition DP, for organizing an illegal assembly. On March 2, the two were released; the case was pending trial at year's end.

On March 5, in Jinja, government supporters dispersed a political meeting organized by the Parliamentary Advocacy Forum (PAFO); several persons were injured, including an M.P. with disabilities who was pushed through a ground-floor window. The attackers reportedly had been paid approximately \$800 (1.5 million shillings) by progovernment officials to disrupt the meeting, which was attended by several opposition M.P.s. PAFO officials charged that local police, who did not intervene,

had been ordered to step aside. A December 17 report by a parliamentary select committee charged two local officials with primary responsibility for the incident, but recommended that all those responsible be prosecuted.

On May 23, police briefly detained supporters of two rival candidates who clashed at a campaign rally in Mbale.

On June 5, police in Kyotera, Masaka District arrested and detained 17 PRALP activists for attempting to hold an illegal assembly. The 17, who were released after 1 week, did not appear for their October 14 court hearing; in December, police issued an arrest warrant for the 17.

On August 7, police accidentally shot and killed a secondary student during a street battle between Muslims and Christians in Kyazanga Town, Masaka District. Several others were injured in the incident.

On August 14, in Bugiri, the Resident District Commissioner fired live bullets in the air to disperse a meeting of the National Freedom Party; police subsequently arrested several members of the group for holding an illegal assembly.

On August 18, the police in Kampala detained and questioned M.P. Ken Lukyamuzi for 2 hours for allegedly "inciting violence" at a public rally in July.

Police also blocked other types of demonstrations during the year. For example, on May 4, anti-riot police in Kasese prevented a demonstration by residents over alleged harassment of their chairman by district councilors.

In June, police in Mbarara dispersed a Uganda Youth Alliance conference because the group had not sought permission to hold such a gathering.

The Government reportedly settled out of court with the parents of freelance journalist Jimmy Higenyi, who was killed by police in 2002 during a UPC rally.

No further action was taken against the members of the police who forcibly dispersed demonstrations in 2003 or 2002.

The Constitution provides for freedom of association; however, the Government severely restricted this right in practice, particularly for opposition political parties and organizations (*see* Section 3). NGOs were required to register with the NGO Board, which included representation from the Ministry of Internal Affairs as well as other ministries.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, in practice, the Government imposed some restrictions.

The law requires religious groups and foreign missionaries to register with the Government; failure to register is a criminal offense. The Government continued to refuse registration to the World Last Message Warning Church due to continuing suspicions arising from the killings of more than 1,000 citizens in Kanungu in 2000. There were no reports that the Government refused to grant such registration to any other religious organization.

Several religious groups, which had been shut down by police as suspected "cults" in previous years, remained closed at year's end. In addition, bans against nighttime prayer meetings by evangelical churches, reportedly for security and noise abatement reasons, were still in effect in residential areas of several districts. For example, in October, police in Kayunga banned night prayers to reduce insecurity in the district.

The May 2003 closure of Prophetess Nabaasa Gwaja's worship center in Ntuusi village remained in effect at year's end.

There were reports that security officials harassed Muslims; however, the Government maintained that certain Muslim suspects were detained on charges of treason and terrorism, not on religious grounds. On March 25, antiterrorism police in Kampala arrested two Muslim religious leaders and five other suspects on treason charges. The Muslim religious leaders claimed they were arrested for their religious beliefs, but the Government insisted they were arrested for recruiting for the ADF. The men were in detention awaiting trial at year's end.

Muslims occupied positions of authority in local and central government; however, some Muslim leaders claimed that the number of positions did not reflect their percentage of the population.

The LRA was responsible for attacks against religious institutions during the year. On May 18, LRA rebels abducted Anglican Bishop Benjamin Ojwang and 11 other persons from the Bishop's home in Kitgum; the abductees were rescued that night by UPDF forces. In June 2003, LRA leader Joseph Kony ordered the LRA to "destroy all church missions and kill all priests in northern Uganda."

No action was taken against LRA rebels responsible for killing, injuring, and abducting religious workers in 2003.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times limited them in practice. Some local officials reportedly demanded payment of fees before writing a letter of introduction on behalf of individuals changing their residence. A married woman must obtain her husband's written permission on her passport application if children are to be listed on her passport.

On February 7, security agents seized the passport of Joseph Musasizi, the brother of exiled opposition leader Kizza Besigye, and prevented him from traveling abroad; on February 9, Musasizi's passport was returned to him.

On August 17, William Onyanga, a supporter of Kizza Besigye and Lira District Council speaker, was blocked from traveling to South Africa.

Continued attacks by the LRA and Karamojong warriors caused many ethnic Acholis and Iteso to leave their homes for urban centers, IDP camps, and villages guarded by the UPDF and LDUs. According to the U.N. office of the Coordinator for Humanitarian Affairs, there were more than 1.3 million registered IDPs as a result of this violence. At year's end, the number of IDPs per affected district were: Gulu, 558,765; Kitgum, 267,078; Pader, 279,589; and Lira, 298,197.

During the year, the LRA killed and injured numerous persons during attacks on IDP camps (*see* Section 1.g.). In the north, security forces continued their policy of maintaining UPDF detachments at IDP camps as a means of protecting civilians and denying support to the LRA. Security and health conditions in the approximate 200 IDP camps remained precarious, and several were the targets of large-scale rebel attacks (*see* Section 1.g.).

In April, in Adjumani District, LRA rebels in groups of 7 to 20 began attacking Sudanese refugee settlements in Adjumani; approximately 20,000 Sudanese refugees fled the camps.

Approximately 25,000 citizens of the country were refugees in the DRC, Sudan, and Kenya during the year.

The law does not provide for the granting of asylum or refugee status in accordance with the definition of the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum and generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. Unlike during the previous year, the Government did not forcibly relocate refugees or deny UNHCR access to camps.

The Government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 Protocol, and also provided land for temporary resettlement to citizens from neighboring countries. This practice was extended to significant numbers of refugees during the year. More than 70 percent of the approximately 220,000 refugees in the country were from southern Sudan; there also were refugees from the DRC, Rwanda, and other countries.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government; however, Movement domination of the Government and some restrictive constitutional and statutory provisions limited citizens' effective exercise of this right. On November 17, the Constitutional Court declared sections of the 2002 Political Parties and Organizations Act (PPOA) that restricted political meetings and the registration of political parties unconstitutional; a 2003 court decision ruled that PPOA sections that prevented political parties from operating while the "Movement System" remained in place were unconstitutional. However, during the year, both national and local government officials continued to interpret the law to restrict opposition political activities.

The Constitution provides for an autonomous, independently elected president and a 305-member unicameral parliament whose members are elected to 5-year terms. The President dominated the Government, and Movement supporters remained in control of the Parliament. However, members of the Movement disagreed on several critical issues, including whether the constitutional presidential term limit should be lifted. Supporters of President Museveni retained a majority in Parliament, but not necessarily in sufficient numbers to pass constitutional amendments.

In 2001, six candidates competed in the presidential elections, including President Museveni and Kizza Besigye. President Museveni was reelected with 69.3 percent of the vote. The presidential election generally reflected the will of the population;

however, there were many complaints of irregularities prior to and on election day, particularly regarding the voting process. There also were numerous reports of election-related violence and intimidation by both the Government and the opposition.

In 2001, elections were held for the 214 directly elected parliamentary seats. The elections generally reflected the will of the population; however, there were numerous instances of election-related intimidation and violence. The number of opposition M.P.s increased to 35 from 12, including 9 UPC M.P.s and at least 6 M.P.s from the DP. Others were affiliated loosely with the DP, and the affiliation of several other M.P.s was unclear. There were 230 M.P.s elected from the Movement Party, giving it a clear majority; however, a number of moderate Movement M.P.s kept their seats in spite of President Museveni's active campaigning for their opponents.

A 2002 parliamentary committee that investigated violence and irregularities in the 2001 presidential, parliamentary, and LC elections recommended that acting Army Commander Major General James Kazini, Presidential Advisor on Political Affairs Major Kakooza Mutale, Brigadier Julius Oketa, and other security personnel be further investigated and prosecuted for alleged crimes related to election violence; however, by year's end, no action had been taken.

The 2000 referendum on the role of political parties resulted in the indefinite extension of the Movement form of government and the indefinite continuation of restrictions on political parties. On June 25, the Constitutional Court ruled that numerous provisions of the 2000 Referendum Act, which established the rules and procedures for conducting the 2000 referendum, were unconstitutional; however, on September 2, the Supreme Court overturned parts of the Constitutional Court's ruling and validated the results of the referendum. Despite the referendum, the PPOA set rules for the registration and operation of political parties. These rules were highly restrictive, and many parties refused to register under the PPOA. In March 2003, the Supreme Court declared unconstitutional Sections 18 and 19 of the PPOA, which prohibit political parties from holding rallies, taking part in election campaigning, or holding offices outside Kampala; however, restrictions on both registered and unregistered opposition parties continued during the year. The Government restricted non-Movement political gatherings and dispersed numerous political meetings not sanctioned by the Movement (*see* Section 2.b.).

The ruling Movement regularly held rallies, conducted political activities, and in 2003 registered the National Resistance Movement-Organization, a new political party that generally operated without restriction. Some new parties, which registered under the 2002 PPOA, have been allowed to function, as have political parties that existed in 1986, when the Movement assumed power; however, there were significant limitations. During the year, many parties refused to register and continued to challenge the PPOA in the courts; however, nine opposition parties registered following the November Constitutional Court ruling.

On April 8, the Resident District Commissioner in Rukungiri instructed local officials to bar opposition candidates from campaigning at funerals or weddings.

During the year, the Electoral Commission organized parliamentary and district by-elections in Kamuli, Mbale Municipality, Bushenyi, Kabale, and Bukomansimbi. Observers characterized these elections as generally free and fair; however, there were some irregularities. For example, in Kamuli District, the presiding officer and polling assistants were arrested for "election malpractices." Several local council elections organized during the year by the EC were considered generally free and fair.

In September 2003, the Cabinet presented a list of its suggestions for constitutional change to the Constitutional Review Commission (CRC) that included the introduction of a multiparty system, increasing executive authority over the legislature, and the lifting of presidential term limits. After the CRC submitted its report to Parliament, the Legal and Parliamentary Affairs committee on December 21 recommended the rejection of some of the Government's proposed amendments, but made no recommendation on the lifting of presidential term limits. No action had been taken on the report's recommendations by year's end.

Corruption continued to be a major problem. Despite credible evidence of wrongdoing, there were no prosecutions during the year of senior officials accused of corruption. The law requires the declaration of wealth by government officials and their family members, and the Government enforced the law during the year. A hotline established in 2003 by the Ministry of Ethics and Integrity continued to receive reports of corruption.

The 2003 courts-martial of army officials suspected of maintaining under-strength units and pocketing salary payments for so-called "ghost soldiers" was ongoing at year's end.

The Constitution provides for public access to government information, and on January 29, the Supreme Court overturned a provision of the 2000 Constitution Amendment Act that would have restricted such access.

The Constitution requires elections through electoral colleges for the 81 seats reserved for special interest groups in Parliament: 56 seats were reserved for women; 5 for organized labor; 5 for persons with disabilities; 5 for youth; and 10 for the army, which were selected by the UPDF High Command, chaired by President Museveni.

The Government used quotas in an aggressive effort to place women in positions of authority. In 2001, women won 12 nonreserved seats for the 295-member Parliament and held a total of 72 seats. There were 3 female ministers and 12 female junior ministers in the President's 66-member Cabinet. One woman served as Deputy Speaker, another as Deputy Chief Justice of the Supreme Court, and a woman headed the CID.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views; however, in August 2003, President Museveni issued a statement calling on civil society organizations to avoid involvement in partisan politics. Active domestic groups included the FHRI; FIDA-U; Human Rights Focus; the National Association of Women's Organizations of Uganda; the International Federation of Human Rights; and the Human Rights and Peace Center of Makerere University. Government officials continued to attend conferences and seminars hosted by NGOs on social problems and cooperated with NGOs on legal and prison reforms.

No action was taken on the Government's March 2003 call for a code of NGO conduct to minimize corruption.

The Government allowed visits by the ICRC, UNHCR, and several international human rights NGOs, including Amnesty International, HRW, and the International Justice Mission. On July 16, the ICRC resumed operations in the country after a 3-year suspension that followed the 2001 killings of six relief workers in the Ituri District of the DRC, an area then controlled by the UPDF. During the year, the ICRC resumed its visits to prisons, police stations, and military detention facilities.

The Constitution establishes the UHRC as a permanent independent body with quasi-judicial powers. The President appointed the UHRC's eight-member board. Under the Constitution, the UHRC may subpoena information and order the release of detainees and the payment of compensation for abuses. In several cases during the year, the UHRC Tribunal awarded compensation to complainants who had proven their allegations against government organs (*see* Sections 1.c. and 1.d.). The UHRC continued to pursue suspected human rights abusers, including high-level officials in the Government and military, and had branches countrywide, including in Gulu, Soroti, Mbarara, Fort Portal, Jinja, and Moroto. The UHRC Tribunal headquarters in Kampala received 1,080 new cases during the year, including some against senior government leaders and military and police officials. In September, the Government withdrew previous constitutional proposals to abolish the UHRC.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, disability, language, or social status; however, the Government did not enforce the law in matters of locally or culturally accepted discrimination against women, children, persons with disabilities, or certain ethnic groups. Continued instability in the northern region led to violations of the rights of some Acholi, an ethnic group that comprises a significant part of the population; LRA rebels, although predominantly Acholi themselves, were responsible for the most serious human rights violations.

*Women.*—Violence against women, including rape, remained common. A 2003 Johns Hopkins University study indicated that one in three women living in surveyed rural areas experienced verbal or physical threats from their partners, and 55 percent sustained physical injuries as a result of domestic abuse. The law prohibits assault, battery, and rape; however, there were no laws that specifically protected women from spousal abuse. Many law enforcement officials continued to view wife beating as a husband's prerogative and rarely intervened in cases of domestic violence. Women remained more likely to sue for divorce than to file rape or assault charges against their husbands.

A 2003 HRW report concluded that married women were particularly vulnerable to HIV/AIDS infection as a result of forced sex in marriage by husbands with multiple partners or wives. HRW's report identified numerous social and legal obstacles

to women's ability to protect themselves against HIV/AIDS infection in abusive relationships.

The law requires that bride prices be nonrefundable gifts to the parents of the bride. In March 2003, civil society organizations recommended to the CRC that bride prices be abolished; however, no action had been taken by year's end.

Thousands of women and girls were victims of abduction and rape by rebel forces. There also were reports that women were raped by the UPDF (*see* Sections 1.c. and 5, Children).

FGM was practiced by the Sabinu ethnic group, located in rural Kapchorwa District, and the Pokot ethnic group along the northeastern border with Kenya. There were approximately 10,000 Sabinu and approximately 20,000 Pokot in the country. Among the Sabinu, initiation ceremonies involving FGM were carried out every 2 years. In August, an official in Moroto District confirmed more than 84 cases of FGM in his sub-county; in 2003, there were 30 cases. In Kapchorwa District, there were 594 cases of FGM during the year, according to an anti-FGM organization.

There was no law against FGM, but the Government, women's groups, and international organizations continued programs to combat the practice through education. These programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling. Significant press attention to these ongoing efforts brought public attention to the problem during the year.

Prostitution was illegal; however, it was common. There were no credible statistics available on the occurrence of prostitution, including child prostitution, during the year.

There were reports of trafficking in women, girls, and babies during the year (*see* Section 5, Trafficking).

Sexual harassment also was common. For example, in January, the Women's Commission for Refugee Women and Children reported that security forces, teachers, and others in the north sexually abused female "night commuters," the adults and children who fled their homes each night to seek shelter from LRA attacks and abductions. In March, Parliament registered complaints from women being asked for sexual favors during job interviews.

Traditional and widespread societal discrimination against women continued, especially in rural areas. Many customary laws discriminate against women in the areas of adoption, marriage, divorce, and inheritance. In many areas, women could not own or inherit property or retain custody of their children under local customary law. Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygyny is legal under both customary and Islamic law. In some ethnic groups, men can "inherit" the widows of their deceased brothers. Women did most of the agricultural work but owned only 7 percent of the agricultural land. During the year, employers in the private sector frequently failed to apply the statutory provision that provides women maternity leave.

There were limits on a married woman's ability to travel abroad with her children (*see* Section 2.d.).

Numerous NGOs sponsored conferences and training programs on women's rights throughout the country. There were several active women's rights groups in the country.

*Children.*—The Government demonstrated a commitment to improving children's welfare. Education received the largest percentage of the national budget. The Government did not enforce effectively the Children's Statute, which outlines broad protections for children, because of the large proportion of children in the population (approximately half of the country's population was under 15), staffing and fiscal constraints on the judiciary, and cultural norms. The law stipulates parents' responsibilities and provides extensive protection for children in a wide variety of areas, including financial support, foster care placement, adoption, determination of parentage, and treatment of children charged with offenses. The law also prohibits children from taking part in any activity that was likely to injure the child's health, education, or mental, physical, or moral development; however, the Government often did not enforce these prohibitions.

The Government continued the Universal Primary Education (UPE) program, which provided free education through the seventh grade; however, education was not compulsory. UPE increased funding for education, provided additional skills training for teachers, and reduced the textbook to student ratio; however, some provisions had not been implemented fully by year's end. Strained finances, corruption, instability in some areas, infrastructure problems, and inadequate teacher training prevented full implementation. The UPE program made education more accessible

financially; however, parents still had to pay for school supplies and some school costs.

According to UNICEF, the country's primary school enrollment rate was 86 percent for both boys and girls. Girls and boys theoretically had equal access to education in the lower grades; however, the proportion of girls in higher school grades remained low because families traditionally favored boys when making educational decisions. Boys also were more likely to finish primary school and performed better on examinations for admission into secondary school. The Government continued several programs to promote a national plan for the education of girls. According to the 2002–03 National Household Survey, only 59 percent of adult women were literate compared with 80 percent of adult men.

Child abuse remained a serious problem, particularly rape and other sexual abuse of girls, offenses known as "defilement." Defilement applied to all cases of sexual contact outside of marriage with girls younger than 18 years of age, regardless of consent or the age of the perpetrator. The perpetrators of defilement often were family members, neighbors, or teachers. During the year, 1,878 persons were convicted of defilement, and 1,818 suspects were awaiting trial at year's end. Defilement carried a maximum sentence of death; however, no court sentenced persons convicted of defilement to death during the year. In practice, defilement cases often were settled by a payment to the girl's parents.

During the year, teachers were arrested for defilement. For example, the Arua District education officer reported that between June and October, three teachers were arrested for defilement.

Corporal punishment is banned; however, many schools used it. In April, the UHRC summoned to testify Fabian Bahemuka and Fedeli Muleme, teachers of St. Aloysius Bukalagi Primary School, in Mpigi District, for allegedly caning a pupil into a coma in 2002. During the year, the UHRC tribunal mediated a settlement that required the teachers to pay the pupil's family \$115 (200,000 shillings).

There were credible allegations of actual and attempted ritual killings of children during the year. For example, in February, police in Kayunga District arrested and detained two traditional healers for allegedly attempting to murder an 11-year-old boy; no further information was available.

There were no developments in the February 2003 and May 2003 ritual killings of children. There were no developments in 2002 ritual killings of children.

The marriage of young girls by parental arrangements was common, particularly in rural areas.

FGM was performed on girls in the Sabinu and Pokot ethnic groups (*see* Section 5, Women).

Child prostitution and trafficking were problems (*see* Section 5, Trafficking).

The legal recruitment age for military service was 18 years; however, persons below the age of 18 occasionally enlisted, sometimes with the collusion of local officials. During the year, there were reports that the Government continued to recruit children into the UPDF. Other children were reported to have been recruited into LDUs. The UPDF denied that it had actively recruited child soldiers, but said some might have been allowed to join through deception or oversight. However, other reports indicated that the UPDF detained some former LRA child combatants for unacceptably long periods, and in some cases, used them on intelligence and reconnaissance missions.

During the year, the UPDF collaborated with UNICEF to identify and remove 300 to 400 underaged soldiers from the 60,000-soldier UPDF. There were also efforts to identify and remove underaged recruits from LDUs, where underage recruitment reportedly was a more serious problem.

There were an estimated 2 million children who had lost one or both parents. This large number of orphans resulted from wars and other instability, population displacement, and HIV/AIDS.

Child labor was a problem (*see* Section 6.d.).

Approximately 12,000 children have been abducted during the last 2 years, and the LRA continued to abduct children and, at clandestine bases, to force them into virtual slavery as laborers, soldiers, guards, and sex slaves. In addition to being beaten, raped, and forced to march until exhausted, abducted children were forced to participate in the killing of other children who attempted to escape. More than 85 percent of LRA forces were made up of children whom the LRA abducted and forced to fight as rebels; most LRA rebels were between the ages of 11 and 16.

During the year, the UPDF rescued numerous children abducted by the LRA; 15,000 children have returned from LRA captivity since the conflict began. The UPDF's Child Protection Unit continued to provide treatment to returned abductees upon arrival at military facilities. It also escorted ex-abductees to NGO facilities, which provided assistance and counseling to the children and their families. The

Government also worked closely with NGOs in the north to facilitate their assistance programs for amnesty seekers and rescued children; however, these programs were primarily financed by donors. The Amnesty Commission provided orientation to officials in Sudan to better assist applicants, including former abducted child soldiers, to enter the amnesty program.

Between 32,000 and 52,000 children known as “night commuters” traveled from conflict areas or IDP camps each night to urban centers to avoid abduction by the LRA. In March, the U.N. estimated that nearly 18,800 children commuted nightly into Gulu town, 11,000 in Kitgum, and 11,000 in a Kalongo Hospital in Pader District. During the year, the Government cooperated with NGOs to establish shelters for such children in tented dormitories and other semi-permanent structures; in other cases, children slept under balconies or on the grounds of schools, churches, and hospitals. Conditions ranged from harsh to adequate. There were credible reports that many displaced girls became involved in prostitution.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, it prohibits trafficking-related offenses. The penalty for the procurement of women for purposes of prostitution or detention with sexual intent is up to 7 years’ imprisonment; the penalty for trading in slaves is up to 10 years’ imprisonment. A range of sentences up to the death penalty can be imposed for defilement (sex with minors). Forced labor is a misdemeanor. There were reports that persons were trafficked to, from, or within the country. During the year, persons were arrested for trafficking-related offenses; however, none reportedly were convicted.

In addition to trafficking related to LRA abductions (*see* Sections 1.b. and 5), adults and children were trafficked internally for labor, commercial sexual exploitation, and criminal activities.

During the year, there were media reports that several women from South Asia were trafficked to the country under false pretenses and forced into prostitution; some of the women also claimed that they had been tortured and raped. On June 30, police arrested the owner of the restaurant where some of the women were found. A parliamentary committee reportedly planned to investigate the extent of the trafficking of South Asian women to the country; however, no action had been taken by year’s end.

Unlike in previous years, there were no reports that the SPLA forcibly recruited Sudanese refugees in the north for service in their forces.

The Government, through the military and civilian agencies, continued efforts to combat LRA trafficking in persons. The Government began Operation Iron Fist in 2002 to eradicate the LRA threat and has continued to offer amnesty to former rebels, providing resettlement packages with educational benefits and vocational training. The Government also established protected camps garrisoned by the UPDF that have helped to prevent abductions (*see* Sections 1.b. and 2.d.).

*Persons With Disabilities.*—The Constitution provides persons with disabilities “a right to respect and human dignity”; however, widespread discrimination by society and employers limited job and educational opportunities for such persons. There was no statutory requirement that buildings be accessible for persons with disabilities. There was a Minister of State for Disabled Persons, and five seats in Parliament were reserved for representatives of persons with disabilities. There was also a Department for Disabled Persons within the Ministry of Gender, Labor, and Social Development; however, this institution lacked sufficient funding to undertake or support any significant initiatives.

The Children’s Act required that children with disabilities be given necessary special facilities; however, in practice inadequate funding hampered enforcement of this provision.

*National/Racial/Ethnic Minorities.*—Civil strife in the north and east led to the violation of the rights of members of the Acholi, Langi, and Ateso ethnic groups, who primarily resided in the districts of Gulu, Kitgum, Pader, Lira, Apac, and Soroti. LRA rebels, who themselves largely were Acholi, committed abuses against ethnic Acholi and other ethnic groups. The LRA in particular was implicated in the killing and kidnapping of Acholi tribe members (*see* Section 1.g.). During the year, the UPDF committed abuses against ethnic Acholi during combat operations against the LRA. Ethnic Acholi leaders also complained that outsiders were attempting to take advantage of continuing instability to steal their land.

Inter-ethnic violence between the Langi and Acholi ethnic groups resulted in deaths. On February 25, a joint force of UPDF troops and police fired in the air after a peace march commemorating the victims of the February 21 LRA attack on Barlonyo IDP camp became violent. One person was shot to death by the joint force, and four persons were lynched by the mob; there were numerous injuries. Observers reported that approximately 500 members of the Langi ethnic group broke away

from the demonstration to attack Acholis and their property and that the violence appeared to be exacerbated by February 24 anti-Acholi and anti-foreign broadcasts on Lira radio.

During the year, raids by armed Karamojong warriors in Katakwi, Kotido, and Kapchorwa Districts in the northeast resulted in approximately 100 deaths. The raids reportedly exacerbated ethnic tensions in the northeast (see Section 1.a.). The Government's mandatory disarmament program for Karamoja, which has caused confrontations between the UPDF and the Karamojong, continued, and negotiations continued for a Karamojong-led solution. The UPDF and police continued efforts to improve security conditions by arresting cattle rustlers and preventing cross-border incursions.

*Incitement to Acts of Discrimination.*—Anti-Acholi messages on Lira radio throughout the evening of February 24 contributed to the violence in a February 25 demonstration (see Section 5, National/Racial/Ethnic Minorities).

#### Section 6. Worker Rights

*a. The Right of Association.*—The Constitution provides for the right of every person to join workers' associations or trade unions; however, the Government at times did not respect this right in practice. Employers often did not observe the requirement to recognize a union. The right to form unions extended to civil servants; however, many "essential" government employees were not permitted to form unions, including police, army, and management-level officials throughout government. The Government failed to enforce the rights of some employees to join unions in newly privatized industries and factories.

The law allows unionization if 51 percent or more of the work force support it and if the proposed union represents at least 1,000 employees. These requirements effectively prevented workers in important parts of the private sector from forming unions, especially in the textile, hotel, and construction sectors.

The law does not prohibit anti-union discrimination by employers, and union activists were not protected sufficiently from retribution for union activities; however, there were no reported incidents of government harassment of union officials during the year. There were reports that several private companies urged workers not to take part in unionization efforts.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively; however, the right to organize was rarely defended by the Government, and true collective bargaining occurred only in the small private sector of the modern economy. There are no export processing zones.

The Constitution provides for the right to strike; however, the Government seldom defended this right, and government policy required labor and management to make "every effort" to reconcile labor disputes before resorting to strike action. This directive presented unions with a complicated set of restrictions. If reconciliation did not appear to be possible, labor had to submit its grievances and give notification of the strike to the Minister of Labor, who usually delegated the dispute to the IC. In principle, IC rulings were final, but in practice, they could be appealed to the High Court, an option often taken by employers. The Minister of Labor generally did not permit strikes in the absence of a determination from the IC that "every effort" had been exhausted. The Government only took limited action on organized labor complaints; however, frustrated laborers often went on strike anyway.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.). Prison officials hired out prisoners to work on private farms and construction sites, where the prisoners often were overworked. Throughout the country, prison officials routinely supplemented their meager wages with cash crops grown by prisoners on the prison grounds (see Section 1.c.). Male prisoners performed arduous physical labor while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often for 12 hours per day. Compensation, when paid, generally was very low.

There were also complaints that the UPDF forced ethnic Acholi citizens to clear roadways in war-affected regions of the north.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits employers from hiring workers below the age of 18; however, child labor was common, especially in the informal sector. Demographics contributed to the problem of child labor; half of the population was under 15 years of age. Many children left school and went into agricultural or domestic work to help meet expenses or perform the work of absent or infirm parents, a situation common throughout the country (see Section 5). The problem was particularly acute among the large orphan population.

In urban areas, children sold small items on the streets, were involved in the commercial sex industry, worked in shops, or begged for money (*see* Section 5). Children were also employed in the tea harvesting sector.

In the past, smuggling was one of the larger informal industries and employed large numbers of child laborers at the borders with Kenya and Tanzania; however, there were no reports of such activity during the year.

The law prohibits forced and bonded labor by children; however, a lack of resources prevented the Government from enforcing this prohibition effectively. There were reports the UPDF used former LRA child soldiers on reconnaissance and intelligence missions (*see* Section 5).

The LRA often forced abducted children into virtual slavery as guards, laborers, soldiers, and sex slaves (*see* Section 5).

The Ministry of Gender, Labor, and Social Development enforced the law on child labor; however, financial constraints limited the Ministry's efforts. The Government made efforts to decrease the incidence of child labor during the year. The Government coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which brought together representatives of the Ministry of Gender, Labor, and Social Development; the Ministry of Education and Sports; the Ministry of Local Government; the Federation of Uganda Employers; the National Organization of Trade Unions; NGOs; journalists; and academicians. The Government organized a number of child labor awareness workshops, disseminated printed information, and sponsored radio and television discussions to educate the public on child labor issues. Several human rights NGOs continued programs during the year aimed at removing children from hazardous work.

The Government also cooperated with the ILO, foreign governments, and NGOs in several initiatives to combat child labor, including the education and reintegration of children into their communities.

*e. Acceptable Conditions of Work.*—The minimum legal wage was \$3.50 (6,000 shillings) per month, a rate set in 1984; however, this wage was not enforced effectively in practice. The Government and the private sector negotiated a new rate in 2003; however, no minimum wage legislation had been passed by year's end. The existing minimum wage did not provide a decent standard of living for a worker and family.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. There was no legal maximum workweek; however, employers were supposed to pay a time-and-a-half rate for each additional hour worked beyond a 48-hour workweek. Many industries paid workers incrementally to avoid overtime and circumvent the prohibition on child labor. Many companies employed workers as "casual laborers" or "contract workers" to avoid providing benefits.

The law establishes some occupational health and safety standards. The Workers' Compensation Act provides compensation, based on monthly salaries, for workers injured or killed at work. The Ministry of Gender, Labor, and Social Development's Department of Occupational Health was responsible for enforcement of occupational safety regulations; however, in practice, inspections were rare, primarily due to the lack of vehicles and funding for inspection trips. There were fatal accidents at several construction projects. The limited occupational safety regulations under the law did not prevent the dismissal of workers who refused to perform dangerous work; however, strong unions in certain dangerous industries protected such workers.

Foreign workers are protected under the Occupational Health and Safety Law. The law does not exclude illegal workers; however, illegal workers who filed claims risked government scrutiny of their employment status and possible prosecution or deportation.

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## ZAMBIA

Zambia is a republic governed by a president and a unicameral national assembly. Since 1991, multiparty elections have resulted in the victory of the Movement for Multi-Party Democracy (MMD). MMD candidate Levy Mwanawasa was elected President in 2001, and the MMD won 69 out of 150 elected seats in the National Assembly. Domestic and international observer groups noted general transparency during the voting; however, they cited several irregularities. Opposition parties challenged the election results in court, and judicial deliberations were ongoing at year's end. The anti-corruption campaign launched in 2002 continued during the year and resulted in numerous arrests and prosecutions. The judicial system was hampered by inefficiency, corruption, and lack of resources.

The police, divided into regular and paramilitary units under the Ministry of Home Affairs, have primary responsibility for maintaining law and order. The Zambia Security Intelligence Service (ZSIS), under the Office of the President, is responsible for intelligence and internal security. Civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous serious human rights abuses.

The economy was market based with a population of 10.4 million. Approximately 60 percent of the labor force worked in agriculture, although agriculture contributed only 15 percent to the gross domestic product. Economic growth was projected at 4.6 percent for the year; wages generally failed to keep pace with an inflation rate of 17.5 percent. The Government's efforts to rein in public spending resulted in the resumption of balance of payment support from donors and debt forgiveness. Approximately 73 percent of the population lived below the poverty line.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Police officers committed several unlawful killings and tortured, beat, and otherwise abused criminal suspects and detainees. Some police officers who committed these abuses were disciplined or remained in detention pending trial; however, most did so with impunity. The lack of professionalism, investigatory skill, and discipline in the police force remained a serious problem. Prison conditions were harsh and life threatening. Arbitrary arrests, prolonged detention, and long delays in trials were problems. The police infringed on citizens' privacy rights. The Government restricted speech and press freedom. Police forcibly dispersed demonstrations and obstructed rallies of the political opposition, labor unions, and civil society groups. The Government ordered and then rescinded the dissolution of NGOs during the year. Violence and discrimination against women remained widespread. Child abuse, trafficking in persons, and discrimination against persons with disabilities were problems. Workers' rights were limited, and child labor remained a serious problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings by the Government or its agents; however, security forces committed numerous unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights organization that counseled victims' families and represented them in actions against the Government, consistently investigated and publicized such incidents.

Police killed several persons during apprehension and in custody. On March 21, police in Kitwe arrested, detained, and beat Michael Kalunga and Davie Mwape for possession and consumption of illegally brewed alcohol; on March 25, Kalunga and Mwape died in detention as a result of the beatings. Eight other persons arrested and detained on the same charge as Kalunga and Mwape were beaten; five remained in custody awaiting trial at year's end. No action was taken against the responsible police by year's end.

On December 25, 2003, police in Nakonde arrested and beat 28-year-old Fridah Mulenga following allegations that she had abandoned an 8-month-old child. On December 6, when Mulenga was released, she complained of severe chest pains and was admitted to a hospital; on January 7, she died. No action was taken against the responsible police by year's end.

During the year, there were incidents of accidental killings by police. For example, on March 15, in Livingstone, police in pursuit of two fleeing prisoners shot and killed Lydia Monga, a bystander. The officer who fired the shots was charged with murder, detained, and awaiting trial at year's end.

Police forcibly dispersed demonstrations during the year; at least one person was killed (*see* Section 2.b.).

On January 20, witnesses testified in court that Lusaka police officers Davis Nyirenda and Ignatius Machilika, who were charged with the May 2003 shooting to death of Tombozgani Chirambo, were responsible for Chirambo's death; however, the magistrate released the two policemen for insufficient evidence. The 2003 complaint filed by Chirambo's family, which prompted the arrest of the officers, was still pending at year's end.

No action was taken against police responsible for the 2003 killings in custody of Chomba Mulamba, Tobias Kapenda Tembo, and Chisenga Chisenga.

The results of the inquest into the 2002 killing by police of Alison Phiri and David Nkwambwa were not released by year's end.

There was no known action taken in the 2002 killings by police officers.

Mob violence, which generally targeted suspected thieves, witches, or persons suspected of sexual impropriety, resulted in killings during the year. For example, on September 21, a mob in Lusaka beat to death an unidentified man who was caught trying to break into a house. Police made no arrests in such cases during the year.

Unlike during the previous year, there were no reports that Mai Mai rebels from the Democratic Republic of the Congo (DRC) killed civilians.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police frequently used excessive force when apprehending, interrogating, and detaining criminal suspects or illegal immigrants. Authorities detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate suspects. Officers who tortured, beat, or otherwise abused suspects generally were not disciplined or arrested for such acts, although local human rights organizations, particularly LRF, were active in pressing for such action.

On January 16, police in Chingola arrested, detained, and tortured local resident Nkumbwa Daniel Jones, who allegedly stole copper concentrates from the truck he was driving. To extract a confession, police beat Jones as he hung immobilized and upside down from a metal bar swing known as a “kempelwa”; Jones was also denied food, water, and medical treatment for several days. Only after intervention by the Permanent Human Rights Commission did police allow Jones to obtain medical attention for his injuries. The LRF filed a lawsuit against the officers; no further action was taken in the case by year’s end.

In early March, Munali police arrested Aliyele Sakala on suspicion of having stolen goods valued at approximately \$20 (94,000 kwacha). While in custody, police beat Sakala and tied his arms and legs to the door of his cell for 3 days, which left him partially paralyzed; police claimed that Sakala’s injuries resulted from epileptic seizures. The LRF and police investigated the allegations; however, no further actions were taken by year’s end.

On March 30, police in Nakonde arrested Adam Simukwai on suspicion of harboring suspects in a cattle-rustling case. During apprehension and while in custody, police severely beat Simukwai and broke his leg. Police pledged to investigate the abuse; however, no results had been released by year’s end.

On March 28, President Mwanawasa’s mother, Mirriam Mokola, suffered third-degree burns in an Ndola bus accident. Following Mokola’s death on April 9, police handcuffed the driver of the bus, Humphrey Mumba, to his hospital bed. The handcuffs prevented Mumba, who also was badly burned, from turning over in his bed, which complicated his recovery. After media reports on the incident, President Mwanawasa ordered that the handcuffs be removed. On April 16, the responsible police officer was charged with police misconduct; however, no action had been taken on the charges by year’s end.

The 2003 LRF suit filed against the police on behalf of Webster Mfula, who was tortured for 3 days in detention, still was pending in the courts at year’s end. No arrests had been made by year’s end.

No action was taken against police officers responsible for the 2003 torture of Kalengo Kalowani and Shebo Silumelume.

During the year, several victims of state-sponsored torture following the 1997 coup attempt filed compensation claims. In January court proceedings, Major Bilex Mutale and Angel Suza sued former Drug Enforcement Commission Deputy Commissioner Teddy Nondo, former Commissioner of Police Emmanuel Lukonde, and Attorney General George Kunda for damages resulting from false imprisonment and torture following their 1997 arrest. Mutale and Suza charged that police used the kempelwa during beatings; that they were denied food, water, and bedding for 6 days; and that they were denied access to legal representation, medical facilities, and access to their families. The case was still pending at year’s end.

Some traditional rulers continued to use corporal punishment, which is illegal. On April 1, police in the Copperbelt arrested Chief Mushili of the Lamba people for assaulting and extorting from his subjects; the results of court proceedings were unknown at year’s end. In late September, subjects of Chief Matipa in Northern Province publicly admonished their Chief for routinely beating his subjects with a cane and whip.

Police occasionally demanded sex from female detainees as a condition for their release, according to human rights groups. For example, on November 10, local media reported that a female detainee at Livingstone Central Police cells consented to have sex with an unnamed officer in exchange for her release from custody. When the officer failed to release her, she complained to the supervising officer. The results of the police investigation were unknown at year’s end.

On June 22, a Kabwe court sentenced police officer Joel Mukena to 15 months in prison for raping an unnamed female detainee in April 2003 and then facilitating her unlawful release from custody.

No action was taken against police who in 2003 sexually assaulted Mary Goma and Linda Zulu.

Police officer Joseph Chitambo, who was charged with theft and extortion in 2003, still was awaiting trial at year's end.

There were no further developments in the 2002 cases of police beatings or rapes.

Mob violence, which generally targeted suspected thieves, witches, or persons suspected of sexual impropriety, resulted in killings and injuries during the year (*see* Section 1.a.). On September 23, an angry mob near Ndola threatened to lynch a suspected wizard who was implicated by the movement of a coffin being carried to the cemetery; the mob withdrew when the suspected wizard, who was injured in the attack, agreed to pay approximately \$10 (50,000 kwacha) in damages.

Prison conditions were harsh and life threatening. The country's prisons, which were built to hold 5,500 inmates, held more than 13,200 prisoners, and inmates in Lusaka Central Prison were forced to sleep sitting upright. Severe overcrowding, poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of disease, including dysentery, cholera, and tuberculosis. After a severe outbreak of diarrhea in one prison, officials discovered that the inmates were being fed rotten cornmeal; officials stopped serving the cornmeal. Prisoners in another detention center had no toilets, chamber pots, or buckets. During the year, Lusaka Central Prison averaged one prisoner death a day from tuberculosis, according to the Prison's Assistant Superintendent.

Women and men were held separately in prison; however, juveniles often were not held separately from adults. Infants and young children of incarcerated women were held along with their mothers. As of July 1, 20 children were being held with their incarcerated mothers at Lusaka Central Prison.

Pretrial detainees were not held separately from convicted prisoners.

Prisoners with mental disabilities were not held separately from the general prison population. On September 9, a detainee with mental disabilities attacked and assaulted magistrate Richard Choonga as Choonga inspected the prison.

During the year, there were several deaths of prisoners due to neglect. For example, LRF reported that three inmates at Lusaka Central Prison died of cholera between March 29 and April 1 after they failed to receive medical care. Between October 1 and 15, 15 inmates at Lusaka Central Prison died from suffocation due to high temperatures and overcrowding in the cells.

The Government permitted prison visits by both domestic and international NGOs and by resident foreign diplomats during the year. Provincial human rights committees periodically inspected prison conditions; LRF continued its prison visits during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government did not respect these prohibitions. Criminal suspects were arrested on the basis of insubstantial evidence or uncorroborated accusations.

Police posts in towns throughout the country reported to one of nine provincial police stations, which in turn reported to the central police command in Lusaka. Lack of professionalism, investigatory skill, and discipline in the police force remained serious problems. Human rights training during the year raised police awareness of human rights; however, the use of excessive force continued, and corruption was widespread.

Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions, characterized on March 29 by Home Affairs Permanent Secretary Peter Mumba as a "national disaster." Police released prisoners in exchange for bribes, detained citizens in private debt disputes for a portion of the payment owed, extorted money at roadblocks, and required document processing "fees" or "gas money" to commence investigations. Some police officers arrested on corruption or abuse charges were convicted and sentenced to prison; however, most went unpunished unless an NGO took up the case on behalf of the victim. Punishment, if any, usually came years after the abuse was committed, and the accused officers often remained on duty in the interim.

The Government took some steps to address these problems. During the year, the Police Public Complaints Authority (PPCA), which was established in 2003 to provide the public with a place to direct complaints of police harassment and abuse, received 406 complaints of police misconduct. During the year, the PPCA resolved or referred the majority of cases received in 2003 and directed the police Inspector General (IG) to dismiss 3 officers and to reprimand 4 others. On February 12, President Mwanawasa instructed the Minister of Home Affairs to compel the IG to imple-

ment PPCA directives against officers found guilty of perpetrating such abuses; in 2003, the IG claimed that the PPCA lacked the statutory authority to direct him to take such action. In March, the IG dismissed four officers found guilty of abuse by the PPCA.

The law requires that authorities obtain a warrant before arresting a person for some offenses; however, other offenses had no such requirement. Suspects being arrested were informed of their rights, including the immediate right to an attorney. The law requires that suspects appear before a magistrate within 24 hours of their arrest; however, detainees were frequently held for longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to a magistrate. There was a functioning bail system; however, prisons were overcrowded in part because of the numerous offenses for which bail is not granted, including treason, murder, aggravated robbery, and violations of narcotics laws, as well as lesser offenses such as motor vehicle theft.

Indigent detainees and defendants rarely had the means to post bail. The Government's legal aid office, which employed only nine attorneys, is responsible for providing representation for indigent detainees and defendants in criminal or civil cases; however, in practice, few received assistance.

Police frequently arrested individuals as a pretext for stealing their property or extorting bribes; however, there were fewer reports of such incidents than in previous years. For example, on January 19, police arrested Cephas Phiri, a passenger on a Lusaka minibus, when money from a nearby vehicle went missing. After searching all of the passengers, the police arrested Phiri when they found he had \$17.77 (83,500 kwacha). Phiri, who was detained for 5 days, demanded his money upon his release; however, the police refused and threatened to rearrest him. The LRF intervened on Phiri's behalf; however, the outcome was unknown at year's end.

Police stations frequently became "debt collection centers," where police officers acting on unofficial complaints detained debtors without charge until they paid the complainants; in return, the police received a percentage of the payments. Officers found engaging in this practice reportedly were disciplined. For example, on April 26, Lusaka police arrested Bernard Mulendema, who had sold property on consignment and failed to compensate the owner. On April 30, the arresting officer offered to release Mulendema from custody if he paid \$21 (100,000 kwacha). Mulendema informed the Anti-Corruption Commission, which arrested the officer on corruption charges; the outcome of the case was unknown at year's end.

Police arbitrarily arrested family members of criminal suspects (*see* Section 1.f.).

Authorities detained five journalists during the year (*see* Section 2.a.).

The Government also threatened to arrest the members of an organization that it claimed was unregistered (*see* Section 2.b.).

Pretrial detention often was prolonged. In criminal cases, the law requires that a detainee be charged and brought before a magistrate within 24 hours; in practice, police held most detainees for more than 1 month from the time of detention to the first appearance before a magistrate. In some cases, defendants were awaiting trial for as long as 2 to 3 years. In past years, some defendants waited as long as 10 years for completion of appeals processes that reached the Supreme Court. These long delays were a result of inadequate resources, inefficiency, lack of trained personnel, labor unrest, and broad rules of procedure that give wide latitude to prosecutors and defense attorneys to request adjournments (*see* Section 1.e.). Attorneys and family members were permitted access to pretrial detainees.

On February 11, police in the Lusaka suburb of Chilenje arrested five men on suspicion of aggravated robbery. Despite being scheduled for March court dates, the detainees had not been brought before a magistrate by year's end.

In May, the Lusaka High Court ruled that the Government was liable for holding Crispin Samulula in custody from 1996 to 2001 without trial. The Government appealed the decision, and the case was pending at year's end.

On October 13, UPND treasurer general Tiens Kahenya sued the Government for damages resulting from his imprisonment from December 2002 to April 2003.

During the year, the Government took some steps to reduce the length of pretrial detentions. On March 1, the Government opened a circuit court at Kamfinsa Prison in Kitwe to expedite the cases of detainees. During the year, the Government also began construction on a new court complex near Lusaka Central Prison to accelerate the judicial process.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was hampered by inefficiency, corruption, and the lack of resources. The President nominates and the National Assembly confirms the Chief Justice and other members of the Supreme Court.

Courts continued to act independently and at times made judgments and rulings critical of the Government. For example, on January 5, the Lusaka High Court blocked the Government's deportation of journalist Roy Clarke (*see* Section 2.a.). On December 17, the Lusaka High Court rejected the Government's decision to deregister SACCORD (*see* Section 2.b). On December 24, the Lusaka High Court ruled against the Ministry of Information and Broadcasting Services on an issue involving appointments to the Independent Broadcasting Authority.

During the year, the Government continued to investigate and prosecute senior officials allegedly involved in corruption during the administration of former President Chiluba.

The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The High Court, which held regular sessions in all nine provincial capitals, has authority to hear criminal and civil cases and appeals from lower courts. Magistrate courts have original jurisdiction in some criminal and civil cases; local, or customary, courts handled most civil and petty criminal cases in rural areas.

Trials in magistrate courts were public, and defendants had the opportunity to confront their accusers and present witnesses; however, many defendants lacked the resources to retain a lawyer, and the limited resources of the Government's legal aid department meant that legal aid was unavailable for many citizens. Courts were congested, and there were significant delays in trials while the accused remained in custody (*see* Section 1.d.). In many cases, at least 6 months elapsed before a magistrate committed the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court took months, or, in some cases, as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of 6 months. Approximately 30 of 72 magistrate positions were filled by fully qualified attorneys; the rest were filled by lay magistrates.

Local courts employ the principles of customary law, which vary widely throughout the country. Lawyers are barred from participating in proceedings in such courts, and there are few formal rules of procedure. Presiding judges, who usually were prominent local citizens, have substantial power to invoke customary law, render judgments regarding marriages, divorces, inheritances, and other civil proceedings, and rule on minor criminal matters. Judgments often were not in accordance with the Penal Code; for example, they tended to discriminate against women in matters of inheritance (*see* Section 5).

During the year, judiciary workers went on strike to protest government changes to income tax rates and salary adjustments for civil servants (*see* Section 6.b.).

During the year, magistrates frequently did not appear at court as scheduled; reports indicated that the no-shows were designed to pressure the Government for better conditions of service for magistrates (*see* Section 6.b.).

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and often arrested alleged criminals at their homes without an arrest warrant.

The Constitution grants the Drug Enforcement Commission and the ZSIS authority to wiretap telephones for probable cause.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects. For example, on March 4, local media reported that police in Livingstone had arrested the husband, mother-in-law, and two other relatives of a bank teller who stole money from her workplace and fled to South Africa. The Permanent Human Rights Commission (PHRC) condemned the detention of the family members and demanded their immediate release. The family members were released following questioning by the police; however, the suspect remained at large at year's end.

In April, police in Lusaka reportedly arrested the son of a suspect wanted in connection with a debt dispute after they were unable to locate the suspect. The police subsequently held the son in custody until the boy's sister paid the suspect's debt.

The 2003 lawsuit brought by Joshua Chinyama against the police for the detention of his children was still pending at year's end.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these

freedoms. Journalists in the government-owned media generally practiced self-censorship; however, the private print media routinely criticized the Government.

On January 15, Livingstone police arrested and threatened to prosecute Patson Kabayame for insulting President Mwanawasa; Kabayame was released after several weeks in custody. Kabayame had criticized the President for revoking recognition of Kabayame's older brother as a traditional chief.

A number of privately owned newspapers questioned government actions and policies, and these circulated without government interference. The government-controlled Times of Zambia and Zambia Daily Mail were two of the most widely circulated newspapers.

In addition to the government-controlled radio station, there were several church-related radio stations, 6 private commercial radio stations, and 12 community radio stations in the country. A Catholic radio network, Radio Yatsani, officially had permission to rebroadcast programs from Vatican Radio and news clips from the BBC; however, it first had to have excerpts approved by the Ministry of Information, a process that effectively eliminated timely rebroadcasts. On January 1, the Ministry of Information and Broadcasting Services (MIBS) ordered Breeze FM, a commercial radio station in Chipata, to stop relaying BBC broadcasts; MIBS claimed that Breeze FM's license permitted local and regional broadcasts only.

The government-owned ZNBC was the principal local-content television station, and opposition political parties and civil society groups complained that government control of the station and of two major newspapers limited their access to mass communication. For example, on February 17, ZNBC cancelled without prior notice a program in which Leonard Hikaumba, the President of the Zambia Congress of Trade Unions (ZCTU), was scheduled to discuss controversial remarks made by the Minister of Finance and National Planning concerning a government wage freeze; the cancellation followed intervention by the Office of the President.

Several private television stations, including foreign media, broadcast locally, although none included local news coverage. Multichoice, a telecommunications company based in South Africa, and CASAT provided satellite and analog wireless subscribers with television services, which included broadcasts of foreign news sources.

The police harassed and arrested journalists during the year. On January 5, the Ministry of Home Affairs informed Post columnist Roy Clarke, a foreign national who had lived in the country for more than 30 years, that he would be deported within 24 hours; Clarke had criticized President Mwanawasa in a January 1 Post article (*see* Section 2.b.).

On January 28, police assaulted and arrested Daily Mail photojournalist Mackson Wasamunu while he photographed police officers confiscating the goods of illegal street vendors; Wasamunu was released 6 hours later with an apology from the police, who damaged his cameras and confiscated his film. Wasamunu filed a complaint against the arresting officers; no further information was available at year's end.

On February 20, police briefly detained Joseph Ngenda and Dennis Mwiiya, two Radio Lyambai journalists, for allegedly inciting persons to riot after the station broadcast a program that accused a local man of being a wizard; angry residents had assaulted the accused wizard and burned his home.

On December 20, police assaulted and detained for 4 hours journalists Kangwa Mulenga, Eddie Mwanaleza, Mutuna Chanda, and Brighton Phiri, who were reporting on demonstrations against the constitutional review and adoption process; Mulenga was injured during the assault. The Minister of Information later expressed regret over the police abuse.

During the year, the Government interfered with radio and television stations. For example, the Minister of Information and Broadcasting Services indicated that she would forward to Parliament her own nomination list for board membership of ZNBC and the Independent Broadcasting Authority, modifying the list submitted by the nominations panel, which has statutory authority to nominate such candidates. Six local media organizations subsequently petitioned the High Court to nullify any nominations that had not originated with the nominations panel. On December 25, the Lusaka High Court ruled in favor of the media bodies and ordered the Minister to forward the list provided by the nominations panel.

During the year, the assets of the private television station Omega, which police raided and closed in November 2003, were liquidated; the station remained closed during the year.

The Government exercised considerable influence over the government-owned media, including reviewing articles prior to publication and censoring individuals responsible for published articles or programs deemed offensive by the Government. As a result, journalists in the government-owned media generally practiced self-cen-

sorship, and the government-owned media continued to be supportive of the Government.

In response to headlines and stories alleging official corruption, those accused and others brought numerous libel suits against the media. For example, on January 7, Deputy Minister of Mines Stephen Mukuka sued the *Zambian Daily Mail* newspaper and the *Times Printpak* newspaper for libel in response to June 2003 articles that accused Mukuka of using his ministerial position to acquire illegally a house from Zambia Consolidated Copper Mines, a former mining parastatal; the outcome of the case was unknown at year's end.

On May 24, Deputy Minister of Commerce Geoffrey Samukonga sued the *Zambia Daily Mail* and Patson Phiri, one of the newspaper's reporters, for libel in response to May 21 and 23 articles that accused Samukonga and his nephews of stealing donated rice intended for Chawama residents; the outcome of the case was unknown at year's end.

On September 15, a Lusaka High Court judge ordered the *National Mirror* newspaper to pay \$312,500 (1.5 billion kwacha) in libel damages to lawyers Mutembo Nchito and Nchima Nchito; the *Mirror* implied in its August 14–20 edition that the Nchito brothers had misappropriated a client's money. It was unknown at year's end if the *National Mirror* had appealed the judgment.

The 2003 libel suit filed by the Permanent Secretary of the Ministry of Home Affairs against the *Monitor* newspaper remained pending at year's end.

During the year, there were numerous defamation suits filed by political leaders. At the March funeral of former Patriotic Front Member of Parliament (M.P.) Alex Manda, PF president Michael Sata accused the MMD, the Government, and State House Deputy Minister Webby Chipili of having murdered Manda. In response, Home Affairs Minister Ronnie Shikapwasha threatened to arrest Sata. On April 8, Sata referred to Chipili as a "serial killer." On August 10, the Ndola local court ordered Sata to pay Chipili approximately \$500 (2.5 million kwacha) in damages. Sata appealed, and the case was pending at year's end.

In a separate case, the Lusaka High Court on July 27 ordered Michael Sata and the *Post* newspaper to each pay approximately \$4,000 (20 million kwacha) to Finance and National Planning Deputy Minister Mbita Chitala; Sata in a 2002 *Post* article had accused Chitala of falsely implicating Zambia Alliance for Progress president Dean Mung'omba and Sesheke M.P. Princess Nakatindi Wina in the 1997 attempted coup. Sata's appeal was pending at year's end.

On September 23, the Lusaka High Court found Sport, Youth, and Child Development Deputy Minister George Chulumanda liable for damages for August 8 statements that criticized Sata; Chulumanda's appeal was pending at year's end.

The law provides that investigative tribunals can call as witnesses journalists and media managers who print allegations of parliamentary misconduct. Failure to cooperate with a tribunal can result in charges of contempt punishable by up to 6 months in jail. The media criticized these provisions as clear infringements of freedom of the press and as a means for parliamentarians to bypass the court system.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom. Although the law gives the University Council a mandate to address faculty concerns, the Minister of Education was empowered to appoint the members of the Council; some academics criticized this provision as an infringement of academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government interfered with this right in practice.

During the year, government officials, opposition leaders, and NGOs continued to criticize the Public Order Act (POA), which requires rally organizers to notify police 7 days in advance of a rally, and which police often used to deny rally permits.

On January 10, police revoked the rally permit of B.Y. Mwila, the former president of the Zambia Republican Party (ZRP); the revocation reportedly was made at the behest of Sylvia Masebo, ZRP Secretary General and Minister of Housing and Local Government. Mwila, who had been expelled from the ZRP in 2003 after he allegedly confiscated voter registration materials, had refused to recognize the expulsion.

On May 18, police briefly detained PF president Michael Sata for marching without a permit; supporters had spontaneously followed Sata as he left the Ndola local court, where he was the defendant in a defamation suit brought by Copperbelt Deputy Minister Webby Chipili (see Section 2.a.). Police released Sata after he apologized for the incident.

On July 16, police refused to issue a permit for a demonstration organized by the Citizens Forum to protest the gratuities paid to M.P.s; police cited security concerns

as the reason for the refusal. The Citizens Forum appealed the decision to the Minister of Home Affairs, who declined to overturn the decision.

On December 20, police briefly detained and released on bond 11 UPND M.P.s, 4 journalists, and 53 other persons demonstrating against the Government's method and timing of adopting a new constitution; police charged that the organizers had failed to adhere to POA notification requirements. A preliminary court hearing was scheduled for January 2005.

During the year, police forcibly dispersed demonstrations, which resulted in one death. On September 27, police in Sesheke shot and killed a high school student during a demonstration that became violent when students stoned the police station and cut its telephone lines; the demonstrators were protesting the slapping of a student the previous week by a police officer. Police promised to investigate the shooting, which occurred when a student tried to release prisoners being held in the police station; the results of the investigation had not been released by year's end.

On occasion, police failed to intervene during violent demonstrations. On January 26, armed police stood by and watched as 200 MMD members assaulted supporters of journalist Roy Clarke; the supporters had gathered outside of the Lusaka High Court for Clarke's deportation hearing (*see* Section 2.a.). The Government reportedly had ordered the police not to interfere, a charge denied by the Police IG.

No investigation was conducted into the March 2003 killing by police of a student demonstrator.

The Constitution provides for freedom of association; however, the Government placed some limits on this right in practice. All organizations must formally apply for registration to the Registrar of Societies. In most cases, authorities routinely approved these applications; however, during the year, the Government deregistered an NGO and threatened to ban an organization and to arrest its members.

On July 5, Home Affairs Minister Ronnie Shikapwasha attempted to ban the Oasis Forum (a civil society umbrella organization that frequently criticized the Government) for failing to register with the Registrar of Societies; Shikapwasha threatened to arrest Forum members who continued to use the organization's name. The Government charged that while the Forum's individual member organizations were properly registered, the Oasis Forum itself was not registered; the Forum countered that such a general registration was unnecessary due to the Forum's informal structure and the registration of its individual participants. On September 12, Minister of Justice George Kunda announced that the Forum's disagreement with the Government's constitutional review process and mode of adoption of a new constitution was a usurpation of executive power and could be punished as treason; however, the Government later rescinded its decision to ban the organization, which continued to operate "unregistered."

In November, Shikapwasha ordered the immediate deregistration of the Southern African Center for Constructive Resolution of Disputes (SACCORD), alleging that the NGO had conducted "activities which are inimical and a danger to state security." When SACCORD requested the specific grounds for deregistration, Shikapwasha said the action was final and that he was not legally obliged to give SACCORD an explanation. On December 17, the Lusaka High Court overturned Shikapwasha's decision, and on December 24, the Government announced that it would appeal the decision to the Supreme Court; however, there were no further court actions by year's end.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Although the Constitution declared the country a Christian nation, the Government in practice generally respected the right of all faiths to worship freely.

The Government required the registration of religious groups, and the Government approved all applications for registration from religious groups without discrimination.

On March 15, police charged Boyd Kanyanta and Iqbal Patel, the former operators of an Islamic school in Lusaka, with attempted bribery of a police officer; in 2003, the school was closed, and both men were arrested on child abuse charges due to the school's harsh conditions. The child abuse charges were subsequently withdrawn. Kanyanta and Patel had offered officer Tresford Kasale approximately \$1,000 (5 million kwacha) to destroy pending deportation orders against them and to recommend that the school be reopened; the policeman who refused the bribe was promoted. On December 13, a Lusaka magistrate acquitted the two men of bribery, resulting in the clearance of all charges against them.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, at times the Government limited them in practice. Police continued to man numerous roadblocks around the country to control criminal activity, enforce customs and immigration regulations, check drivers licenses, and inspect vehicles for safety compliance. Police at times extorted money and goods from motorists at these roadblocks. On April 15, Home Affairs Permanent Secretary Peter Mumba urged the public not to pay bribes or traffic fines at roadblocks.

The law prohibits forced exile, and the Government did not use it.

The law does not provide for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 U.N. Convention Related to the Status of Refugees/1967 Protocol.

The UNHCR estimated that there were approximately 194,000 refugees in the country at year's end, most of whom were Angolans and Congolese; 104,000 of the refugees were in formal camps.

In March and early April, more than 2,000 Rwandan and Congolese refugees fled Mai Mai rebel violence in the DRC and entered Luapula and Northwestern Provinces. On April 4, Home Affairs Deputy Minister Kennedy Sakeni pledged that the Government would deport the refugees in Luapula Province, who had quickly integrated into the local community; however, no refugees had been deported by year's end. On October 16 and 17, 3,000 Congolese fled into the country when rebels captured the town of Kilwa in the DRC; most of the refugees, who had refused resettlement in refugee camps, returned home a week later after DRC troops recaptured the town.

Voluntary repatriation of Angolan refugees continued during the year, and more than 27,000, primarily from the Meheba, Nangweshi, and Mayukwayukwa camps, were repatriated by year's end. On May 17, UNHCR and government officials announced that only 107 Rwandan refugees out of a total of 5,000 had agreed to voluntary repatriation.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. Under the Constitution, the President exercises broad authority. The National Assembly ratifies major appointments and theoretically has broad powers.

In 2001, 11 political parties contested the presidential elections. Levy Mwanawasa, the MMD presidential candidate, was elected with 29 percent of the vote; runner-up Anderson Mazoka, the UPND candidate, won 27 percent of the vote. The remaining 44 percent of the vote was divided among the other nine opposition candidates. The MMD won 69 out of 150 elected parliamentary seats, leaving it slightly short of a majority; the remaining 81 elected seats were divided among several opposition parties and 1 independent member. Although noting general transparency during the voting, domestic and international observer groups cited irregularities in the registration process and problems in the tabulation of the election results. The MMD's use of government resources during campaigns, including the government-owned media, called into question the fairness of the elections. Opposition parties further alleged that significant vote rigging took place during the elections.

Anderson Mazoka, the UPND runner-up in the 2001 presidential election, Christon Tembo of the Forum for Democracy and Development, and Godfrey Miyanda of the Heritage Party challenged the election results; on October 8, the Supreme Court heard final testimony in the case, which remained pending at year's end.

There were numerous irregularities in the by-elections held since 2001. Former ZRP president B. Y. Mwila was arrested in connection with the confiscation of voter registration materials, UPND elections committee member Andrew Banda was arrested on charges of obstructing the chief registrar, and UPND M.P. Crispin Sibetta was arrested for "conduct likely to cause a breach of peace"; all three were released on bond. The charges against Mwila and Sibetta were subsequently dropped, and

Banda was acquitted by a magistrate's court. UPND and Zambian Republican Party (ZRP) activists also seized voter registration cards and equipment to stop what they contended was illegal voter registration for the July 2003 by elections in Nangoma and Mwansabombwe.

In its report on the period prior to the May 26 by-elections in Kantanshi constituency, the Foundation for Democratic Process expressed concern about the MMD's use of government resources in electioneering, vote buying, and intimidation. The MMD distributed mosquito nets, bags of rice, corn meal, and traditional beer to local residents. On May 21, press reports suggested that the Ministry of Lands accelerated the handover of former state-owned houses to their new tenants in Mufilira in hopes of winning support for the MMD in the Kantanshi by-election.

During the year, rival party activists occasionally clashed. On July 28, police in Kitwe briefly detained Copperbelt PF secretary Davis Mwila for assaulting MMD security guard Jason Mwingani; PF activists also assaulted Ndola District Commissioner Victor Konie during the incident. The case was pending at year's end.

During the year, the Government continued to investigate and prosecute senior officials allegedly involved in corruption during the administration of former president Chiluba (*see* Section 1.e.). The Government also filed corruption charges against several officials of the current administration and former military commanders, including: Lieutenant Generals Wilford Funjika, Sande Kayumba, and Geojago Musengule, who were charged in separate cases of procurement fraud; and Samuel Musonda, the former managing director of a state-owned bank, who was accused of abuse of office. Their trials were ongoing in civilian courts at year's end.

The Government worked with NGOs and the international community to eliminate the causes of corruption: Parliamentary oversight of the executive branch operations was strengthened; the Auditor General, which published a candid report on corruption during the year, acquired greater independence; and the Anti-Corruption Commission increased its prosecution and public educational activities.

Despite these efforts, there remained a widespread public perception that corruption was pervasive in almost all government institutions. Controls over government funds and property were often weak, investigative units often lacked authority and personnel, and officials dealing with the public frequently demanded illicit payments with impunity.

The law does not provide for public access to government information; however, in practice, the Government provided information to media and interested parties on an ad hoc basis. With the exception of information related to the Zambian Defense and Security Forces, the Government was generally forthcoming with information.

Constitutional amendments barring citizens of partial or full foreign ancestry from the presidency violated the prohibition on discrimination based on place of origin. These amendments also prohibit traditional chiefs, who were accorded authority and privileges as chiefs, from running for political office unless they resigned their chieftainships.

During the year, the Constitutional Review Commission (CRC) concluded its campaign to solicit public views concerning the formulation of a new constitution; however, the results were not released by year's end. Members of civil society and the political opposition criticized the CRC and demanded that its recommendations be transmitted directly to a constituent assembly rather than to the President.

There were 19 women in the 158-seat Parliament (150 members were elected, while 8 others were appointed by the President); 2 elected ethnic Asians also held seats.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with such groups; however, during the year, the Government attempted to deregister the Oasis Forum and SACCORD (*see* Section 2.b.).

Some domestic human rights organizations, including the Law Association of Zambia, Women for Change, the Catholic Commission for Justice and Peace, the Southern African Commission for Conflict Resolution and Disputes, and the Zambia Civic Education Association, continued to press for a more transparent democratic electoral system. Human rights, development, and election NGOs monitored by elections during the year and organized civic education activities to improve voter participation and information.

On April 2, Parliament approved the appointment of a new set of commissioners on the PHRC; the positions had been vacant since May 2003. On July 16, the PHRC

opened a permanent regional office in Ndola. The Commission oversaw human rights committees in all provincial capitals, interceded on behalf of persons whose rights it believed were denied by the Government, and spoke on behalf of detainees and prisoners. Independent human rights groups complained that the PHRC was understaffed, underfinanced, and lacked sufficient authority to enforce its recommendations.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, tribe, sex, place of origin, marital status, political opinion, color, or creed; however, discrimination against women and persons with disabilities remained a problem.

*Women.*—Domestic violence against women was a serious problem, and wife beating and rape were widespread. Domestic assault is a criminal offense. The police Victim Support Unit (VSU) was responsible for handling problems of domestic assault, wife beating, mistreatment of widows by the deceased husband's relatives, and "property grabbing"; however, in practice, the police often were reluctant to pursue reports of domestic violence and preferred to encourage reconciliation. On January 28, the IG of Police, Zunga Siakalima, announced the formation of a sexual crimes unit to respond to the growing number of sexual assault cases. The Government and NGOs expressed continued concern about violence against women.

The law prohibits rape, and courts generally sentenced rapists to hard labor; there were 642 cases of rape in 2003.

Prostitution is illegal, and police routinely arrested street prostitutes for loitering; however, there were no reliable statistics on the number of prostitutes in the country.

Trafficking in women was a problem (*see* Section 5, Trafficking).

Both the Constitution and the law entitle women to equality with men in most areas; however, in practice, women were severely disadvantaged in formal employment and education. Married women who were employed often suffered from discriminatory conditions of service. Sexual harassment in the workplace was common. Women had little independent access to credit facilities; in most cases, they remained dependent on their husbands, who were required to co-sign for loans. As a result, few women owned their own homes. Some small financial institutions allowed women to sign independently for loans.

Customary law and practice also place women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legal protections. Polygyny is permitted if the first wife agrees to it at the time of her wedding. Under the law, the children of a deceased man equally share 50 percent of an estate; the widow receives 20 percent; the man's parents receive 20 percent; and other relatives receive 10 percent. The widow's share must be divided equally with any other women who can prove a marital relationship with the deceased man, thus granting inheritance rights to other wives, mistresses, and concubines. However, under the traditional customs prevalent in most ethnic groups, all rights to inherit property rested with the deceased man's family. In practice, property grabbing by the relatives of the deceased man remained widespread, although increased training of local court officials may have resulted in a slight decrease in the practice. Many widows were ignorant of the law, and as a result, received little or nothing from the estate. The fines that the law mandates for property grabbing were extremely low. The police, through its VSU, treated instances of property grabbing as criminal offenses.

During the year, representatives of civil society campaigned against the common traditional practice of "sexual cleansing," under which a widow had sex with her late husband's relatives as part of a cleansing ritual. On May 1, Chief Kaputa of Northern Province joined other traditional leaders in banning the practice in his chieftdom.

On June 15, the Government hosted a UNICEF-sponsored International Symposium on Sexual and Gender-Based Violence Against Women and Children on forced marriage, sexual cleansing, and gender violence.

NGOs that predominantly represented women's interests were particularly active as lobbying organizations. The NGO Coordinating Committee, an umbrella organization for women's NGOs, was influential in the Oasis Forum, which continued to conduct civic education programs on the issue of constitutional reform.

*Children.*—The Government sought to improve the welfare of children, but scarce resources and ineffective implementation of social programs continued to adversely affect the welfare of children. The Ministry of Sport, Youth, and Child Development; the Ministry of Education; the Ministry of Labor; and the Ministry of Community Development and Social Services had responsibility for improving child welfare.

During the year, the Government began implementation of a strategy to provide shelter and protection to street children, including prostitutes.

Government policy provided for free basic education for the first 9 years of elementary school; however, education was not compulsory, and many children did not attend school. The Government has eliminated school fees and mandatory uniforms for primary education students to increase school attendance by children of impoverished families, which has reversed the decline in primary school attendance. The net enrollment ratio for children of primary school age increased from 66 percent in 1999 to 72 percent by year's end. Inadequate educational facilities and a scarcity of educational materials were problems. Some areas have established community schools; however, these schools had fewer resources than public schools and required contributions from parents. The number of girls and boys in primary school was approximately equal; however, fewer girls attended secondary school. The Government continued its collaboration with UNICEF on the Program for the Advancement of Girls' Education to work with families and community leaders to keep girls in school and to bring back those that have left.

On August 17, the local court in Mufumbwe district fined the parents of 20 girls who had been removed from school \$6 (30,000 kwacha) each; the girls, aged 13 to 16, were forced into marriages after becoming pregnant. The court also fined the 20 boys responsible for the pregnancies \$6 (30,000 kwacha) each for interfering in the girls' education. The court subsequently called on the VSU and the office of the District Commissioner to educate the public about gender-based violence and child abuse.

There were approximately 1 million children under the age of 15 in the country who were orphaned, primarily as a result of HIV/AIDS. These children faced greater risks of child abuse, sexual abuse, and child labor. Approximately 75 percent of all households were caring for at least one orphan, and approximately 7 percent of households were headed by children due to the death of both parents. The Government instituted programs to increase public awareness of HIV/AIDS.

Child abuse was a problem. Approximately 1,500 cases of child sexual abuse were reported annually, according to police statistics. During the first 3 months of the year, the VSU reported a 24-percent increase in child sexual abuse over the preceding year.

On February 15, Thomson Seke, who was ill, died in jail while awaiting trial for the 2003 assault and murder of his stepsister; the stepsister had died of a sexually transmitted disease.

The results of the police investigation of witness tampering in the 2003 child sexual assault case involving Chief Mpezeni had not been released by year's end.

There are laws that criminalize child prostitution; however, child prostitution was widespread, and the law was not enforced effectively. The presence of an estimated 30,000 street children in Lusaka contributed to the proliferation of street begging and prostitution. The laws against pornography and the sexual exploitation of children under the age of 21 were sporadically enforced.

Trafficking for sexual exploitation occurred (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

*Trafficking in Persons.*—The law prohibits the trafficking of children under the age of 18, as well as trafficking in women for immoral activities; however, there were reports that persons were trafficked to, from, and within the country. During the year, the Parliament passed comprehensive child labor legislation (*see* Section 6.d.).

Persons convicted of trafficking were subject to a fine of between \$40 (200,000 kwacha) to \$200 (1 million kwacha), imprisonment of 5 to 25 years, or both. Convictions of abduction, assault, or seeking to have sex with a minor carried penalties up to life imprisonment with hard labor.

In February, the Immigration Department arrested a citizen of Kenya who had smuggled 27 east African nationals through the country and on to South Africa for purposes of trafficking, according to media reports.

On July 26, Mwana Mutale offered to sell two children to a local businessman. Mutale was charged with a felony, and the case remained pending at year's end.

During the year, Congolese nationals Bangu Kasenge and Delphine Bakuna Chibwabwa were tried for trafficking two girls, age 13 and 14, to Ireland in 2002; Chibwabwa subsequently had married the 13-year-old. The case was pending at year's end.

Women from the country were trafficked to South Africa for prostitution, and the country was used as a transit point for regional trafficking of women for prostitution to South Africa. During the year, there were reliable reports that women were trafficked to the country for commercial sex work.

On September 13, Home Affairs Permanent Secretary Peter Mumba announced that the Government had formed a human trafficking committee designed to focus attention, strategies, and resources to combat the practice; however, no actions had been taken by year's end.

*Persons With Disabilities.*—Persons with disabilities faced significant societal discrimination in employment and education. The Government took steps to ameliorate their hardships, including establishing a national trust fund to provide loans to persons with disabilities to help them start businesses, but its efforts were limited by scarce resources. The Government did not legislate or otherwise mandate accessibility to public buildings and services for persons with disabilities.

*Other Societal Abuses and Discrimination.*—The law prohibits “carnal knowledge of any person against the order of nature”; however, it does not specifically outlaw homosexuality.

The Government actively discouraged societal discrimination against those living with HIV/AIDS; however, there was strong societal discrimination against such individuals, and more than 60 percent of the population believed that persons infected with HIV/AIDS should not be allowed to work.

On October 15, President Mwanawasa called on all citizens to get tested for HIV and cited early testing as the key to curbing AIDS-related deaths and the increase of orphans in the country.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution recognizes the right of workers to form and belong to trade unions, and workers exercised these rights in practice.

Only 11 percent of the eligible workforce was employed in the formal sector; approximately 60 percent of the formal sector was unionized. On April 23, Home Affairs Minister Ronnie Shikapwasha announced that police officers would not be allowed to join a trade union; however, no action was taken to enforce the ruling.

The Industrial and Labor Relations Act (IRA) establishes the procedures for registration, which were somewhat burdensome. For example, no organization can be registered unless it had at least 100 members, and with some exceptions, no trade union may be registered if it claimed to represent a class or classes of employees already represented by an existing trade union or eligible for membership in an existing trade union. Unions may be deregistered under certain circumstances; however, the IRA provides for notice, reconsideration, and right of appeal to an Industrial Relations Court.

Unlike in the previous year, the Government did not deregister unions. The United Transport and Taxis Association, Bus Driver and Motor Taxis Association, and Passengers Transport Association, all of which were deregistered in 2003 for allegedly promoting anarchy, remained deregistered.

The law prohibits discrimination by employers against union members and organizers; however, the law was not always enforced.

*b. The Right to Organize and Bargain Collectively.*—The right to collective bargaining, without government interference, is protected in law and freely practiced. Employers and unions in each industry negotiated collective bargaining agreements through joint councils in which there was no government involvement. Civil servants and teachers, as public officials, negotiated directly with the Government. There are no export processing zones.

All workers have the legal right to strike, except those engaged in essential services; however, there has not been a legal strike since 1993. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the Security Intelligence Service, the law defines as essential services any activity relating to the generation, supply, or distribution of electricity; to the supply and distribution of water; to sewerage; to fire departments; and to the maintenance of safe and sound conditions in underground working environments such as shafts and machinery in the mining sector. The law permits strikes only after all other legal recourse has been exhausted. Those procedures were very cumbersome. The law prohibits employers from retribution against employees engaged in legal union activities. Workers engaged in illegal strikes did not enjoy this protection.

The Government has responded to striking civil servants with threats of mass firing and arrests, and revocation of rally permits. Such threats were seldom carried out; however, on February 16, then-Vice President Nevers Mumba warned labor that participants in a planned February 18 strike to protest government tax and wage reforms would be breaking the law. The state telecommunications firm subsequently suspended 20 employees for attending a pre-strike meeting, and the government-owned Zambia National Commercial Bank suspended 9 workers who observed the strike; all employees were reinstated by year's end.

During the year, the Government paid many civil servants a portion of their outstanding housing allowances; labor leaders continued to press the Government for full and rapid payment.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. The law authorizes the Government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The Government also may require citizens to perform labor that was associated with traditional civil or communal obligations, as when all members of a village were called upon to assist in preparing for a visit by a traditional leader or other dignitary; however, there were no reports of such activities during the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The legal minimum age for employment of children is 16 years, and the Labor Commissioner effectively enforced this law in the industrial sector, where there was little demand for child labor; however, child labor was a problem in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often were employed and the law was not enforced.

Child labor was most concentrated in the hotel and catering industries, construction, farming, transportation, prostitution, and household work. Acute family poverty levels and economic factors contributed to child labor, and the problem was compounded by the HIV/AIDS epidemic, which produced a growing number of orphans. During the year, the President signed into law comprehensive child labor legislation that prohibits all forms of slavery and procuring or offering a child for illicit activities, including prostitution.

Approximately 600,000 children were in the work force. While approximately 87 percent of working children worked in the agricultural sector, children continued migrating to urban areas and living as street children due to growing numbers of orphans resulting from the death of both parents due to HIV/AIDS. In urban areas, children commonly engaged in street vending.

During the year, the Government increased its budget to combat child labor from \$12,000 (60 million kwacha) to \$115,000 (577 million kwacha). The Government also initiated a child labor awareness campaign that included workshops for M.P.s, provincial departmental leaders, teachers, and trade union officials; radio programs to spearhead the campaign; and drama groups to sensitize local communities.

As of September 2003, 4,060 children were prevented from entering the labor market, and 4,487 children were withdrawn from hazardous work and provided with education, training, and other services by direct action programs carried out by NGOs under the National Program on the Elimination of Child Labor. The National Steering Committee of the National Country Program on Child Labor coordinated efforts at addressing the root causes of child labor.

*e. Acceptable Conditions of Work.*—The minimum wage for nongovernment workers, whose wages and conditions of employment were not regulated through collective bargaining, was determined by category of employment. Based on a 48-hour workweek, the legal maximum for nonunionized workers, a general worker earning the minimum wage would receive \$15.36 (76,800 kwacha) per month. The minimum wage did not provide a worker and family with a decent standard of living; most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on the extended family.

With respect to unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice, almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment was 40 hours, which was the normal workweek. The law requires 2 days of annual leave per month of service. The Government effectively enforced these standards.

The law also regulates minimum health standards in industry, and city and district councils were responsible for enforcement. The Inspector of Factories under the Minister of Labor handled factory safety; however, staffing shortages limited enforcement effectiveness. The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment; however, workers did not exercise this right in practice. The Government has acted when well-known occupational health problems existed, such as by requiring underground mine workers to receive annual medical examinations.

## ZIMBABWE

Zimbabwe is a republic in which President Robert Mugabe and his Zimbabwe African National Union Patriotic Front (ZANU PF) have dominated the executive and legislative branches of the Government since independence in 1980. President Mugabe was reelected in March 2002 in elections that were deemed not free and fair, and which were preceded and followed by a government sanctioned campaign of violence. Although the Constitution allows for multiple parties, opposition parties and their supporters were subjected to significant intimidation and violence by the ruling party and security forces. The Movement for Democratic Change (MDC) was the country's only viable opposition party; it held 50 out of 120 elected parliamentary seats at year's end. During local and parliamentary by elections held during the year, there were reports of violence in the pre election periods and other irregularities, and the election processes overall had serious flaws. Corruption among government officials was widespread. The Constitution provides for an independent judiciary; however, the Government installed judges sympathetic to government policies, sanctioned intimidation against sitting judges, and ignored judgments with which it did not agree.

The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP officially is under the authority of the Ministry of Home Affairs, in practice some roles and missions were controlled by the President's Office. The Zimbabwe National Army and Air Force under the Defense Ministry are responsible for external security; however, there were cases in which they were called upon for domestic operations. The Central Intelligence Organization (CIO), under the Minister of State for National Security in the President's Office, is responsible for internal and external security and has powers of arrest. While supposedly a youth service training program, some graduates of the National Youth Service were used for security related activities. Senior government and ruling party members tightly controlled the security forces and directed activities of security-related elements of National Youth Service graduates (youth militias). Members of the security forces and youth militias committed numerous, serious human rights abuses.

An estimated 60 percent of the population of approximately 12 million worked in agriculture. Political paralysis, a drought, corruption, a high prevalence of HIV/AIDS, excessive government spending, manipulation of interest rates, money supply growth in excess of 300 percent, and government sanctioned land occupations led to economic decline characterized by inflation, diminished agricultural harvests, reduced foreign investment and tourism, acute foreign exchange shortages, disruptions in the fuel and food supply, accelerating unemployment, and shrinking real incomes. During the year, the country's gross domestic product dropped 5 percent. Wages continually lagged behind inflation, which fluctuated during the year but was 150 percent at year's end. According to authoritative estimates, approximately 80 percent of the population lived below the poverty line.

The Government's human rights record remained very poor, and it continued to commit numerous, serious abuses. President Mugabe and his ZANU PF party used intimidation and violence to maintain political power. A systematic, government sanctioned campaign of violence targeting supporters and perceived supporters of the opposition continued during the year. Security forces committed at least one extrajudicial killing. Ruling party supporters, with material support from the Government, continued their occupation of commercial farms, and in some cases killed, abducted, tortured, intimidated, raped, or threatened farm occupants. Security forces, government-sanctioned youth militias, and ruling party supporters tortured, raped, and otherwise abused persons perceived to be associated with the opposition; some persons died from their injuries. Prison conditions remained harsh and life threatening. Official impunity for ruling party supporters who committed abuses was a problem. Arbitrary arrest and detention remained problems, and lengthy pre-trial detention emerged as a problem. Infringements on citizens' privacy continued. The Government continued its far reaching "fast track" resettlement program under which most large scale commercial farms were designated for seizure without fair compensation.

The Government continued to restrict freedom of speech and of the press, academic freedom, freedom of assembly, and the right of association for political organizations. The Government at times restricted freedom of movement. Thousands of farm workers continued to be displaced internally due to the ongoing land resettlement policies, and the Government prevented international organizations and local nongovernmental organizations (NGOs) from assisting them on some occasions. Opposition supporters were displaced by threats of violence. During the first half of the year, there were reports that the Government's Grain Marketing Board (GMB)

routinely and publicly denied handouts of maize meal to suspected MDC supporters; there were no such reports during the second half of the year. The Government attacked and arrested members of civil society and human rights NGOs and accused the NGOs of sponsoring opposition political activity. Societal violence against women remained widespread, and discrimination against women and persons with disabilities, abuse of children, and child prostitution remained problems. There were occasional reports of trafficking in persons. The President and his Government promoted widespread resentment against the white minority. The Government violated worker rights. Child labor was a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports of three political killings, one by a government official, one by a military official, and one by a ruling party supporter. All of those killed in political violence were MDC activists or supporters. Army and police units participated in or provided logistical support to perpetrators of political violence and generally permitted their activities.

On January 4, ZANU-PF supporters beat to death Alexander Chigega while he was at home in Madziva. Approximately 30 ZANU-PF youths went around the village assaulting all known MDC supporters. His wife and children were also beaten while trying to protect him. Chigega died on the way to the hospital, and his wife and son were later admitted at Bindura Hospital after sustaining severe injuries in this assault. Chigega's wife reported that she identified several of the assailants, all from their village. No official action was taken by year's end.

On February 8, four war veterans and a soldier were ransacking the farm manager's home at a farm owned by MDC Member of Parliament (M.P.) Roy Bennett, when they were confronted by a large group of Bennett's farmworkers. According to witnesses, the intruders then retreated and fired several shots, and one of the shots hit Shemi Chimbarara, a farmworker, killing him instantly. A member of the Zimbabwe National Army was arrested and charged with murder. There were no further developments in the case by year's end.

On March 28, ZANU-PF supporters in three trucks arrived at the home of MDC candidate James Makore and threw stones at the MDC activists guarding Makore's premises. The MDC activists retaliated by throwing stones back at the ZANU-PF supporters. According to witnesses, Minister without Portfolio Elliott Manyika stood in the back of one of the trucks and shot MDC supporter Francis Chinozvina in the chest. Manyika also shot Arthur Gunzvenzve, another MDC supporter, in the leg. Chinozvina died at the scene and Gunzvenzve was taken to a hospital where he was treated and released. Police investigated, but no one was prosecuted by year's end. Chinozvina's parents filed a civil suit for wrongful death against Manyika, which was still pending at year's end.

According to reports from multiple organizations, including Amnesty International (AI), as many as 10 persons died in September after riot police tear gassed their homes during an eviction of farmers (*see* Section 1.f.).

A High Court acquitted eight MDC members, including MDC M.P. and Treasurer Fletcher Dulini Ncube, accused in the 2001 killing of Bulawayo War Veterans Chairman, Cain Nkala. Several trial witnesses alleged in court that the police used torture to extract confessions and desired testimony. Two of the six fled the country 1-month after giving an interview to a South African newspaper on their ordeal in jail while awaiting the trial; an MDC spokesman said they had been receiving threats and had been stalked since the publication of the article.

There were no developments in the following cases from 2003: The January killing of Tonderai Mangowiro, a ZANU-PF member, allegedly by MDC members; the March case of a suspected CIO abduction, torture, and killing of Steven Tonora, who was accused of burning a Zimbabwe United Passenger Company Bus in Hatfield; the reported government arrest, rape, torture, beatings, and deaths of MDC supporters including Richard Tonderayi Machiridza, involved in the MDC-organized stayaway in March; the May killing of MDC Secretary for Information and Publicity for Mufakose, David Matinyarare by ZANU-PF supporters; and the June killing of MDC member Tichaona Kaguru by ZANU-PF supporters.

There were no further developments in the reported 2002 killings.

Harsh prison conditions and a high incidence of HIV/AIDS were widely acknowledged to have contributed to a large number of deaths in prison; however, some deaths in custody and prison may have been due to abuse or other causes (*see* Section 1.c.).

During the year, officials uncovered mass graves of civilians killed by soldiers in the country's war of independence in the 1960s and 1970s as part of an effort to

locate and bury victims individually. The Government found and reburied the remains of over 5,000 individuals.

*b. Disappearance.*—During the year, there were multiple reports of politically motivated kidnapping committed by ZANU-PF supporters and one reported kidnapping committed by MDC supporters. Domestic human rights organizations believed that there were disappearances in rural areas that were not reported due to fear of retribution by pro-government factions. Abductees were often tortured. The Government often did not investigate abductions and torture of MDC supporters.

On January 4, ZANU-PF youths abducted an MDC supporter in Dzivaresekwa. He reported that he and a colleague were interrogated, stoned, slapped, and beaten with sticks and that the assailants also tore at his clothes, tied a rope around his neck, and pulled him around the house, threatening to kill him. He sustained injuries to his head and hands. No official action was taken by year's end.

On May 19, seven MDC supporters reportedly abducted and then released Elias Mushavi, a ZANU-PF supporter, while he was buying some food with a colleague. Police arrested the suspects at the MDC Headquarters at Harvest House in Harare the following day; however, no trial dates had been set by year's end.

On July 26, youth supporters of ZANU-PF abducted Bob Makone, brother of senior MDC official Ian Makone and brother-in-law of MDC candidate for Parliament Theresa Makone. He was forced to attend a rally held by Minister of Education Aeneas Chigwedere, tortured, and held overnight. The same youths returned to the Makone home and threatened Theresa Makone with death for planning to run for Parliament. No official action was taken.

No action was taken against those responsible for the 2003 abduction of MDC member Mthulisi Mloyi, who was abducted while putting up MDC rally posters.

There were no further developments in the reported 2002 cases of disappearance.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, security forces tortured, raped, and otherwise abused persons. There continued to be reports that police used excessive force in apprehending and detaining criminal suspects. Government supporters continued to torture suspected opposition members and farm laborers.

Human rights groups reported physical and psychological torture perpetrated by government supporters in parts of the country. Unlike the previous year, there were no reports that ruling party supporters set up torture chambers to brutalize opposition supporters. The Zimbabwe Human Rights NGO Forum reported 170 cases of torture during the first 11-months of the year. National youth training camps were a source of ruling party-directed youth militia forces, which were deployed to harass and intimidate suspected MDC supporters with impunity. There were reports of indoctrination against political opposition and conflicting reports on the camps' inclusion of paramilitary skills and torture methods in the curriculum (see Section 5).

Security forces were involved in incidents of political violence, including instances of soldiers and persons in military uniforms beating civilians, particularly in areas suspected of heavy support for the opposition.

In January, Roy Bennett, MDC M.P. for Chimanmani and owner of a large farm, claimed that the newly appointed Governor of Manicaland, Lieutenant General Mike Nyambuya, organized a violent looting spree by members of the army and government supporters at his farm and that several farm workers were hospitalized after soldiers beat them. In April, he said that Nyambuya had war veterans, CIO agents, and Agricultural Rural Development Authority workers occupy the farm. Army and police personnel sealed off the farm and prevented workers from leaving. ZANU-PF supporters forced farm workers to attend ZANU-PF rallies. Those suspected of being MDC supporters were beaten. No official action was taken by year's end.

On May 29, a mob of ZANU-PF activists who were armed with machetes and axes attacked an MDC activist while he and other MDC supporters were attending a colleague's memorial service. The MDC activist and other MDC supporters fought back and managed to overpower the assailants. The MDC activist claimed that the assailants reported the matter to the Machipisa Police and that police then arrested two of the MDC supporters. No further official action was taken by year's end.

In October, CIO agents kidnapped and beat the president of the Zimbabwe National Students Union, Philani Zamchiya. They accused him of organizing disturbances to coincide with the announcement of the verdict in MDC President Morgan Tsvangirai's treason trial. Zamchiya escaped by jumping out of the moving truck where he was held and beaten. Passersby discovered him unconscious and took him to the hospital. Three suspected CIO agents forced their way into his hospital ward, claiming to be investigating the attack and demanding information on his activities. His lawyers suspected the three CIO agents were the same ones who beat Zamchiya

and moved him to a private location while he recovered. He was released from the hospital in early December. The Government did not arrest anyone in connection with this incident.

On several occasions in the days leading up to the Zengeza parliamentary by-election youth militia attacked MDC-supporters (*see* Section 3).

Persons perceived as supporting the opposition, including teachers, civil servants, health workers, and laborers, were singled out for assault or intimidation by ruling party supporters. In March, three pregnant women were reportedly assaulted. One, who was 4 months pregnant, was allegedly assaulted by ZANU-PF youths based at the home of a ZANU-PF Women's Leader. The youths reportedly assaulted her with a chain on her back, buttocks, and legs and also broke her arm as she was trying to shield her face from a blow and protect her stomach. No official action was taken. In most cases, the national police did not halt acts of political intimidation or violence, arrest the perpetrators, or investigate political crimes.

The Government prosecuted ruling party supporters for violence, mostly for intra-party violence. In October, at the instruction of Vice President Joseph Msika, police in Bulawayo opened an investigation into the kidnapping and torture of four ZANU-PF youths by CIO operatives who mistook the youths for MDC supporters. In November, 13 youths were arrested and charged for violent clashes between supporters of rivals for the ZANU-PF nomination for M.P. in Masvingo South. Also in November, the ZANU-PF youth chairman for Gokwe, Joseph Musekiwa, was sentenced to 8 years for raping a woman in the campaign period prior to the 2002 presidential election. Musekiwa boasted in court that nothing would happen to him because of his membership in ZANU-PF. In December, two ZANU-PF M.P.s were arrested on charges of inciting or participating in intra-party violence (*see* Section 1.d.).

There were no developments in the following 2003 cases: The January arrest and beating of MDC M.P. for St. Mary's (near Harare) Job Sikhala, Gabriel Shumba, a human rights lawyer, and three other MDC members at Nyamutamba Hotel; the January abduction and beating of Barnabas Mangodza, Jameson Gadzirai, Joseph Rose, and Richard Mudzokwe by youth militia members; the March abduction and beating of Raphinos Madzokere, the MDC district secretary for Mashonaland East; the March home invasion and beating of Margaret Kulinji, secretary of the MDC's women's league; the June attack by ZANU-PF supporters on mourners who attended the funeral wake of MDC official Tichaona Kaguru; and the October assault of a ZANU-PF official and subsequent attacks on MDC houses.

No further action was taken in the reported 2002 cases of torture and beatings by security forces, ZANU PF supporters, and war veterans.

War veterans and ZANU PF supporters continued to harass, intimidate, and abuse journalists considered to be sympathetic to the opposition during the year (*see* Section 2.a.).

Security forces repeatedly used force, including tear gas, to disperse nonviolent gatherings and demonstrations; security forces also beat participants and demonstrators, which resulted in injuries (*see* Section 2.b.).

Zimbabwe Human Rights NGO Forum reported that at least two politically motivated rapes were committed during the year but noted that the figure likely was grossly underreported due to cultural taboos. The attacks targeted MDC supporters and their families. For example, on February 6, a worker at MDC M.P. Roy Bennett's farm reported that she was raped by a war veteran residing on a section of Bennett's property. The war veteran then ordered her to go to her rural home and never be seen again at Bennett's farm. She reported her ordeal to the farm management but not to police.

There continued to be reports of rape at national youth service training camps (*see* Section 5).

Prison conditions remained harsh and life threatening. The Government's 47 prisons were designed for a capacity of 16,000 prisoners; however, they held approximately 25,000. Overcrowding continued to be a problem. Shortages of food and clothing and poor sanitary conditions persisted, which aggravated outbreaks of cholera, diarrhea, and HIV/AIDS related illnesses. Researchers reported that the HIV prevalence rate among prisoners was estimated to be as high as 60 percent and that AIDS was a major cause of deaths in detention.

The estimated 2,000 female prisoners were held in separate cellblocks from male prisoners. Juveniles were not held separately from adults.

Pretrial detainees generally were held in group cells until their bail hearings. Once detainees were charged, if they were refused bail, they were held in a separate remand prison.

The law provides that international human rights monitors have the right to visit prisons; however, government procedures and requirements made it very difficult to do so. Permission was required from the Commissioner of Prisons and the Minister

of Justice, which sometimes was not granted or took 1 month or longer to obtain. A local NGO and church groups were granted access on a number of occasions during the year, but at least one local NGO that deals with prisoners' issues was denied access.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces arbitrarily arrested and detained persons repeatedly.

The police are centrally controlled, with the command center in Harare. The police are further divided with provincial headquarters overseeing two to three district headquarters, each of which supervise up to seven stations. Police effectiveness was reduced over the year because of an increase in crime and a decrease in resources, both human and material. It was difficult for police to remain impartial due to increased politicization within the force's upper echelons. There were also reports that untrained or unqualified personnel were placed in the lower levels solely because of their membership in ZANU-PF. Corruption, particularly within the traffic branch, increased due, in part, to low salaries.

The law requires that police inform an arrested person of the charges before being taken into custody. Warrants of arrest issued by the courts were required except in cases of serious crimes or where there was the risk of evidence disappearing. Although a preliminary hearing before a magistrate is required within 48 hours of an arrest (or 96 hours over a weekend), the law was disregarded if a person did not have legal representation. Police typically arrested individuals accused of political crimes on Fridays, which permitted them to be detained legally until Monday. In several cases, police claimed not to know where they were holding a detained individual, which delayed a hearing on bail release.

There was a continuing problem, particularly in rural areas, in which victims or witnesses of crimes who reported to the police were charged themselves with the crimes of the perpetrators or other crimes. In May, ZANU-PF supporters abducted and beat Demadema Ntinti Ncube and Luke Sibanda, MDC activists in Lupane. Upon their release, Ncube and Sibanda went to the Lupane police station to report the abduction. There, they were arrested for reported violence against ZANU-PF supporters.

The Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the Attorney General or his agents; however, in practice a circular issued by the Attorney General giving a general authority to grant bail lessened the negative effect of the law. High Court judges granted bail independently.

In June, Parliament passed the Criminal Procedure and Evidence Amendment Act, which allows the police to hold persons suspected of committing economic crimes for up to 4 weeks without bail. In February, James Makamba, a senior ZANU-PF Central Committee member, was arrested and charged with illegally dealing in foreign currency; Makamba's extended detention prompted the Act. Makamba pled guilty at his trial. In April, Finance Minister Christopher Kuruneri was arrested, also charged with dealing illegally in foreign currency. His applications for bail were deferred or denied, and he remained in custody awaiting trial at year's end.

Detainees often were not allowed prompt or regular access to their lawyers. Authorities often informed lawyers who attempted to visit their clients that detainees were "not available." Family members sometimes were denied access unless accompanied by an attorney. Detainees, particularly those from rural areas without legal representation, sometimes were held incommunicado. Family members and attorneys often were not able to verify that a person had been detained until the detainee appeared in court.

The Official Secrets Act and Public Order and Security Act (POSA) grant the Government a wide range of legal powers, and give extensive powers to the police, the Minister of Home Affairs, and the President to prosecute persons for political and security crimes that are not defined clearly.

Police continued to detain farmers in connection with seizing their land despite court orders confirming their title.

Police arbitrarily arrested journalists during the year (*see* Section 2.a.).

Police arrested persons holding meetings and during the forcible dispersal of gatherings (*see* Section 2.b.).

Police arrested religious leaders during the year (*see* Section 2.c.).

M.P.s, both from MDC and ZANU-PF were arrested during the year. MDC M.P. Roy Bennett was sentenced to prison by Parliament for an incident in which he pushed a Cabinet Minister, an offense that normally would be punished by a fine.

ZANU-PF M.P. Chris Kuruneri was arrested and being held on charges of externalizing foreign currency, a practice that was common.

Police arrested seven other MDC M.P.s including Evelyn Masaiti, Tichaona Munyanyi, Priscilla Misihairabwi-Mushonga, Job Sikhala, Bennie Tumbare Mutasa, Nelson Chamisa, and Paul Madzore. Most were held for a short time then released. Police arrested two ZANU-PF M.P.s, Phone Madiro and Kindness Paradza, for intra-party violence between their supporters and those of other contestants vying for ZANU-PF candidacy in their constituencies, and ZANU-PF M.P. Philip Chiyangwa was detained by CIO and charged with selling state secrets to a foreign government.

At year's end, a trial date had not been set in the case of Justice Benjamin Paradza. In February 2003, police detained him overnight and charged him with obstruction of justice for trying to influence a fellow judge in a murder case. The Supreme Court ruled that his arrest was unconstitutional since the law requires investigations of judges to be carried out by a tribunal of judges. A tribunal composed of judges from the region was to try Paradza in April to determine if he should be removed as a judge, but the tribunal was postponed. Separately, a criminal trial before the High Court was postponed because the presiding judge in the case recused himself due to the fact that he and Paradza fought together in the liberation war.

There were no developments in the May 2003 arrest of students accused of distributing prohibited material and inciting student arrest.

There were no further developments in the 2002 reported cases.

Prolonged pretrial detention remained a problem and some detainees were incarcerated up to 4 years before their trials because of a critical shortage of magistrates and court interpreters. There was a backlog of up to 60,000 cases.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was under intense pressure to conform to government policies, and the Government repeatedly refused to abide by judicial decisions.

The law provides for a unitary court system, consisting of headmen's courts, chiefs' courts, magistrates' courts, the High Court, and the Supreme Court. Civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court.

Judges are appointed to serve until the age of 65 and may extend their terms until the age of 70 if they remain in good physical and mental health. The Constitution provides that they may be removed from the bench only for gross misconduct and that they cannot be discharged or transferred for political reasons. Unlike in previous years, there were no reports that the Government arrested judges or coerced them to resign. However, magistrates, who are part of the civil service rather than the judiciary, heard the vast majority of cases and continued to come under intense political pressure after some of their decisions were interpreted as running counter to government interests.

The Government and police routinely failed to enforce court decisions that went against their interests, and the Government routinely continued to delay payment of court costs or judgments awarded against it.

In December 2003 Judge President of the Administrative Court, Justice Michael Majuru resigned from the court. Majuru, who was the presiding judge in a controversial case involving the Government and the Associated Newspapers of Zimbabwe (ANZ), publishers of *The Daily News*, was forced to resign after the official press reported that he was under probe for having told a member of the public that he would rule in favor of the ANZ. In July, Majuru, who was in exile at year's end, claimed publicly that Justice Minister Patrick Chinamasa had asked him what the judgment in the case would be and expressed concern that Majuru would rule against the Media and Information Commission. Majuru also claimed that he was offered a farm by Enoch Kamushinda, chairman of the GMB and Zimbabwe Newspapers.

Other judicial officers such as prosecutors and private attorneys also faced political pressure. In April 2003, war veterans attacked Levison Chikafu, a senior public prosecutor at the Magistrate's court in Mutare, after they forced their way into his office and demanded to know why "he had granted bail to MDC supporters." Despite this pressure, Chikafu was promoted to the position of prosecutor in the Attorney General's office in Harare.

The Constitution provides for the right to a fair trial; however, this right frequently was compromised due to political pressures. Every defendant has the right to a lawyer of his choosing; however, according to a local attorney, most defendants in magistrates' courts did not have legal representation. In criminal cases, an indigent defendant may apply to have the Government provide an attorney, but this was rarely granted except in capital cases where the Government provided an attorney for all defendants unable to afford one. Litigants in civil cases can request legal

assistance from the NGO Legal Resources Foundation or Zimbabwe Lawyers For Human Rights. All litigants were represented in the High Court.

Attorneys sometimes were denied access to their clients during the year. For example, in April, police assaulted and arrested University of Zimbabwe (UZ) professor Tinashe Chimedza, who was addressing students on the topic of academic freedom. His lawyers witnessed the assault, then were denied access to Chimedza after his arrest. While the lawyers were waiting, police detained one for inappropriate dress. In September, attorneys were denied access to a foreign citizen and two others who were detained after conducting a workshop on peace-building.

The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed. Trials were open to the public, except in certain security cases. Defendants enjoy a presumption of innocence, the right to present witnesses, and the right to question witnesses against them, and defendants and their attorneys generally had access to government held evidence relevant to their cases; however, some defendants were denied the right to wear civilian attire to court. In January, ZANU-PF M.P. Phillip Chiyangwa was forced to appear in court in a prison uniform. In March, businessman and ZANU-PF Politburo member James Makamba was brought in to court in shackles and leg irons. In each case the court eventually recognized the rights of the defendants and permitted them to wear civilian attire.

On October 15, the High Court issued a verdict in the first treason trial of MDC President Morgan Tsvangirai. Tsvangirai was found not guilty of plotting a military coup and assassination of President Mugabe. At year's end, MDC President Morgan Tsvangirai faced a second charge of treason for his role in the 2003 MDC-organized stayaways. Tsvangirai's passport was returned to him at the first trial's conclusion and was not confiscated in connection with the second charge (*see* Section 2.d.).

Military courts deal with court martials and disciplinary proceedings for military personnel. Police courts, which can sentence a police officer to confinement in a camp or demotion, handle disciplinary and misconduct cases. Defendants in these courts have the right to appeal to the Supreme Court.

The Zimbabwe Women's Lawyers Association (ZWLA) reported that most magistrates in the country were not aware of some of the contents of the Sexual Offenses Act (SOA) or that the law was in effect. ZWLA's research illustrated that many magistrates continued to make judgments based on old laws.

There was a large volume of rape cases in the Harare victim friendly courts, which consisted of individual magistrates designated to try family cases. These courts were understaffed, in part because many magistrates sought more lucrative employment outside the country.

There was one political prisoner, Roy Bennett (*see* Section 1.d.). He was permitted to see his wife for 20 minutes every other week. There were no reports of international humanitarian organizations being given access to him.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not respect these provisions. Security forces searched homes and offices without warrants; the Government was believed to monitor some private correspondence and telephones, particularly international communications; and the Government forcibly dispersed persons from their homes.

During the year, soldiers, police, war veterans, and other ruling party supporters repeatedly entered the Chimanimani farm of MDC M.P. Roy Bennett in violation of several High Court orders prohibiting them from doing so. The ruling party supporters beat and abducted farm workers, in one instance raped a worker, killed cattle and wildlife, and threatened and harassed and prevented Bennett from returning (*see* Section 1.c.).

Unlike previous years, police did not conduct house to house searches in the suburbs of Harare and Bulawayo.

The law permits the Government to monitor and intercept e mails entering and leaving the country, and security services reportedly have used this authority to monitor e mail communication, although the extent of this monitoring was unknown.

The Land Act permits the immediate government seizure of all commercial farming land. Since 2002, the Government has dispossessed approximately 4,000 of 4,500 white commercial farmers. Most of the remaining 500 white-owned commercial farmers entered into business agreements with blacks to protect their farms from land reform. During the year, the Government attempted to seize some farms by attacking the black business partners. The Government seized some of these farms, most notably Kondozi Farm, whose black part owner, Edwin Moyo, was vilified in the government-controlled press. The Government has issued acquisition notices on most of the remaining 500, but the process was often lengthy, and acquisition has

been at the rate of approximately 1 farm per week during the year. The Land Acquisition Amendment, which passed Parliament in January, scales back due process protections for property owners and expands the categories of properties that may be confiscated under the Government's land reform program.

There were numerous reports that government officials had acquired multiple farms and evicted previously resettled small scale farmers from the land.

According to a local NGO, ZANU PF supporters attacked and damaged or destroyed the homes of more than 100 opposition supporters and commercial farmers.

In May, there were reports that 30 MDC supporters and their families in Chipinge were living in the bush following attacks at their homes by ZANU-PF activists. Twenty of the MDC supporters were treated for minor injuries at local health centers and two others were treated at a private hospital for more serious injuries. Police in Chipinge confirmed the attacks, but no arrests had been made by year's end.

In September and October, the Government evicted and burned the homes thousands of families accused of squatting on farms acquired by the Government in Mashonaland West, Mashonaland East, and Manicaland. Amnesty International and other organizations reported that as many as 10 persons died as the result of tear gassing of farmers' homes at one of the farms. The Government blocked international organizations from assisting the newly displaced farmers.

There was no action taken, nor was any likely, in the reported 2003 or 2002 cases of arbitrary interference with citizens' homes.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression; however, legislation limits this freedom in the "interest of defense, public safety, public order, state economic interests, public morality, and public health," and the Government restricted this right in practice. A semi-independent newspaper was closed during the year. Security forces arbitrarily detained and harassed journalists; however, unlike the previous year, there were no reports that security forces beat journalists. Journalists practiced self censorship.

The Government continued to restrict freedom of speech, particularly by independent sources or those making or publicizing comments critical of President Mugabe. POSA also makes it an offense to make statements that will engender feelings of hostility towards the President. In November and December, three individuals were arrested under POSA for criticizing Mugabe in public. They were fined and released.

Several major daily newspapers and one local language tabloid belonged to the Mass Media Trust (MMT), a holding company heavily influenced by the ZANU PF. The Government, through the MMT, controlled two daily newspapers, the Chronicle and the Herald. The news coverage in these newspapers generally focused on the activities of government officials, negatively portrayed opposition parties and other anti-government groups, and also downplayed events or information that reflected adversely on the Government. The government controlled media generally portrayed President Mugabe and the Government favorably, although rivals of the Minister for Information and Publicity within ZANU-PF rarely received favorable coverage. The Daily Mirror, a daily semi-independent newspaper owned by ZANU-PF interests, offered increasingly critical coverage of government policy and ruling party interests and aired the views of the opposition and critics of the Government. The Ministry for Information and Publicity controlled the Zimbabwe Inter Africa News Agency wire service.

There were two independent major weeklies (the Independent and the Standard), a semi-independent weekly (the Financial Gazette) and three monthlies that continued to operate despite threats and pressure from the Government. The major independent newspapers continued to monitor government policies and publish opposition criticism; however, most of them also continued to exercise self censorship in reporting due to growing government intimidation and the continuing prospect of prosecution under criminal libel and security laws.

During the year, the Government closed down The Tribune, a semi-independent weekly owned by ZANU-PF member Kindness Paradza when the newspaper became increasingly critical of the Government.

The only independent daily newspaper, The Daily News, which was closed by the Media and Information Commission (MIC) in 2003, remained closed at year's end. The Supreme Court has reserved judgment on all appeals related to this case, and the MIC continued to refuse to register The Daily News. At year's end it only published an on-line edition from South Africa, with a smaller, core staff.

Radio remained the most important medium of public communication, particularly for the majority of the population living in rural areas. The Government continued

to control all domestic radio broadcasting stations through the state owned Zimbabwe Broadcasting Corporation (ZBC), supervised by the Ministry for Information and Publicity. There were credible reports that the Minister of Information routinely reviewed ZBC news and repeatedly excised reports on the activities of groups and organizations opposed to or critical of the Government. There were two independent short-wave radio broadcasts to the country during the year; however, they were not widely listened to because few citizens had access to short-wave radios. Voice of America (VOA) broadcast a 1 hour program daily on short wave and AM featuring interviews with local opinion makers on a range of topics in English, Shona, and Ndebele. Short Wave Radio Africa broadcast daily from the United Kingdom, using local sources and reporters. Voice of the People, whose offices were bombed in 2002, broadcast daily from the Netherlands.

The Government controlled all domestic television broadcasting stations, and the ZBC owned and operated television broadcasting facilities. ZBC banned all international programs and permitted only programs produced locally or by Africans. Throughout the year, ruling party music videos were aired regularly during the day, promoting the fast track land redistribution program.

At year's end, the Government continued to refuse to lease broadcast time to Joy TV, the only privately licensed television station, and it remained off the air. Although the Government invited applications for a second national television network in March 2003, application and license fees were prohibitively expensive.

International television broadcasts were available freely through private satellite firms; however, the expense and the requirement that payment must be made exclusively in foreign currency made it unavailable to most citizens.

Journalists were arrested during the year. The Government arrested and prosecuted editors and journalists who contributed to published stories critical of government policies or security force operations.

On January 10, Zimbabwe Independent editor Iden Wetherell, news editor Vincent Kahiya, and reporter Dumisani Muleya were arrested and charged with criminal defamation for publishing a story that President Mugabe commandeered an Air Zimbabwe plane for travel on personal business. They were all released on bail. No trial had taken place by year's end. On January 14, another reporter, Itai Dzamara, and the general manager, Raphael Kumalo, were arrested; both were released and only Dzamara was charged. No trial had taken place by year's end.

On May 19, The Standard editor Bornwell Chakaodza and reporter Valentine Maponga were arrested and charged under POSA with publishing false statements prejudicial to the state following an article that stated the family of a killed mining company executive blamed senior government officials for plotting his death. The journalists were charged then released. Police rearrested them 2 days later; they were released on bail, and no further action was taken by year's end.

During the year, ANZ Directors Brian Mutsawu, Michael Mattison, Pfungwa Kupara, and Washington Sansole were acquitted on all charges related to their September 2003 arrest for operating a media business without MIC registration. Sixteen Daily News reporters were also arrested and charged in 2003 for allegedly breaching the Access to Information and Protection of Privacy Act (AIPPA) for practicing journalism without accreditation from the MIC; however, there were no developments on their case during the year.

In October, the Government announced that opposition parties would be allowed access to the state media in the run up to the March 2005 parliamentary elections, but the government-controlled Zimbabwe Broadcasting Corporation rejected MDC radio advertisements. The Government subsequently indicated that the MDC would be afforded access to the state media should it end its boycott of elections and agree to participate in the 2005 parliamentary elections. At year's end, opposition parties did not have access to state media.

There were no developments in the January 2003 detention of journalists and an MDC councilor investigating the food crisis.

On February 16, the Herald fired sports editor Robson Sharuko and journalists Tendai Ndemera and Rex Mphisa, for writing for VOA.

There were no new developments in the reported 2003 or 2002 cases of harassment, abuse, and detention of journalists.

The Broadcasting Services Act, which Parliament's legal committee found to be unconstitutional but is still in force, gives the Minister of Information final authority in issuing and revoking broadcasting licenses. The Act allows for one independent radio broadcaster and one independent television broadcaster but requires them to broadcast with a government controlled signal carrier. Legal rights groups criticized the Act for limiting free speech.

The Government continued to deny broadcasting licenses to independently owned Radio Dialogue and Capitol Radio.

POSA makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts have criticized this section saying that it imposes limits on freedom of expression beyond those permitted by the Constitution. An extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, anti defamation laws criminalize libel of both public and private persons.

Under AIPPA, mass media companies and journalists must register for accreditation. Companies must pay burdensome application fees, and journalists were often required to pay application fees in U.S. dollars, which were difficult to obtain.

In November, Parliament passed an amendment to AIPPA, which, among other provisions, imposes penalties, including jail time, on journalists operating without accreditation. There were no developments in Peta Thornycroft's Supreme Court challenge of the legality of the charge against her under the AIPPA, for "posing as a journalist."

No arrests were made in the 2002 bombing of Voice of the People's offices by year's end.

Unlike the previous year, there were no reports of citizens being banned from entering the country as journalists; however, foreign correspondents were regularly denied visas during the year. A Sky News television crew invited by ZANU-PF to conduct an interview of President Mugabe was initially detained in their hotels by the Ministry of Information for not obtaining press visas; however, they were eventually able to conduct the interview.

The Government banned the satirical play "Super Patriots and Morons," about an intolerant dictator. The play had already been staged when it was banned. The Government gave no justification for the banning.

The Government did not restrict access to the Internet; however, the law permits the Government to monitor all international e mail messages entering and leaving the country (*see* Section 1.f.).

The Government restricted academic freedom. The University of Zimbabwe Amendment Act and the National Council for Higher Education Act restricts the independence of universities, making them subject to government influence, and extends the disciplinary powers of the university authorities against staff and students. The Ministry of Higher Education and Technology controlled the state universities and appointed their Chancellors and Vice Chancellors; the Ministry also appoints the Deans of Faculty, and most members of the University Council.

There continued to be reports of schoolteachers whose contracts of employment were cancelled because they supported the MDC.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice through laws such as POSA, which many legal experts believed were unconstitutional. The police repeatedly used force to break up nonviolent demonstrations by its critics and erect roadblocks in urban areas to prevent public gatherings from taking place. POSA does not require permits for meetings or processions, but it requires that organizers notify the police of their intentions to hold a public gathering 7 days in advance. Failure to do so results in criminal prosecution as well as civil liability. Although most groups that conducted meetings did not seek permits, some groups informed the police of their planned events and were denied permission, or their requests went unanswered. Police insisted that their permission was required to hold public gatherings, and they disrupted many events whether or not permission was sought. Police personnel attended many political meetings without invitation, ostensibly to protect attendees from potential violence by unruly persons. Reportedly, the CIO also routinely sent personnel undercover to monitor meetings perceived as being anti-government.

Police frequently refused to permit campaign rallies and meetings by the MDC.

In February, police arrested Sifiso Mpofu, MDC Councilor for Nkayi, reportedly for inviting politicians to his victory celebrations despite having obtained police clearance. He was detained overnight and then arrested and held for 3 days later that week for holding a residents' meeting without police clearance. The Government declined to prosecute.

On May 29, riot police prevented the MDC from holding its provincial assembly meeting for Midlands South. MDC party officials claimed that they sought police clearance the previous week to hold the meeting but had not received a response.

On July 2, ZANU-PF youths attacked an MDC provincial assembly attended by several MDC leaders, including Morgan Tsvangirai, in Mvurwi. The MDC applied for and received permission to hold the meeting; however, police provided no support. Police later blamed MDC youths for provoking the attack. Police had not made any arrests by year's end.

In July and August, police barred MDC President Morgan Tsvangirai from addressing several meetings convened for grassroots officials throughout the country.

In September, police broke up a dinner at MDC M.P. Nelson Chamisa's residence and arrested the M.P. and several guests for holding a meeting without proper authorization. All were released, and the case was not prosecuted.

Unlike previous years, police did not prevent public meeting of religious members.

Police arrested numerous demonstrators during the year. For example, on February 4, police arrested 118 protestors and beat approximately 50 in an afternoon demonstration organized by the National Constitutional Assembly (NCA) in support of a new constitution. NCA president Lovemore Madhuku was beaten severely and dumped, semi-conscious, on a road near the edge of town. Those arrested were later released. Authorities took no further action on the matter. There were no developments in the October 2003 arrest of NCA demonstrators.

On September 1, police arrested approximately 30 demonstrators and injured others in an NCA demonstration to protest the Non-Governmental Organizations Bill. NCA had notified police of the demonstration but did not receive permission.

Police arrested several female members of Women of Zimbabwe Arise! (WOZA) several times in Bulawayo. Each time the women were released after a few days and usually had to pay a fine. In September, police arrested several members of WOZA on a march from Bulawayo to Harare to protest the NGO Bill, then under consideration by Parliament. In August, 48 women went on trial for participating in a demonstration against POSA in July 2003; the women were all acquitted. There were no developments in the May 2003 arrest of WOZA members.

There were no developments in the March 2003 arrest of 80 persons under POSA for displaying posters critical of President Mugabe during 3 World Cup cricket matches in Bulawayo.

There was no action taken against police who used excessive force to disperse a number of demonstrations or rallies in 2003 or 2002.

The Constitution provides for freedom of association; however, the Government restricted this right in practice for political organizations. Organizations generally were free of governmental interference as long as their activities were viewed as nonpolitical. ZANU PF supporters, sometimes with government support or acquiescence, intimidated and abused persons perceived to be associated with the opposition (*see* Sections 1.a., 1.b., 1.c., 1.d., and 1.f.). The Government harassed some NGOs it believed were opposed to government policies with raids on their offices, inquiries into their activities, and obstacles to renewing work permits of foreign employees (*see* Section 4).

The formation of political parties and unions was not restricted; however, the Government interfered with activities of political parties and unions during the year (*see* Sections 6.a. and 6.b.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, a law that criminalizes both purporting to practice witchcraft and accusing persons of practicing witchcraft reportedly was viewed as restrictive by some practitioners of indigenous religions.

Church leaders and members who criticized the Government continued to face intimidation, arrest, detention, and possible deportation, in the case of foreigners.

In March, the Government charged the Catholic diocese of Hwange and the Catholic Mater Dei Hospital in Bulawayo for allegedly exchanging foreign currency illegally. Observers suggested that the charges were intended to put pressure on the Church to desist from criticizing the Mugabe regime.

The Government does not require religious institutions to be registered; however, religious organizations that run schools or medical facilities must register those specific institutions with the appropriate ministry involved in regulating those areas.

In August 2003, the Islamic Convent of the Strict Observance complained that the Lord's Prayer in the school curriculum contravened the Constitution, which protects freedom of conscience; however, it withdrew its complaint the same month.

Witchcraft widely understood to encompass attempts to harm others not only by magic but also by covert means of established efficacy such as poisons traditionally has been a common explanation for diseases of which the causes were unknown. Although traditional indigenous religions generally included or accommodated belief in the efficacy of witchcraft, they generally approved of harmful witchcraft only for defensive or retaliatory purposes and purported to offer protection against it.

The Criminal Law (Codification and Reform) Act, passed in November, incorporated the previous Witchcraft Suppression Act (WSA), which criminalized purporting to practice witchcraft, accusing persons of practicing witchcraft, hunting witches, and soliciting persons to name witches. The new Act removes the prohibi-

tions on witch hunting and accusing another person of being a witch. The law defines witchcraft as “the use of charms and any other means or devices adopted in the practice of sorcery,” and provides punishments for intending to cause disease or injury to any person or animal through the use of witchcraft.

There was some tension between the Government and some of the indigenous African churches, and between mainstream Christian churches and practitioners of traditional indigenous religions, because of the latter’s preference for prayer over science-based medical practices. Some members of the indigenous churches believed in healing through prayer only and refused to have their children vaccinated or treated. Human rights activists also criticized these indigenous churches for their sanctioning of marriages for underage girls.

Muslims complained of discrimination by private employers who refuse to allow them sufficient time to worship at their mosques on Fridays.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times restricted them in practice.

During the year, police continued to routinely erect armed roadblocks in and around cities and rural districts, especially during election periods, before demonstrations, and before opposition meetings. Police claimed that they were looking for criminals, smuggled goods, or illegal weapons, but legal rights groups asserted that it was a measure designed to discourage or limit opposition organizing. Roadblocks established by the Zimbabwe Revenue Authority (ZIMRA) along the main highways from South Africa and Botswana to search for foreign currency remained in place. Police also searched for and confiscated smuggled maize at roadblocks on major roads. Under the law, the quasi-governmental GMB was the only purchaser of grain in the country; however, prompted by the increasing price of maize meal in stores, some city-dwellers began purchasing grain privately in the rural areas.

Unlike in the previous year, there were no reports that opposition supporters had difficulty obtaining passports or were questioned by immigration officials.

During the year, travel bans and visa requirements on a variety of persons remained in effect. Among those affected were British government officials, members of the British Parliament, a foreign human rights activist, and journalists. Foreign correspondents were denied visas during the year.

After MDC President Morgan Tsvangirai was found not guilty in the first charge of treason against him, authorities returned his passport. He immediately left the country but was detained at the airport and his passport photocopied upon his return. At year’s end, his passport remained in his possession.

The Constitution prohibits forced exile and, unlike the previous year, there were no reports that the Government employed it. A number of persons, including former government officials, left the country, claiming to escape repression, and remained in self imposed exile at year’s end.

According to local NGOs, up to 500,000 farm workers were internally displaced at year’s end due to the ongoing land resettlement policies, and the Government prevented international organizations and local NGOs from assisting them on some occasions. The Government told IOM and ICRC not to assist newly displaced farmers because it would discourage them from returning to their home villages (*see* Section 1.f.). Some displaced farm workers reportedly were living on other farms or on previously unsettled land without reliable sources of food and water; others with relatives or friends in urban areas. In most cases, ZANU PF supporters who were farm squatters ordered the farm workers to leave so that they could plant their own crops on the property. Other internally displaced persons (IDPs) were persons forced to leave their homes by government supporters because of perceived support for the opposition.

According to the human rights NGOs, more than 115 MDC supporters were displaced internally during the year; however, the number of unreported cases likely was higher. The Government has condoned and even encouraged an environment of lawlessness that permits war veterans and other ruling party supporters to force opposition members and supporters from their homes without consequences for the perpetrators (*see* Section 1.f.). In most cases, police did not intervene.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government generally cooperated with the office of the U.N. High Com-

missioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to certain individuals who did not qualify as refugees under the 1951 Convention/1967 Protocol and provided it to 39 persons in 2003, according to UNHCR.

According to UNHCR, there were 13,090 refugees and 637 asylum seekers in the country in 2003. The largest groups of refugees and asylum seekers continued to be from the Democratic Republic of the Congo, Rwanda, and Burundi.

The 2002 case of sexual abuse of female refugees at the Tongogara Camp remained pending at year's end.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, this right was restricted in practice because the political process continued to be tilted heavily in favor of ZANU PF, which has ruled continuously since independence in 1980. The Government manipulated the electoral process to effectively disenfranchise voters and to skew elections in favor of ruling party candidates.

There were many reports of violence in the days leading up to the Zengeza parliamentary by-election held March 27 and 28 (*see* Section 1.c.). ZANU-PF youths were present at some polling stations and driving around the area during the election. There were reports that MDC voters were intimidated away from polling stations.

There were fewer reports of violence in the Lupane parliamentary by-elections; however, intimidation was widespread. There were reports that the government-appointed District Administrator gave traditional village leaders instructions to organize residents to vote and to keep track of how they voted. There were also reports that ZANU-PF campaign meetings were advertised as community meetings.

For the first time since the 2002 presidential elections, the Electoral Supervisory Commission (ESC) formally accredited Harare-based diplomats to observe parliamentary by-elections, but diplomats did not have full access to campaign events. Diplomatic observers reported several instances of voting irregularities during the voting days.

In March 2002, President Mugabe was declared the winner of a presidential election after a campaign in which violence and intimidation were used nationwide against MDC supporters, and in which the electoral rules were manipulated to favor the ruling party. International observer missions from the Commonwealth and the South African Development Community (SADC) Parliamentary Forum described the electoral process as fundamentally flawed, while a large mission from the European Union (EU) withdrew before the election when the Government refused to accredit the delegation leader.

On June 10, the High Court dismissed without explanation the first phase, which revolved around constitutional and legal objections, of the MDC's 2002 lawsuit, which sought nullification of the election results and a repeat of the election due to claims of numerous electoral irregularities. The second phase, involving factual evidence and witness testimony regarding the election's conduct, had not commenced by year's end.

In 2002, the High Court nullified the results of the 2000 parliamentary election in four constituencies but upheld the results in four others. The respective parties appealed all eight cases to the Supreme Court. In November, two ZANU-PF M.P.s lost their appeal in the Supreme Court of a High Court decision nullifying their elections. The two continued to occupy their seats at year's end. In December, the Supreme Court upheld the election of ZANU-PF MP Saviour Kasukuwere, dismissing the appeal of MDC candidate Godfrey Mumbamarwo. The other five cases were not heard by year's end.

During the first half of the year, there were reports that the Government's GMB continued to restrict distribution of maize meal to ruling party supporters in some areas. There were no reports of this in the second half of the year.

The President may unilaterally declare a state of public emergency for a period of up to 14 days; has sole power to dissolve Parliament and to appoint or remove a vice president and any minister or deputy minister; and directly appoints 20 of the 150 M.P.s, including 12 non-constituency M.P.s and 8 provincial governors who sit in Parliament. The President also exerts great influence on the process by which the country's chiefs (traditional rulers) select 10 of their number to sit as M.P.s. All 30 of the appointed M.P.s have been consistent ZANU PF supporters.

The legislature, which traditionally has been subordinate to the executive branch, has a viable opposition that called on the Government to be accountable and transparent. Parliamentary question time was used to force debate and disclosure, and

parliamentary committees held public hearings on a range of issues, produced reports critical of the executive branch, and induced meaningful changes to government legislation.

There were reports that the Government removed from the civil service and the military persons who were perceived as opposition supporters.

On April 16, Minister of Local Government, Ignatius Chombo, fired the elected MDC mayor of Harare, Elias Mudzuri, and subsequently fired 19 MDC councilors. Mudzuri had been suspended in April 2003 and a commission was set up to investigate him. A November 2003 High Court ruling declared that the commission had been improperly formed and that the evidence it gathered could not be used to fire Mudzuri. Under the law, an election must be held within 90 days of a mayor vacating the office. Instead, Chombo appointed the deputy mayor, Sekesayi Makwavarara, who was elected as MDC but switched in August to ZANU-PF, as acting mayor. The remaining MDC councilors, who had remained on the Council after Mudzuri's and 19 colleagues' firing, resigned in protest. On December 9, Chombo appointed an eight-member commission, led by Makwavarara, to run the city.

On December 9, Parliament passed the Zimbabwe Electoral Commission Bill, despite an adverse report from the committee in Parliament that determines the constitutionality of all bills. The Bill establishes an electoral commission, largely appointed by the President, and regulates the provision of voter education. The Bill was initially criticized by the MDC and human rights NGOs for not establishing an independent commission and for restricting voter education. However, according to the final legislation, the commissioners are to be recommended by Parliament and appointed by the President, and the Bill allows their dismissal only for cause.

On December 16, Parliament passed a separate, Electoral Bill to replace the current Electoral Act. The Electoral Bill clarifies some of the functions of the Electoral Supervisory Commission and the Registrar-General, both constitutional bodies; sets of the procedures for registration of voters; creates an Electoral Court to deal with registration disputes; and details some aspects of the conduct of elections. The MDC and human rights groups criticized the Bill for disenfranchising many citizens. The Bill, as did the previous Electoral Act, requires citizens to be resident in a particular constituency in order to vote, thus preventing expatriate citizens from voting. Absentee ballots are only provided for diplomats and armed forces.

Despite these criticisms, the Government proclaimed that these two laws made it compliant with SADC standards and principles for democratic elections. The President had not signed either bill by the end of the year, but he was expected to sign both in early 2005.

There were institutional problems with the management and supervision of elections, and the ESC, the Elections Directorate, the Ministry of Justice, Legal and Parliamentary Affairs, and the Registrar General's Office had overlapping mandates. Although the Ministry of Justice technically administered the Electoral Act, the Registrar-General's Office fell under the Ministry of Home Affairs. The ESC generally was hampered by an insufficient budget and an overburdened staff seconded from the Ministry of Justice. It also lacked authority to order the correction of irregularities, including of the voters' roll, which contained a large number of redundancies and errors. The Government invested immense powers in the presidency through the Electoral Act, including full control of voters' rolls and registration, and the ability to change district lines without notice on the eve of an election. Electoral officers often did not operate in a fully open and transparent manner. Civil society groups and the opposition called for a creation of a new voters' roll because of problems with the current roll.

During the year, the Registrar-General gave the MDC access to the voter rolls used in the 2002 presidential election.

The ruling party's candidates continued to benefit from the ZANU PF's control of the state owned firms that dominated the country's economy, from its control of the state monopolized broadcast media (*see* Section 2.a.), and from its control over state funds granted to political parties.

The Citizenship Act requires all citizens with a claim to dual citizenship to renounce their claim to foreign citizenship under the laws of the foreign country by January 2002 to retain their citizenship and the right to vote. The Act also revokes the citizenship of persons who fail to return to the country in any 5 year period. Legal rights groups described the legislation and regulations as a government attempt to disenfranchise citizens of perceived opposition leanings; the more than 500,000 commercial farm workers, many of whom have origins in neighboring countries; and the approximately 30,000 mostly white dual nationals. Many persons with dual citizenship experienced difficulty complying with the regulations because many other countries do not provide procedures for repudiating citizenship. The Citizen-

ship of Zimbabwe Amendment Act of 2003, which went into effect early in the year, removes the renunciation requirement for persons born in the country with parents from SADC countries or who were born in SADC countries with parents from Zimbabwe.

There was perceived widespread corruption in government. Government efforts to combat corruption were selective and generally seen as politically motivated. Targeted persons, including senior ZANU-PF Central Committee member James Makamba and Finance Minister Christopher Kuruneri, were often charged with externalizing foreign currency, which was a common practice among the political and business elites (*see* Section 1.d.).

In June 2003, the President announced that any official who used his or her official position to acquire more than one farm under land reform must surrender all but one. The Presidential Land Resettlement Committee, chaired by Minister for Lands, Land Reform, and Resettlement John Nkomo attempted to recover the excess properties, but the committee reported during the year that most officials found ways to keep multiple farms.

The Government stated that the AIPPA was intended to improve public access to government information; however, the law contains provisions that restrict freedom of speech and press, and these elements of the law were the ones the Government most enforced.

There were 16 women in the 150 seat Parliament, including the Deputy Speaker of Parliament, and there were 4 female ministers and 1 female deputy minister in the Cabinet. In addition, there was one female governor. Women participated in politics without legal restriction; however, according to local women's groups, husbands, particularly in rural areas, commonly directed their wives to vote for the husband's preferred candidates. The ZANU PF congress allotted women 1 out of every 3 party positions and reserved 50 positions for women on the party's 180 member Central Committee, which was one of the party's most powerful organs.

There were 7 members of minority groups in the Cabinet, including Vice President Joseph Msika. There were 33 members of minority groups in the 150-seat Parliament, including 29 Ndebele, 3 whites, and 1 Tonga.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated in the country with government restrictions, investigating and publishing their findings on human rights cases. The Government monitored their activities closely and was generally unresponsive to their concerns.

The Non-Governmental Organizations Bill replaces the Private and Voluntary Organizations Act. The NGO Bill requires a much more rigorous process of registering, requires that NGOs open their financial records to a government-appointed NGO council, and prohibits activities related to human rights and governance if the organization is foreign or receives funding from outside of Zimbabwe. Despite an adverse report from the committee in Parliament that evaluates the constitutionality of all bills, Parliament passed the bill on December 9. The President still had not signed the Bill by year's end.

Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and AIPPA, increasing poor women's access to the courts, constitutional and electoral reform, raising awareness of the abuse of children, conducting voter education, preserving the independence of the judiciary, and eliminating torture, arbitrary detention, and restrictions on freedom of the press and assembly. The Zimbabwe Human Rights NGO Forum continued to take the lead in coordinating reports on human rights violations and abuses.

Several NGOs reported difficulties in carrying out their programs in rural areas. Rural district councils began implementing "the NGO policy," although the NGO bill was still in draft. The councils were requiring that NGOs working in their districts register with the council, seek a council resolution authorizing their operations, seek clearance from the provincial governor, and establish a memorandum of understanding with the relevant ministry.

The Government canceled a U.N. food assessment, and instructed all international donors and NGOs to cease general feeding programs because the Government claimed there would be a surplus of food. NGOs were only permitted to operate targeted programs, such as school feeding programs.

During the year, the Government closed down some of the HIV/AIDS programs run by NGOs and churches.

NGO members were arrested or detained during the year, often in connection with demonstrations or marches (*see* Section 2.b.).

The Government harassed some NGOs it believed were opposed to government policies with raids on their offices, inquiries into their activities, and obstacles to renewing work permits of foreign employees. For example, police raided the NCA and WOZA offices multiple times during the year and removed records and pamphlets and posters. Police usually kept the confiscated material, and no charges were brought against the organizations.

The Government continued to obstruct the activities of organizations involved in humanitarian activities. In September, the U.N. Resident Representative and Humanitarian Coordinator announced that the Government had requested that the U.N. close its relief and recovery unit, which focused on coordinating humanitarian activities. Several international NGOs reported that they were having difficulties renewing Temporary Employment Permits for their international staff.

In July, the African Union (AU) suppressed a report by the African Commission on Human and People's Rights (ACHPR), which reports to the AU, based on a human rights fact-finding mission the ACHPR performed in the country in June 2002. The report, which contained allegations of government complicity in or acquiescence to a wide range of rights abuses, including torture and arbitrary arrest of opposition M.P.s and human rights lawyers, was due to be presented to an Executive Council meeting in July, but the Executive Council chose not to release it when Foreign Minister Stan Mudenge objected that the Government had not been given the opportunity to review the report.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides that "every person in Zimbabwe" cannot be deprived of fundamental rights, such as right to life, liberty, and security of person, based on his race, tribe, place of origin, political opinions, color, creed, or sex; however, the Constitution allows for discrimination, primarily against women, on the grounds of "customary law." Domestic violence and discrimination against women, abuse of children, and discrimination against persons with disabilities remained problems. The Government and ruling party discriminated against the white minority in areas of due process, foreign travel, and property ownership.

*Women.*—Domestic violence against women, especially wife beating, continued to be a serious problem and crossed all racial, ethnic, and economic lines. The Musasa Project, which sought to empower abused women through support groups and counseling, saw a steep rise in its counseling service from 3,259 in 2001 to 4,338 in 2002, and the trend continued during 2003 and during the year. There is no legislation that specifically addresses domestic abuse. Authorities often condoned wife beating. Musasa Project and the Women's Coalition reported that wife killings remained a problem during the year.

The Sexual Offenses Act (SOA) makes nonconsensual sex among married partners a crime. The Act provides penalties for up to 10 years in prison for sexual crimes. It also defines sexual offenses as rape, sodomy, incest, indecent assault, or an immoral or indecent act with a child or person with mental disabilities.

There continued to be reports of rape, incest, and sexual abuse of women. Many cases were not reported because of the social stigma attached to the crimes and wives' fear that husbands would disown them. Approximately 1,100 rapes were reported in Harare in 2002. Although the Government refused to supply figures for 2003 and 2004, the rates were reportedly higher than in 2002. Human Rights NGO Forum reported two cases of politically motivated rape during the year; human rights groups estimated that the actual number of politically motivated rapes may be much higher (*see* Section 1.c.). Growing evidence suggested that authorities took little action to address rapes at National Youth Service Camps. Musasa Project ran a shelter and a support group for abused women.

Police had little training in investigating domestic abuse, and it was usually treated like any other case of common assault or not investigated to respect the "privacy of the home." If police became involved, perpetrators were often leveled a minimal fine. When cases went to court, lengthy sentences for rape and wife beating generally were imposed; however, women faced many obstacles in filing reports of rape due to the lack of police training. A "binding over" order (an order to appear in court to respond to an accusation of violent behavior) was issued based only on actual physical abuse and not on threats of violence. Courts also did not have the power to oust an abusive spouse from a couple's home. Systemic problems and lack of education often meant that police did not respond to women's reports or requests for assistance.

Unlike previous years, there were no reports of sexual abuse of female refugees. Prostitution is illegal; during the year, there were numerous media reports regarding concerted efforts by police to halt prostitution in the city center. Police ar-

rested both prostitutes and their clients, and the government-sponsored Herald newspaper published the names of arrestees.

There are laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women; however, women remained disadvantaged in society. Illiteracy, economic dependency, and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women still were vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her choosing and the custom of forcing a widow to marry her late husband's brother.

The law recognizes women's right to own property independently of their husbands or fathers. Although unmarried women may own property in their own names, women married under customary law are not allowed to own property jointly with their husbands. The Administration of Estates Amendment Act makes inheritance laws more favorable to widows; however, the Constitution allows discrimination against women under customary law and provides that a man's claim to family inheritance takes precedence over a woman's, regardless of the woman's age or seniority in the family. For example, in the event of a man's death, the brother's claim to the inheritance takes precedence over the deceased's wife. In March, the Supreme Court ruled that, according to customary law, women's rights to inheritance, ownership of property, and custody of children were inferior to men's. "The woman's status is basically the same as that of any junior male in the family, or a teenager," the Court stated in its judgment, which disinherited Vania Magaya, 52, of her father's estate in favor of her younger half-brother. Divorce and maintenance laws were favorable to women, but women generally lacked awareness of their rights under the law.

According to a government land audit, approximately 17.2 percent of resettled land was allocated to women by 2003, although they comprised nearly 80 percent of the rural population. Authorities sometimes asked married women who were allocated land to register the land in their husband's names.

Although labor legislation prohibits sexual harassment and discrimination in employment on the basis of gender, women were concentrated in the lower echelons of the workforce and commonly faced sexual harassment in the workplace.

The Ministry of Youth Development, Gender, and Employment did little to advance the cause of women. The Government gave qualified women access to training in the military and national service. Although there have been advances for women within the armed forces, they continued to occupy primarily administrative positions.

Several active women's rights groups concentrated on improving women's knowledge of their legal rights, increasing their economic power, combating domestic violence, and protecting women against domestic violence and sexual transmission of HIV/AIDS.

*Children.*—The Government's commitment to children's rights and welfare remained weak during the year. The Government completed a National Plan of Action for Orphans and Vulnerable Children (NPA for OVC), which is designed to ensure that orphans and vulnerable children are able to access education, food, health services, and birth registration and are protected from abuse and exploitation through coordinated efforts by government and civil society; however, the NPA for OVC had not been instituted by year's end because it did not have a budget. Children, especially those in the rural areas but also an increasing number of urban dwellers, suffered greatly. Although legislation was in place to protect children's rights, it was difficult to administer and enforce.

There was no compulsory education, and schooling was not free. School fees continued to increase during the year, and enrollment declined. Many families could not afford to send all of their children to school. According to the 2002 census data and age specific population distributions, roughly 72 percent of school age children attended school. The highest level achieved by most students was primary level education. The Government continued a program of social welfare grants for needy children, including funds to assist them with their education; however, it was underfunded and corruption undermined the beneficiary selection process. The members of selection committees in some communities gave grants to their relatives and friends and denied them to the children of opposition supporters.

In most regions of the country, fewer girls than boys attended secondary schools. If a family was unable to pay tuition costs, it most often was female children who left school. The literacy rate for women and girls over the age of 15 was estimated to be 80 percent, while the male rate was approximately 90 percent.

The Government sometimes ordered that students entering college, teacher training schools, or the civil service must present a diploma from one of the National Youth Service training camps (*see* Section 6.d.). The stated purpose of the training camps was to instill a sense of pride in the youths, highlight the history of the struggle for independence, and develop employment skills; however, a Parliamentary committee conducted an investigation into conditions at camps and found that conditions were poor, trainees were subjected to political indoctrination, and there was no real vocational training.

Child abuse, including incest (long a taboo), infanticide, child abandonment, and rape continued to be problems during the year. The Parents and Family Support Network, a local NGO, reported that one in three children in the country was at risk of physical or emotional abuse. Another local NGO said that reports of child sexual abuse had increased to nearly 4,000 between January and August, up from 1,500 for all of 2003.

Incidents of witchcraft-related child deaths and mutilations were on the rise during the year. Newspapers reported several instances of missing children being found murdered with body parts missing, which led police to suspect the murders were related to witchcraft. The perpetrators believed that the body parts of young children would bring good luck. Newspapers reported that persons starting new businesses in particular would pay for ritual murders to bring luck to their ventures.

Musasa Project worked closely with the Ministry of Youth Development, Gender, and Employment Creation to investigate allegations of rape at the Government's National Youth Service training camps. Musasa believed that the girls who were subjected to abuse remained silent out of fear of retribution. Many girls came to the camps because of the economic suffering in the country. In addition, members of government-sanctioned militias gang raped adolescent girls as young as 12.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued during the year. Arranged marriage of young girls also continued during the year.

Local and regional NGOs had some reports of trafficking of children (*see* Section 5, Trafficking).

There were continuing reports of child prostitution (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

The SOA makes it a crime to infect anyone knowingly with HIV/AIDS, and the Government prosecuted some individuals for the crime. International experts estimated that HIV/AIDS infected one quarter of the adult population and killed approximately 3,000 persons every week. According to an international NGO working with AIDS orphans, deaths from HIV/AIDS left 980,000 orphans by year's end, and the number was on the rise. Government funded and private orphanages were filled to capacity, and the number of street children or those living in adoptive homes continued to rise dramatically and visibly during the year and was expected to put a tremendous strain on both formal and traditional social systems.

At the household level, there was an increased burden on the extended family, which had traditional responsibility for caring for orphans. AIDS orphans comprised nearly one-tenth of the country's population. Many grandparents were left to care for the young, and in some cases, children or adolescents headed families and were forced to work to survive. AIDS orphans and foster children were at high risk for child abuse. Some children were forced to turn to prostitution as a means of income. According to local custom, other family members inherit before children, leaving many children destitute. Many of these children are unable to obtain birth certificates, which then prohibits them from accessing social services.

At the provincial and national levels, the governments faced increasing demands for community orphan projects, orphanages, health care, and school fees. Monies from a universal AIDS levy automatically deducted from the paychecks of all formal sector wage earners have been allocated through the National Aids Council to District Action Committees for some specific programs, including orphan assistance, income generating projects for children or orphans of AIDS patients, research for identifying orphan needs and problems and, through the Basic Education Assistance Module (BEAM), for school expenses; however, BEAM paid no school fees for these children during the year.

Several active children's rights groups concentrated on promoting the well being of children, including protection against child abuse, and advocating for children's rights.

*Trafficking in Persons.*—No laws specifically address trafficking in persons, and there continued to be infrequent reports that persons were trafficked, particularly women and children, from and through the country to South Africa for prostitution and forced labor. Common law prohibits abduction and forced labor, and the SOA

makes it a crime to transport persons across the border for sex. Traffickers also can be prosecuted under other legislation, such as immigration and abduction laws. The primary government authority to combat trafficking is the ZRP, which relied on NGOs to alert them to any cases.

The SOA provides for a maximum fine of \$5.60 (Z\$35,000) or imprisonment of up to 7 years for those convicted of prostituting children under 12 years of age. It also provides for a maximum fine of \$8.06 (Z\$50,000) and a maximum prison sentence of 10 years for "procuring another person to become a prostitute and have sex whether inside or outside Zimbabwe." However, the Act had little impact on the status of children.

A few NGOs, including South Africa based Molo Songololo, Harare based Save the Children Norway-Zimbabwe, and Connect had some reports of both trafficking and child prostitution. Trafficking in children occurred only in isolated instances. Prostitution was on the increase with more female pimps and male prostitutes. There were reports that women and children were internally trafficked to southern border towns for commercial sexual exploitation, as well as to South Africa. Save the Children Norway-Zimbabwe conducted a study at border areas and found children were sometimes sexually abused by police or immigration officials when they were being deported back to the country from Botswana or South Africa. There were unconfirmed reports that girls trafficked from Malawi to South Africa sometimes transited the country.

The Government funds no protection activities for victims, and no NGOs have programs specifically designed to work with trafficking victims. No specific victims of trafficking were identified during the year. A trafficked person had the option to take his or her case before the victim friendly courts; however, no cases were filed during the year.

*Persons With Disabilities.*—The law specifically prohibits discrimination against persons with disabilities in employment, in access to public places, or in provision of services; however, in practice the lack of resources for training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings should be accessible to persons with disabilities; however, implementation of this policy has been slow. NGOs continued to lobby to include albinos in the definition of "disabled" under the law. Persons with disabilities faced harsh customary discrimination. According to traditional belief, persons with disabilities were considered bewitched, and reports of children with disabilities being hidden when visitors arrived were common.

The Government broadcast a regular prime-time show on state media dedicated to promoting awareness of the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites less than 1 percent, and other ethnic groups 3 percent. There were low level tensions between the African majority and the white minority, between the Shona majority and the Ndebele minority, and among the various Shona subgroups.

Racial tensions have subsided since independence and remained relatively low despite the Government's ongoing attempts to blame whites for the country's economic and political problems. On many occasions, President Mugabe, members of his Government, and the state controlled media attempted to reignite resentment of the white minority. President Mugabe accused the white minority of having too close ties to their ancestral countries. The Government's far reaching fast track resettlement program since 2000 has designated most large scale, white owned commercial farms for seizure with no clear means for providing compensation, and government supporters assaulted commercial farmers in their homes and forced hundreds from their property (see Sections 1.a., 1.c., and 1.f.). Ruling party supporters seldom were arrested or charged for infringing upon minority rights.

The disproportionate number of Shona-speaking teachers and headmasters in Matabeleland schools remained a sensitive issue. Members of the Ndebele community continued to criticize the Government's unequal distribution of national resources and the Government's failure to compensate victims of the 1980s Matabeleland killings of an estimated 10,000 to 20,000 Ndebele civilians.

*Other Societal Abuses and Discrimination.*—President Mugabe publicly denounced homosexuals, blaming them for "Africa's ills." Although there is no statutory law proscribing the activities of homosexuals, common law prevents gay men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and in some cases, criminalizes the display of affection between men.

On August 4, a mob chased members of the Gays and Lesbians Association of Zimbabwe (GALZ) from the GALZ stand at the Zimbabwe International Book Fair.

A group of youths approached GALZ officials at the stand and threatened to beat them, after which the GALZ members fled.

The Government has a national HIV/AIDS policy that prohibits discrimination against persons living with HIV/AIDS, and the law aims to protect against discrimination of workers in the private sector and parastatals; however, societal discrimination against persons affected by HIV/AIDS remained a problem. Despite an active information campaign by international and local NGOs and the Government through its Ministry of Health and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued.

*Incitement to Acts of Discrimination.*—Throughout the year, government controlled newspapers, radio, and television stations continued to selectively vilify citizens of European ancestry and to blame them for the country's problems. Materials used at National Youth Service Camps identified enemies of the state in racist terms and demonized whites. During a cash shortage in 2003, the government controlled newspapers often accused Asians of hoarding millions of dollars to the detriment of the economy.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Relations Amendment Act (LRAA) provides private sector workers with freedom of association and the right to form or join unions without prior authorization, and workers exercised these rights; however, some pro-Zanu-PF employers declared their shops off-limits to the Zimbabwe Congress of Trade Unions (ZCTU), the national umbrella labor confederation. The LRAA allows members of the Public Service, as well as other government employees (with the exception of members of the Disciplined Services) to form and join unions; however, the Act also retains a prohibition of strikes by disciplined and “essential services” (see Section 6.b.). Employees in positions designated as managerial were excluded from general union membership.

At the end of 2003, approximately 25 percent of the formal sector work force belonged to the 31 unions that form the ZCTU. During the year, approximately 65 percent of industries were unionized.

The Government and the ZCTU regularly clashed sharply over economic policy. The Government often did not consult with either the ZCTU or employers before implementing policy decisions that affected the workplace, which disrupted labor relations, but the Tripartite Negotiating Forum (TFN) resumed (see Section 6.b.). During the year, the Government openly targeted the ZCTU, declaring it aligned with the opposition MDC. The Government arrested and detained ZCTU leaders at various labor rallies during the year.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, continued to work closely with ZANU PF. ZFTU created splinter unions in each sector of the economy, with some sectors containing up to five splinter unions. In addition to fostering confusion among workers, splinter unions forced existing unions to spend scarce resources guarding against declining membership. The splinter unions did not bargain collectively, handle worker complaints, or provide worker education. ZANU PF/ZFTU again sponsored May Day commemorations during the year and attendance at the ZFTU's event was much higher than the previous year. However, ruling party supporters assaulted organizers of ZCTU May Day festivities, beating one person severely.

The LRAA prohibits discrimination by employers against union members; however, in practice, union members faced discrimination and harassment. For example, ZCTU President Lovemore Matombo was dismissed from his job at the postal service, for attending a union conference in the Sudan. ZCTU appealed the dismissal on the grounds that management did not follow its own procedures, but Matombo had not been reinstated by year's end. Complaints of such discrimination were handled by a Labor Court under the mechanism for resolving cases involving “unfair labor practices.” The determining authority may direct that workers fired due to anti union discrimination should be reinstated, although this did not happen in practice.

On October 25, a delegation of the Congress of South African Trade Unions (COSATU) visited Harare on a fact-finding mission. After being delayed by immigration at Harare International Airport for 2 hours, the delegation was admitted to the country. The delegation intended to hold meetings with both parties, civil society, and ZCTU. On October 26, while the delegation was in a meeting with ZCTU representatives, police and immigration officials broke up the meeting and detained the delegation pending a decision by the Cabinet, which subsequently decided to deport the group. Immigration officials drove the delegation members overnight to the Beitbridge border where they were left.

There were no reports of any other labor organizations being denied entry or being deported.

The International Labor Organization (ILO) continued to criticize the Government for ongoing interference with the unions' freedom of association.

*b. The Right to Organize and Bargain Collectively.*—The LRAA provides workers with the right to organize and permits unions to bargain collectively over wages and conditions of employment and workers exercised this right in practice; however, government harassment of union leaders and interference by ZFTU sometimes made such negotiations difficult. Collective bargaining agreements applied to all workers in an industry, not just union members. The ZCTU rejoined the Tripartite Negotiating Forum (TNF) discussions, which included representatives of Government, labor, and business, after the Government acceded in principle to certain demands by the labor body.

The Minister of Labor retained the power to veto agreements that he believed would harm the economy; however, he did not involve himself directly in labor negotiations unless requested to do so by one of the parties. When no trade union represented a specific sector, representatives of the organized workers, such as the professional associations, met with the employer associations, under the mediation of labor officers from the MPSLSW. Some employment councils had yet to reach an agreement or were deadlocked awaiting court-supervised arbitration at year's end.

Employees in positions designated as managerial were excluded from the collective bargaining process.

The Government continued to use POSA as an excuse for limiting unions' abilities to meet with and consult their constituencies. For example, unions were prevented from holding meetings with their memberships, sometimes with heavy police presence and under threat of arrest. Although the High Court ruled in 2002 that police could not monitor ZCTU meetings, the police did not respect that judgment and continued to monitor ZCTU meetings.

There is no right to strike in the Constitution. Although the LRAA explicitly recognizes this right, it has been circumscribed with procedural hurdles including advance notice of 14 days, attempt for conciliation for 30 days, and possible mandatory referral to binding arbitration. The Act prohibits "essential services" employees from striking on the grounds that it "endangers immediately the life, personal safety or health of the whole or any part of the public." The law defines essential services broadly and includes: Fire personnel, employees engaged in the supply and distribution of water, employees providing some veterinary services, revenue agents at ports of entry, persons in the health care field, transport and communications employees, railway engineers, licensed electricians, and broadcast personnel during a state of emergency. The law also allows that "any nonessential service may be declared an essential service by the Minister if a strike in a sector, service industry, or enterprise persists to the point that the lives, personal safety or health of the whole or part of the population is endangered," and labor groups were concerned this could negatively impact them. In practice, the Government harassed and arrested union leaders who called for strikes and union members who attempted to participate in strikes.

The ICFTU criticized government harassment of unions during the year.

Managers also were prohibited from striking, and, in some industries, the Government defined most employees as managers. For the remaining nonessential employees legally to conduct a strike, more than 50 percent of the company's employees must vote in favor of the action. If a majority voted to strike, the dispute was referred to a labor officer, who was given the mandate to attempt mediation for at least 30 days. If mediation was unsuccessful and if the employees were engaged in an "essential service," and the dispute was a dispute of right (i.e., interpretation of the collective bargaining agreement, not wages or conditions of work), either side could refer the dispute to a government appointed arbitrator. If the employees were not engaged in an essential service, the labor officer could refer the case to arbitration if he or she obtained the permission of both parties, or if the dispute was a dispute of right. Employees could only strike after the arbitration process was concluded unsuccessfully, and a subsequent 14 day notification process of the intent to strike was concluded. However, workers protesting health and safety standards or lack of equipment may strike without the notification and arbitration procedure.

These government imposed delays prevented most employees and their unions from ever declaring legal strikes; there were limited labor actions during the year, including strikes at the national telephone company and at several golf courses.

No action was taken against security forces who tortured the Secretary General of the ZCTU in 2002, or against ZFTU members who beat persons during a strike in May 2002.

ZCTU members were arrested during the year. For example, in February, four members of the ZCTU Western Regional Committee were detained by police on a rumor that the ZCTU was organizing a stay-away that day. The four were interrogated about their involvement in organizing the stay-away and later released without any charges. The police threatened to re-arrest them if it turned out that some form of action had been organized by the ZCTU.

The Export Processing Zones Act states the LRA shall not apply to workers in export processing zones (EPZs); however, according to the ZCTU, employers generally applied the same wages and standards in the EPZs as in the general economy. The ZCTU has negotiated directly with EPZ employers to allow some unions in the EPZ, although their number and level of activity remained low.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.). The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued in rural areas (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the LRAA, child labor is punishable by a maximum fine of \$5 (Z\$30,000), 2 years' imprisonment, or both and forced labor is punishable by an undefined fine, 2 years' imprisonment, or both; however, child labor was common. Under the LRAA, a child between the ages of 13 and 15 can work as an apprentice or if the work is an integral part of (or in conjunction with) "a course of training or technical or vocational education." The law further states that no person under 18 shall perform any work likely to jeopardize that person's health, safety, or morals. The status of children between 15 and 18 years of age is not directly addressed, but 15 years of age is still the minimum for light work, work other than apprenticeship, or work associated with vocational education.

According to the 2000 National Child Labor Survey, approximately 25 percent of children between the ages of 5 and 17 were involved in some form of labor. The unemployment rate continued to grow, with some estimates as high as 80 percent, decreasing the number of children employed in the formal sector; however, the incidence of children working in the informal sector continued to increase as more children worked to fill the income gap left by ill, unemployed, or deceased relatives. Children often lacked access to necessary safety equipment and training. Children worked in the agricultural sector, and there were reports that children worked as domestics and as car watchers. As a result of the land redistribution program, there were fewer instances of child labor on commercial farms. Many children sold simple wares on the streets; others worked in the growing illegal gold panning industry. In addition, there were reports of an increasing number of girls engaged in prostitution. Although child labor in the agricultural, domestic, and informal sectors increasingly was discussed, the Government and NGOs were unable to gather concrete data on the number of cases.

Several NGOs reported instances of children working. Child Protection Society reported that new farmers used children as cheap labor because they could not complain about working conditions. UNICEF reported children working as independent contractors so employers could evade the appearance of employing children. Zimbabwe Domestic and Allied Workers Union observed employers bringing children from their rural homes to work as domestics with parental consent. Save the Children Norway-Zimbabwe reported that sugar businesses along the Mozambique border at Catiyo used children to sell sugar across the border, often with the complicity of their parents. Children in the sugar business were paid less than adults and did not attend school. Save the Children Norway-Zimbabwe also reported children working on tea estates, which sent children to school in the morning and to work in the afternoon and evening.

Nonpayment of wages occurred mostly in the domestic worker sphere where some employers believed they were doing a child from a rural home a favor. In addition, employers paid the parents for the child's work. Relatives often used AIDS-orphaned children as domestics without pay. There were also unconfirmed reports that police rounded up street children and took them to work on a farm without pay.

Few new government initiatives to prevent child labor were implemented. The Ministry of Labor and Social Welfare promoted its BEAM and Children in Difficult Circumstances (CDC) programs, which were designed to pay for school fees (BEAM) and other items such as uniforms and books (CDC) for children who could not afford to go to school. Fewer than 18 percent of children benefited from this program. The Central Statistics Office conducted a labor survey; however, the results were not released by year's end.

*e. Acceptable Conditions of Work.*—There is no national minimum wage, except for agricultural and domestic workers. Government regulations for each of the 22 industrial sectors continued to specify minimum wages, hours, holidays, and required safety measures; however, the minimum wage did not provide a decent standard of living for a worker and family, and approximately 80 percent of the population lived below the Government's poverty line. Due to an ineffective monitoring system, many agricultural and domestic workers were remunerated below the minimum wage.

Minimum wages in the formal sector changed continuously as a result of multiple increases in salaries to offset the high inflation rate. Domestic worker minimum wages were specifically separated from others; in July, the following monthly minimum wages were published: Gardener, \$14.79 (Z\$83,000); cook/housekeeper, \$13.39 (Z\$90,300); child or disabled minder, \$17.62 (Z\$109,245); and child or disabled minder with Red Cross certification, \$21.14 (Z\$131,094). The minimum wage did not provide a decent standard of living for a worker and family.

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24 hour rest period per week. In addition, no worker is allowed to work more than 12 continuous hours. The Constitution provides the Public Service Commission with the authority to set conditions of employment in the public sector.

Many of the basic legal protections did not apply to the vast majority of farm, mine, and domestic workers. Health and safety standards were determined on an industry specific basis. The National Social Security Authority (NSSA) reported an increase during the year in the number of fatal accidents in the construction, electrical, and telecommunications industries and cited unskilled contract personnel performing jobs formerly done by professionals. Labor relations officers from the MPSLSW were assigned to monitor developments in each plant to ensure that government minimum wage policy and occupational health and safety regulations were observed; however, in practice these offices were understaffed, could not afford to inspect workplaces routinely, and relied on voluntary compliance and reporting by employers.

The Government designated the Zimbabwe Occupational Safety Council, a quasi governmental, advisory body comprised of six representatives each from the Government, employers, and trade unions, to regulate safe work conditions; however, budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council ineffective. The NSSA continued to experience difficulty monitoring the thousands of work sites across the country; however, it continued to close down shops and factories not in compliance. Although workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment, in practice they risked the loss of their livelihood if they did so.

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## EAST ASIA AND THE PACIFIC

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### AUSTRALIA

Australia is a constitutional democracy with a federal parliamentary government. Citizens periodically choose their representatives in free and fair multiparty elections. John Howard began his fourth consecutive term as Prime Minister in October; his Liberal and National Party Coalition Government held 87 of the 150 seats in the lower house of the Federal Parliament. The judiciary is independent.

The Federal Justice Ministry oversees Australian Federal Police (AFP) activities, while the state police forces report to the respective state police ministers. The civilian authorities maintained effective control over the security forces. There were occasional reports that police committed human rights abuses.

The country has a mixed, highly developed, market based economy. Its population was approximately 20.1 million as of June. Per capita gross domestic product growth was 3.2 percent for the 12 month period ending September 30. Wages and benefits growth generally exceeded inflation. Strong regional demand for the country's mineral exports largely offset the dampening economic effects of low agricultural production due to a prolonged nationwide drought and the appreciating Australian dollar.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse; however, there were problems in some areas. There were occasional reports that police and prison officials abused persons in custody. Human rights organizations, refugee advocacy groups, and opposition politicians continued to express concern about the impact of prolonged mandatory detention on the health and psychological well being of asylum seekers. Societal violence and discrimination against women, discrimination against Aboriginal people, and trafficking in persons also were problems that the Government was taking steps to address. Some leaders in the ethnic and immigrant communities and opposition political party members expressed continued concern about instances of vilification of immigrants and minorities. There was ongoing criticism of the 1996 Federal Workplace Relations Act by domestic labor unions and the International Confederation of Free Trade Unions, particularly in regard to the law's curbs on trade unions, restrictions on strike action, and emphasis on individual employment contracts.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. However, the Australian Institute of Criminology (AIC), an agency of the Attorney General's Department, reported that in 2003, 29 persons died in police custody or in the process of arrest, 6 fewer than the revised total of 35 in 2002. Police shot and killed three persons; all three shootings were found to be justifiable. The circumstances of two deaths in police custody were not established by year's end. In the remaining cases, 11 deaths were attributed to accidents, 9 to self-inflicted injuries, and 4 to natural causes. Of seven Aboriginal deaths in police custody, four resulted from accidents, two from natural causes, and one from self-inflicted injuries.

During 2003, a Western Australian (W.A.) independent commission inquired into allegations of police corruption and criminal conduct, including the unresolved 1988 death in police custody of an 18 year old youth; Amnesty International (AI) had called for an investigation of the death. In March, the commission released its report on the W.A. police service, finding no evidence that police had assaulted the youth.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous persons was pervasive and that racial discrimination by some police and prison custodians persisted (see Section 5).

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Each state and territory is responsible for managing its own prisons, which also house federal prisoners. There are no federal prisons. While Aboriginals constituted less than 3 percent of the population, they accounted for 20 percent of the prisoner population as of June 2003 (see Section 5).

In prisons, men and women were held separately; conditions were the same for both. Pretrial detainees generally were segregated from convicted prisoners. Juvenile offenders under age 17 generally were incarcerated in youth detention or training centers but could be sentenced to custody in an adult prison upon conviction of a serious criminal offense such as homicide. In immigration detention facilities, children were held with adults, most often family members (see Section 2.d.).

According to the AIC's annual report on prison deaths, 39 persons died in prison custody in 2003. Of these, 20 deaths were attributed to self-inflicted injuries and 17 to natural causes. The remaining two deaths were categorized as "unlawful homicides" (murder or manslaughter). The report did not distinguish between prisoner-instigated and guard-instigated homicides.

In 2003, a foreign fisherman died after being detained by authorities for weeks aboard a boat in the Darwin harbor. In March, the Northern Territory (N.T.) coroner found that, although the man died from natural causes, the facilities on the boat where he was held were inadequate and hampered the provision of emergency medical treatment. In December, the Government announced that it would cease its practice of detaining on their boats fishermen found illegally fishing in the country's waters.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Each of the country's six state and two territorial jurisdictions has a separate police force, which enforces state and territorial laws. The Federal Police enforce Commonwealth laws. The police forces generally do not have problems with corruption and impunity. State and territorial police forces have internal affairs units that investigate allegations of misconduct, and a civilian ombudsman's office that either can review an investigation upon request of the complainant or initiate its own inquiry into a complaint.

Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear; however, they also may arrest a person without a warrant if there are reasonable grounds to believe the person has committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest. The arrested person must be brought before a magistrate for a bail hearing at the next sitting of the court. Bail generally is available to persons facing criminal charges unless the person is considered to be a flight risk or is charged with an offense carrying a penalty of 12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees.

Unlike in past years, there were no reports of the indefinite detention, while awaiting deportation, of immigrant felons who already had completed their sentences.

In April 2003, the Federal Court of Australia ruled that continued detention of asylum seekers when there was no real likelihood of the detainee being removed was unlawful; however, in August, the High Court overturned the Federal Court decision, ruling that the Government had the authority to detain asylum seekers, including children, indefinitely (see Section 2.d.). During the year, some detainees in immigration detention facilities undertook brief hunger strikes to draw attention to their prolonged detention (see Section 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system is divided into federal, state, and territorial courts, which handle both civil and criminal matters. The highest federal court is the High Court, which exercises general appellate jurisdiction and advises on constitutional issues. State and territorial supreme, district, and county courts conduct most major criminal and civil trials, while the magistrates' and specialists' courts (such as the children's court and administrative tribunals) adjudicate less serious criminal and civil cases and conduct preliminary hearings.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In the state district or county courts and the state or territorial supreme courts, there generally is a judge and jury. The judge conducts the trial, and the jury decides on the facts and on a verdict. Defendants have the right to an attorney, and a government funded system of legal aid attorneys is available to low-income persons. The defendant's attorney can question witnesses, present evidence on the defendant's behalf, and access relevant government held evidence. Defendants enjoy the presumption of innocence and have the right to appeal the court's decision or the sentence imposed.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In December, the Victorian Civil and Administrative Tribunal upheld a 2003 complaint by the Islamic Council of Victoria (ICV) that two Christian pastors and their ministry had vilified Muslims in 2002; however, the court postponed sentencing (*see* Section 2.c.). The defendants maintained that their speech was protected under the Constitution.

The independent media were active and expressed a wide variety of views without restriction.

The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—While the right to peaceful assembly is not codified in law, citizens exercised it without government restriction.

There is no explicit right to freedom of association; however, the Government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

On January 5, anti-Semitic slogans were burned into the lawns of the Parliament House in the state of Tasmania. Police launched an investigation and a public appeal for information; however, they subsequently ended their active investigation due to a lack of sufficient evidence to make any arrests in the case.

In February, the Federal Parliament condemned racism against the Jewish community following publication of an Executive Council of Australian Jewry report that noted a large increase in anti-Semitic incidents in recent years. The parliaments of the two most populous states, New South Wales (N.S.W.) and Victoria, also passed motions condemning anti-Semitism. In the 12-month period ending September 30, the Council recorded 440 anti-Semitic incidents, a 9 percent decrease from the number recorded in the previous 12 months. The incidents ranged from property damage and/or assaults (37 reports) to harassment and offensive written and electronic media. The Council recorded an annual average of 279 incidents since reports were first compiled in 1989.

In 2003, the ICV filed a complaint under Victoria's Racial and Religious Tolerance Act against two Christian pastors and their ministry organization, who it alleged had vilified Muslims. In late 2003, the Victoria administrative tribunal rejected the defendants' argument that the case was outside the tribunal's jurisdiction. In December, the tribunal upheld the ICV's complaint, finding that the two pastors had presented media about Muslims that was "essentially hostile, demeaning and derogatory of all Muslim people. . .and Muslim religious beliefs and practices," but the judge postponed sentencing. As of year's end, the respondents had not appealed the tribunal's decision to a higher court.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

Neither the Constitution nor the law addresses exile; however, the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. The Government has established a system for providing protection to refugees sub-

ject to certain geographic and time constraints on claims by those who previously sought asylum in a safe country of transit. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government sets an annual quota on the number of protection grants it makes. In the 12 month period ending June 30, the Government granted 13,851 humanitarian class visas, which included an offshore resettlement component of 11,802 visas (for persons resettled in the country) and an onshore component of 2,049 visas (for persons already in the country who were granted asylum). The program's offshore component was made up of 4,134 refugees (including 393 grants to women found to be at risk in overseas refugee camps) and 7,668 special humanitarian grantees. Special humanitarian grantees were displaced persons subjected to gross violations of human rights, and whose applications were supported by residents or organizations based in the country. Of the total number of offshore grants, 71 percent came from Africa, 24 percent from the Middle East and Southwest Asia, 3 percent from Europe, and 2 percent from other regions.

Noncitizens arriving at a national border without prior entry authorization automatically are detained. Legal assistance is provided upon request to detainees making an initial asylum claim or application for lawful residence. Individuals may be released pending full adjudication of their asylum claim only if they meet certain criteria such as old age, ill health, or experience of torture or other trauma. However, most did not meet release criteria and were detained for the length of the asylum adjudication process. They were either released upon receiving asylum and an appropriate visa or removed once it was determined that they did not qualify for protection. The Federal Government oversaw six immigration detention facilities and one residential housing detention facility within the country. During the year, asylum seekers intercepted at sea also were housed in offshore detention centers, administered by the International Organization for Migration with funding from the Government, in Nauru and on Manus Island in Papua New Guinea. As of December, onshore detention facilities, including Christmas Island, held 951 detainees, and the offshore detention facility in Nauru held approximately 80 detainees, most of whom had been denied refugee status and were awaiting repatriation. In May, the sole remaining occupant of the Manus Island center was granted a temporary protection visa and released. The Government continued to resettle those detainees granted refugee status.

In 2001, in response to an influx of boats carrying asylum seekers, Parliament changed the law to remove retroactively the right of any noncitizen to apply for a permanent protection visa (i.e., the right to live and work permanently in the country as a refugee) if that person's entry was unlawful and occurred in one of several "excised" territories along the country's northern arc: Christmas Island, Ashmore and Cartier Islands, the Cocos Islands, and any sea or resource installation designated by the Government.

Noncitizens who arrive by boat and have their asylum claims confirmed are granted a 3 year temporary protection visa (TPV), which provides full access to medical and social services but does not authorize family reunification or allow travel abroad with reentry rights. A permanent protection visa, which gives authority for family reunification and reentry rights, may be granted to an applicant at any stage of the asylum adjudication process. Denials of asylum claims may be appealed on merit grounds to the Refugee Review Tribunal, and on grounds of legal error to the Federal Court of Australia and, in certain cases, to the High Court. The Minister for Immigration and Multicultural and Indigenous Affairs may exercise discretion and grant a visa after the asylum seeker has exhausted the review process. In July, the Minister invited 9,500 TPV holders to apply for permanent visas without requiring them to leave the country to make their applications.

Long delays in processing asylum applications were not a significant problem during the year; however, a small number of asylum seekers remained in detention, some for years, despite having exhausted the appeal process. They could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas. In July, the High Court overturned the Federal Court of Australia's 2003 ruling that the indefinite detention of asylum seekers was unlawful.

The country's immigration laws and detention policy continued to be criticized by human rights and refugee advocacy groups, which charged that the sometimes lengthy detentions violated asylum seekers' human rights.

As of July, 59 children were held in onshore immigration detention centers, and an additional 33 were held on Nauru. In April, the High Court overturned the Fam-

ily Court's 2003 ruling that, under the U.N. Convention on the Rights of the Child, Family Court jurisdiction extended to children in detention. In 2003, the Family Court had ordered that five Pakistani children should be released from detention and placed into the care of a charitable welfare group. Following the High Court's April decision, the Immigration Minister deputized the charitable group's staff as detention officers so that the children could remain in their care.

In May, the government funded, but independent, Human Rights and Equal Opportunity Commission (HREOC) published the findings of its 2 year investigation into children in immigration detention. The report concluded that the country's laws requiring child asylum seekers to be held in mandatory immigration detention breached the U.N. Convention on the Rights of the Child, to which the country is a party. The Government rejected the commission's major findings and recommendations as "unbalanced" and "backward looking."

There were no reports of the forced return of persons to countries where they feared persecution, before their asylum claims were considered and rejected. However, in 2003 and during the year, refugee, church, and human rights groups expressed concern about the Government's practices in repatriating unsuccessful asylum seekers.

The Government has agreements with a number of countries under which unsuccessful asylum claimants may be returned involuntarily to their home countries. In 2003, a church human rights and refugee advocacy group released an interim report on both voluntary and involuntary returnees; it stated that many had disappeared or died in their home country. The Government rejected the group's assertions, stating that they could not be independently verified. The group also raised its allegations during a parliamentary committee meeting in 2003; however, the committee did not respond. In September, the group raised the issue again in its final report on the country's treatment of asylum seekers. The Government agreed to consider the report; however, a government spokesperson reportedly stated that the group appeared to be repeating its 2003 claims, which the Government already had rejected.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting. In October, citizens elected a coalition of the Liberal Party and the National Party to a fourth 3 year term of office. The opposition Australian Labor Party (ALP) won all six state and territorial elections held in 2002 and 2003 and was reelected to government in Queensland and the Australian Capital Territory during the year; at year's end, the ALP controlled all eight state and territorial legislatures.

The federal, state, and territorial governments have freedom of information (FOI) laws, which provide the public with access to government information. FOI requests generally are subject to both an application and a processing fee. Federal law enables a person to access and correct inaccurate personal information held by government ministries and agencies, and to access other government information that has not been exempted to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal Administrative Appeals Tribunal (AAT); an adverse AAT decision may be appealed to the Federal Court of Australia.

There are no legal impediments to public office for women and indigenous people. Both the Government and the opposition have declared their intent to increase the numbers of women elected to public office. As of October, there were 57 women in the 226 seat Federal Parliament, 3 female ministers in the 17 member Federal Government Cabinet, and 6 female ministers in the 30 member Federal Government Ministry. There was one woman among the eight Premiers and Chief Ministers of the six states and two territories, the Chief Minister of the Northern Territory (N.T.).

Aboriginals generally were underrepresented among the political leadership (see Section 5). The sole Aboriginal Senator was not reelected in October; his term will expire on June 30, 2005. No Aboriginals were elected to the Federal Parliament during the year. In 2002, an Aboriginal woman was elected to the Tasmanian state parliament and another was elected to the N.S.W. state parliament. In 2001, an Aboriginal woman was elected to the W.A. state parliament (the first indigenous woman to be elected to a state legislature) and four Aboriginals, including a woman, were elected to the N.T. legislative assembly.

The first Chinese-born Senator was elected to the Federal Parliament in 1998, but did not run for reelection in October; his term will expire on June 30, 2005.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government in general cooperated with human rights groups.

The government funded, but independent, HREOC investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations. HREOC resolves complaints in relation to employment, provision of goods and services, access to accommodation, and inciting racial hatred. Each state and territory has its own antidiscrimination board or equal opportunity commission that also resolves complaints of discrimination. In the 12 months ending June 30, the number of discrimination complaints received by HREOC fell to 1,113, a decrease of approximately 10 percent from the 1,271 complaints received in the previous 12 month period. Approximately 51 percent of all cases were not accepted, either because they did not fall within HREOC's mandate or because no discrimination was shown. Another 38 percent were resolved through conciliation, and 10 percent were withdrawn before action could be taken.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

Federal laws prohibit discrimination based on sex, disability, race, color, descent or national or ethnic origin, marital status, or age. An independent judiciary and a network of federal, state and territorial equal opportunity offices effectively enforced the law.

*Women.*—The law prohibits violence against women, including spousal rape and abuse; however, violence against women remained a problem. In 2002, there were 17,850 victims of sexual assault recorded by the police. According to the Australian Bureau of Statistics (ABS), sexual assaults increased nearly 6 percent compared with 2001; the victims in 80 percent of the cases were female. In 2002, the sexual assault victimization rate was 91 per 100,000 persons, the highest number since statistics first were recorded in 1993. Domestic violence was particularly prevalent in Aboriginal communities.

All states and territories except W.A. have enacted legislation making it a crime to perform female genital mutilation (FGM) or to remove a child from the jurisdiction for the purpose of having FGM performed; maximum penalties range from 7 to 21 years' imprisonment. The N.S.W. Women's Minister revealed that 40 women had been treated for the effects of FGM in the 12 months ending November 30, 2003. There were no reports of new cases or prosecutions for the offense during the year.

Prostitution is legal or decriminalized in several states and territories, and the governments of Victoria, Queensland, and the Australian Capital Territory license brothels operating within their borders. However, many brothels operated illegally. In some locations, state funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to assure compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health and safety standards in illegal brothels. Trafficking in persons, primarily women from Asia, for prostitution was a limited problem (*see* Section 5, Trafficking).

The Sex Discrimination Act prohibits sexual harassment. The independent Federal Sex Discrimination Commissioner, which is part of HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women.

According to the HREOC July 2003-June 2004 annual report, sex discrimination complaints fell by 7 percent during the reporting period compared with the previous reporting period. Of the 353 new cases filed during the reporting year, women filed 86 percent and 88 percent were employment related.

The Office for Women (OFW), formerly the Office of the Status of Women, monitors women's rights and advises the Federal Government on issues affecting women. In October, the OFW published a report on domestic violence, entitled "The Cost of Domestic Violence to the Australian Economy," which found that domestic violence cost the economy \$6 billion (A\$8.1 billion) in the 12 month period from July 2002 to June 2003. The report ranked domestic violence among the top five risks to women's health.

There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

Women have equal status under the law, and the law provides for pay equity. In June, the ABS estimated that women's full-time total average weekly earnings were 82 percent of men's.

*Children.*—The Government demonstrated its strong commitment to children's rights and welfare through its publicly funded educational and medical care systems. While the structure of education varied among states and territories, all children between 6 and 15 years of age are entitled to 9 to 10 years of compulsory and free education. A 2002 ABS survey found that the full time school participation rate for 15 year olds was 92.5 percent. The Government provided universal health insurance coverage to all citizens and lawful residents from birth on a copayment basis. The Government also provided a minimum benefit of 16.8 percent of the cost of a first child's childcare to all parents (with a smaller benefit for additional children), which increased to as much as 100 percent for the lowest income families.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. The Federal Government's role in child abuse prevention is limited to funding research and education campaigns, developing an action plan against the commercial exploitation of children, and funding community based parenting programs. According to the Federal Department of Family and Community Services, the number of substantiated cases of child abuse and neglect grew approximately 43 percent from 1992 to 2002. In January, the Queensland Crime and Misconduct Commission (CMC) issued a report on its investigation into allegations of mismanagement within the state children's services department and neglect of foster children placed by the department. It found that the allegations were substantiated and called for the creation of a separate child safety administration. The Queensland government accepted all of the CMC report's recommendations and announced a \$115 million (A\$154 million) budget increase to implement the recommendations.

The Government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The Child Sex Tourism Act prohibits child sex tourism and related offenses for the country's residents and citizens overseas and provides for a maximum sentence of 17 years' imprisonment upon conviction. Since 1994, 19 persons have been charged under the act; as of December 10, there were 13 convictions, 3 dismissals, and 3 ongoing cases. During the year, the Government continued its awareness campaign to deter child sex tourism, through the distribution of materials to citizens and residents traveling overseas. Child protection NGOs raised community awareness of child trafficking. There were no reports of children being trafficked into the country during the year (see Section 5, Trafficking).

The practice of parents unlawfully sterilizing children with disabilities was a continuing problem. The High Court has determined that physicians who sterilized a child without authorization from the federal Family Court would be subject to criminal and civil action. In 2002, a report into the sterilization of girls and young women with disabilities, commissioned by the federal Sex Discrimination Commissioner, found that the official data were unreliable and that anecdotal evidence suggested that girls continued to be sterilized in numbers that far exceeded the number of lawful authorizations.

In April, the High Court overturned a 2003 ruling by the Family Court that the Family Court's jurisdiction extended to children in immigration detention facilities (see Section 2.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons, but the country continued to be a destination for some trafficked women in the sex industry.

Legislation enacted in 1999 targets criminal practices associated with trafficking, and other laws address smuggling of migrants. Under the Federal Migration Act, smuggling of persons in all forms is prohibited and carries a maximum penalty of 20 years' imprisonment. The 2001 Border Protection Act authorizes the boarding and searching in international waters of vessels suspected of smuggling or trafficking in persons. In 2002, the Commonwealth Criminal Code was modified to provide for sentences of up to 20 years' imprisonment for "people smuggling" aggravated by exploitation. Under the Commonwealth Criminal Code, conduct that amounts to slavery, or exercising a power of ownership over another person, carries a maximum penalty of 25 years' imprisonment. Under the Child Sex Tourism Act, it is an offense for citizens or residents to travel abroad to engage in sex with minors under 16 years of age (see Section 5, Children).

In 2003, 10 persons appeared in court on trafficking in persons offenses in 3 separate cases, but the court had not issued its decisions in the cases as of year's end. During the year, four additional persons were charged with trafficking in persons offenses in two separate cases; both cases were pending at year's end.

The Department of Immigration and Multicultural and Indigenous Affairs, the Australian Customs Service, and the AFP have lead roles in combating trafficking in persons. The AFP's Transnational Sexual Exploitation and Trafficking Team, a 23 member mobile strike force established under the Government's 2003 national action plan for eradicating trafficking in persons, is responsible for investigating trafficking syndicates operating in the country and abroad. State police forces worked closely with the AFP to develop a comprehensive policing strategy to counter the crime of trafficking in persons.

Some women, primarily from China and Southeast Asia, were brought into the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. Many of these women traveled to the country voluntarily to work in both legal and illegal brothels, but some reportedly were deceived or coerced into debt bondage or sexual servitude. Authorities believed that sex trafficking networks were composed primarily of individual operators or small crime groups that often relied on larger organized crime groups to procure fraudulent documentation for the trafficked women. In June, a federal parliamentary committee issued a report on its yearlong inquiry into the national criminal intelligence agency's response to sex trafficking and the adequacy of federal antitrafficking laws. The report recommended that the Government broaden the criminal code to include non-sexual forms of compulsory labor and hasten its ratification of the U.N.'s trafficking protocol. The report noted wide variations in NGO estimates of the number of trafficked women; while it was unable to provide definitive numbers, the report estimated that a "relatively small" number among an estimated 300 women who travel to the country for work in the sex industry each year were subjected to sexual servitude. In response to the report, the Government restated its commitment to eradicate sex trafficking and take action on the report's recommendations.

In 2002, the Government established the position of Ambassador for People Smuggling Issues, with responsibility for promoting a coherent and effective international approach to combating trafficking in persons (particularly in the Asia Pacific region), assisting in the negotiation of international agreements for the return and resettlement of persons brought illegally into the country, and working for the prosecution of traffickers in persons. The Ambassador coordinates the country's participation in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, which Australia and Indonesia jointly established in 2002. In 2003, the Government signed antitrafficking agreements with Cambodia, Burma, Laos, and Thailand to improve international cooperation and police investigations of trafficking syndicates. The Government also funded awareness campaigns in source countries. In 2003, the Government also began funding the \$6.4 million (A\$8.5 million) Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries Thailand, Laos, Burma, and Cambodia the project focused on strengthening the criminal justice process to combat trafficking in persons.

In October 2003, the Government launched its national Action Plan to Eradicate Trafficking in Persons, which included additional antitrafficking legislation, enhanced cooperation among other countries and state and local law enforcement authorities, new visa procedures to facilitate the cooperation of trafficking victims with law enforcement personnel, and additional social services for victims. The Government also took significant steps to improve efforts by police and immigration officials to distinguish trafficking victims from illegal migrants and to provide victims with assistance, including counseling and temporary shelter. Victims willing to cooperate with authorities to investigate and prosecute traffickers qualify for a temporary visa and a range of social services.

Within the country, the Government began an awareness campaign targeting the sex industry and the community at large and widely publicized criminal cases against traffickers.

There were no NGOs devoted solely to trafficking victims. Nonetheless, assistance was available through NGOs that ran shelters for women and youth; sex worker organizations; the NGO Project Respect, which assisted women to escape prostitution and combated sex trafficking of women; and Childwise, which campaigned against the commercial sexual exploitation of children in the country and through sex tourism overseas. Some NGOs received government funding; others were funded privately. Local NGOs and the press were instrumental in bringing to the authorities' attention the presence of illegal migrant women and girls in brothels and massage parlors, and raising public awareness of the problem.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment; education; access to premises; provisions of goods, services (including health services), and facilities; accommodation; purchase of land; activities of clubs and associations; sport; and the administration of federal laws and programs, and the Government effectively enforced the law. The Disability Discrimination Commissioner, which is part of HREOC, promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The Commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities. The law also provides for mediation by HREOC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

The 2004 HREOC report stated that 483 disability complaints were filed during the July 2003-June 2004 reporting year, including 201 complaints of discrimination based on physical disability, 122 complaints of discrimination based on psychiatric disability, and 33 complaints based on learning disabilities. Of these, 54 percent were employment related and 25 percent concerned the provision of goods and services. The practice of parents unlawfully sterilizing children with disabilities was a continuing problem (see Section 5, Children).

*National/Racial/Ethnic Minorities.*—Although Asians comprised less than 5 percent of the population, they made up approximately 40 percent of new immigrants. A marked increase in unauthorized arrivals by boat from the Middle East from 1998 to 2001 heightened public concern that “queue jumpers” and alien smugglers were abusing the country’s refugee program. Leaders in the ethnic and immigrant communities continued to express concern that increased numbers of illegal arrivals and violence at migrant detention centers had contributed to incidents of vilification of immigrants and minorities.

Between February and July, several Asian businesses and a synagogue in W.A.’s capital city of Perth were firebombed or sprayed with racist graffiti. The attacks were widely condemned by political, religious, and community leaders. In August, a Perth court convicted three men, two of whom were associated with the Australian Nationalist Movement (ANM), a neo-Nazi group, for their roles in the attacks; the two ANM associates were sentenced to jail terms of 7 and 10 months respectively, and the third man received a suspended 6-month sentence. That same month, the ANM leader and suspected instigator of the attacks was arrested and charged with criminal damage to cause arson; the case was still pending at year’s end.

According to the 2004 HREOC annual report, the number of racial discrimination complaints fell by 13 percent during the reporting year. Of 159 reported cases, 42 percent involved employment; 20 percent involved provision of goods, services, and facilities; and 19 percent alleged “racial hatred.” Persons born outside the country filed 64 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 32 percent.

*Indigenous People.*—Since 1990, Aboriginals and Torres Strait Islanders have been able to participate in government decisionmaking through the Aboriginal and Torres Straits Islander Commission (ATSIC). In 2002, indigenous people elected 380 representatives to 35 regional councils and the Torres Strait Regional Authority in triennial elections. These representatives in turn choose 18 commissioners, who make up the ATSIC Board. The 2002 election had the highest voter participation since elections were first held in 1990.

In 2002, in response to continued claims of corrupt dealings by ATSIC board members, the Government initiated a review of ATSIC’s functions and operations. In November 2003, the review body issued its final report, which recommended replacing the 18 member ATSIC board with a 10 member ATSIC national executive body, with 8 members elected from among the chairs of 35 regional councils and 2 government appointed members.

In July 2003, faced with several allegations of improper behavior, ATSIC’s Deputy Chairman resigned, and the Minister for Indigenous Affairs suspended the Chairman in August 2003. The Commission elected an ATSIC Regional Councillor as Acting Chairman. In December 2003, the Chairman was found guilty on appeal of obstructing police during a pub brawl in Victoria and fined \$564 (A\$750). The ATSIC board unanimously called on the Government to lift the Chairman’s suspension immediately on the ground that his conviction did not warrant his dismissal. The Minister for Indigenous Affairs indicated that the Government would not reinstate the Chairman, since it intended to abolish ATSIC. In August, the Federal Court ruled that the Government acted unlawfully when it suspended the Chairman, and the ATSIC board reelected him. The Government indicated that it would appeal the court’s decision but had not done so by year’s end.

On July 1, the Government transferred ATSIC's functions to federal civil service departments, and on November 6, it established the National Indigenous Council, a government appointed 14-person advisory council, to replace ATSIC. However, by year's end, Parliament had not passed the Government's bill to abolish ATSIC; instead, the Senate initiated an inquiry to examine the administration of indigenous affairs, with a report scheduled for 2005. Also during the year, the ATSIC board took measures to mount a court challenge to the Government's administrative dissolution of ATSIC.

While some Aboriginal groups claimed that the Government's attempt to abolish ATSIC was an attempt to silence its indigenous critics, other Aboriginal groups welcomed the move as an attempt to refocus the domestic indigenous policy debate on improving health and social conditions and away from ATSIC's leadership team, which they viewed as impeding ATSIC's effectiveness.

The Government's approach toward Aboriginals emphasized a "practical reconciliation" aimed at raising the health, education, and living standards of indigenous people. A wide variety of government initiatives and programs sought to improve all aspects of Aboriginal and Torres Straits Islander life. In 2003-04, the Government spent approximately \$195 million (A\$260 million) on the indigenous-specific community housing and infrastructure program; a further \$347 million (A\$462 million) on indigenous education and training programs; \$278 million (A\$371 million) on indigenous-specific health services; and \$79 million (A\$105 million) on indigenous employment programs. However, indigenous citizens continued to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, higher levels of unemployment, and general discrimination, which contributed to a feeling of powerlessness. Poverty and below average educational achievement levels contributed significantly to Aboriginal underrepresentation in national, territorial, and state political leadership (see Section 3).

According to a joint ABS and Australian Institute of Health and Welfare study released in 2003, the life expectancy of an indigenous person remained 20 years less than that of a non indigenous person, and the indigenous infant mortality rate was 2.5 times the rates found in non indigenous populations. In 2001, reported rates of tuberculosis and hepatitis A and B among indigenous people were, respectively, 3.7 times greater, 4.3 times greater, and 3.6 times greater than rates among the non indigenous. According to the Department of Family and Community Services, indigenous youth were 2.5 times more likely than non indigenous youth to leave school before graduation. The ATSIC 2002-03 annual report highlighted findings in a 2001 report that 37 percent of indigenous students did not achieve a grade 5 mathematical competency benchmark, and 33 percent of indigenous students in grade 5 were below the national reading benchmark, compared with 10 percent of the non indigenous population against both benchmarks. The ATSIC report also noted that poor access to labor markets contributed to the high indigenous unemployment rate, which was 20 percent in 2001, almost 3 times greater than the non indigenous unemployment rate. Unemployment rose to over 34 percent when indigenous persons given employment as part of government assisted employment programs were included.

Although Aboriginal adults represented only 2.2 percent of the adult population, according to the ABS they accounted for approximately 20 percent of the total prison population and were imprisoned at 15 times the rate of non indigenous people as of June 2002. More than 45 percent of Aboriginal men between the ages of 20 and 30 years had been arrested at some time in their lives. In 2001, Aboriginal juveniles accounted for 55 percent of those between the ages of 10 to 17 in juvenile correctional institutions. Human rights observers noted that socioeconomic conditions gave rise to the common precursors of indigenous crime, including unemployment, homelessness, and boredom.

Indigenous groups charged that police harassment of indigenous people, including juveniles, was pervasive and that racial discrimination by police and prison custodians persisted. Human rights groups and indigenous people alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of unofficial yet systemic discrimination.

On February 15, police in the Sydney suburb of Redfern clashed with a group of Aboriginals angered by the death of a 17 year old Aboriginal youth from injuries incurred in a bicycling accident the previous day. Rioters threw bricks, bottles, and Molotov cocktails at police during the 9-hour melee, injuring approximately 40 officers. The youth's parents alleged that police were harassing him at the time of the accident; police responded that they were not chasing the youth when the accident occurred but were in the area looking for another person who was a suspect in a robbery. The police arrested 11 persons for acts committed during the incident. In

August, a coroner's investigation cleared police of any involvement in the youth's death.

On November 26, hundreds of residents on Queensland's Palm Island rioted after government officials released the postmortem results on a 36 year-old indigenous man who had died in police custody after being detained for public drunkenness. The rioters destroyed the island's police station and courthouse. The postmortem results showed that the man had suffered a ruptured liver, internal bleeding, and broken ribs; the police reported that the detainee sustained the injuries during a scuffle with a police officer and a fall onto concrete steps. The coroner's report had cleared the police of responsibility in the man's death; however, the Queensland government commissioned the Crime and Misconduct Commission to investigate the case.

A 2002 W.A. inquiry into family violence and sexual abuse found that indigenous women in W.A. accounted for as many as 50 percent of all domestic violence incidents although they constituted less than 3 percent of the population. Indigenous women were 45 times more likely to be victims of violence than non indigenous women and 10 times more likely to die as a result. In May 2003, prominent indigenous leader and former Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Dodson highlighted the prevalence of domestic violence in indigenous communities and called upon indigenous men to be more accountable for the problem. In the 12 months ending June 30, the Federal Government spent approximately \$4.5 million (A\$6 million) to support 13 Family Violence Prevention Legal Service Centers in remote areas and 39 Regional Family Violence Prevention Programs. In July 2003, the federal and state governments launched a multifaceted action plan to tackle indigenous violence and announced seven priority areas for government funding, including reducing alcohol and substance abuse, increasing child safety and well being, creating safe places in the community, and promoting shared leadership. During the year, the Government allocated \$90 million (A\$120 million) over 4 years to combating child abuse and family violence in indigenous communities. A 2001 Northern Queensland study into indigenous violence found that 70 to 90 percent of all assaults were committed under the influence of alcohol or drugs. In August 2003, the Government allocated \$7.9 million (A\$10.5 million) over 4 years to help divert Aboriginals and Torres Strait Islanders from alcohol and drug abuse and \$4.6 million (A\$6.1 million) for NGO indigenous treatment programs.

In 1998, the Government established a national network of Link Up offices to provide family tracing, reunion, and other support to indigenous families separated as a result of past government practices. In the 12 months ending June 30, the Government spent \$2.8 million (A\$3.7 million) on family tracing and reunion services.

The National Native Title Tribunal resolves native land title applications through mediation. The tribunal also acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. In 2002, ATSIC noted that the 1993 Native Title Act, as amended in 1998, provided gains for Aboriginal people but still did not address adequately the needs of native title claimants. Aboriginal leaders were pleased by the removal of a time limit for lodging native title claims but expressed deep concern about the weakening of Aboriginal rights to negotiate with non Aboriginal leaseholders over the development of rural property. Aboriginal groups continued to express concern that the amended act limited the future ability of Aboriginal people to protect their property rights. In 2002, the High Court ruled that native title rights did not extend to mineral or petroleum resources and that, in cases where leasehold rights and native title rights were in conflict, leaseholder rights prevailed.

The \$970 million (A\$1,290 million) indigenous land fund is a special account that provides an ongoing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

The NGO Aboriginal Tent Embassy in Canberra was set up in a small structure on public land opposite the Old Parliament building over 30 years ago and worked to publicize Aboriginal grievances. The tent embassy, which also encompassed an itinerants' camp, still existed at year's end, despite fire damage in 2003 and again in August and continued efforts to relocate it by the Government and some local indigenous groups, who asserted that it was not representative of the entire indigenous community. Other Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as AI, also monitored and reported on indigenous issues and rights.

*Other Societal Abuses and Discrimination.*—In December 2003, the N.S.W. Government released a study of violence against homosexuals, which found that more

than half of the survey participants had experienced one or more forms of abuse, harassment, or violence in the previous 12 months. The report also found that two or more persons who were unknown to the victim perpetrated most incidents of harassment or violence and that homosexuals of Middle Eastern background suffered exclusion, assaults, and stalking from family or community members.

Federal and various state laws prohibit discrimination on the grounds of HIV positive status. In the 12 months ending June 30, there were no discrimination complaints lodged with the federal Disability Discrimination Commissioner, which is part of HREOC, on the grounds of HIV/AIDS status. In 2002, a La Trobe University study of HIV positive persons found that 37.7 percent received less favorable access to health services. The study also found that 22.1 percent received less favorable treatment regarding insurance, and 11.1 percent received less favorable treatment regarding accommodation.

In June, the Government enacted the Age Discrimination Act, which makes it unlawful to discriminate against persons because of their age in the areas of employment, education, accommodation, provision of services (including health services, insurance, and pensions), and the administration of federal laws and programs. The Government exempted the following areas from the law: Federal laws governing taxation, social security, migration, and private pensions; state laws; certain health programs; and youth wages or compliance with enterprise agreements and employment contracts. In June, the Government appointed the Sex Discrimination Commissioner as acting Age Discrimination Commissioner.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers, including public servants, the right of association domestically and internationally and protection against anti-union discrimination, and workers exercised these rights in practice. A 2003 ABS survey indicated that union membership had remained constant over the previous 12 months at 23 percent of the workforce.

Unions carried out their functions free from government or political control.

The 1996 Federal Workplace Relations Act (WRA) contains curbs on union power, restrictions on strikes (*see* Section 6.b.), and limits on redress and compensation claims by dismissed employees. The umbrella trade union organization, the Australian Council of Trade Unions (ACTU), has objected to the law, alleging that it violates the right to assembly provided for in several ILO conventions that the Government has signed, including ILO Convention 87 on the Freedom of Association and Protection of the Right to Organize. The primary curb on union power is the abolition of closed shops and union demarcations. This provision in theory could create many small and competing unions at the enterprise level, but thus far there have been few changes in existing union structures.

*b. The Right to Organize and Bargain Collectively.*—Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Since passage of the WRA in 1996, negotiation of contracts covering wages and working conditions shifted from the centralized awards system of the past to enterprise level agreements certified by the Australian Industrial Relations Commission (AIRC). The WRA provides that the AIRC may certify multibusiness agreements only if they are in the “public interest.” In the 12 month period ending June 30, the AIRC certified 8,549 enterprise agreements, an increase of 31 percent from the number certified in the previous 12 months. The WRA also provides for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which are subject to fewer government regulations than awards or enterprise bargaining agreements; however, AWAs must improve upon the basic working conditions contained in a relevant same-sector award. The Office of the Employment Advocate received notification of 150,170 AWAs during the July 2003-June 2004 reporting period, an increase of 30 percent compared with the previous reporting period. Of the 546,885 AWAs made in the past 7 years, more than 35 percent were in retail trade, property and business services, and manufacturing industries.

Federal law first recognized an implicit right to strike in 1994. The WRA significantly restricts this right; it subjects strikers to heavy fines for taking industrial action during the life of an agreement and contains tougher secondary boycott provisions. The WRA confines strikes to the period when unions are negotiating a new enterprise agreement and specifies that strikes must concern matters under negotiation. This is known as “protected action.” Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. In 1999, a union successfully challenged the WRA’s restriction on strike action in federal court. The court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because the action was in

support of maintaining existing wages and conditions. The upper house of Parliament has rejected on many occasions the Government's proposed changes to the Trade Practices Act, which would provide companies with resort to legal action if they were subject to secondary boycotts.

During the year, there were no national strikes of significance, but there were short localized strikes by health care professionals, transport workers, customs officers, and construction workers. The Bureau of Statistics reported 716 industrial disputes for the 12 months ending June 30, an increase of nearly 2 percent from the previous year; during the same period, total workdays lost due to strikes rose by 125 percent to 550,900.

During the year, the ACTU continued its efforts to increase the minimum wage, protect employee entitlements in the face of numerous company collapses, and extend family friendly policies in the workplace. Throughout the year, unions continued a successful campaign for paid maternity leave provisions in many collective agreements.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not explicitly prohibit forced or compulsory labor, including by children; however, there were no reports that such practices occurred. Trafficking in women was a limited problem (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There is no federally mandated minimum age of employment, but state imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network of laws, which varied from state to state, governing the minimum school leaving age (see Section 5), the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. The ACTU also monitored adherence to these laws.

*e. Acceptable Conditions of Work.*—Although a formal minimum wage exists, it has not been directly relevant in wage agreements since the 1960s, since most workers received higher wages through enterprise agreements or individual contracts. In May, the AIRC increased the federal minimum award wage by \$14.30 (A\$19) to \$351 (A\$467.40) per week. Differing minimum wages for individual trades and professions covered approximately 80 percent of all workers; all rates provided a decent standard of living for a worker and family.

Most workers were employees of incorporated organizations. A complex body of applicable government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribe a 40 hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working hours, and conditions are set by a series of "awards" (basic contracts for individual industries). In 2002, the AIRC refused the ACTU's request to set a standard for "reasonable working hours" but allowed workers to refuse without penalty to work "unreasonable" overtime.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. In 2001, there were 2.1 million persons (27 percent of the workforce) employed as casual or temporary workers, even though government statistics indicated that over 50 percent had been employed in the same job for over 12 months, and 67 percent worked regular hours. Such employees were not entitled to certain employment benefits such as sick leave or annual leave but were paid at a higher hourly wage rate.

Federal or state occupational health and safety laws apply to every workplace. The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum, private sector employees have recourse to state health and safety commissions, which investigate complaints and demand remedial action.

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. Past reports of abuse of foreign workers generally involved permanent residents who performed work in their homes in the clothing and construction industries. There were no such reports during the year.

There were no reports of worker rights abuses in any of the country's five dependent territories of Macquarie and Heard Islands, Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

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## BRUNEI

Brunei Darussalam is a small, wealthy, Islamic country ruled by the same family for over 600 years. A British Protectorate from 1888, it became fully independent and sovereign in 1984. After a failed rebellion in 1962, the then Sultan invoked an article of the Constitution that allowed him to assume emergency powers for 2 years. These powers were renewed regularly, most recently in March under the present ruler, Sultan Haji Hassanal Bolkiah. The state of emergency places few limits on the Sultan's power. In September, the Sultan named an appointed Legislative Council, an institution that had been suspended for 20 years. The council was expected to have a limited role in recommending and approving legislation. The Sultan also served as Prime Minister, Minister of Defense, Minister of Finance, Chancellor of the national university, Superintendent General of the Royal Brunei Police Force, and Head of the Islamic faith. The Constitution does not specifically provide for an independent judiciary, and the Sultan appoints all higher court judges and has the authority to remove them, although he has never done so. The courts appeared to act independently.

The police force and an Internal Security Department (ISD) are responsible for law enforcement and maintenance of order. The Sultan maintained control over both. There were no reports that security forces committed human rights abuses.

The country's large oil and natural gas reserves, coupled with its population of 358,000, gave it a per capita gross domestic product of approximately \$13,300. The Government used its substantial oil and gas revenues and investment income to provide its citizens a wide range of services and benefits that included free schooling and medical care, subsidized housing, and jobs. During the year, the non-oil and gas component of the economy suffered its 6th year of stagnation. Foreign workers made up approximately 40 percent of the labor force.

There were problems in the Government's human rights record, particularly in the area of civil liberties; however, there was some improvement in government transparency and tentative steps toward a more representative government. Citizens did not have the right to change the government, and they generally avoided political activity of any kind because of the official atmosphere of disapproval concerning such activities. Citizens did not exercise freedom of speech, freedom of press, freedom of assembly, or freedom of association. The Government used the Internal Security Act (ISA) to detain persons. Other human rights problems continued, including restrictions on religious freedom. Occasional spousal violence against women remained a concern, although the Government addressed the matter at many levels. Discrimination against women was a problem. Labor rights were circumscribed, and foreign workers sometimes were subjected to exploitation, although the Government took steps to protect foreign workers and began limited prosecution of errant employers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 drug related and other criminal offenses, and it was included as part of the sentence in 80 percent of criminal convictions. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons. Prison conditions generally met international standards. Juveniles typically served their sentences in adult detention centers, but several young offenders were housed at a government rehabilitation center. During the year, construction continued on a second rehabilitation facility for young offenders. Male and female offenders were housed separately. Prisoners received regular medical checkups. Detention cells at police stations were Spartan.

There were no reports that human rights monitors requested prison visits; however, foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

*d. Arbitrary Arrest or Detention.*—The law provides for a prompt judicial determination regarding the validity of an arrest. However, those provisions, like the Constitution itself, may be partially or wholly superseded through invocation of the emergency powers. The ISA permits the Government to detain suspects without trial for renewable 2-year periods. ISA detainees are denied the right to a trial and legal counsel, and they are not presumed to be innocent. In the past, information on detainees was made public only after their release. During the year, all ISA arrests were publicly announced.

The police force and the ISD are under the direct control of the Prime Minister's Office. Both groups were considered free of major corrupt practices; however, there were reports of petty corruption among traffic police. Unlike in previous years, there were no prosecutions of police or ISD members for corrupt or criminal acts.

Normally a magistrate must endorse a warrant for arrest. On rare occasions, warrants are issued without this endorsement, such as when police are unable to obtain the endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make arrests, without warrants, of persons caught in the physical act of committing a crime.

In February, the Government detained 16 persons under the ISA for involvement in a counterfeit ring. In March, the Government detained three persons—Major (Retired) Haji Muslim bin Haji Awang Tengah; Noordin bin Haji Ahmed Noor, a former senior police officer; and Haji Abdul Radzak bin Haji Awang Damit, a businessman—under the ISA for treason and “subversive actions, detrimental to the country's security.” The Government did not bring formal charges against the three, but a press release accused Noordin of selling and leaking government secrets to an unnamed foreign country. Major Muslim was accused of leaking government secrets to Haji Abdul Radzak, who used the information in a local Internet forum.

On July 10, authorities released six individuals who had been detained under the ISA since September 2003 for suspected association with Al-Arqam, a banned Muslim organization. Government officials maintained that the detentions had been for security rather than religious reasons (*see* Section 2.c.).

*e. Denial of Fair Public Trial.*—The Government used the ISA to detain without trial three persons it accused of treason and subversion (*see* Section 1.d.). It used the same act to detain 16 individuals for a major counterfeiting offense that it said could have destabilized the country's economy.

The Constitution does not provide specifically for an independent judiciary, but the courts appeared to act independently, and there were no known instances of government interference with the judiciary. All higher court judges are appointed by and serve at the pleasure of the Sultan.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London. Procedural safeguards include the right to defense counsel, an interpreter, a speedy trial, and to confront accusers. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. Such defendants may act as their own lawyers in court.

The secular law, based on English common law, provides citizens with a fair and efficient judicial process. Shari'a (Islamic law) supersedes secular law for Muslims in some areas, including divorce, inheritance, and some sexual crimes. Shari'a is not applied to non-Muslims. During the year, lawyers trained in both secular law and Shari'a continued to work on a proposed alignment of the country's two legal systems into a single, comprehensive legal code. A law society, or bar association, to promote lawyers' public accountability was established in July 2003, but it did not convene during the year.

The law lacks provisions to allow companies or individuals to sue the Government, which traditionally resolves disputes with generous, non negotiable settlements or in some cases simply refuses to settle.

There were no reports of political prisoners, but information on possible detainees was very difficult to obtain.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law permits government intrusion into the privacy of individual persons, families, and homes. Shari'a permits enforcement of “khalwat,” an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or other close male relative. There were numerous reports of religious enforcement officers entering homes, buildings, and vehicles to detain suspects.

The Government monitored the private e-mail and Internet chat room exchanges of citizens that it believed to be subversive. The Government employed an informer system as part of its internal security apparatus to monitor suspected dissidents.

Members of the civil service, the country's main employer, were prohibited from joining political parties (*see* Section 2.b.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Under the emergency powers in effect since 1962, the Government significantly restricted freedom of speech and freedom of the press. Constitutional amendments adopted during the year allow members of the newly appointed Legislative Council to “speak their opinions freely,” but they are prohibited from using language or exhibiting behavior deemed to be “irresponsible, derogatory, scandalous or injurious,” and they may be disqualified for “disloyalty” to the Sultan among other offenses.

In 2001, legislation that codified existing practice further reduced press freedom. Among other restrictions, it requires local newspapers to obtain operating licenses and prior government approval of foreign editorial staff, journalists, and printers. The law also gives the Government the right to bar distribution of foreign publications, and it requires distributors of foreign publications to obtain a government permit. The law allows the Government to close a newspaper without prior notice or showing cause. Journalists deemed to have published or written “false and malicious” reports can be subjected to fines or prison sentences.

Prior to the promulgation of the 2001 legislation, foreign newspapers or magazines with articles that were found to be objectionable, embarrassing, or critical of the Sultan, the royal family, or the Government were not allowed into the country at times. Magazine articles with a Christian theme reportedly were censored (*see* Section 2.c.). However, the growing access to fax machines, the Internet, and satellite transmissions made it increasingly difficult to keep such material from entering the country.

The country's largest circulation daily newspaper, the Borneo Bulletin, practiced self-censorship in its choice of topics to avoid angering the Government. However, letters to the editor often included comments critical of the Government's handling of certain social, economic, and environmental issues. On occasion, the Government responded to public opinion on some issues concerning social or environmental problems. There was a Malay-language newspaper, the Media Permata, that circulated approximately 5,000 copies. There also were several Chinese language newspapers.

Although the Government owned the country's only television station, three Malaysian television channels were available. Two satellite television networks also were available and offered a total of 28 different channels, including the Cable News Network, the British Broadcasting Corporation World News, and several entertainment and sports channels.

The Government's tolerance of political criticism was not tested because there was no organized opposition. In the past, the Government has arrested those who attempted to propagate unwelcome political views. The Borneo Bulletin continued to heed advice from the police not to publish any reports about the activities of the Consumers' Association of Brunei, a quasi-human rights organization (*see* Section 4).

After the detention of two persons involved in disseminating on a locally hosted Internet forum criticism of the Government and the royal family deemed “subversive” by the Government, fear of government surveillance reduced the number of visitors to the few existing forums. The Government also was believed to have periodically blocked access to at least one forum hosted outside the country, although a fourth forum opened early in the year. The country's primary Internet service provider was state owned.

The Government generally respected academic freedom; however, some researchers chose to publish from overseas and under a pseudonym when they perceived that subject matter pertaining to the country would not be well received. There were no politically oriented student associations.

*b. Freedom of Peaceful Assembly and Association.*—Under the emergency powers in effect since 1962, the Government significantly restricted the right to assemble. Freedom to assemble for political purposes was not tested during the year.

Political parties are allowed, but they may not engage in “activities that endanger people.” Civil servants and security force personnel, who together made up 60 percent of all employed citizens, are not permitted to join political parties. There were two registered parties in the country, the Brunei Solidarity National Party (PPKB) and the Brunei People's Awareness Party (PAKAR). Both parties pledged their support to the Sultan and the system of government, although they criticized administrative deficiencies. During the year, the parties largely were inactive, their few activities often went unpublicized, and they were hindered by membership restric-

tions. However, several members and former members of political parties were consulted informally about the program of the resumed Legislative Council.

The few nongovernmental organizations (NGOs) were based locally and generally were professional, business, or social associations. An NGO seeking to operate in the country is required to apply for permission under the Companies Act and provide a list of members. The Government continued to restrict the activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibit Muslims from joining these organizations.

*c. Freedom of Religion.*—The Constitution states, “The religion of Brunei Darussalam shall be the Muslim religion according to the Shafi'i sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam.” The Government controlled mosques, and the Ministry of Religious Affairs prepared the weekly Friday sermons delivered in mosques countrywide. In 1993, the Government participated in issuing the Kuala Lumpur Declaration, which affirms the right of all persons to a wide range of human rights, including freedom of religion. However, the Government restricted the practice of non-Islamic religions and of non-Shafi'i Islamic groups.

The Government reinforced the legitimacy of the hereditary monarchy and the observance of traditional and Islamic values through a national ideology known as the Melayu Islam Beraja, or “Malay Muslim Monarchy.” Constitutional provisions allow for the full and unconstrained exercise of religious freedom; however, the Government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing; occasionally denying entry to foreign clergy or particular priests, bishops, or ministers; banning the importation of religious teaching materials or scriptures such as the Bible; and denying requests to expand or build new churches, temples, and shrines. There has been a Catholic apostolic prefecture in the country since 1998 headed by an ethnic Chinese Bruneian Prefect. While not permitted to build new premises, Christian churches were given permission to repair and expand premises on safety grounds. All non-Shafi'i religious groups are required to register as associations under the Societies Act, but in 2003 two Christian groups were denied permission to register, which is required by law for a group to worship communally. An organization that fails to register can face charges of unlawful assembly. Only Islamic groups belonging to the Shafi'i school are permitted to organize public religious processions; however, during the year, a limited number of public lion dances to celebrate the Chinese Lunar New Year were allowed.

Muslims who wished to change or renounce their religion faced considerable difficulties. Born Muslims faced official and societal pressure not to leave Islam. Permission from the Ministry of Religious Affairs must be obtained, and there were no reports of anyone requesting such permission. During the year, there were instances of persons, often foreign women, who converted to Islam as a prelude to marrying Muslims, as required by the country's Islamic law. If the marriages took place, these women faced intense official pressure not to return to their former religions or encountered extraordinary delays in obtaining permission to do so. There were cases of divorced Muslim converts who, because of official and societal pressure, remained officially Muslim.

The Government investigated and used its internal security apparatus—including such measures as surveillance, investigation, and detention—against persons whom it considered to be purveyors of radical Islam, non-Muslims who attempted to proselytize, and religious groups that did not belong to the official religion. It has banned the Baha'i faith and the Islamist Al-Arqam movement and detained a number of the latter's followers. In July, the Government released six members of the movement who had been detained since September 2003. Before their release, the six underwent several months of “rehabilitation,” which entailed physical and psychological pressure, public renunciations, and re-education. A seventh man, Mohammed Ashadi Haji Sulaiman, who had been arrested later than the six, remained in detention at year's end. Unlike in previous years, the Government did not detain evangelical Christians for alleged subversive activities.

Non-Muslims who proselytize may be arrested or detained and held without charges for an extended period of time.

During the year, the Government continued work on a proposed alignment to combine the country's secular law and Shari'a into a single, comprehensive legal code. The authorities enforced some Shari'a regulations and in April arrested 46 Muslims for not performing Friday prayers. Thirty-two of those arrested were foreigners. The offenders were fined and later released. There was a marked increase

in arrests for other offenses under Shari'a, such as "khalwat" and consumption of alcohol.

During the year, the Government routinely censored magazine articles on other faiths by blacking out or removing photographs of crucifixes and other Christian religious symbols. In addition, government officials prevented the public display, distribution, and sale of items featuring non-Islamic religious symbols.

The Ministry of Education requires courses on Islam or the national ideology, the Malay Muslim Monarchy, and prohibits the teaching of other religions. The Ministry requires that all students, including non-Muslims, follow a course of study on the Islamic faith and learn Arabic script. The International School of Brunei and the Jerudong International School were exempt from these requirements. Private Christian schools are not allowed to give Christian instruction and are required to give instruction on Islam. However, the Government did not prohibit or restrict parents from giving religious instruction to children in their own homes.

The Government requires residents to carry an identity card that states the bearer's religion. Visitors to the country are asked to identify their religion on their landing cards.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government restricts the movement of former political prisoners during the first year of their release. Generally, the Government does not restrict the freedom of movement of citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad, which was granted routinely.

Under a colonial-era law, the Sultan may forcibly exile, either permanently or temporarily, any person deemed to be a threat to the safety, peace, or welfare of the country. However, since independence there have been no cases of banishment of citizens.

The country is not party to the 1951 Convention on the status of refugees or the 1967 Protocol relating to the status of refugees. No legal provision exists for granting temporary refuge or refugee status to those seeking such refuge or asylum. Under the law, persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. There were no reported cases of individuals seeking temporary refuge during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens did not have the right to change their government peacefully, and civil servants are not permitted to join political parties. In September, the Sultan named a fully appointed Legislative Council, which he revived after a 20-year suspension. However, the Council had no powers independent of the Sultan. Political authority and control rested entirely with the Sultan, while the Council provided a forum for public discussion of proposed government programs as well as administrative deficiencies. Members of the Sultan's appointed Cabinet served as his principal advisors.

Individuals sought to express their views or to influence government decisions and policies by posting messages to Internet discussion boards, writing letters to local newspapers, and petitioning the Sultan or handing him letters when he appeared in public (see Section 2.a.).

The country has attempted, with limited success, to institutionalize a form of popular representation based on a traditional system of village chiefs elected by secret ballot by all adults. Candidates must be approved by the Government and must be Malay or of a recognized indigenous race. These leaders are expected to communicate constituents' wishes through a variety of channels, including periodic meetings, chaired by the Home Affairs Minister, with several officials appointed by the Sultan. Regular meetings between senior government officials and "Mukim" (a group of villages) representatives allowed for airing of local grievances and concerns.

In September, in addition to reviving the Legislative Council, the Sultan also announced changes to the Constitution that consolidated his executive powers while providing for limited elections to the Legislative Council. Amendments to royal succession to include the Sultan's sons from a second (now divorced) wife also were approved.

There were reliable reports of concealed corruption in the Government. The Government has announced a "zero tolerance" policy for corrupt policy and has successfully prosecuted a number of low-level officials. The Government also began prosecuting a former Minister of Development on charges of corruptly awarding government projects and accepting bribes. The case had not been decided at year's end.

In 2000, the Government declared its intention to be more transparent. While there has been some minor improvement, the Government continued to restrict and classify as confidential any information on the Government's and the royal family's financial dealings, particularly regarding expenditures, revenues, and incomes.

The lack of a representative, democratic government seriously limited the role of both men and women in government and politics, although women were limited to a greater extent. There were no women ministers in the Government or the Legislative Council, although the Sultan's sister, Princess Masna, was the second-ranking official in the Ministry of Foreign Affairs, and there were women ambassadors, judges, and other senior officials.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Consumers' Association of Brunei (CAB), established in 2002, attempted to address human rights but was impeded by the Government from doing so. In the past, the CAB has publicized poor working and living conditions of foreign workers involved in protest work stoppages (see Section 6.e.). In 2002, the organization received a letter from the Commissioner of Police requesting CAB to show reason why it should not be deregistered for exceeding its mandate, which primarily focused on consumer rights. Senior CAB members reportedly were subjected to surveillance. The association was able to show evidence of its mandate to address workers' rights, but subsequently the local media did not publicize the association's activities.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution does not contain specific provisions prohibiting discrimination based on race, sex, disability, language, or social status.

*Women.*—The extent of spousal abuse was unknown. During the year, there were approximately 80 reported cases of domestic violence against women. The criminal penalty for a minor domestic assault is 1 to 2 weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer jail sentence.

A special unit, staffed by female officers, existed within the police department to investigate domestic abuse and child abuse complaints. A hotline was in service for persons to report domestic violence. The Ministry of Culture's Social Affairs Services (SAS) Unit provided counseling for women and their spouses. During the year, approximately 20 female domestic abuse victims were sheltered at the Taman Noor Hidayah, a shelter run by the SAS unit. According to press reports, the female victims were restricted to the shelter while waiting for their cases to be brought to court. The reports increased pressure on the shelter residents to leave the shelter and drop charges to avoid social stigma.

Islamic courts, staffed by both male and female officials, offered counseling to married couples in domestic violence cases. Officials did not encourage wives to reconcile with flagrantly abusive spouses, and the Islamic courts recognized assault as grounds for divorce.

Female domestic servants, most of whom were foreign workers (see Sections 6.c. and 6.e.), also were subjected to abuse. While the level of violence in society generally was low, beating servants or refusing them the right to leave the house on days off was more prevalent. Since most foreign female domestics were highly dependent on their employers, those subject to abuse often were unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints were brought, the Government generally was quick to investigate allegations of abuse and impose fines and punishment as warranted. Several workers settled assault cases out of court with their employers. One foreign embassy maintained a shelter for domestics involved in disputes with employers and was active in protecting their citizens' rights.

Prostitution is illegal. Women who entered the country for purposes of prostitution generally were tried, sentenced, and deported swiftly (see Section 5, Trafficking).

In accordance with certain Islamic traditions, women are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. However, the law permits female citizens to pass their nationality on to their children and to own property and other assets, including business properties.

Although men were eligible for permanent positions in government service whether or not they had university degrees, women without university degrees were eligible to hold government positions only on a month-to-month basis. Women in month-to-month positions received slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions.

There were no separate pay scales for men and women, and in recent years, there has been a major influx of women into the work force. Women served in a wide vari-

ety of capacities in the police and armed forces. The number of female university graduates increased, and nearly two-thirds of the national university's entering class was female.

Religious authorities strongly encouraged Muslim women to wear the "tudong," a traditional head covering, and most women did so. Most government departments and the uniformed services required female Muslims and non Muslims to wear the tudong as part of their dress code. All government schools, as well as the national university and other educational institutions, also pressured non-Muslim students to wear the tudong as part of these institutions' uniforms.

*Children.*—No statistics were published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provided most children a healthy and nurturing environment. Education is free, compulsory, and universal for the first 9 years, after which it is still free but no longer compulsory. With a few exceptions, involving small villages in extremely remote areas, nutritional standards were high and poverty was almost unknown. Medical care for all citizens, including children, was subsidized heavily and widely available. Approximately 20 young female rape and sexual abuse victims, between 9 and 15 years of age, were housed at the government sponsored Taman Noor Hidayah women's shelter. The penalty for the rape of a minor is imprisonment for 8 to 30 years and caning with not fewer than 12 strokes.

*Trafficking in Persons.*—A statute outlaws sexual exploitation and trafficking of women and girls. In addition, a variety of other laws, primarily those related to prostitution and the protection of minors, could be applied against sex traffickers. The country has been a destination for a small number of persons trafficked for sexual exploitation from China and within the region. There were very few identifiable cases of trafficking, and the majority of women who entered the country as sex workers were considered to have done so voluntarily. Immigration, labor, and religious regulations that criminalize prostitution also served to deter trafficking. There were reports of foreign household laborers who worked under harsh conditions and whose freedom of movement was restricted (see Section 6.e.).

In December, the Government introduced a specific antitrafficking law under which a person convicted of trafficking persons, harboring smuggled persons, or endangering the lives or safety of trafficked or smuggled persons can be fined up to \$606,060 (B\$1 million), imprisoned for up to 30 years, and caned. A person convicted of facilitating trafficking or smuggling persons can be fined up to \$30,303 (B\$50,000) and imprisoned for up to 10 years. Immigration and other law enforcement officials have begun receiving training to investigate and prosecute suspected offenders to deal with trafficked victims under the terms of the new law.

*Persons With Disabilities.*—The law does not mandate accessibility or other assistance for persons with disabilities. The Government attempted to provide educational services for children with disabilities; however, these efforts did not meet international norms.

*National/Racial/Ethnic Minorities.*—There were a sizeable number of "stateless" persons and permanent residents, mostly ethnic Chinese, including persons born and raised in the country, who were not automatically accorded citizenship and its attendant rights. They had to travel abroad as stateless persons and did not enjoy the full privileges of citizenship, including the right to own land. Stateless persons and permanent residents also were not entitled to subsidized medical care. In June 2003, a reform to the nationality law allowed some older, stateless persons and some permanent residents over age 50 to acquire citizenship by passing an oral rather than a written nationality test. All stateless persons and permanent residents became entitled to free education at government schools and other vocational and technical institutions.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Trade unions are legal and independent but must be registered with the Government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions. In practice, there was no union activity in the country. The Government did not encourage unions or facilitate their formation, and employers in the industrial sector did not encourage foreign workers to form unions. The three registered trade unions were in the oil sector, had a total membership of less than 5 percent of that industry's work force, and were inactive. There were over 100,000 foreign workers in the country, including almost 20,000 garment industry workers, none of whom were members of any trade union.

The law permits the formation of trade union federations but forbids affiliation with international labor organizations. The country has ratified none of the International Labor Organization's (ILO) eight Fundamental Conventions.

*b. The Right to Organize and Bargain Collectively.*—There was no union activity in the country, and questions of government interference in union matters and employer discrimination against union members did not arise. There is no legal foundation for collective bargaining, and strikes are illegal. Wage and benefit packages were based on market conditions.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ). The labor laws are fully applicable in the MEZ.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that some foreign domestic workers worked under unacceptable conditions (*see* Section 6.e.). Other workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. In 2003, the Government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries. However, the payment by foreign workers of high fees to manpower agents to obtain work in the country continued.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Various laws prohibit the employment of children under the age of 16. Parental consent and approval by the Labor Commission is required for those under the age of 18. Female workers under 18 may not work at night or on offshore oil platforms. The Department of Labor (DOL), which is part of the Ministry of Home Affairs, effectively enforced laws on the employment of children. There were no reports of violations of the child labor laws.

The Government adhered to the standards of ILO Convention 182 on the worst forms of child labor, but it is not a member of the ILO.

*e. Acceptable Conditions of Work.*—Due to the ongoing economic downturn and reduced government hiring, unemployment has grown in recent years. However, most citizens who had employment commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two 24-hour rest periods each week. Overtime is paid for work in excess of 48 hours per week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspected working conditions on a routine basis and in response to complaints. The DOL generally enforced labor regulations effectively. However, enforcement in the unskilled labor sector was lax, especially for foreign laborers. The DOL may close any workplace where health, safety, or working conditions are unsatisfactory, and it has done so. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but generally this did not occur.

At least 100,000 foreign nationals worked in the country. There were reports of foreign maids and other domestic workers who worked exceptionally long hours, did not have a rest day, and whose liberty was severely restricted. There also were isolated reports of employers who beat domestic employees or did not provide them with adequate food. The Government prosecuted some cases; employers found guilty of abuses typically were fined and asked to compensate the victim.

Government protective measures for foreign workers included arrival briefings for workers, inspections of facilities, and a telephone hotline for worker complaints. Government mediation continued to be the most common means used to resolve labor disputes. Abusive employers faced criminal and civil penalties. When grievances cannot be resolved, repatriation of foreign workers is at the expense of the employer, and all outstanding wages must be paid. The majority of abuse cases were settled out of court by the payment of financial compensation to the worker by the errant employer.

In February, the country amended its immigration laws by introducing retroactive prison sentences and caning for overstaying workers and illegal immigrants seeking work, as well as for workers employed by companies other than their initial sponsor. While the majority of prosecutions were for long-term overstayers, many workers were in illegal status owing to their former employers' negligence. Diplomatic missions appealed to the Government to delay the introduction of caning penalties and not apply the law retroactively. The Government delayed the introduction of caning penalties until June.

Several hundred workers were duped by foreign and local manpower agents into paying high recruitment fees to obtain a 3-month short-term work contract. Many

of the workers subsequently were not able to transfer to standard 2-year contracts, and some lapsed into illegal immigration status. Diplomatic missions also appealed to the Government for leniency for these persons, and the Government granted their request. The Government acted to close this loophole by requiring employment agencies to register and limiting work permit renewals to registered agents.

Beginning in June, the Government also used the Labor Act's provisions to prosecute errant employers who employed illegal immigrants or did not process workers' documents, rendering them in illegal status. In addition, it began prosecuting employers for not paying workers' salaries. In one case, the court ordered a citizen to pay 17 months' salary arrears to his maid or serve a 9-month jail term.

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## BURMA

Since 1962, Burma has been ruled by a succession of highly authoritarian military regimes dominated by the majority Burman ethnic group. In 1990, pro-democracy parties won more than 80 percent of the seats during generally free and fair parliamentary elections, but the junta refused to recognize the results. The current controlling military junta, the State Peace and Development Council (SPDC), is the country's de facto government, with subordinate Peace and Development Councils ruling by decree at the division, state, city, township, ward, and village levels. On October 19, hardliners further consolidated their power by ousting former Prime Minister Khin Nyunt and appointing Soe Win. From May through July, the SPDC reconvened a National Convention (NC) as part of its purported "Road Map to Democracy." The NC excluded the largest opposition party and did not allow free debate. The judiciary was not independent and was subject to military control.

The Government reinforced its rule with a pervasive security apparatus. Until its dismantling in October, the Office of Chief Military Intelligence (OCMI) exercised control through surveillance, harassment of political activists, intimidation, arrest, detention, physical abuse, and restrictions on citizens' contacts with foreigners. After October, the Government's new Military Affairs Security (MAS) assumed a similar role, though apparently with less sweeping powers. The Government justified its security measures as necessary to maintain order and national unity. Members of the security forces committed numerous serious human rights abuses.

Although resource rich, the country is extremely poor. The estimated annual per capita income was approximately \$225. Most of the population of more than 50 million lived in rural areas at subsistence levels. More than 4 decades of economic mismanagement and endemic corruption have resulted in widespread poverty, poor health care, declining education levels, poor infrastructure, and continuously deteriorating economic conditions. During the year, poor economic policymaking, lingering consequences of the 2003 private banking sector collapse, and the economic consequences of international sanctions further weakened the economy.

The Government's extremely poor human rights record worsened, and the Government continued to commit numerous serious abuses. Citizens still did not have the right to criticize or change their government. Unlike in previous years, there were no reports of government-affiliated agents killing pro-democracy activists. Security forces continued to carry out extrajudicial killings. Disappearances continued, and security forces raped, tortured, beat, and otherwise abused prisoners and detainees. Citizens were subjected to arbitrary arrest without appeal. Arrests and detention for political dissent occurred on numerous occasions. During the year, the Government arrested at least 85 democracy supporters, primarily members of the country's largest pro democracy party, the National League for Democracy (NLD), although it subsequently released 42. The remaining 43 were charged, tried, and imprisoned.

The Government detained many of them in secret locations without notifying their families or providing access to due legal process or counsel. During the year, the Government released approximately 59 persons who were arrested and sentenced to prison following the Government orchestrated May 2003 attack on NLD leader Aung San Suu Kyi. Since May 2003, the Government has released 151 of 153 individuals who were arrested or detained after the attack, including 7 of the 9 members of the NLD Central Executive Committee. However, Aung San Suu Kyi and NLD Vice Chairman U Tin Oo remained under house arrest, and all NLD offices, except the Rangoon headquarters, remained closed. The Government did not investigate the May 30 attack.

During the year, the Government released at least 100 long term political prisoners, many of whom had already completed their sentences. At year's end, an estimated 1,500 security detainees remained in prison. In November and December, the

SPDC announced it had released 14,318 convicts, citing “improper deeds” of the disbanded National Intelligence Bureau. The Government did not offer evidence to support its claim of mass prison releases and only 76 of those released were considered political prisoners. Prison conditions remained harsh and life threatening, and facilities were Spartan, but prisoners’ rights continued to improve as a result of efforts by the International Committee of the Red Cross (ICRC), which continued to have regular access.

The Government regularly infringed on citizens’ privacy; security forces continued to monitor systematically citizen’s communications, search homes without warrants, and relocate persons forcibly without just compensation or legal recourse. The Government also continued to forcibly relocate large ethnic minority civilian populations, confiscate land and property, use forced labor, and conscript child soldiers. The Government also forced conscription of the civilian population into militia units. The Government did not take steps to prosecute or punish human rights abusers.

The Government continued to restrict severely freedom of speech, press, assembly, association, and movement. The Government restricted freedom of religion, coercively promoted Buddhism over other religions, and imposed restrictions on religious minorities. Acts of discrimination and harassment against Muslims continued. Security forces continued to monitor systematically citizens’ movements and continued to restrict freedom of movement, in particular, foreign travel by young female citizens.

The Government did not permit domestic human rights organizations to function independently and remained hostile to outside scrutiny of its human rights record. It refused several requests by the U.N. Special Rapporteur on Human Rights (UNSRHR), Paulo Sergio Pinheiro, to visit. Senior government officials also refused to meet the UNSRHR outside the country. The Government allowed the International Labor Organization (ILO) to operate a liaison office in Rangoon; however, some individuals who sought to report incidents of forced labor were detained or subjected to criminal prosecution.

Violence and societal discrimination against women remained problems, as did discrimination against religious and ethnic minorities. Trafficking in persons, particularly in women and girls primarily for the purpose of prostitution, remained widespread, despite some efforts to address the problem. The Government continued to restrict worker rights, ban unions, and use forced labor for public works and for the support of military garrisons. Forced child labor remained a serious problem, despite recent ordinances outlawing the practice. The forced use of citizens as porters by the military including mistreatment, illness, and sometimes death continued, as did forced recruitment of child soldiers.

Ethnic armed groups including the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), and the Shan State Army South (SSA South) also reportedly committed human rights abuses, including killings, rapes, forced labor, and conscription of child soldiers, although on a lesser scale than the Government.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in previous years, there were no known instances of government-affiliated agents killing pro-democracy activists. In March, the Shan Human Rights Foundation (SHRF) reported a commander from Light Infantry Battalion 514 beat a civilian to death in front of a military checkpoint in Mong Kung Township, Shan State for refusing to provide his vehicle for forced labor.

In July, there was an unverified, but credible report that Maung Aye, a theft suspect, died after being beaten while in police custody (*see* Section 1.c.).

The Government refused to investigate, or to take any responsibility for, the May 2003 attack by government affiliated forces on an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin. During the attack, the assailants used bamboo staves and metal pipes to kill or injure at least six pro democracy supporters including four NLD members: San Myint, Tin Maung Oo, Thein Toe Aye, and Khin Maung Kyaw. Also killed were Min Zaw Oo, a student; and U Panna Thiri, a Buddhist monk. There were credible reports of two more victims who later died of their injuries. Villagers and survivors of the attack reported that the attackers might have killed as many as 70 pro democracy supporters accompanying the NLD convoy, but there was no official verification of this number. By year’s end, the fate of other injured persons, including 47 pro democracy supporters from the convoy, remained unknown. Of the 10 missing NLD members injured in the attack, 8 fled to Thailand, 1 (Tun Aung Kyaw) died, and 1 remained in hiding.

According to credible reports, throughout the night following the attack, security forces clashed with and may have killed scores of villagers, students, and Buddhist monks in the villages surrounding the attack site. The Government did not acknowledge the alleged killings in the surrounding villages. Diplomatic observers received credible reports that 16 injured attackers were hospitalized at a military base in Monywa, Sagaing Division, and subsequently released on July 2. The Government did not credibly investigate any of the attacks.

Officials reportedly involved in the assault were not held accountable and in fact continued to be promoted. On October 19, Lieutenant General Soe Win, reportedly involved in planning the attack, was promoted to Prime Minister, the third highest ranking position in the SPDC. Regional commander Major General Soe Naing, reliably reported to be responsible for executing the attack, was made commander of the Irrawaddy Division. Deputy Regional Commander, Brigadier General Ohn Myint, was promoted to commander of the military's Coastal Command. Reliable sources reported that Lieutenant Colonel Than Han, Chairman of Shwebo District, Sagaing Division Peace and Development Council, the senior regional political figure responsible for the attacks, was promoted to brigadier general and appointed director of Police Operations.

Similarly, there were no reports that the Government took action to investigate or prosecute soldiers involved in any of the 2003 killings reported by the SHRF and the KNU: two farmers accused of being or helping Shan soldiers in Namhsan Township, Shan State; a displaced farmer in Lai Kha Town in Shan State; a farmer at a remote farm in Shan State; and two Karen village chiefs.

There also were no reports that the Government took action to investigate or prosecute soldiers involved in the following acts reported in 2002: the killing of 10 persons, including 6 children, and the injuring of 9 in Karen State; the robbery and killing of 6 civilians near the Thailand border in Shan State; and the killing of 10 villagers in Kholam, Shan State.

In August 2002, the International Confederation of Free Trade Unions (ICFTU) reported that army troops killed an official of the Free Trade Union of Burma (the Kawthoolei Education Workers Union) (*see* Section 6.a.).

There were several unverified reports of deaths due to security forces using civilians to clear landmines; however, reported incidents declined from previous years due to a temporary cease fire between the Government and the KNU (*see* Section 1.g).

Some armed ethnic groups also reportedly committed killings during the year. According to the government newspaper, *The New Light of Myanmar*, on August 1, the Shan United Revolutionary Army killed five farmers in Namhsan Township.

*b. Disappearance.*—Private citizens and political activists continued to “disappear” for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to authorities detaining individuals for questioning without informing family members and the army's practice of seizing private citizens for portage or related duties, often without notifying family members (*see* Section 6.c.). Diplomatic observers reported an improved response by police authorities to requests for information on missing or incarcerated individuals. No improvement was reported regarding requests for information directed to the military or military intelligence services. In many cases, individuals who were detained for questioning were released soon afterward and returned to their families.

In late January, Nyan Gyi, an NLD youth member from South Dagon Township, disappeared. Family members initially were unable to trace him, but eventually learned through the relative of another prisoner that he was in Insein prison and on trial. At year's end, he still was being denied access to family members and lawyers.

There was no further information on the 17 cases mentioned in a 2003 Amnesty International (AI) report of persons who disappeared while in Government detention in 2002.

The whereabouts of persons seized by military units to serve as porters, as well as prisoners transferred for labor or portage duties, often remained unknown. Family members generally learned of their relatives' fates only if fellow prisoners survived and later reported information to the families.

There were no developments in the August 2003 case of a 15 year old student and three or four other youths who disappeared from a Rangoon teashop and were believed to have been forcibly taken by the Government for military portering.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citi-

zens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. In June, four members of the NLD were taken into custody, interrogated, and forced to stand on stools for 3 days. The four were forced to sign false written confessions that led to prison sentences of up to 15 years for violating the Emergency Provision Act of 1950, the Unlawful Association Act of 1908, and the Immigration Act of 1947 (amended in 1950 and 1962). The court ruled the three sentences would not have to be served consecutively, but rather the defendants would serve the longest of the three counts (7 years). The son of the most prominent member of this group also was taken into custody and beaten by OCMI agents before being released.

Reliable sources reported that on February 24, authorities at Insein prison beat NLD member Khin Maung Oo unconscious. Also in February, there was an unverified report that Rangoon police and firemen beat San Htay for unknown reasons. In July, there was an unverified but credible report that Maung Aye, a theft suspect, died after being beaten while in police custody.

The military routinely confiscated property, cash, and food, and used coercive and abusive recruitment methods to procure porters. Persons forced into portage or other labor faced extremely difficult conditions, beatings, lack of food, lack of clean water, and mistreatment that at times resulted in death.

Karen sources reported that human rights abuses in Karen State declined significantly after cease fire talks between the SPDC and the KNU began in January; however, subsequent reports indicated that the military continued to commit abuses, including beatings, rape, forced mine clearing, and forced labor, against villagers in Karen State and Tanintharyi Division.

In September, a credible source in Karen State reported that soldiers from the pro government Democratic Karen Buddhist Army (DKBA) raped several young Buddhist nuns (ages 8-11).

The Government did not investigate the 2003 reports that a DKBA commander and government soldiers used threats and beat villagers in Karen State to recruit forced laborers.

Eyewitnesses reported that during the May 2003 attack on the NLD, government affiliated attackers raped several female democracy supporters. The Government did not investigate these allegations.

Throughout the year, there were credible reports of government soldiers raping women who were members of ethnic minorities in Karen State, Shan State, and Mon State.

In December 2003, OCMI agents arrested and later sent Kyaw Ye Win and Khin Hla Hla Su Win to Ywathagyi psychiatric hospital for demonstrating in front of Rangoon City Hall for the release of all political prisoners. There was no further information on this case at year's end.

Prison and labor camp conditions generally remained harsh and life threatening; however, during the year, the ICRC reported the Government did a better job meeting standards set by existing regulations. The Department of Prisons operated approximately 35 prisons and approximately 70 labor camps throughout the country (see Section 6.c.). In prisons, food, clothing, and medical supplies reportedly were in very short supply. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed to visit once every 2 weeks for 15 minutes per visit, for basic necessities. Prisoners were held without being charged for weeks or months, and until a prisoner was officially charged with a crime, families could not visit or send critical supplementary food. HIV/AIDS infection rates in prison reportedly were high due to communal use of single syringes for injections and sexual abuse by other prisoners. In March, unverified reports indicated that the Government revoked access by prisoners to periodicals and television granted following a visit from the UNSRHR in 2003.

The Government continued to deny prisoners adequate medical care; however, the ICRC reported that a joint working group consisting of the ICRC, the Department of Prisons, and the Ministry of Health created a central medical service for all prisons. Ministry of Health professionals staffed the service with key personnel trained by the ICRC.

During the year, the health of several political prisoners deteriorated. On February 24, imprisoned student leader Htay Kywe suffered a life threatening deterioration in his health following a routine operation. He was released on October 26 (see Section 1.d.). Other prominent political prisoners who suffered deteriorating health included: student leader Ko Ko Gyi; NLD Members of Parliament elect (M.P.s-elect) Dr. Than Nyein and U Naing Naing; and journalists Htwe Myint (released on December 11) and U Win Tin.

On December 8, Dr. Than Nyein, who suffers from liver disease, was not permitted to keep a previously scheduled doctor's appointment. Instead, he was transferred to Paungte Prison, where medical care is not available.

During the year, three prisoners died in custody. On January 28, Shwe Tin, an executive of a defunct political party, died at Taungoo Prison. Min Thu, a former student leader and a lawyer, died on June 12 at Insein Prison. The Prison Department authority did not inform family members of these deaths. On October 19, Zaw Myo Htet died from severe liver disease while in custody. In 2003, at least three political prisoners died in custody.

During the year, three political prisoners died of untreated medical conditions shortly after being released. On July 20, NLD member and artist Wa-ne Soe died of liver cancer within a month of his release. Shortly thereafter, Than Win died of liver cirrhosis. On July 25, well known poet and NLD member Kyi Tin Oo died after an early release on March 26 due to liver complications contracted while in prison.

The health of Soe Win, an M.P. elect for the pro democracy Party for National Democracy, improved during the year, though he remains blind in one eye due to injuries received during detention in June 2003. In July 2003, the Government claimed he had attempted suicide, but did not provide any information or proof of an investigation into this case. In September 2003, 74 year old Tin Aye, former Chairman of the University Student Union, died 1 month after the Government released him from a lengthy prison sentence. Aung Zaya, chairman of the Democratic Party for New Society, who was released in 2003 after 11 years in detention, became paralyzed from abuse and inadequate medical attention during his imprisonment; his ill health and disability continued during the year.

According to the Government, political detainees were separated from common criminals, juveniles from adults, and men from women. According to the ICRC, the Government's stated position was that political prisoners should not be subjected to hard labor.

During the year, the ICRC conducted periodic visits to all prisons in the country, with the goal of visiting each at least once a year. The ICRC reports that as a result of a constructive dialogue with the Government on prison problems it has the right to talk in private with prisoners; to make repeated visits as desired; and to have full access to prisoners. ICRC visits to labor camps began in March 2000 and continued during the year. There reportedly were approximately 70 camps, but many were temporary, existing only long enough to complete a specific work project. The Government allowed the ICRC to perform its traditional services, such as providing medications, delivering letters to and from prisoners, and providing support for family visits to prisoners.

*d. Arbitrary Arrest or Detention.*—During the year, the Government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. There is no provision in the law for judicial determination of the legality of detention, and the Government routinely used arbitrary arrest and incommunicado detention. The Penal Code allows authorities to extend sentences after prisoners have completed their original sentence, and the Government makes regular use of this provision (*see* Section 1.c).

The police are auxiliary forces of the military and are under direct command of military officers. They primarily deal with common crimes and do not handle political crimes. The Myanmar Police Force is administratively under the Ministry of Home Affairs. Corruption and impunity were serious problems due to a government imposed system whereby police were required to collect funds for their operations. Police typically required victims to pay substantial sums for crime investigations, and police often extorted money from the civilian population.

MAS (formerly OCMI) officers are responsible for arresting persons suspected of "political crimes" that are perceived to threaten or undermine the Government. Upon arrest, MAS/OCMI officers, or in some cases police officers, take prisoners to MAS/OCMI regional interrogation centers where MAS/OCMI officers interrogate the arrested person for a period ranging from hours to months and can charge the person with a crime at any time during the interrogation. A hood frequently was placed on those accused or suspected of political crimes upon arrest.

On December 3, Thet Naung Soe attempted to go on hunger strike in prison to demand the release of all political prisoners. His family tried to visit him, but the jailors showed them a note written in his own handwriting that he did not wish to meet his family at the time. A prison official indicated that Thet Naung Soe had refused food and was in the prison hospital.

The Government continued to arrest and detain citizens for extended periods without charging them, often under the Emergency Act of 1950, which allows for indefinite detention. In 2002, OCMI officers arrested Shwe Maung for making a

symbolic golden hat for Aung San Suu Kyi and placed him in a dark cell for 4 months before charging him with “keeping stolen goods,” and sentencing him in February 2003 to 3 years imprisonment.

On April 9, the Government sentenced 11 members of the Mandalay Division NLD to between 7 and 22 years in prison for “illegal association” with an exile group in Thailand. In early June, OCMI detained NLD Township Executive members from Magwe and Rangoon Divisions Than Than Htay and Tin Myint on similar charges. They were interrogated for several weeks before being transferred to Insein Prison. Later in June, authorities arrested Ye Ye Win, San Ya, and Ye Htet, members of NLD in Theinzayat Township in Mon State, accused them of contacting exile groups in Thailand, and held them incommunicado. In September, a court sentenced them to 7-years imprisonment. On September 24, Than Than Htay and Tin Myint, along with one other NLD member, were found guilty of violating three counts of Burmese law and sentenced to 7 years in prison. The Government had no credible evidence against them.

In mid February, the OCMI transferred NLD Vice Chairman U Tin Oo (arrested following the May 2003 Depeyin attack) from Kalay Prison, Sagaing Division, to his residence in Rangoon where he remains under house arrest. In mid April, the Government released NLD Chairman U Aung Shwe and Secretary and Party Spokesman U Lwin from house arrest where they had been since the 2003 attack. Only Aung San Suu Kyi and U Tin Oo remain under house arrest. During the year, authorities further restricted the conditions of Aung San Suu Kyi’s house arrest by removing her personal security detail and limiting visits by her personal physician.

At year’s end, the Government had released 151 of 153 arrested during and immediately following the Depeyin attack; however, in the months following the attack, the Government detained at least 270 additional NLD members, political supporters, and affiliated monks across the country. Some of them were charged with political crimes, and some were simply detained arbitrarily. At year’s end, all but approximately 90 had been released.

On December 2, NLD representative Dr. Mying Naing was arrested for “reckless driving” and causing injury to a pedestrian in Shwebo, Sagaing Division. Although the victim admitted it was her fault, Dr. Mying Naing was sentenced to 3 months imprisonment. On December 2, NLD member U Kyaw Swe was arrested in Chaung Oo, Sagaing Division on charges of possessing an unregistered motorcycle and obstructing authorities in the line of duty. He was sentenced to 2 years imprisonment in Monywa Prison on December 8. On December 6, 11 NLD members from Bogalay Township, Irrawaddy Division were arrested for refusing to sign a statement that they would not hold an NLD celebration on National Day. On December 19, five NLD members were arrested for allegedly possessing and distributing a leaflet titled “An Appeal to the Masses,” which was published by a dissident group in Mae Sot, Thailand.

In January 2003, the OCMI arrested two Buddhist nuns for shouting pro democracy slogans and handing out pamphlets in front of the Rangoon City Hall and a third nun for opposing the arrest of her colleagues. Denied legal representation, the nuns were subsequently sentenced to 13 years in prison. In June 2003, OCMI officers arrested Myo Khin, Myat Gyi, Maung Maung Lay, and Ne Win of the Rangoon Division NLD for demanding that authorities reopen the NLD office in Bahan Township, Rangoon. Family members were denied access to them for months, and they reportedly were sentenced to 7 years in Insein Prison. Only after the convictions did the Government allow family members and lawyers to visit the prisoners. In September 2003, OCMI officers and local police arrested Phone Aung for demonstrating outside Rangoon City Hall calling for the release of Aung San Suu Kyi. A court sentenced him in mid December 2003 to 14 years at Insein Prison. He did not have legal representation during the judicial process, and was denied access to his family.

In 2002, the Government arrested at least 30 political activists in Rangoon including educator Hla Htut Soe, Buddhist monk U Veda (lay name, Maung Maung Aye), and 2 lawyers, U Aye and U Myint Yi. Also among those arrested was Hla Tun, an NLD M.P.-elect from the 1990 election who was not known to have been active in the NLD since he was released from prison in 1999. According to international press reports the Government sentenced approximately a dozen of the activists to prison terms of 3 to 22 years.

Elected M.P.s were harassed and pressured to resign. In northern Shan State, local authorities pressured Sai Tun Aung of the Shan Nationalities League for Democracy to resign. Than Htay, an elected member (NLD) from Lashio, resisted pressure from the Government to leave his post. Consequently, local authorities arrested him and charged him with four counts of violating the Customs Act, the Export-Import Act, and the Wireless and Telegraph Act. The police arrested Than Htay because his son, who owned a legally registered shop selling electronic equipment, had

sold an “illegal” cordless telephone and electronic equipment to a customer. Than Htay was not connected to his son’s business operationally, although he owned the building in which it was located.

The Government routinely extends prison sentences under the Law Safeguarding the State from the Dangers of Subversive Elements. The Minister of Home Affairs has the right to extend unilaterally a prison sentence on six separate occasions for 2 months, that is, for up to 1 year. The SPDC Chairman, Senior General Than Shwe, can add 5 years to a sentence. In March 2003, Kyaw Hsan, a 74 year-old M.P. elect and retired army colonel, completed his politically motivated 10 year prison term and was being released; however, when in sight of his family at the prison gate he was forced to return to his cell. He finally was released on November 19. In 2003, in Mandalay, 10 political prisoners, including Ne Win, Tin Aye Yu, Tin Myint, Tin Aye, Zarni Aung, Thein Than Oo, Kyaw Sein Maung, Naing Myint, Htay Nyunt, and Soe Myint, completed their terms, but were not released. Naing Myint was released on November 26. At various times in 2003 and during the year, the Government released prisoners being held under this law. At year’s end, the Government was holding approximately 27 students and political activists in prison beyond the expiration of their sentences, including Ko Ko Gyi, who was reportedly in poor health.

Following the October ouster of Prime Minister Khin Nyunt, the SPDC initiated three prisoner releases. In November and December, the SPDC released 14,318 convicts, citing “improper deeds” of the disbanded OCMI. Only 76 of those released were considered political prisoners.

Credible reports indicate that most, if not all, of the 90 remaining political prisoners arrested formally in connection with the May 2003 Depayin attack have been sentenced. However it is possible that the Government is holding some indefinitely, without formal sentencing, under the Law Safeguarding the State from the Danger of Subversive Elements. The ICRC restored family links for most of those detained in connection with the May 2003 attacks.

Authorities continued to detain private citizens and political activists, some of whom disappeared, at times temporarily (*see* Section 1.b.).

*e. Denial of Fair Public Trial.*—The judiciary is not independent of the Government. The SPDC appoints justices to the Supreme Court who, in turn, appoint lower court judges with the approval of the SPDC. These courts then adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The court system includes courts at the township, district, state, and national levels.

During the year, the Government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British era legal system formally were in place, the court system and its operation remained seriously flawed, particularly in regard to the handling of political cases. The misuse of blanket laws including the Emergency Provisions Act, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Subversive Elements and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial. Pervasive corruption further served to undermine the impartiality of the justice system.

There is a fundamental difference between criminal and political trial procedures. Some basic due process rights, including the right to be represented by a defense attorney, generally were respected in criminal cases, but not in political cases that the Government deemed especially sensitive. In criminal cases, defense attorneys generally are permitted 15 days to prepare for trial, are permitted to call and cross examine witnesses, and can be granted a 15 day delay for case preparation; however, their primary purpose is to bargain with the judge to obtain the shortest possible sentence for their clients. Reliable reports indicate that senior junta authorities dictate verdicts in political cases, regardless of the evidence or the law. Political trials are not open to the public.

None of the NLD members or the hundreds of pro democracy supporters arrested in association with the May 2003 Depayin attack were given public trials. In December 2003, police arrested Thet Lwin, a driver for a Canadian mining company, for driving his expatriate supervisor in the vicinity of the Rangoon residence of Aung San Suu Kyi. He was held incommunicado, and his family had to seek ICRC assistance to learn of his whereabouts. In February, a closed court sentenced Thet Lwin to 7 years in prison under a criminal charge (abuse of narcotics).

During the year, there was one new arrest of a lawyer with NLD connections (*see* Section 2.a). NLD members generally appeared to be able to retain the counsel of lawyers without fear of the lawyers being imprisoned; however, lawyers were not always told when trials would begin. Approximately 14 lawyers remained impris-

oned at year's end. Most had been sentenced prior to 1998, when the Government made it easier for political prisoners to retain legal counsel.

During the year, the majority of political prisoners released had completed or nearly completed their sentences, or were in poor health. Senior military authorities dictated the release of political prisoners, and the Government required most political prisoners to sign a release form agreeing to serve the remainder of their terms if rearrested for any reason. For example, following the May 2003 attack on Aung San Suu Kyi and NLD members, the Government detained M.P. elect Hla Min for 1 month, released him, and immediately re-imprisoned him to serve the remainder of a previous prison term. The Government released him again in late 2003.

At year's end, international officials with regular access to prisons reported that they have files on 3,600 individual prisoners whom they consider potentially vulnerable to abuse: security detainees, minors, foreign citizens and others in need of protection. Among these, there were some 1,500 "security detainees": political prisoners (approximately 1,300), arms merchants, violators of state security laws, and those accused of fostering religious disturbances. The last group had the largest increase during the year.

In late 2003 and early 2004, the Government released 24 NLD M.P.s elect who had been arrested on and around May 2003, including: Dr. Zaw Myint Maung, Yaw Si, Khun Myint Htun, U Do Daung and Chit Htwe. Among the verifiable releases of long term political prisoners by year's end were: on January 30, NLD M.P. elect Myint Naing (incarcerated in 1991 for unlawful association); on June 4, two M.P.s-elect of the Mon National Democratic Front (MNDF) Dr. Min Soe Lin and Dr. Min Kyi and MNDF Executive Nai Ngwe Thein; on July 12, the Vice Chairman of the Arakan League for Democracy and journalist U Thar Ban; on July 15, former student leader Dr. Maung Maung Kyaw; on October 15 and November 1, respectively, student activists Htay Kywe and Dr. Ne Win; on November 19, student leader Min Ko Naing, NLD M.P.s-elect U Kyaw San, U Ohn Maung, U Toe Po, and Dr. May Win Myint. Other political prisoners were also released on November 19, November 26, and December 12. A total of 76 known political prisoners were freed in the three separate releases.

Three long term political prisoners died shortly after their release from prison during the year (*see* Section 1.c). Dr. Than Nyein, an M.P.-elect from the NLD and the brother in law of former-Prime Minister General Khin Nyunt, had his 7 year prison term extended in September despite being terminally ill with liver cancer.

The Government granted Aung San Suu Kyi's brother authority to file a second suit against her seeking half ownership of the family compound. In 2002, the judge presiding over the case ruled that he had the right to inherit the property under Buddhist customary law. At year's end, the suit was ongoing. A final decision was postponed because the Government prohibited lawyers from having access to Aung San Suu Kyi.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The abrogated 1974 Constitution did not provide for rights to privacy, and authorities infringed routinely on citizens' privacy rights. Through its pervasive intelligence network and administrative procedures, the Government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically.

Forced entry without a court order is legal. The law requires that any person who spends the night at a place other than his registered domicile inform the police in advance. Any household that hosts a person not domiciled there must, according to the law, maintain and submit a guest list to the police. However, the law is selectively enforced. Security forces significantly increased surveillance of civilians following the May 2003 Depeyin attack and also after bombings that occurred in Rangoon during the year and in 2003. Ward level SPDC officials stepped up unannounced nighttime checks of residences for unregistered visitors. During the year, the Government sentenced NLD party members Than Than Suu Win and Ye Myint to 7-days hard labor for failing to register as overnight guests while in Rangoon.

Security personnel regularly screened private correspondence and telephone calls and monitored normally protected communications. In June, a foreign investigation team found an eavesdropping device in the wall of its Ambassador's meeting room. In March 2003, the UNSRHR found a listening device in a prison interview room.

The authorities generally continued to discourage citizens from subscribing directly to foreign publications (*see* Section 2.a.).

The Government continued to control and monitor closely the licensing and procurement of all two way electronic communication devices. Possession of an unregistered telephone, facsimile machine, or computer modem was punishable by impris-

onment (*see* Section 2.a.). For example, users of unregistered cordless telephones in the country face up to 3 years' imprisonment and a steep fine.

Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the Government. The law does not permit private ownership of land; it recognizes only different categories of land use rights, many of which are not freely transferable. Post colonial land laws also have revived the pre colonial tradition that private rights to land were contingent upon the land being put to productive use.

For decades successive military governments have applied a strategy of forced relocation against ethnic minority groups in an effort to deny support to armed ethnic groups. Such forced relocations continued during the year. The forced relocations reportedly often were accompanied by rapes, executions, and demands for forced labor to build infrastructure for villagers and military units (*see* Sections 1.c., 1.e., and 2.d.). There continued to be reports during the year of forced relocations to new towns, but the Government provided a grace period of 1 year for residents of apartments on 50th street in Rangoon to move to Dagon Seikkan in East Rangoon. Similarly, the residents of 600 houses in Shwe Lin Pann village in Hlaing Tharyan are still in their residences after objecting to forced relocation to make way for a road construction project.

Reports of forced relocation in urban areas lessened; however, the Government reportedly continued to forcibly relocate households for "security" reasons. In Rangoon, persons were forced to leave homes or dwellings located on property that could be used for commercial gain. In some cases, those forced to move were poorly compensated. During the year the Government gave notices to retired civil servants to move from at least two locations in Rangoon by 2005. In 2003, the Government forced retired civil servants, who had lived for generations in downtown Rangoon, to move out with inadequate compensation. Senior Government officials ignored appeals, and under duress many residents accepted relocation to apartments estimated to be worth approximately 10 percent of the value of their vacated homes. There were numerous reports that government troops looted and confiscated property and possessions from forcibly relocated persons, or persons who were away from their homes. These materials often were used for military construction. Diplomatic representatives reported that commandeering privately owned vehicles for military or VIP transport without compensating the vehicle owners was also commonplace throughout the country.

A September 2002 report by a highly respected private citizen in Thailand estimated more than 2,500 villages have been destroyed or forcibly relocated by Government forces since 1996, displacing more than 600,000 citizens. The report estimated that more than 350,000 of these citizens were moved to government controlled "relocation centers," while the remainder lived in hiding. This practice was particularly widespread in Shan, Kayah, and Karen States, and in areas of Mon State and Bago Division. In these areas, thousands of civilian villagers were displaced from their traditional villages, which often were burned to the ground and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases, villagers who fled or were driven from their homes found shelter in the forest, frequently in heavily mined areas without adequate food, security, or basic medical care.

The forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the Government. In some areas, the Government replaced the original occupants with ethnic Burmans. In other areas, army units forced or attempted to force ethnic Karen to relocate to areas controlled by the DKBA.

The Government has the right to confiscate property without paying compensation. During the year, there were several credible, but unverified, reports of this occurring across the country. For example, in March the Government evicted families and seized land in Chin State to make way for an India Burma Thailand highway project. In July, the military expropriated the land of 150 households in Ye Township, Mon State, for new military buildings. In 2003, diplomatic observers reported the Government ordered families to exhume corpses of their relatives from a cemetery to make way for construction of a condominium project on the outskirts of Rangoon.

During the year, there were several reports of government mistreatment and exploitation of farmers. For example, in January OCMI detained five farmers from Letkhopin village, Irrawaddy Division, for expressing grievances about uncompensated confiscation of farmland. During the year, there were credible reports that the military confiscated, without compensation, thousands of acres of farmland in Mon State. The Government also reportedly confiscated land in northern Shan State when farmers could not repay loans taken out to buy and plant a type of Chinese rice hybrid never planted before in Shan State, which the Government had required

the farmers to plant. In 2003, there were reports that civil servants in several areas confiscated established farm plots, forcing farmers to buy less desirable land to continue their livelihood. There was no information on the 82 farmers arrested in February 2003 by local authorities in Kyungyangon, Irrawaddy Division, for not providing their paddy rice production quota to the Government. Nor was there any further information on the fate of the 43 farmers sought by Sagaing Division SPDC officials for failure to pay their paddy quota.

Military personnel also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, or money. Such abuses have become widespread since 1997, when the Government ordered its regional commanders to meet their logistical needs locally rather than rely on the central authorities. As a result, regional commanders forced contributions of money, food, labor, and building materials from civilians throughout the country (see Sections 1.c. and 6.c.).

In violation of international humanitarian law, both army and insurgent units used forced conscription, including conscription of children (see Sections 1.g. and 6.c.).

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. In the case of the Government's mass mobilization organization, the Union Solidarity and Development Association (USDA), the Government used coercion and intimidation to induce many persons, including nearly all public sector employees and students, both to join the union and to attend meetings in support of the Government (see Section 2.a.).

Marriages between female citizens and foreigners were officially banned, and the Government ordered local attorneys not to be witnesses to such marriages. However, the ban was not enforced.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—Since independence in 1948, large numbers of ethnic insurgent groups have battled government troops for autonomy or independence from the Burman dominated state. Since 1989, 17 groups have concluded cease fire agreements with the Government. Under the agreements, the groups have retained their own armed forces and performed some administrative and economic functions within specified territories inhabited chiefly by members of their own ethnic groups.

However, a few groups maintained active resistance, including the Chin National Front, the Naga National Council, the Arakan-Rohingya Solidarity Organization, the SSA-South, the KNPP, and the KNU through its armed wing, the Karen National Liberation Army. The largest of these, the KNU, began peace talks with the Government in December 2003 leading to a temporary ceasefire. However, there were credible reports of renewed attacks on villages in Karen State in September after the rainy season ended.

Beginning in mid-November there were credible reports that the army attacked Karen villages in Shwegyin Township, Nyaunglebin District, of western Karen State, burning houses and rice stores. An estimated 20,000 baskets of paddy rice were destroyed. As many as 4,781 civilians were displaced and were prevented from returning. The attacks ceased by the end of the year, but construction of three new military camps and the dislocation of civilians continued.

In November and December, there were credible reports of army attacks on civilians in Taungoo District, northern Karen State, which displaced more than 3,000 residents. Reportedly they were used as forced labor to construct roads into former KNU-held territory. These projects were ongoing at year's end.

There were credible reports from Mon Township of northern Nyaunglebin District, Karen State that local villagers were forced to tear down their homes and were then used as forced labor to construct a new army camp at Mawdalaw. Construction continued at year's end.

There were credible reports that attacks continued against civilian populations in Kayah State throughout the year. Army troops reportedly continued to pursue Karenni displaced persons who had fled to Taungoo and Papun Districts of northern Karen State.

An SSA South source reported that in early August, Burmese Army troops harassed villagers in Lechar and Limkhay Townships, accusing them of being spies for the SSA South.

In 2003, diplomatic representatives received credible first hand accounts that in 2002, government troops tortured and detained seven Karen clergymen in Pa-an, Karen State, and in Mawlamyine, Mon State. The soldiers also confiscated 13 cows, 5 bullock carts, and household goods, and extorted money before burning down 2 churches and 11 houses. Two clergymen were held for 2 months before release and were forced to sign a statement saying they were not mistreated. The Government

ordered the National Investigation Bureau, a division of the National Police Force, to investigate the incident; however, there was no information that the Government prosecuted any of the soldiers for the abuses.

Incidents of rape in conflict areas and other ethnic minority areas continued. In January, the Thai based Human Rights Foundation of Monland issued a report documenting five cases of rape by elements of the Burmese Army during an offensive against ethnic rebels in southern Mon State that began in December 2003. The report also asserted that rape of local women was standard practice by Burmese Army troops, especially by the 299th Light Infantry Brigade, which took three local Mon women per day to military bases to work, after which soldiers raped the women. The Government did not investigate any of the cases, despite their being documented, and failed to respond officially to the report.

In April, a report, "Shattering Silences," by the Thai based Karen Women's Organization documented 125 instances of Burmese Army soldiers raping local women since 1988—including 3 cases in January and February. Reportedly half of the rapes were by high ranking military officers. Of the cases documented, reportedly only one resulted in punishment. The Government refused to investigate these cases, and instead issued a statement that the report was an attempt to discredit and derail the Government's "Road Map to Democracy." Christian Solidarity Worldwide reported that on April 16, a Shan woman was gang raped by Burmese Army soldiers near the Thai border.

NGOs reported that Burmese Army soldiers raped numerous women in Shan State and other ethnic regions in 2002 and 2003. In April 2003, a captain raped a 20 year old woman in Shan State, while another soldier restrained her husband. The woman and her husband later reported the rape to SPDC authorities in the area; however, after no action was taken they began to fear for their safety and fled across the border to Thailand. In August 2003, a captain and 20 other soldiers gang raped a woman in Shan State. The captain then threatened to punish the village headman and the villagers if anyone reported the rape. There was no information that the Government investigated these abuses.

During the year there were no Government investigations into the SHRF and Shan Women's Action Network (SWAN) 2002 report alleging that the Burmese Army used rape as a systematic weapon of war against the ethnic populations in Shan State.

The Government denied the SHRF/SWAN allegations of systematic rape and ordered three internal reviews. The Government stated it provided copies of its report on the investigations to the international community and to the UNSRHR. However, according to the UNSRHR, military and other government personnel with no special skills or experience in investigating human rights allegations undertook the investigations. Despite continued international pressure for independent assessments, these investigations reportedly consisted of prearranged, large, collective, and public meetings with local officials, organized by military personnel. The Government did not allow the UNSRHR to visit areas of conflict in Shan State to corroborate the information from his own interviews with refugees in Thailand. There were no new developments in the reported August 2002 rape of a 4-year-old child by an army captain in Yusomoso.

There is no information that the Government investigated or prosecuted anyone for the following rape cases in 2002: The case of two soldiers who beat and raped a woman doing laundry near Keng Tung Township and threw her unconscious into the river, the case of six or seven soldiers who reportedly raped two women in Mong Khak Township, or the hundreds of other cases reported by NGOs.

In central and southern Shan State, security forces continued to engage the SSA South. The military maintained a program of forced relocation of villagers in that region that reportedly was accompanied by killings, rapes, and other abuses of civilians. AI reported in 2002 that 90 percent of the civilians from Shan State interviewed in Thailand said they had been subjected to unpaid forced labor by the military within the previous 18 months.

Despite ongoing abuses, Karen NGO sources indicated that human rights abuses in Karen State had declined significantly since the peace talks between the SPDC and the KNU began in December 2003.

There were no developments in the following cases from 2003: In June 2003, combined troops of the Burmese Army and a DKBA unit arrested and tortured a villager in Noeaw lar village, Pa-an Township. When he later escaped, the troops extorted \$450 (450,000 kyat) and a cow from his mother. In July 2003, soldiers extorted \$200 (200,000 kyat) worth of food from the villagers in Sha zi bo village and abducted a woman from Zi pyu gon village. At year's end, it was not known if she had been released. Also in July 2003, in Nyaunglaybin district, government troops

shot and killed a man from Thaw nge doe village, Kyauk kyi Township, and took \$50 (50,000 kyat) from his body.

From August until mid October 2003, government soldiers reportedly forced villagers from Na Bue Township to porter ammunition and supplies and to act as mine sweepers for the troops. Many villagers and prisoners have been killed or injured from resulting landmine explosions.

According to a 2002 Human Rights Watch (HRW) report, government troops conscripted children as young as the age of 11 (*see* Section 5).

The Government did not allege any serious abuses by insurgent groups during the year, though it did blame Thai based exile groups for several small bombs that exploded near the Rangoon central train station on June 26. Some members of the insurgent groups committed serious abuses in 2003. For example, according to a government report, the KNU blew up a cinema hall in May 2003 in Phyu Township, Bago Division, injuring 50 persons. The KNU denied responsibility. UNICEF, AI, and HRW reported that insurgent groups as well as government forces recruited child soldiers (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law permits the Government to restrict freedom of speech and freedom of the press, and in practice, the Government continued to restrict these freedoms severely and systematically during the year. The Government continued to arrest, detain, convict, and imprison citizens for expressing political opinions critical of the Government, and for distributing or possessing publications in which opposition opinions were expressed (*see* Sections 1.d. and 1.e.). Security services also monitored and harassed persons believed to hold antigovernment opinions.

Legal restrictions on freedom of speech have intensified since 1996, when the Government issued a decree prohibiting speeches or statements that “undermine national stability.” In all regions of the country, the Government continued to use force to prohibit all public speech critical of it by all persons, including persons elected to Parliament in 1990, and by leaders of political parties. The Government has pursued this policy consistently since 1990 with few exceptions.

In July 2003, the OCMI arrested five editors of the sports journal *First Eleven*, alleging they were involved in a plot against the junta. Some speculated, however, that they were actually arrested for publishing articles exposing corruption in local sports. The Government released three of the editors but charged the other two: Zaw Thet Htwe, a former student leader, and Soe Pa Pa Hlaing, daughter of an imprisoned NLD M.P. elect. In November 2003, the Government sentenced Zaw Thet Htwe to death and released Soe Pa Pa Hlaing. In May, the Government commuted the death sentence to a 3 year term.

The NLD continued to press for substantive dialogue on political reform and publicly voiced criticisms of the policies and actions of the Government (*see* Sections 1.a. and 1.d.). In July, the NLD began collecting signatures on a letter to the SPDC calling for the release of Aung San Suu Kyi and U Tin Oo and for the reopening of party offices. In mid-August, authorities arrested nine NLD supporters and sentenced them to lengthy prison terms. On November 5 and 6, authorities in Danubyu Township arrested three NLD members: U Han Sein, U Than Htut and U Win Maung. They were held for 2 weeks with no charges and brought to court on November 19, allegedly for illegally “distributing leaflets.” However, the leaflets were legally printed and sealed in an envelope at NLD headquarters. Consequently, they were tried on a different charge of violating State Law and Order Restoration Council Order 3/90, which restricted the right to assemble and campaign, and ordered to pay a fine of \$5 (5,000 kyat)—about 2 weeks wages—or face 2 months imprisonment. They paid the fine and were released. They plan to lodge an appeal in the Divisional Court.

Many prominent writers and journalists remained in prison for expressing their political views. The Paris based organization *Reporters Sans Frontieres* reported that at least 15 journalists remained in prison at the end of 2003, including Ohn Kyaing, better known by his pen name Aung Wint, who wrote articles in favor of democracy and also was an NLD M.P. elect from Mandalay. He has been in prison since 1990. Government censorship boards prohibited publication or distribution of works authored by those in prison.

The Government released four journalists during the year: On March 1, Aung Zin Min, a poet and magazine editor; on March 12, Kyi Tin Oo, a poet and journalist, who died on July 24 (*see* Section 1.b); on April 9, cameraman Khin Maung Win (“Sonny”) who had served a 7 year sentence for filming an interview with Aung San Suu Kyi and sending the tapes abroad; on July 12, U Thar Ban, a lawyer and author (*see* Section 1.e.).

On the anniversary of the May 30, 2003 Depeyin attack, the OCMI arrested and detained for 1 week nine NLD youth members for distributing U.N. Development Program issued pamphlets with the text of the Universal Declaration of Human Rights in Burmese around Rangoon. Also in May, a court sentenced former British Broadcasting Corporation (BBC) stringer Ne Min to 15 years in prison for passing information to Thai based exile groups. On July 27, the Government arrested Kachin filmmakers Lazing La Htoi and No Htoi for producing a documentary about the recent flooding in Kachin State. The film documented flood related deaths, contradicting the official version of the flooding. The authorities subsequently released the two.

The Government owned and controlled all daily newspapers and domestic radio and television broadcasting facilities. These official media remained propaganda organs of the Government and usually did not report opposing views except to criticize them. The only partial exception was the Myanmar Times, an English and Burmese language weekly newspaper, targeted at the foreign community in Rangoon. The paper's co-owner, U Myat Swe, and his father, former OCMI officer, Brigadier General Thein Swe, were arrested in the wake of former Prime Minister Khin Nyunt's ouster in October. Although the Myanmar Times was both censored and pro government, the newspaper occasionally reported criticisms of government policies by the U.N. and other international organizations.

All privately owned publications remained subject to prepublication censorship by state censorship boards. Due in part to the time required to obtain the approval of the censors, private news periodicals generally were published weekly. However, since 1996 the Government has given transferable waivers of prepublication censorship for weekly periodicals. As a result, weekly tabloids proliferated. Government controls encouraged self censorship, and publications generally did not report domestic political news or sensitive economic and political topics.

Imported publications remained subject, in principle, to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. The Government also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals (*see* Section 1.f.); however, foreign newspapers could be purchased in Rangoon. Some foreign newspapers and magazines were distributed uncensored.

The Government issued few visas to foreign journalists and held only a few of press conferences on political subjects. In previous years, the authorities detained and deported some journalists who entered the country as tourists; there were no such actions during the year. However, a correspondent for the BBC's Burmese Service, who entered the country as a tourist, was told verbally to leave. Another correspondent for the same organization, who also entered the country as a tourist, was not bothered while in the country. During the year, the Government held several press conferences, including one on narcotics control and another on the explosions at the Rangoon central train station. Burmese representatives of international media organizations were allowed to attend.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained the most important medium of mass communication. News periodicals rarely circulated outside urban areas. The Government continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of Radio Free Asia, the Voice of America, the BBC, and the Democratic Voice of Burma remained the principal sources of uncensored information. Ownership of small Chinese made radio receivers increased significantly in recent years.

The Government continued to monopolize and to control tightly all domestic television broadcasting, offering only three channels, including an armed forces channel. The general population was allowed to register satellite TV receivers for a fee. Illegal satellite television was also available, but access to satellite television remained far beyond the reach of the vast majority of the impoverished population. The Television and Video Law makes it a criminal offense to publish, distribute, or possess a videotape not approved by a state censorship board; however, this law was selectively enforced. In August, Aung Kyin, an M.P.-elect from Myaungmya Township, Irrawaddy Division, was arrested—along with three other members of the NLD—for allegedly distributing illegal videotapes. The authorities released all four after a few days following Aung Kyin's resignation from the Party.

The Government strictly monitors and censors all cultural events. On June 20, according to media sources, OCMI arrested the members and concert organizers of a hip hop band, after it performed its first concert at the Strand Hotel in Rangoon. Sources reported that the detainees were taken to an unknown location for interrogation, and subsequently released on July 9.

The Government systematically restricted access to electronic media. All computers, software, and associated telecommunications devices were subject to registration, and possession of unregistered equipment was punishable by imprisonment (*see* Section 1.f.).

Until October, OCMI operated the more popular of the country's two Internet service providers (ISP), offering expensive, censored Internet service to those who could afford it. After October, the army signal corps and the Ministry of Communications took control of the ISP. There are several Internet cafes; however, access was costly and the Government restricted full access to the World Wide Web and prohibited the use of commercial free e mail providers. The Government also monitored all e mail communications.

The Government restricted academic freedom. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. The Ministry of Education routinely warned teachers against criticizing the Government. It also instructed them not to discuss politics at work, prohibited them from joining or supporting political parties or from engaging in political activity, and required them to obtain advance approval for meetings with foreigners. Like all state employees, professors and teachers are required to join the USDA, the Government's mass mobilization organization. Teachers at all levels also continued to be held responsible for the political activities of their students. Foreigners were not permitted on university campuses without prior approval and were not allowed to attend any meetings involving students, including graduation ceremonies.

In recent years, the Government took a number of measures to limit the possibility of student unrest. Undergraduate campuses were moved to remote areas, teachers and students were warned that disturbances would be dealt with severely, and most on campus dormitories were closed. The quality of education deteriorated to such an extent that many students opted to use self study or private tutoring. Immediately after the May 2003 attack on the NLD, the Government closed the University of Distance Education and the Rangoon Arts and Science University for 3 weeks. The Government placed heavy security around other schools that were open, even during summer vacation.

The Government tightly controlled the limited number of private academic institutions in the country as well as what they were allowed to teach. Similar controls extended to Buddhist monastery-based schools, Christian seminaries and Sunday schools, and Muslim Madrassas.

*b. Freedom of Peaceful Assembly and Association.*—The law limits the freedom of assembly, and the Government restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although the ordinance was not enforced consistently. The Government forced civil servants to join the USDA, a pro government mass organization created by the SPDC, and organized mass rallies of USDA members in support of the Government's seven step road map to democracy.

On April 17, the Government allowed the NLD to re open its Rangoon headquarters, closed following the May 2003 attack. However, all other NLD offices remained closed by Government order and the NLD could not conduct party activities outside its headquarters building. The nine other legally registered political parties were required to request permission from the Government to hold meetings of their members. During the year, meetings occurred outside the NLD offices without Government permission, such as regular Tuesday visits by an NLD women's group to Rangoon's Shwedagon Pagoda; however, OCMI watched these "illegal" activities closely, and the Government prohibited those participating from wearing political pins, badges, and jackets.

The Government continued to bar the Parliament elected in 1990 from convening. On May 17, the Government reconvened the NC, disbanded since 1996, as part of a democracy road map that would "nullify" the results of the 1990 election and approve a new constitution. However, the Government did not allow the participation of the NLD and other pro democracy parties, did not allow delegates to the NC to discuss the Convention outside of the NC site, and threatened to enforce harsh laws against any who criticized the NC or the draft constitution.

Government authorities prohibited a delegation of NLD members from paying their respects at the tomb of Aung San, the father of Aung San Suu Kyi, on Martyrs' Day (July 19).

The Government at times interfered with the assembly of religious group members (*see* Section 2.c.).

The Government restricted freedom of association, particularly in regard to members of the NLD, pro democracy supporters, and those who contacted exile groups.

During the year there were several arrests and sentences for “illegal contact” with cross border exile groups, especially the Federation of Trade Unions of Burma (FTUB) and NLD Liberated Areas (*see* Sections 1.b, 1.d, and 2.a). Over the years, the Government continued to coerce NLD members, including NLD M.P.s-elect, to resign from their party positions. The Government fired at least five civil servants for showing support for Aung San Suu Kyi during her 2003 countrywide travels.

AI reported that in January the Government sentenced seven students from Dagon University to between 7 and 15 years in prison for forming an illegal association (a sports club) in June 2003.

The Government compelled civil servants to join the USDA pro junta mass organization. The Government coerced secondary school and college-level students to join when registering for classes. The Government also coerced skilled trades workers and professional association members to join the USDA.

In general, freedom of association existed only for government approved organizations, including trade associations, professional bodies, and the USDA. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with Government policy. There were 10 legally registered political parties, but most were moribund.

*c. Freedom of Religion.*—The Government has governed without a constitution since 1988. Constitutional support for religious freedom does not exist. Most religious adherents registered with the authorities generally were free to worship as they chose; however, the Government imposed restrictions on certain religious activities and promoted Buddhism over other religions in some ethnic minority areas. In practice, the Government also restricted efforts by Buddhist clergy to promote human rights and political freedom.

There were no reported incidents of religious violence during the year. However, in October and November 2003, there were several incidents of Buddhist Muslim violence near Mandalay and in Rangoon. Muslim groups in Rangoon claimed that 11 persons were killed and 2 mosques were destroyed near Mandalay. It was unclear what sparked these clashes. Although it was slow to react to the incidents in Mandalay, the Government reacted quickly in Rangoon, sending troops into Muslim neighborhoods and imposing a strict curfew on Buddhist monasteries. This latter action caused resentment among many Buddhist monks, and the authorities arrested several monks for not observing the curfew. Overall, the Government arrested approximately 70 Buddhists, including 44 monks, and 70 Muslims for their participation in the violence. The fate of the monks and Buddhists is not known, but a Muslim group reported that in December 2003 a court sentenced 30 Muslims from near Mandalay to prison and sentenced 1 person to death for their role in the violence and the death of a senior Buddhist monk.

The Government’s pervasive internal security apparatus sought to infiltrate or monitor meetings and activities of virtually all organizations, including religious ones. Religious activities and organizations also were subject to restrictions on freedom of expression and association.

Virtually all organizations, religious or otherwise, must be registered with the Government. Although an official directive exempted “genuine” religious organizations from registration, in practice only registered organizations were allowed to buy or sell property or open bank accounts. Thus, most religious organizations registered with the Government. In addition, the Government provided some utilities at preferential rates to recognized religious groups. There was no official state religion; however, the Government continued to show preference for Theravada Buddhism, the majority religion. For example, the Government continued to fund two state run Buddhist universities in Rangoon and Mandalay. The Government also hosted the World Buddhist Summit from December 9-11.

The Government continued its efforts to control the Buddhist clergy (Sangha). It tried members of the Sangha for “activities inconsistent with and detrimental to Buddhism” and imposed on the Sangha a code of conduct that was enforced by criminal penalties. In a November report, the Assistance Association for Political Prisoners in Burma estimated that there are approximately 300 monks and novices in Burma’s prisons. In December 2003, 26 monks from Mahagandayon Monastery in Rangoon were defrocked and then sentenced by the Government to 7 to 18 years in prison for refusing to accept offerings from a senior military official. The Government also subjected the Sangha to special restrictions on freedom of expression and freedom of association. The military Government prohibited any organization of the Sangha other than the nine state recognized monastic orders under the authority of the State Clergy Coordination Committee (Sangha Maha Nayaka Committee). The Government prohibited all religious clergy from being members of any political party.

The Government continued to restrict the building of religious structures by minority religious groups and limited the educational and proselytizing activities of these groups.

In most regions of the country, Christian and Muslim groups that sought to build small churches or mosques on side streets or other inconspicuous locations occasionally were able to proceed, but only based on informal approval from local authorities. These groups reported that formal requests encountered long delays, generally were denied, and could be reversed by a more senior authority. In June, a Chin human rights group reported that a more senior military official reversed a local commander's decision to allow construction of a new Baptist church in southern Chin State.

The Government appeared to discriminate against non Buddhists at the upper levels of the public sector. There are no non Buddhist members in the SPDC, in the Cabinet, or among active flag rank officers of the armed forces. The Government actively discouraged Muslims from entering military service, and Christian or Muslim military officers who aspired to promotion beyond the rank of major were encouraged to convert to Buddhism. In some ethnic minority areas, such as Chin State, there were reports that the SPDC offered troops financial and career incentives to marry Christian Chin women, teach them Burmese, and convert them to Buddhism.

The Government discourages proselytizing by all clergy. Evangelizing religions, like some Christian denominations and Islam, were most affected by these restrictions. In general, the Government has not allowed permanent foreign religious missions to operate in the country since the mid 1960s, when it expelled nearly all foreign missionaries and nationalized almost all private schools and hospitals.

There continued to be evidence that Christian Chins were pressured to attend Buddhist seminaries and monasteries and were encouraged to convert to Buddhism. In April, an exile Chin human rights group reported that local authorities forced 15 Chin pastors to participate in Buddhist New Year events to demonstrate "unity" with Burman Buddhists. The same human rights group claimed that local government officials lodged the children of Chin Christians in Buddhist monasteries in which they were given religious instruction and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the Government sought to induce members of the Naga ethnic group in Sagaing Division to convert to Buddhism by similar means.

Religious publications remained subject to control and censorship (*see* Section 2.a.). Translations of the Bible and Koran into indigenous languages could not be imported legally; however, with the Government's permission, Bibles in indigenous languages could be printed locally.

Citizens and permanent residents of the country were required to carry Government issued national registration cards that often indicated religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person's religion was indicated on his or her identification card. Citizens also were required to indicate their religion on some official application forms, such as for passports.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the Government restricted freedom of movement, most citizens, with a few exceptions such as Muslims traveling to and from Rakhine State and some political party members, were able to travel within the country. However, citizens' movements were monitored, and they were required to notify local officials of their whereabouts (*see* Section 1.f.). Movement was limited in areas of armed conflict. Citizens were subjected to arbitrary relocation.

The Government continued to hold NLD leaders Aung San Suu Kyi and U Tin Oo under house arrest and rigorously curtailed freedom of movement of other opposition political leaders. Early in 2003, government affiliated groups increasingly harassed democratic opposition members during travel outside of Rangoon, culminating in the attack in May 2003 and the subsequent arrest, detention, and eventual release of most of the survivors (*see* Sections 1.d. and 2.b.). The Government maintained close control over ethnic leaders' movements, requiring them to seek permission from the Government before making any domestic trips.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Irrawaddy Division, continued to experience tight controls on personal movement, including frequent military checkpoints, monitoring by OCMI, and military garrisons. "Informal taxes," or bribes, were extracted at checkpoints in border areas. In Rakhine State, many controls and checkpoints applied only to the Muslim population (*see* Section 5).

The Government tightly controlled the movement of Muslim Rohingyas, who are not granted full citizenship rights, in Maungdaw, Buthidaung, and Rathedaung Townships along the Bangladesh border. The Government also required other non-citizens, generally ethnic South Asians or Chinese, to obtain prior permission to travel internally. Nonetheless, the country's borders with China, Thailand, Bangladesh, and India remained very porous with significant undocumented migration and commercial travel occurring during the year.

An ordinary citizen needs three documents to travel outside the country: a passport from the Ministry of Home Affairs; revenue clearance from the Ministry of Finance and Revenue; and a departure form from the Ministry of Immigration and Population. In 2002, in response to the trafficking in persons problem, the Government tightened the documentation process in ways that hinder or restrict international travel for the majority of women.

New passport procedures went into effect on August 6 that allow citizens to retain their passports after completing trips abroad through their validity dates, namely: 1 year for incidental travel; 3 years for dependents; 4 years for employment; and 18 months for those traveling on business. The Government also announced that it intended to issue up to 3,000 "e passports" for businessmen that contain electronic chips, which make them machine readable. These passports would be valid for 3 years.

The Government carefully scrutinized prospective travel abroad for all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were forced to pay bribes of roughly \$300 (300,000 kyat), the equivalent of a yearly salary, to around \$1,000 (1 million kyat) for a single woman under 25 years of age. The board that reviews passport applications denied passports on political grounds. College graduates who obtained a passport (except for certain official employees) were required to pay a fee to reimburse the Government for the cost of their education. Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return.

The Government loosened its restrictions on travel outside of Rangoon by foreign diplomats and foreign U.N. employees based in Rangoon to allow travel to designated tourist sites without prior permission; all other travel required advance permission. The Government waived the requirement for employees of the ILO and the ICRC. The Government required all foreign and local residents, except diplomats, to apply for authorization to leave the country.

Restrictions on nonresident foreigners' travel to some areas of the country were relaxed. The Government also inaugurated a "visa on arrival" system, which still required predeparture application for a visa via the Internet. The country's embassies now generally issue tourist visas, valid for 1 month, within 24 hours of application. However, certain categories of applicants, such as human rights advocates, journalists, diplomats, and political figures regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the Government and for purposes approved by the Government.

The abrogated 1974 Constitution did not provide for forced exile, and the Government did not use forced exile.

The Government has not established legal arrangements to accept Burmese citizens deported from other countries; however, in the past, the Government has accepted the return of several thousand illegal migrants from Thailand and has begun preliminary discussions with international organizations on the potential repatriation of Karen refugees now living in Thailand.

There were a large number of internally displaced persons (IDPs) in the country. According to the U.S. Committee for Refugees, there were at least 600,000, and possibly as many as 1 million IDPs in the country at year's end (*see* Section 1.f.).

During the year, despite the start of peace talks between the SPDC and the KNU, the military continued to abuse thousands of villagers and drove them from their homes, particularly during military campaigns in Karen, Kayah, and Shan States (*see* Section 1.f.). Christian Solidarity Worldwide (CSW) and other Thai based NGOs reported that in January and February more than 5,000 Karen and Karenni persons were displaced in the area along the Karen Karenni state border because of army offensives. CSW also reported in June and July that the army and its allied Karenni Solidarity Organization launched offensives, which displaced more than 1,000 Karenni villagers living near the Karen State border.

Karen groups reported that most fighting in central Karen State stopped as of February. However, there were credible reports of renewed attacks on villages in Karen State after the rainy season ended in September (*see* Section 1.g.).

Harassment, fear of repression, and deteriorating socio economic conditions continued to force many citizens to leave for neighboring countries and beyond. In bor-

der regions populated by minority ethnic groups, the Government continued its practices of forced labor, confiscation of lands, compulsory contributions of food, and forced relocations. These policies produced hundreds of thousands of refugees in neighboring countries such as Thailand, China, India, Malaysia, and Bangladesh. The UNHCR reported that 30,000 to 40,000 Chin refugees and economic migrants were living in difficult conditions on the India side of the border at the end of the year and that several thousand of these individuals were pressured to return to Burma. Some returned while others remained in India. During the year, there were credible reports that security forces burned villages in Nyaunglebin district of Karen State and prevented the villagers from returning (*see* Section 1.g.).

Rohingya Muslims who returned to Rakhine State were not stigmatized for having left, but were discriminated against for being Rohingya. Returnees claimed that they faced restrictions on their ability to travel, to engage in economic activity, to get an education, and to register births, deaths, or marriages.

In February, the Government gave permission to the UNHCR to send assessment teams into areas of Karen State, Mon State, and Tanintharyi Division (along the Thai border) previously off limits. The Government cooperated with UNHCR in allowing initial familiarization visits to begin planning for local villages to receive some or all of the refugees now resident in Thailand.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees.

There were no reports that persons formally sought asylum in the country during the year. There were no reports of forced repatriation.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

Citizens did not have the right to change their government. The SPDC continued to prevent the Parliament elected in 1990 from convening. The military junta continued its systematic use of coercion and intimidation to deny citizens the right to change their government.

Since 1962, active duty military officers have occupied the 13 most important positions in the central Government and in local governments, and the SPDC placed active duty or retired military officers in most key senior level positions in all ministries. At year's end, active duty or retired military officers occupied 33 of 38 ministerial level posts, including the Prime Minister, and also the mayoral posts in Rangoon and Mandalay.

Following the NLD's victory in the 1990 elections, the military junta refused to implement the election results and disqualified, detained, or imprisoned many successful candidates (*see* Sections 1.d. and 1.e.). During the year at least four NLD M.P.s-elect fled the country.

In 1998, the NLD leadership organized the Committee to Represent the People's Parliament (CRPP) on the basis of written delegations of authority from a majority of the surviving M.P.s elect of the 1990 Parliament. The CRPP considered itself as acting on behalf of the Parliament until the Parliament is convened. In retaliation the Government launched a sustained and systematic campaign to destroy the NLD without formally banning it; the authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. At year's end, a total of 12 M.P.s elect remained in prison for political reasons; Sein Hla Oo, Ohn Kyaing, and Khin Maung Swe, have been in prison since the early 1990s under harsh conditions.

In the 1990 election, 392 NLD members won seats. Of that number, 132 remain elected members. Self-exiles (19), deaths (71), and forced resignations or barring (170) account for the balance. Those in the last category resigned for various reasons. For example, the USDA staged rallies of "no confidence" against some of the elected members. The USDA and OCMI officials pressured the families, as well as the members themselves. In addition, the NLD expelled 25 of its members for breach of party discipline. Nine of the expelled M.P.s were allowed to become independent M.P.s by the government Election Commission. The CRPP has not disqualified any elected members.

On May 17, the Government reconvened the NC, first convened from 1993-96, as part of a democracy road map that would nullify the results of the 1990 election and adopt a new constitution. The Government convened the NC with more than 1,000 handpicked delegates, including representatives from 17 ethnic cease fire groups. However, it effectively barred participation by the major political parties, including the NLD and others that won seats in the 1990 elections, and prohibited free debate on the drafting of a new constitution. The Government threatened 5 to

20 years in prison for any criticism of the process. The NC adjourned for a recess on July 9.

In a January report to the U.N. Commission on Human Rights, the UNSRHR noted that the Government's road map to democracy must "firmly entrench human rights principles" for it to be successful. After the Government convened the NC without the NLD or other opposition political parties, the UNSRHR noted on June 1 that the NC process was thus far a "meaningless and undemocratic exercise."

In a statement submitted to the U.N. General Assembly (UNGA) on August 30, the Special Rapporteur noted that the concerns regarding the NC process expressed in the January report have not been addressed; and, "that the necessary steps to ensure minimum democratic conditions for the reconvening of the NC have not been taken." In his statement to the United Nations Third Committee on October 28, the UNSRHR asserted that "a credible process of national reconciliation and political transition is not possible without two fundamental conditions: the early release of all political prisoners, and the relaxation of restrictions which continue to hamper the ability of political parties and ceasefire partners to operate." He also said it was "essential" that the Government resume cooperation with the U.N. Secretary General's envoy Razali Ismail.

Corruption is systemic at all levels of the Government and society. It is considered by economists and businesspersons to be one of the most serious barriers to investment and doing business in the country. A Byzantine and capricious regulatory environment fostered corruption.

The authorities rarely and inconsistently enforce the anti corruption statute—they usually do so only when the junta's senior generals want to take action against an official whose egregious corruption has become an embarrassment. On November 7, the SPDC published an explanation of deposed Prime Minister Khin Nyunt's ouster that included charges of "bribery and corruption" against the former junta member. Other accounts suggest these charges were accurate, but he has yet to be put on trial or examined in any other form of public hearing. Hundreds of Khin Nyunt's family and associates were detained or interrogated in the wake of his ouster. The junta also claimed it had convicted 186 "personnel" from the military and three civilian departments for their involvement in corruption at Muse, a border checkpoint managed by OCMI.

The Government did not provide access to most official documents, nor is there a law allowing for it. Most Government data is classified or controlled. Government policymaking was not transparent, with decision-making confined to the top layers of government, and new government policies rarely were published or explained openly.

Women were excluded from political leadership. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.

Members of certain minority groups also were denied full citizenship and a role in government and politics (*see* Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not allow domestic human rights organizations to function independently, and it remained generally hostile to outside scrutiny of its human rights record.

In addition to the ICRC and several U.N. agencies, approximately 35 nonpolitical, international humanitarian NGOs operated in the country. A few others have established a provisional presence while undertaking protracted negotiations necessary to establish permanent operations in the country. Some international humanitarian NGOs and U.N. agencies reported an increase in contact with regional government officials and some government ministries demonstrated an increased willingness to engage on previously taboo subjects such as trafficking in persons, HIV/AIDS, child soldiers, and education.

In February, the Government and the UNHCR signed an agreement to allow UNHCR access to previously off limits conflict areas in Karen State and Tanintharyi Division (*see* Section 2.d). The UNHCR subsequently made "assessment" trips to the region, but it has not established a permanent presence there.

The Government continued to restrict the travel of foreign journalists, NGO staff, some U.N. agency staff, and diplomats in some regions. Human rights advocates regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the Government and for purposes approved by the Government (*see* Section 2.d). The Government's monitoring of the movements of such foreigners, its frequent interrogation of citizens concerning contacts with foreigners, its restrictions on the freedom of expression and association of citizens, and its practice of arresting citizens who passed information about Government human rights abuses to for-

eigners all impeded efforts to collect or investigate human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified.

Some international NGOs and U.N. agencies were required to have a government representative accompany them on field visits, at the NGOs' expense—though this rule was not consistently enforced (*see* Section 1.f.).

Despite repeated requests, the Government did not permit the UNSRHR to visit the country during the year. In 2003, the UNSRHR visited the country twice. He cut short his first visit when he discovered an electronic listening device installed in a government controlled room where he was interviewing a political prisoner. In his January report to the U.N. Commission on Human Rights, the UNSRHR noted that the “events” of May 2003 “have resulted in a setback for human rights in Burma.” The UNSRHR called on the Government to conduct a “full and independent” inquiry into the Depeyin attack. He also reiterated his call for an investigation into “serious human rights abuses” in ethnic minority areas—namely Shan State.

In his August 30 report, the Special Rapporteur took note of the Government's cooperation with the U.N. Committee on the Rights of the Child. However, in view of the prevailing situation, the Special Rapporteur stated in August that the conclusions and recommendations contained in his January report remained valid.

On October 28, in a statement to the UNGA, the UNSRHR reported the information he had received during the reporting period, “indicates that the situation with regard to the exercise of fundamental human rights and freedoms in Myanmar has not substantially changed, and may have even worsened. The effects of the events of 30 May 2003 in Depeyin have yet to be fully reversed and those responsible for the attacks, injuries and deaths continue to enjoy impunity.”

Nevertheless, the ICRC continued to operate freely in the country conducting its normal range of operations (protection, physical rehabilitation, basic hygiene and healthcare).

In July 2003, OCMI arrested 11 and sentenced 9 persons to death for “conspiracy against the government,” for their alleged role in a coup plot. In November 2003, a court sentenced three of those arrested in July, Naing Min Kyi, Shwe Man, and Aye Myint, to death in part for having contacts with the ILO and the Thai based labor group the FTUB. Subsequent ILO diplomatic efforts led to a special appeals court reducing the death sentences to 3 years' imprisonment for Naing Min Kyi and Aye Myint. The special court reduced Shwe Man's sentence to life in prison. An October decision further reduced Shwe Man's sentence to 5 years, and the sentences of the others to 2 years.

The Government's Human Rights Committee was chaired by the Minister of Home Affairs and included the Chief of Police. During the year, members of the Human Rights Committee attended seminars on trafficking and juvenile justice hosted by U.N. agencies. In 2003, the UNHCR conducted refugee law and human rights seminars. The Australian Government suspended its human rights training program after the May 2003 attack. The Government received ILO complaints of labor violations and stated that it was conducting investigations into the violations, however there were no known arrests or public prosecutions of officials for labor violations (*see* Section 6).

#### *Section 5. Discrimination, Societal Abuses and Trafficking in Persons*

The SPDC continued to rule by decree and, due to the abrogation of the 1974 Constitution, was not bound by any constitutional provisions concerning discrimination.

*Women.*—Domestic violence against women, including spousal abuse, is a problem; however, because the Government did not release statistics regarding spousal abuse or domestic violence, it is difficult to measure.

Rape is illegal; however, spousal rape is not a crime unless the wife is under 12 years of age. Married women often lived in households with extended families, where social pressure tended to protect the wife from abuse. The Government did not release statistics regarding rape; however, the Government stated that rape was not common in populous urban areas, but occurred more often in remote areas. Nonetheless, it was generally considered unsafe for women to travel during hours of darkness without a male escort and employers typically had to supply a bus or truck to return female workers to their homes at night. Use of taxis at night was considered particularly hazardous for women because of the risk of rape or robbery. Prostitutes traveling at night typically must pay substantial additional fees to taxi operators or risk being raped, robbed, or turned over to the police. There are credible reports from NGOs and diplomatic sources that prostitutes taken into police

custody were sometimes raped or robbed by the police. Incidents of rape in conflict areas and other ethnic minority areas continued (*see* Section 1.g.).

Prostitution is prohibited by law and punishable by 3 years in prison; however, it was growing in prevalence, particularly in some of Rangoon's "border towns" and "new towns," which were populated chiefly by poor families that were relocated forcibly from older areas of the capital. In 2003, there were credible reports that a large number of female prostitutes were imprisoned and subjected to abuse while incarcerated. The Government and at least one international NGO operated schools and other rehabilitation programs for former prostitutes.

There were no laws against sexual harassment.

Consistent with traditional culture, women kept their names after marriage and often controlled family finances. However, women remained underrepresented in most traditional male occupations, and women continued effectively to be barred from a few professions, including the military officer corps. Poverty affected women disproportionately. Women did not receive equal pay for equal work on a consistent basis. Women legally were entitled to receive up to 26 weeks of maternity benefits; however, in practice these benefits often were not accorded them.

There were no independent women's rights organizations, though there were several with some relationship to the Government. The Myanmar National Committee for Women's Affairs (and its subgroup the Myanmar National Working Committee for Women's Affairs), in the Ministry of Social Welfare, had branches in all 14 states and divisions and was the primary government organization responsible for safeguarding women's interests. The Myanmar Women's Affairs Federation, established in December 2003 and chaired by the wife of Prime Minister Lieutenant General Soe Win, was the primary "nongovernmental" women's rights organization. The Myanmar Maternal and Child Welfare Association, a government controlled agency, provided assistance to mothers. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women for starting new businesses.

*Children.*—Children under the age of 18 constituted approximately 40 percent of the population. Children were at high risk as destitute parents take them out of school to beg or to work in factories and teashops. Some were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the streets where they were exposed to drugs, petty crime, risk of arrest, sexual abuse and exploitation, and HIV/AIDS.

There was no adequate child protection or juvenile justice system. Efforts in this regard are severely constrained by lack of resources. The Department of Social Welfare (DSW) was in charge of the provision of limited social welfare services, and there were only a few officially appointed social workers.

The Government cooperated with the U.N. Committee on the Rights of the Child. In June, the Committee's chairman visited the country. UNICEF reported close working relationships with the DSW and the Ministry of Education, where it worked to support primary education and instruction in minority languages. Faith based organizations, Buddhist monks and nuns, and private community based groups also provided educational and other support for children.

The Government continued to allocate minimal resources to public education. According to the latest available statistics, in fiscal year 2003–04 (April–March), official expenditures for all civilian education were equivalent to 1.3 percent of the Government budget. Public schooling was ostensibly provided free through the 10th standard (around age 16). However, on average, public school teachers' pay was equal only to approximately \$7 (7,000 kyat) per month, far below subsistence wages, forcing many teachers to leave the profession, or demand payments from their students. Thus, many families had to pay to send their children to school, even at the primary level. In some areas where families were not able to afford unofficial payments, teachers generally ceased work. In response to official neglect, private institutions began to provide assistance in education, despite a legal ban on private schools.

Education is compulsory through the 4th standard. UNICEF reports that 50 percent of primary school students drop out of school before finishing the 4th standard. Rates of school attendance and educational attainment decreased during the year, largely due to rising formal and informal school fees as the Government diverted expenditures from health and education to the armed forces. There was no difference in the attendance rate of boys and girls.

The Government promoted Buddhist monastic schools in rural areas and subsidized Buddhist universities in Rangoon and Mandalay. In ethnic minority areas, the Government often banned teaching in local languages.

Children also suffered greatly from the Government's severe neglect of health care. Although the Government doubled its budget for the Ministry of Health in FY

2003–04, it still amounted to only 1.2 percent of total Government expenditures. There were no reports that the Government discriminated between boys and girls in the provision of health care. In 2001, the latest data available, official studies sponsored by U.N. agencies found that, on average, 109 of 1,000 children died before reaching the age of 5 years, and that only 1 out of 20 births in rural areas was attended by a doctor. A joint Ministry of Labor and U.N. Populations Fund (UNFPA) study in 2001 indicated that, among children under 5 years of age, 7.9 percent were severely malnourished. A joint Ministry of Health and UNICEF report in 2000 indicated that on a national level 35.3 percent of children under 5 are moderately to severely underweight, 33.9 percent are moderately to severely underdeveloped, and 9.4 percent are moderately to severely emaciated. The World Health Organization considered the country's health care system to be extremely poor.

The law prohibits child abuse. The Government stated that child abuse was not a significant problem; however, the Government did not release supporting statistics. On May 26, the U.N. Committee on the Rights of the Child met to consider the country's second periodic report. The Committee issued its concluding observations on June 4, noting that it remained "seriously concerned at the lack of appropriate measures, mechanisms, and resources to prevent and combat domestic violence, including physical and sexual abuse and neglect of children; the limited number of services for abused children; as well as the lack of data on the aforementioned."

Child prostitution and trafficking in girls for the purpose of prostitution especially Shan girls who were sent or lured to Thailand continued to be a major problem. In Rangoon and Mandalay, diplomatic representatives noted widespread employment of female prostitutes who appeared to be in their early teens and for whom there was reportedly a high demand. Additionally, some brothels offered young teenage "virgins" to their customers for a substantial additional fee. The June U.N. Committee on the Rights of the Child report commented: "The Committee is concerned over the increasing number of child victims of sexual exploitation, including prostitution and pornography, especially among those engaged in child labor and street children. Concern is also expressed at the programs for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation which remain insufficient and inadequate."

The official age of enlistment in the army is 18 years. In the past, army recruitment drives have targeted children to meet quotas for the ostensibly all volunteer army, but anecdotal evidence, at least in Rangoon, suggests this practice is now not as common. Nevertheless, there was evidence of forced recruitment of child soldiers by the army.

Ethnic minority cease fire and insurgent groups also forcibly conscripted child soldiers, and there were numbers of child soldiers with these forces, particularly the United Wa State Army.

In his report on January 5, the UNSRHR expressed "deep concern about reported cases of boys forcibly recruited by the military they range in age from 14 to 16 years old and were sent to support military activities in some ethnic area." He further noted, "worrying indications that this practice may be widespread among government troops as well as among insurgent armies." On that same day, the Government established the Committee for Preventing Recruitment of Child Soldiers, which met again on August 4 and purportedly issued new rules and regulations to punish those who recruit child soldiers. In March, diplomatic observers received a report that the authorities had arrested more than a dozen children in Rangoon and forced them into military service.

In March and April, the ILO notified the Government of nine allegations of forced recruitment of children into the military. Two of the cases involved boys who had been sentenced to prison, or who were facing court martial for desertion. The Government investigated and reported to the ILO on eight of these cases, but claimed no incidents of forced recruitment. In two cases, the military released the boys who returned home, but there was no further action. In five cases the Government insisted the boys were above 18 years old. The Government was unable to find one of the alleged child soldiers.

The June U.N. Committee on the Rights of the Child report welcomed the establishment of the Government's child soldier committee, but noted the Committee remained "concerned by the impact of the armed conflicts on children, especially the use of children below the age of 15 years as soldiers by both government armed forces and armed ethnic groups."

According to a U.N. source, on November 12, a military conscription unit of three soldiers visited Se Ywa village of Thongwa Township, Rangoon Division. Four youths were required to accompany the soldiers to the military conscription center at Mingaladon, Thongwa Township. Residents say that the youths were subse-

quently sent to Military Training Center No. 6 in Patheingyi. The parents of the students filed complaints with the Government's Committee for Preventing Recruitment of Child Soldiers.

A 14 year-old boy was picked up by a trishaw driver while en route home from school in November 2002 and "enlisted" in the Army. The boy's parents wrote to the newly established Committee for Preventing Recruitment of Child Soldiers in April and were able to trace their son to an Army post in Lashio (Shan State). His Battalion Commander was subsequently ordered by the Directorate of Military Training to send the young soldier to a Military Language School in Shan State. The parents now know where their son is located, although he is not with them.

In 2002, an M.P. elect from Karen State filed a police report that a 15 year old boy was missing minutes after arriving in Rangoon railway station. The Rangoon police suggested looking for him at the Hmawby army recruit camp near Rangoon, where the M.P. elect found three sets of parents also looking for their children. Six boys were brought forward and the M.P. elect was able to identify and retrieve the boy.

Several international NGOs and agencies promoted the rights of children in the country, including ICRC, World Vision, Save the Children UK, CARE, UNICEF, the U.N. Development Program, and foreign governments. UNICEF expanded its operations in May to open a separate child protection section. On July 12-13, UNICEF, in conjunction with the Supreme Court of Burma, ran a "National Workshop on Juvenile Justice and Child Protection" that concluded an action plan aimed at strengthening the existing juvenile justice system.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there are laws that are used against traffickers, such as those that prohibit kidnapping; and, the Suppression of Prostitution Act and the Child Law, which include provisions against the sale, abuse, or exploitation of children.

There are laws specifically against child prostitution and child pornography; however, they were not effectively enforced. An NGO reported in May that the Government arrested, tried, and convicted a foreigner for sexual abuse of a child. This was reportedly the first such conviction. Reports from Thailand indicated that the rising incidence of HIV infection there increased the demand for supposedly "safer," younger prostitutes, many of whom came from Burma. Trafficking in children within the country also appeared to be a growing problem; however, there were no reliable statistics regarding its extent.

According to the Government, 335 traffickers received jail sentences ranging from under 5 years (78) to life imprisonment (2) from July 2002 to July 2004. The largest number (177) received sentences of between 5 and 10 years. According to government figures, 412 cases were filed during the same period, resulting in 166 convictions. Government data show Thailand as the primary destination for trafficking victims (nearly 80 percent), with much smaller numbers going directly to China, Bangladesh, and India. The Ministry of Home Affairs also reported that it had distributed information about human trafficking to some 702,000 persons living in border areas during the period, 2001–2004.

Officials recognized the importance of preventing trafficking and prosecuting traffickers. Although the Government was active on these fronts, its effectiveness was unclear at year's end. The Government expanded cooperation with international and local NGOs. On April 28, the Government issued the Mutual Assistance in Criminal Matters law, which allows for international cooperation to pursue transnational crime (including trafficking). Over the course of the year, the Government hosted ministerial level meetings, in coordination with the U.N., with countries in the region to discuss the problem of trafficking in persons.

The Coordinated Mekong Ministerial Initiative against Trafficking met in Rangoon, October 27–29, to sign a Memorandum of Understanding pledging mutual cooperation on the problems involved and to develop a related action plan. Senior government and cabinet-level officials from Burma, Cambodia, China, Laos, Thailand, and Vietnam all participated.

During the year, U.N. agencies and NGOs credited the Government for demonstrating political will to combat trafficking and for improvement in cooperation with the international community. In March, the Government formed a new office of Transnational Organized Crime, headed by a police brigadier general to handle nonnarcotics related transnational crimes. This office includes a 40 person unit responsible for trafficking in persons.

The Government made limited progress on trafficking in persons during the year. The Government's pervasive security controls, restrictions on the free flow of information, and lack of transparency prevented a meaningful assessment of trafficking in persons activities in the country. While experts agreed that human trafficking

from the country was substantial, no organization, including the Government, was able or willing to estimate the number of victims. The Government did not allow an independent assessment of its reported efforts to combat the problem.

Trafficking of women and girls to Thailand and other countries, including China, India, Bangladesh, Taiwan, Pakistan, Malaysia, Japan, and countries in the Middle East for sexual exploitation, factory labor, and as household servants, was a problem. Shan and other ethnic minority women and girls were trafficked across the border from the north; Karen and Mon women and girls were trafficked from the south. There was evidence that internal trafficking generally occurred from poor agricultural and urban groups to areas where prostitution flourished (trucking routes, mining areas, and military bases) as well as along the borders with Thailand, China, and India. Men and boys also reportedly were trafficked to other countries for sexual exploitation and labor. While most observers believed that the number of these victims was at least several thousand per year, there were no reliable estimates.

Human traffickers appeared to be primarily free lance, small scale operators using village contacts that fed into more established trafficking "brokers."

The Ministry of Home Affairs stated there is no complicity of Government officials in trafficking; however, corruption among local government officials was widespread and NGOs reported that Government officials were complicit in trafficking, although it appears limited to local or regional officials turning a blind eye to trafficking activities. NGOs also report that individual Burmese police officials were likely involved in extorting money from economic migrants and others leaving the country.

In recent years, the Government has made it difficult for single women to obtain passports or marry foreigners ostensibly to reduce the outflow of women as victims of trafficking (see Sections 1.f. and 2.d.). In addition, there are regulations forbidding females under the age of 25 from crossing the border unless accompanied by a guardian. However, most citizens who were forced or lured into prostitution crossed the border into Thailand without passports. According to the Department of Social Welfare, the Government has begun to help locate families of trafficking victims and to assist in their repatriation.

The Government has a repatriation center on the Thai Burma border, which has processed an estimated 10,500 illegal migrants (not just trafficking victims) since 2001. In May, three female trafficking victims were repatriated from Malaysia and six from Thailand and reunited with their families. On August 10, 20 female victims were repatriated from Thailand.

The Myanmar Women's Affairs Federation and the Social Welfare Department provided some counseling and job training for trafficking victims before they were returned to their families. The Social Welfare Department also provided training to Government officials on the recognition and provision of assistance to victims of human trafficking. The Government provided medical attention and shelter to trafficking victims returning from Thailand. However, Government funding for these programs was very limited. There were no reports of victims being arrested after their return to Burma. There were no reports of trafficking victims filing suit against traffickers.

A number of NGOs offered poverty alleviation and education programs designed to counter trafficking. Reportedly these programs have been moderately successful. On May 18 19, UNICEF organized with several government entities, U.N. agencies, and NGOs, a workshop on "Monitoring and Combating Trafficking and Commercial Sexual Exploitation of Children." The workshop was aimed at expanding awareness of trafficking among involved government agencies and developing strategies for intervention.

*Persons With Disabilities.*—The Government did not actively discriminate against persons with disabilities in employment, access to health care, education, or in the provision of other state services, but there were few resources assisting persons with disabilities. There were no laws mandating accessibility to buildings, public transportation, or government facilities, and persons with disabilities faced societal discrimination. There were several small, local and international organizations that assisted persons with disabilities, but most such persons had to rely exclusively on their families to provide for their welfare.

Military veterans with disabilities received benefits on a priority basis, usually a civil service job at equivalent pay. In principle, official assistance to nonmilitary persons with disabilities included two thirds of pay for up to 1 year of a temporary disability and a tax free stipend for permanent disability; however, the Government did not provide any private sector job protection for persons who became disabled.

The Ministry of Health is responsible for medical rehabilitation of persons with disabilities and the Ministry of Social Welfare is responsible for vocational training. The Government operates three schools for the blind, two for the deaf, two rehabili-

tation centers for adults, and two for children. There are four schools for the blind run by local NGOs. All of the Government schools and programs were very poorly funded. The ICRC provided orthopedic assistance to those who have lost limbs to land mines through clinics and outreach programs in conflict areas.

*National/Racial/Ethnic Minorities.*—Wide ranging governmental and societal discrimination against minorities persisted. Animosities between the country's many ethnic minorities and the Burman majority, which has dominated the Government and the armed forces since independence, continued to fuel active conflict that resulted in serious abuses during the year. These abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of Chin, Karen, Karenni, Shan, Mon, and other ethnic groups by SPDC soldiers. Some armed ethnic groups also may have committed abuses, but on a much smaller scale than the Burmese Army (*see* Sections 1.a., 1.c., 1.f., and 1.g.).

Only persons who were able to prove long familial links to the country were accorded full citizenship. Native born but nonindigenous ethnic populations (such as Chinese, Indians, Bengalis, and Rohingyas) were denied full citizenship and were excluded from government positions. Members of the Rohingya Muslim minority in Rakhine State continued to experience severe legal, economic, and social discrimination. The Government denied citizenship to most Rohingyas on the grounds that their ancestors did not reside in the country 1 year prior to the start of British colonial rule in 1824, as required by the country's highly restrictive citizenship law.

On June 4, the U.N. Committee on the Rights of the Child expressed concern "over the situation of the children of the Bengali people residing in Northern Rakhine Region, also known as the Rohingyas, and of children belonging to other ethnic, indigenous or religious minorities; and in particular, that many of their rights are denied, including the rights to food, to health care, to education, to survival and development, to enjoy their own culture and to be protected from discrimination."

Rohingya Muslims did not have access to state run schools beyond primary education because the Government reserved secondary state schools for citizens. Those excluded were also ineligible for most civil service positions.

Forced labor of Muslims continued to be widespread in Rakhine State. Forced labor of minority ethnic groups was still prevalent in eastern border areas and in Chin State (*see* Section 6.c.).

Persons without full citizenship faced restrictions in domestic travel (*see* Section 2.d.). They also were barred from certain advanced university programs in medicine and technological fields.

Ethnic minority groups generally used their own languages. However, throughout all parts of the country controlled by the Government, including ethnic minority areas, Burmese remained the language of instruction in state schools. Even in ethnic minority areas, most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages.

There were reports that the Government resettled groups of Burmans to various ethnic minority areas (*see* Section 1.f.).

There were ethnic tensions between Burmans and nonindigenous ethnic populations, including Indians, many of whom were Muslims, and a rapidly growing population of Chinese, most of whom emigrated from Yunnan Province. They increasingly dominated the economy of the northern part of the country.

*Other Societal Abuses and Discrimination.*—Many citizens view homosexuals with scorn. The penal code contains provisions against "sexually abnormal" behavior that have been used to bring charges against gays and lesbians who have drawn unfavorable attention to themselves.

Nevertheless, homosexuals have a certain degree of protection through societal traditions. Transgender performers commonly provide entertainment at traditional observances. Some are spirit ("nat") worshipers and, as such, they have special standing in the society. They participate in a well established week long festival held near Mandalay every year. The event is considered a religious event, free of sexual overtones or activities, and is officially approved by the Government. No one, including the military or police, interferes with the festival.

During a 2 month period in 2002, Government border officials had administered involuntarily HIV/AIDS tests to returning citizens. Those who tested positive were forced first into a hospital and then into a detention center. The Foreign Minister reported this situation to the Ministry of Health as discrimination, and the Health Ministry ended the practice. Nevertheless, HIV positive patients were discriminated against, as were the doctors who treated them. The Government worked to address this issue and has drafted a protocol for Voluntary Confidential Counseling and

Testing for HIV/AIDS that is intended to provide protection for the right to privacy. It was not promulgated by year's end.

*Section 6. Worker Rights*

*a. The Right of Association.*—The 1926 Trade Unions Act, which remains in effect, permits workers to form trade unions only with the prior consent of the Government; however, no free trade unions existed in the country.

The ICFTU reported that in August 2002 army troops killed an official of the FTUB, a proscribed organization based in Thailand. The troops forced Mya Than, a village headman who was widely known for his trade union activities, to porter for the army, and then killed him in retaliation for an attack by opposition forces. The Government officially responded to this report by stating that Mya Than was killed by an anti personnel mine while portering for the Burmese Army. In 2003, other FTUB activists reportedly were arrested for talking to the ILO about forced labor. These three activists originally were sentenced to death, but later had their punishment reduced to prison terms of 5 and 2 years respectively (*see* Sections 4 and 6.c).

There were no internationally affiliated unions because unions are banned. The Government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from contacts with the International Transport Workers' Federation, and the Government often refused to document seafarers who were abroad. Without proper documentation it is not possible for a seafarer to find regular employment abroad.

The Government has criminalized contact with the Thai based FTUB claiming it is a "terrorist group;" however, the Government has not made this case to the ILO through the relevant formal procedure. During the year and in 2003, the Government arrested and sentenced persons in part for their contacts with the FTUB and other Thai based exile groups (*see* Section 1.b, 1.d, 2.a, and 2.b).

*b. The Right to Organize and Bargain Collectively.*—The Government does not allow unions; therefore, workers did not have the right to organize and bargain collectively. The Government's Central Arbitration Board, which once provided a means for settling major labor disputes, has been dormant since 1988. Township level labor supervisory committees existed to address minor labor concerns.

The Government unilaterally set wages in the public sector. In the private sector, market forces generally set wages; however, the Government has pressured joint ventures not to pay salaries greater than those of ministers or other senior Government employees. Some joint ventures circumvented this with supplemental pay or special incentive systems. Foreign firms generally set wages near those of the domestic private sector, but followed the example of joint ventures in awarding supplemental wages and benefits.

According to the law, workers generally are prohibited from striking, although a small number of workers purportedly are accorded the right to strike. The last reported strike was in 2000, when an employer retracted a promise to pay piece rates. Subsequently, 30 employees were detained, many for up to 3 months. All the employees lost their jobs.

There are no export processing zones; however, there were special military owned industrial parks, such as Pyin Ma Bin, near Rangoon, which attracted foreign investors, and the 2,000 acre Hlaingthaya Industrial Zone in Rangoon where several companies operated.

*c. Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor remained a widespread and serious problem, particularly among minority groups. The penal code provides for the punishment of persons who imposed forced labor on others. The Government did not arrest anyone under this statute; however, the ILO reported six cases brought to court by alleged victims during the year. Of the six, three were being processed, two were dismissed, and one person withdrew his charges.

Throughout the country, international observers verified that the Government routinely forced citizens to work on construction and maintenance projects. Citizens also were forced to work in the military owned industrial zones.

Reports of forced labor for building and maintaining economic infrastructure have declined from a peak during the mid-1990s, particularly in the ethnically Burman central regions.

In December, a foreign corporation settled cases in U.S. courts regarding atrocities committed by Burmese army soldiers, who allegedly forced others to work on the construction of a pipeline.

In contrast, the Government's use of forced labor in support of military garrisons or operations remained particularly serious in ethnic or religious minority regions.

The ILO has corroborated UNHCR's reports of a "serious resurgence" in forced labor in Rakhine State, where the Prime Minister had ordered the military to construct six new bridges. The ILO continued to call upon the Government to stop the use of forced labor; however, the local authorities have ignored the central government's instructions to "cease and desist" the practice.

The Rangoon based ILO Liaison Office reported that the Government's orders to end forced labor had been widely, if unevenly, disseminated, and their impact on reducing forced labor was limited and not sustained.

Over the past 5 years, the ILO and other international agencies have seen changes in the Government's approach to conscripting forced labor. The ILO reported that military units tend to no longer issue written orders to village heads to provide forced labor, and instead gave verbal instructions. The ILO also reported that in some cases the Government substituted demands for forced labor with demands for forced contributions of materials, provisions, or money. Throughout the year there were frequent and widespread reports of soldiers forcing contributions from ethnic minority villagers. During the year, the ILO reported that it appears the Government occasionally paid for forced contributions, but the payments were usually well below prevailing wage rates. Diplomatic representatives did not receive any reports of the Government paying for forced contributions.

The ILO reports that since 2002, the Government increasingly substituted prisoners not sentenced to hard labor for civilians as forced laborers, possibly due to international pressure not to use civilians. During the year, the military continued to take prisoners from jails in Shan State and elsewhere for use as porters. In October 2003, during its offensive against the KNU, the army reportedly used more than 300 prisoners as porters.

A draft agreement with the ILO to establish a facilitator to help forced labor victims seek remedies under the law, first postponed after the May 2003 attack on the NLD, was again postponed in March following revelations that the Government had sentenced nine persons to death (later commuted to prison sentences) in part for contacting the ILO. The charge was later amended to include illegal contact with the outlawed Federation of Trade Unions of Burma (*see* Section 4 and later in this Section). All references to the ILO were removed from the charge on October 14, following review of the case by a Special Appellate Bench of the Supreme Court. In the same judgment, the sentences of two of the defendants were reduced from 3 to 2 years. The sentence of a third defendant was reduced from life imprisonment to 5 years in jail with hard labor.

Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations (*see* Section 6.d.).

During the year, diplomatic officials did not receive reports of forced labor for building major civil infrastructure projects in central Burma. However, reports of forced labor for smaller projects in villages nationwide persisted. Forced labor also continued to be used countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities. On June 4, an ILO report indicated citizens had brought 40 cases of forced labor (including forced recruitment of child soldiers) to the Rangoon office's attention during the year. This was the first year, according to the ILO, that private citizens voluntarily approached the ILO to report alleged violations. In September 2003, the local chairman of Chaungnet Village in Magwe Division forced one person from each household to clear the bushes on Rangoon Magwe Highway. Those who refused were fined \$5 (5,000 kyat).

In ethnic regions, reports of forced labor were common. According to the ICFTU, villagers were ordered to build or repair military camp infrastructure and to perform other tasks within the camps, such as standing guard. Credible sources in the local NGO community have also reported that villagers have been required to bring lumber, at their own expense, to construct and repair military facilities. The ILO office in Rangoon witnessed in mid May a case of villagers in Tiddim and Falam Townships in Chin State forced to widen the main road between the two towns. In January and February, AI reported several cases in Buthitaung and Maungdaw, northern Rakhine State. In these cases the military or members of a border task force consisting of the police, military intelligence, internal security, customs officials and the Immigration and Manpower Department commandeered villagers to stand sentry, build roads, cut wood, and to construct government buildings. The Chin Human Rights Organization (CHRO) also reported several cases of forced labor in southern Chin State during the year. In these cases local military officials forced village leaders to provide workers for road projects, military building construction, and farm work. The CHRO reported local military officials arrested one village chief

in June because his village's workers did not complete their assigned road building task.

In June 2003, Earth Rights International reported villagers stated that forced labor in their area was coordinated at an institutional level by the military. Every village head in a sample district of rural eastern Burma was required to attend a weekend meeting to receive the latest demands from the army for forced labor. The labor that was extracted from the villages in the region was never adequately compensated and refusal to work only invited punishment. The Government suspended a program begun in mid 2003 that compelled many civil servants and one person from each family to attend an unpaid 45 day militia training program.

The ILO and other international observers reported a decline in forced labor and other abuses in Karen State since the KNU and SPDC achieved a temporary cease fire in January. However, in 2003, the KNU released credible but unconfirmed reports of widespread use of forced labor in conflict areas along the eastern border. In July 2003, soldiers forcibly recruited 500 porters in Mone Township to carry food supplies for the army. Those unable to carry a load had to pay \$5 (5,000 kyat) each. Also in July 2003, soldiers ordered 13 Kaw thay doe villagers from Tan ta bin Township to cut bamboo and fence the army camp, and soldiers forced 6 villagers from Kaw thay doe village, Tan ta bin Township, and 3 Ga mu doe villagers to carry military supplies.

Since 2003, the Government has allowed ILO staff to operate out of a Rangoon office and travel throughout the country. The ILO must give notice to the government when its staff members plan to travel to restricted areas, and local authorities monitor their movements in some cases. ILO local and foreign staff can travel unaccompanied, but central government officials alert local authorities to their movements.

In 2002, the Government established a committee, chaired by the Deputy Minister of Home Affairs, to implement measures against forced labor. The ILO office in Rangoon reported 46 cases of forced labor to the committee during the year. So far, the committee has responded to approximately half of these cases, denying that any forced labor existed. The committee did not implement adequate mechanisms for the reporting, investigation, and prosecution of incidents of forced labor.

The ILO office in Rangoon has reported cases in which the organization's local contacts have been detained and interrogated for providing information about forced labor. In November 2003, a court sentenced three persons, Naing Min Kyi, Shwe Man, and Aye Myint, to death in part for having contacts with the ILO and the FTUB. However, their sentences were subsequently reduced to prison terms (see Section 4).

Forced recruitment of soldiers was widespread. Credible reports indicated that the Government would not allow soldiers to leave the army at the end of their enlistment without first recruiting three or four replacements, even if it required forced recruitment. Forced recruitment of police forces followed the same pattern.

Civil service pay and government pensions are negligible. For example, senior medical doctors earn \$10 (10,000 kyat) a month. Civil servants are not allowed to retire at will or terminate employment to leave for other sectors.

The law does not specifically prohibit forced and bonded labor by children, and forced labor by children continued to be a serious problem (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets a minimum age of 13 for the employment of children, but in practice the law was not enforced. Child labor has become increasingly prevalent and visible. Working children were highly visible in cities, mostly working for small or family enterprises. In the countryside, children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at young ages. In the urban informal sector, child workers were found mostly in food processing, street vending, refuse collecting, light manufacturing, and as tea shop attendants. According to 2002 official statistics, 6 percent of urban children worked, but only 4 percent of working children earned wages; many were employed in family enterprises.

The law does not specifically prohibit compulsory labor by children and children were subjected to forced labor. Authorities reportedly rounded up teenage children in Rangoon and Mandalay and forced them into portering or military service (see Section 5).

The DSW provides support and schooling for a small number of children who were orphaned or in some other way estranged from their families. One of the aims of this assistance is to help the children become more capable of resisting exploitation in the future.

*e. Acceptable Conditions of Work.*—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum daily wage for salaried public employees was \$0.10 (100 kyat) for what was in effect an 8 hour workday. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low and falling real wages in the public sector have fostered widespread corruption and absenteeism. In the private sector, urban laborers earned approximately \$0.80 (800 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more; a skilled factory worker earned approximately \$4 (4,000 kyat) per day.

A surplus of labor, a poor economy, and lack of protection by the Government continued to foster substandard conditions for workers. The 1964 Law on Fundamental Workers Rights and the 1951 Factories Act regulate working conditions. There is a legally prescribed 5 day, 35 hour workweek for employees in the public sector and a 6 day, 44 hour workweek for private and state enterprise employees, with overtime paid for additional work. The law also allows for a 24 hour rest period per week, and workers were permitted 21 paid holidays per year; however, in practice, such provisions benefited only a small portion of the country's labor force, since most of the labor force was engaged in rural agriculture or in the informal sector. The laws are generally enforced in the government sector, but there are frequent violations by private enterprises.

Numerous health and safety regulations existed, but in practice the Government did not make the necessary resources available to enforce the regulations. Although workers may in principle remove themselves from hazardous conditions, in practice many workers could not expect to retain their jobs if they did so.

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## CAMBODIA

Cambodia is a constitutional monarchy with an elected government. On October 14, Prince Norodom Sihamoni was chosen by the Cambodian Throne Council to succeed his father as the constitutional monarch and head of state. The most recent National Assembly elections were held in July 2003. Politically motivated violence, including killings, was significantly lower than in previous elections; however, voter intimidation by local officials in addition to technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens. The ruling Cambodian People's Party (CPP) of Prime Minister Hun Sen won 73 of the 123 seats in the National Assembly, the royalist National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC) party won 26 seats, and the opposition Sam Rainsy Party (SRP) won 24 seats. The CPP and FUNCINPEC formed a coalition government, but the CPP dominated the Government. The SRP served as a vocal opposition, but has been excluded from membership in the National Assembly commissions. Although the law provides for an independent judiciary, in practice, the judiciary was subject to legislative and executive influence and suffered from corruption.

The National Police, an agency of the Ministry of the Interior (MOI), has primary responsibility for internal security. Military police are permitted to arrest civilians only when authorized by local governments. Although civilian authorities nominally controlled the security forces, in practice, security forces answered to the CPP leadership. Some members of the security forces committed serious human rights abuses.

The country has a free market economy. Approximately 84 percent of the population of 13.8 million engaged in subsistence farming. According to official figures, annual gross domestic income in 2003 was estimated at \$297 per capita; however, this figure did not accurately represent purchasing power, especially in urban areas. Foreign aid accounted for at least 50 percent of the Government's budget. In 2003, the economy grew at an estimated real rate of 5.2 percent, and it was expected to grow at 4.5 percent during the year. The country had a thriving garment export industry; however, corruption and the lack of a viable legal system made it difficult to attract foreign investment.

The Government's human rights record remained poor, and the Government continued to commit abuses. During the year, nongovernmental organizations (NGOs) estimated there were at least four political killings and three alleged political killings, although motivations for killing often were difficult to ascertain. Military and police personnel were responsible for both political and nonpolitical killings;

however, there was no credible evidence that these killings were officially sanctioned. There were credible reports that some members of the security forces beat and otherwise abused persons in custody, often to extract confessions. National and local government officials often lacked the political will and financial resources to act effectively against members of the security forces suspected of human rights abuses. There also were politically motivated killings committed by persons not in the security forces. Prison conditions remained harsh, and the Government continued to use arbitrary arrest and prolonged pretrial detention. Democratic institutions, especially the judiciary, remained weak. Politically related crimes rarely were prosecuted. Citizens often appeared without defense counsel and thereby effectively were denied the right to a fair trial. The Government largely controlled the content of television broadcasts and influenced the content of most radio broadcasts. The authorities regularly interfered with freedom of assembly. Societal discrimination against women remained a problem, and domestic violence against women and abuse of children were common. There were frequent land disputes, and the Government and courts consistently did not resolve them in a just manner. Although the number of trade unions grew and they became more active, anti-union activity by employers and nonenforcement of labor laws by the authorities also continued. Compulsory and forced child labor continued to be a problem in the informal sector of the economy. Domestic and cross-border trafficking in women and children, including for the purpose of prostitution, was a serious problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—NGOs estimated that there were four politically motivated and three possibly politically motivated killings during the year.

In January, three SRP activists were shot and killed in two separate incidents. On January 10, gunmen shot and killed one activist in Kompong Cham Province. One suspect was arrested by police and subsequently acquitted in July after a trial in the provincial court. On January 15, two other activists were killed in their house in Banteay Meanchey. In the latter incident, seven suspects were arrested and confessed to robbery and murder. At least four of the suspects were members of the CPP. Five of the seven suspects were released; two suspects were convicted of murder and each was sentenced to 17 years in prison and a \$5,000 (20 million riel) fine payable to the families of the victims.

On January 22, the President of the Free Trade Union Workers of Cambodia, Chea Vichea, was shot and killed near a busy street in Phnom Penh. Chea Vichea was a union activist affiliated with the SRP. Charges were brought against two individuals in the case, but were dropped due to lack of evidence. The investigating judge that dropped the charges was transferred, and the prosecutor protested the dismissal of the case. The Appeals Court overturned the dropping of charges and ordered the Municipal Court to continue the investigation. At year's end, both suspects remained in custody pending further investigation of the case.

On January 25, unidentified assailants shot and killed a FUNCINPEC deputy village chief in Kompot Province. The perpetrators fled the scene following the shooting and were still at large at year's end. A warrant has been issued for their arrest.

On May 7, Ros Savannareth, a factory-level union leader, was killed in Phnom Penh. Two men on a motorbike pulled alongside the victim's motorbike and shot and killed him. A soldier from a paratroop unit was arrested as a suspect in the killing. The suspect was currently awaiting trial.

There were allegations of politically motivated killings before and after the July 2003 National Assembly elections. NGOs estimated there were 33 possibly politically motivated killings during this period; however, it was often difficult to determine whether the motive for these murders was political. For example, in February 2003, the Abbot of the Phnom Ettarus Pagoda, Sam Bunthoeun, was killed. He had encouraged monks to register for the National Assembly elections after a pro CPP Buddhist patriarch had forbidden monks to register to vote. No suspects were ever arrested. According to authorities, the investigation remained open. Also in February 2003, two armed men shot Om Radsady, advisor on foreign affairs to National Assembly President Prince Norodom Ranariddh. Although the killing was believed to be politically motivated, police arrested two soldiers who confessed they had shot Om Radsady because they wanted to steal his cell phone. In October 2003, a municipal court sentenced the two to 20 years in prison. Despite the sentence, the Cambodian Center for Human Rights (CCHR) and other local NGOs doubted the court findings. In August 2003, the 16 year old daughter of an SRP activist was shot and killed by a pro CPP village chief. The police arrested the village chief, but court offi-

cials ordered the victim's family to accept a monetary payment and a suspended 2-year sentence. The SRP activist subsequently filed a lawsuit with the Appeals Court and moved his family to avoid reprisal for filing the suit. The case was pending at the Appeal's court at year's end. In October 2003, Chuor Chetharith, a reporter for pro-FUNCINPEC Taproh Radio and an MOI official, was shot and killed by two men in front of the Taproh radio station. No suspects were arrested at year's end. His family left the country. Taproh Radio criticized the Government, and the killing occurred 4 days after Prime Minister Hun Sen publicly warned FUNCINPEC that leaders of political parties should control their broadcast media.

In 2002, the country held its first local elections. The U.N. Office of the High Commissioner for Human Rights (UNHCHR) reported that prior to the elections, 22 political activists (5 in 2000, 12 in 2001, and 5 in 2002), including candidates and family members, were killed in 20 separate incidents under suspicious circumstances. Human rights monitoring groups agreed that at least seven of these cases were politically motivated. UNHCHR reported that there were serious shortcomings in the police investigations of these killings.

During the year, credible NGO reports indicated that members of the military, military police, and civilian police forces were implicated in 66 cases of extrajudicial killings. While authorities took legal action in 90 percent of the cases, only 5 percent of the cases resulted in prosecution.

On August 18, a member of the military died from injuries sustained from a severe beating. His company commander and the commander's brother-in-law, seen dropping the victim off at his home after the injuries were sustained, were suspected of involvement in the beating. In mid-December the provincial court in Kratie, where the incident occurred, issued an arrest warrant for the two suspects. The suspects appeared in court at the end of December and were being held pending investigation.

In July, a prisoner awaiting trial was beaten to death. The police officer suspected of administering the beating was a relative of the party engaged in a dispute relating to the prisoner. No legal action has been taken against the officer and reports indicated that he was transferred to a different position.

In June 2003, anti riot police shot a union striker during a demonstration; a policeman was killed in the same incident.

The number of landmine casualties remained high. Between January and November, there were 322 landmine casualties and 477 casualties due to unexploded ordnance (UXO). There were 772 landmine and UXO casualties in 2003 and 847 in 2002.

During 2003, there were several high profile killings by unknown actors that remained unsolved. For example, in April 2003, Judge Sok Sethamony of the Phnom Penh Municipal Court was shot and killed in his car on his way to work. Military police subsequently arrested three suspects who police claimed had links to the Cambodian Freedom Fighters (CFF). In April, the suspects were released due to lack of evidence. No additional suspects have been arrested.

Touch Srey Nich, a popular singer who recorded a collection of songs with political content for FUNCINPEC, was shot three times by unidentified gunmen in late 2003. Srey Nich survived the shooting, but was paralyzed; her mother was killed in the incident. This attack was viewed by some as political, while others have alleged personal motives. By year's end, there were no arrests in the case.

In October 2003, the Appeals Court held a new trial of Chhouk Rin, a former Khmer Rouge commander, for his role in a 1994 train ambush. The following month, the Appeals Court sentenced him to life imprisonment. Chhouk Rin's lawyer filed an appeal to the Supreme Court. Since Chhouk Rin was originally acquitted by the Phnom Penh Municipal Court, the law stipulates he may not be incarcerated until the appeals process is exhausted. The case was pending at the Supreme Court at year's end.

Vigilante justice, as well as killings of alleged witches and sorcerers, continued during the year. Vigilante mob violence, in the form of large crowds of bystanders apprehending and attacking suspected thieves at the scene of the crime, resulted in 26 attacks and 19 deaths during the year. In June, three individuals were killed after locals accused them of sorcery. Two suspects were arrested. In August, a healer was shot and killed at his home; residents believed the victim practiced sorcery. Government prosecutions of those responsible for mob violence were rare.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and physical abuse of prisoners; however, beatings and other forms of physical mistreatment of prisoners continued to be a serious problem. During the year, there were credible reports that military and civilian po-

lice officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. A local NGO reported that in interviews with prisoners in 18 prisons, 106 claimed to have been tortured, 65 of this group while in police custody and 41 while in prison. Members of the police and security force who carried out abuse often were protected from prosecution or disciplinary action by local government authorities, despite some central Government efforts to curtail or eliminate violations of prisoners' rights and to address problems of accountability.

Prison conditions did not meet international standards and were life-threatening. The MOI's Prisons Department is responsible for both pretrial detainees and convicted prisoners held inside prisons. During the year, prison conditions remained harsh, and government efforts to improve them were hampered by lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security. During the year, a local NGO that monitored 18 of the country's 24 prisons noted that the population of those prisons had increased and that all 18 prisons were overcrowded. In August, Tackhmau Prison, with a capacity of 110 prisoners, held 266. In some prisons, after escape attempts, use of shackles and the practice of holding prisoners in small, dark cells continued. Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, which exacerbated malnutrition. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials to be allowed to provide assistance. During the first 6 months of the year, NGOs reported that 58 prisoners died for lack of food or medication or disease caused or aggravated while incarcerated.

In July, a pretrial detainee in Takeo Province under police custody was beaten to death (*see* Section 1.a.).

In 2002, three police officers were suspended and charged with manslaughter for the 2001 beating death of a prisoner in Prey Veng Province. Criminal charges were filed at the provincial court, but the court failed to take action against the officers. Some of the suspects have since been promoted.

In most prisons, there was no separation of adult prisoners and juveniles, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses.

The Government continued to allow international and domestic human rights groups to visit prisons and prisoners and to provide human rights training to prison guards. However, NGOs reported that on occasion cooperation from local authorities was limited. The MOI continued to require that lawyers, human rights monitors, and other visitors obtain letters of permission from the Ministry prior to visiting prisoners. The Ministry withheld such permission in some cases. NGOs were not allowed to interview prisoners in private.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the Government generally did not respect these prohibitions. During the year, a number of persons were arrested without warrants, and human rights groups reported 66 cases of persons illegally detained by police.

A 2002 sub-decree established the General Commissariat of the National Police, which is under the supervision of the MOI, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those who do not, and the judicial police. During the year, there were reports of police receiving protection money from illegal businesses and suspects being released due to police corruption. There was a climate of impunity for some criminals.

The law allows the police to take a person into custody and conduct an investigation for 48 hours before charges must be filed; however, the authorities routinely held persons for extended periods before charging them. Accused persons legally are entitled to a lawyer; however, prisoners routinely were held for several days before gaining access to a lawyer or family members. The investigating judge gathers evidence before determining whether to try a case. One NGO reported that during the year there were 125 complaints of pretrial detention that lasted longer than the prescribed 6 months. In May 2003, four persons were arrested and accused of supporting a Jemaah Islamiya terrorist. They were never granted a preliminary hearing. In December, three of the suspects were convicted and sentenced to life imprisonment, while a fourth was acquitted. According to Amnesty International, the Government claimed that appeals made by the defense attorneys reset the clock, and therefore the 6 month rule was not violated. The Appeals Court hearing was interpreted as a new trial by the Government, allowing for an additional 6 months of detention. Many prisoners, particularly those without legal representation, had no

opportunity to seek release on bail. According to the UNHCHR, such prolonged detention largely was a result of the limited capacity of the court system.

In April, a suspected member of the CFF turned himself in after detonating a bomb in Koh Kong and shooting at the local police chief. He was awaiting trial at year's end. Fourteen additional alleged CFF members have been arrested since November 2003. Three alleged CFF members were sentenced to prison terms ranging from 10 to 15 years in April. Seven have been released, and the remaining four were awaiting trial. Charges included membership in an illegal armed group and membership in a terrorist organization.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the Government did not respect this provision in practice. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges.

The court system consists of lower courts, an appeals court, and a Supreme Court. The Constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges. The composition of both of these bodies heavily favored the CPP.

Trials are public. Defendants have the right to be present and consult with an attorney, confront and question witnesses against them, and present witnesses and evidence on their own behalf; however, trials typically were perfunctory, and extensive cross examination usually did not take place.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and in practice, the Government did not ensure due process.

Defendants are entitled by law to the presumption of innocence and to the right of appeal; however, because of pervasive corruption, defendants often were expected to bribe judges to secure a verdict. A citizen's right to appeal sometimes was limited by difficulty in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant.

Judges and prosecutors often had little legal training. UNHCHR has on a number of occasions printed and provided copies of the country's laws to all judges. In 2003, the Royal School for Judges and Prosecutors reopened and accepted its first class of students since the 1960s. The first 50 graduates were in legal internships at year's end. The introduction of newly trained lawyers also resulted in significant improvements for those defendants provided with counsel, including a reduced pretrial detention period and improved access to bail; however, there remained a critical shortage of trained lawyers throughout the country, particularly outside Phnom Penh. Persons without the means to secure counsel often effectively were denied the right to a fair trial.

Sworn written statements from witnesses and the accused usually constituted the only evidence presented at trials. The accused's statements sometimes were coerced through beatings or threats, and illiterate defendants often were not informed of the content of written confessions that they were forced to sign. In cases involving military personnel, military officers often exerted pressure on judges to have the defendants released without trial.

Court delays or corrupt practices often allowed accused persons to escape prosecution. Government officials or members of their families who committed crimes sometimes seemed to enjoy impunity. Although the courts prosecuted some members of the security forces for human rights abuses, impunity for most of those who committed human rights abuses remained a problem. Most national and local government officials continued to lack the political will and financial resources to act effectively against military or security officials suspected of human rights abuses.

The Judicial Reform Council made no significant progress in fulfilling its mandate to develop and implement reform measures. In 2002, the Government established a second legal and judicial reform council amid criticisms that the Judicial Reform Council's co chairs, a Cabinet Minister, and the Supreme Court President, lacked sufficient independence. In May 2003, the Council for Legal and Judicial Reforms (CLJR) produced a draft Justice Sector Program and held workshops with civil society, donors, and other interested parties. During the year, the Council cooperated with donors to implement the Justice Sector Program, and forwarded numerous draft laws to the National Assembly for approval, including draft laws on the Statute of Magistrates, Administrative Court, and amendments to the law on the Organization and Functioning of the Supreme Council of Magistracy. In addition, in November the CLJR forwarded Action Plans for legal reform goals to the Council of Ministers.

The Supreme Council of the Magistracy disciplined two judicial officials for misconduct during the year. In both cases, controversial rulings rather than issues of ethical or legal misconduct formed the basis for disciplinary action, which took the form of reassignment from the Phnom Penh Municipal Court to less desirable provincial court postings. Legal observers charged that the Supreme Council of the Magistracy was subject to political influence and did not protect effectively the independence of the judiciary.

In January 2003, court officials' salaries were raised from approximately \$20 (80,000 riel) per month to between \$330 and \$640 (1.3 and 2.5 million riel) per month in an attempt to reduce instances of misconduct and corruption. Observers agreed that the culture of corruption and lack of independence of the judiciary remained the same, and there has been no discernable positive impact from the salary raise. Human rights groups continued to report that the Government demonstrated its control of the courts by ordering the rearrest of suspects released by the courts or through extrajudicial processes. Judges cited examples of interference from high ranking officials tasking them to make rulings in line with political priorities. In 2002, the Prime Minister allegedly ordered that inappropriate criminal charges against his former foreign business partner in a civil dispute involving allegations of breach of contract be dropped.

Lawyers also noted that, in violation of the law, some police and prison officials, with apparent support from other government officials, have denied them the right to meet prisoners in private or for adequate lengths of time. After the January 2003 anti Thai riots, family members and human rights groups noted they did not have access to the 57 individuals detained by the Government while the investigation was underway.

There is a separate military court system, which suffered from deficiencies similar to those of the civilian court system. The legal distinction between the military and civil courts sometimes was ignored in practice, and civilians have been called for interrogation by military courts with no apparent jurisdiction in their cases.

In 2001, a law was promulgated to establish Extraordinary Chambers to bring Khmer Rouge leaders to justice for genocide, crimes against humanity, and war crimes committed from 1975 through 1979. The Government had sought assistance and cooperation from the U.N. since 1997, as well as financial assistance from foreign donors, to make the tribunal operational. In May 2003, the U.N. General Assembly approved a draft agreement between the U.N. and the Government for prosecution of crimes during the Democratic Kampuchea (Khmer Rouge) period. On October 4, the National Assembly unanimously ratified the agreement with the U.N., and on October 5, the National Assembly passed the amendments necessary to make the tribunal operational. Negotiations were ongoing between the U.N. and potential donors to meet the required target funding to begin the tribunal.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the privacy of residences and correspondence and prohibits illegal searches; however, the police routinely conducted searches and seizures without warrants. There were no reports that the Government monitored private electronic communications.

Since the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often has been unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross border trade routes exacerbated the ownership problem. Widespread land speculation in recent years has fueled disputes and increased tensions between poor rural communities and wealthy speculators. In 2002, the Ministry of Land Management, Urban Planning, and Construction established a commission to settle disputes over land that has not been registered nor given a land certificate. Despite a slight improvement in services, the commission continued to perform its functions slowly due to a lack of finances, training, and experience. The courts under the Ministry of Justice remained responsible for resolving disputes in cases where land had been registered or disputants had been given land titles.

During the year, the Ministry of Land Management, Urban Planning, and Construction began implementing a 2001 land law to protect land ownership and deeds. Problems of inhabitants being forced to relocate continued to occur when powerful officials or businessmen colluded with local authorities. NGOs reported that during the year there were 356 individual and collective land disputes affecting 10,958 families. Some of those expelled successfully contested these actions in court, but the majority lost their cases, possibly due to corruption in the court system. At year's end, a number of appeals were pending in the Appeals Court or Supreme Court.

One dispute pending resolution was a complaint filed by an official in the Ministry of Women's Affairs against 306 families accusing them of land grabbing. Villagers accused the official of forcing them to sell land at below market prices.

In August, police forcibly evicted 250 families and beat protestors in a dispute over land in Poipet owned by the Minister of Rural Development. A Supreme Court eviction order issued in July that resulted in the evictions was the culmination of a 5 year dispute over ownership rights.

At year's end, a dispute originally affecting approximately 1,800 families over a road project between Phnom Penh and Ho Chi Minh City had been settled for all but 143 families. Complaints were made to the Inter-Ministerial Resettlement Committee for compensation in 2002, 2003, and during the year, charging that the compensation offered was inadequate.

In the wake of an October 18 speech by Prime Minister Hun Sen concerning redistribution of land from speculators to the poor, thousands of villagers in Sihanoukville began a program of land grabbing on vacant plots owned by wealthier members of the community or absentee landlords. Authorities issued arrest warrants for 29 individuals in connection with this act, eventually arresting 17 suspects. At year's end, 11 had been released, while 6 others remained in police custody pending trial.

In November, a major land dispute occurred involving hundreds of villagers in Pursat and Kompong Chhnang and the Pheapimex Company. The dispute involved a 741,000-acre land concession granted to Pheapimex by the Government. During the protests in front of the company's worksite, a grenade was thrown into the crowd, injuring 8 persons. Police have not made any arrests in the attack. Provincial authorities have demanded Pheapimex halt operations, but the company continued development of the site.

Unlike previous years, there were no reported cases of relocations due to community development projects by the Phnom Penh Municipality.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, there continued to be some problems. The Constitution implicitly limits free speech by requiring that it not affect adversely public security. The Constitution also declares that the King is "invulnerable."

The Press Law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for expressing opinions. However, the Press Law also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. The press published a large number of news items critical of the Government, including frequent, highly personal criticism of the Prime Minister, the President of the National Assembly, and other senior officials.

Although limited in circulation, newspapers were a primary source of news and political opinion. All major political parties had reasonable and regular access to the print media. In general, newspapers were aligned politically. Although the Press Law does not specifically permit newspapers, in practice major newspapers published in the Khmer language received support from various political parties. There were an estimated 20 Khmer language newspapers published regularly. Of these, half were considered pro CPP, one third were considered to support the FUNCINPEC Party, and one was considered to support the opposition SRP. During the year, four provincial newspapers began printing local news. In addition, daily newspapers were published in French, English, Chinese, and Vietnamese. Two other English newspapers were published regularly. Although the three largest circulation newspapers were considered pro CPP, most newspapers criticized the Government frequently, particularly with respect to corruption. Prime Minister Hun Sen and National Assembly President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers.

The Government, the military forces, and the ruling political party continued to dominate the broadcast media and to influence the content of broadcasts. According to a 2001 report by the UNHCHR, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. The SRP and independent human rights advocacy groups aligned with the opposition have been unable to obtain broadcast licenses.

There were seven television stations, all controlled or strongly influenced by the CPP. Government control severely limited the content of television and radio broadcasting. The Ministry of Information controlled national television and radio stations broadcast taped sessions of the National Assembly's debates; however, in sev-

eral instances, these broadcasts were censored. National radio and television stations regularly broadcast some human rights, social action, public health, and civil society programming produced by domestic NGOs.

There were reports of harassment of persons working for the print and broadcast media. On February 23, a print media journalist was handcuffed and beaten by National Park authorities while trying to photograph mistreatment of villagers by authorities. During the year, authorities detained seven journalists in four separate incidents on charges ranging from document forgery to alleged extortion.

Shortly after the January 2003 anti Thai riots, both the owner of independent radio station Beehive/FM 105 and the editor in chief of the Khmer language Newspaper Rasmei Angkor were arrested and charged with broadcasting and printing false information (*see* Section 2.b.). They were released on bail after being detained 2 weeks. In October 2003, Chuor Chetharith, reporter for pro FUNCINPEC Taprohng Radio and former FUNCINPEC aide, was killed in front of the Taprohng radio station (*see* Section 1.a.).

The Voice of Democracy (VOD) radio program produced by the CCHR was broadcast on two private radio stations and included independent and often anti-government views. The program became extremely popular; however, it faced several challenges to its ability to broadcast during the year. In June, the FUNCINPEC-aligned owners of one radio station removed VOD from its program list after VOD criticized that party's leader. Since February 2003, the Ministry of Information has refused to grant the CCHR a license to operate a radio station, claiming that Phnom Penh already had too many radio stations and newspapers.

Defamation and libel suits have increased during the year, with seven newspapers charged with defamation and six reporters arrested during the first 8 months of the year. Two of the reporters were convicted of defamation and ordered to pay financial compensation to plaintiffs, who in both cases were members of the Government.

The media reportedly engaged in some self censorship during the year. After the July 2003 elections, the media engaged in self censorship on several occasions after calls from CPP and FUNCINPEC to limit criticism of either party.

Media access to National Assembly sessions is mandated by the Constitution. The Government does broadcast National Assembly sessions on television; however, it continued to restrict media access to government facilities. In April 2003, the National Assembly banned journalists from entering its grounds without authorization from the Assembly's Secretary General. This "security" directive was issued a few hours after the defection of three FUNCINPEC parliamentarians and four other royalist figures to the opposition SRP. It also followed Phnom Penh Governor Kep Chuktema's closure of the traditionally public weekly municipal meetings.

Government authorities removed publications from the public purview during the year. In December, the Government confiscated a book accusing senior government officials of the CPP party of genocide in the Khmer Rouge era. In February 2003, local authorities removed copies of a controversial booklet that insinuated that Prime Minister Hun Sen's wife played a role in the death of the popular actress, Piseth Pilika; however, the booklets were sold at the SRP's headquarters and published at the printing house without government interference.

The Government did not restrict Internet access, which was available widely in larger towns.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, but the Government did not respect this right in practice. The Government requires that a permit be obtained in advance of a march or demonstration. The Government routinely did not issue permits to groups critical of the ruling party. Throughout the year, the Government cited the January 2003 anti Thai riots, the need for stability during discussions leading to the formation of a new government, and public security as reasons for denying permits. Police forcibly dispersed groups that assembled without a permit, often resulting in minor injuries to some demonstrators. The Government broke up five demonstrations that were denied permits and three assemblies of local teachers' associations. In January, a demonstration by the opposition Khmer Front Party in front of the National Assembly was disbanded. Four demonstrators were arrested and forced to sign pledges not to protest in the future. In June, police broke up a demonstration by several hundred persons who were protesting alleged "land grabbing" by officials, and blocked access along a national highway. Police allegedly used clubs and electric batons to subdue the protestors.

The Government also failed to protect peaceful demonstrators from violence. In November, villagers gathered outside the Pheapimex Company involved in a land dispute were attacked when a grenade was thrown into the crowd, injuring eight.

Authorities failed to arrest any suspects or to provide security for the protest (*see* Section 1.f.).

Supporters of both the ruling and opposition parties hosted rallies and street parades during the 2003 elections campaign.

The Constitution provides for freedom of association, and the Government generally respected this right in practice; however, the Government did not enforce effectively the freedom of association provisions of the Labor Law (*see* Section 6.a.).

The Government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. Human rights organizations reported that some local authorities warned members of certain political parties that if they continued to support those parties they would face a loss of residency rights, confiscation of property, and a ban on using local infrastructure. During the year, the ruling coalition parties threatened to remove immunity of Sam Rainsy and several SRP parliamentarians in connection with politically-motivated lawsuits filed against them. At year's end, no action was taken by the National Assembly to lift their immunity.

Membership in the Khmer Rouge, which ruled the country from 1975 to 1979 and subsequent to its overthrow conducted an armed insurgency against the Government, is illegal, as is membership in any armed group.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion, and over 95 percent of the population is Buddhist. Most of the remaining population is ethnic Cham Muslims.

In January 2003, the Ministry of Cults and Religions issued an order prohibiting public proselytizing. During the year, this order was only enforced during the siesta hours.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and law provide for these rights, and the Government generally respected them in practice; however, there were several reports of restrictions on journalists and human rights groups traveling to Mondolkiri and Ratanakiri Provinces after the Montagnard (hill tribes) unrest in neighboring Vietnam in April. Aid workers reported that they were asked to provide official permission from the local authority to travel in the provinces.

The Government placed no restrictions on foreign travel. The Government also placed no restrictions on emigration or on the return of citizens who had left the country.

The Constitution prohibits forced exile, and the Government did not employ it. In 2002, one FUNCINPEC member resigned his seat in Parliament and remained in self imposed exile.

In March 2002, the Government signed a memorandum of understanding with the United States to facilitate the return of deportable Cambodian nationals; 127 persons had been repatriated from the United States by year's end. In 2002, 36 repatriated Cambodians were detained for a period of up to several weeks upon their arrival, and some reportedly were forced to pay bribes during this detention period. The Government subsequently respected the rights of these individuals and their efforts to integrate themselves into society. During the year, a NGO provided reintegration assistance to those repatriated.

The law provides for the granting of asylum and refugee status, and the country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice the Government did not consistently respect the law and has not implemented legislation pertaining to the 1951 U.N. Convention. There were credible reports that Vietnamese Montagnards seeking asylum were deported without proper review, despite a U.N. High Commissioner for Refugees (UNHCR) presence in the country. UNHCR maintained its Phnom Penh office, but closed its Ratanakiri office in April in response to requests from local authorities. However, since July, UNHCR has made numerous trips to Ratanakiri to collect groups of Montagnards that have fled Vietnam. The Government permitted UNHCR to transport these asylum seekers to Phnom Penh, where UNHCR processed them for resettlement abroad. Thirteen of the Montagnards returned to Vietnam by their own choice. At year's end, UNHCR was still working to resettle the remaining Montagnards. There were reports that Vietnamese authorities offered incentive awards to Cambodian border police who returned Vietnamese refugees to Vietnam and that Vietnamese secret police were active on the Cambodian side of the border.

Asylum seekers who reached the UNHCR office in Phnom Penh were processed with government cooperation. During the year, 836 Montagnard refugee cases were processed at the UNHCR refugee facilities in Phnom Penh. An additional 61 individuals of other nationalities were processed by UNHCR during the year.

In 2002, the UNHCR reached an agreement with the Government and with the Government of Vietnam to facilitate voluntary repatriation of Montagnards. The agreement collapsed in early 2003, the camps were dismantled, and the remaining refugees were moved to Phnom Penh for resettlement. Since May 2003, all of the approximately 900 Montagnard refugees authorized for resettlement in 2002 have been resettled to third countries.

On September 5, the Government took seven North Korean asylum seekers into custody in Phnom Penh. On September 24, the international press reported that the seven arrived in South Korea for resettlement.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic elections on the basis of universal suffrage. Suffrage is voluntary for all citizens over the age of 18. Voter turnout for the July 2003 National Assembly elections was approximately 83 percent. The CPP won 73 seats in the election, while FUNCINPEC won 26 seats and the SRP won 24 seats. In July, the CPP and FUNCINPEC formed a nominal coalition government, but the CPP dominated the Government.

All election observer groups took note of improvements in the July 2003 elections; however, they concluded the elections still fell short of international standards. Politically motivated violence remained a problem, but was less than during previous elections. Local NGOs reported as many as 33 killings were possibly politically motivated during the election period. The Government took action against only some alleged perpetrators and addressed other misconduct inconsistently.

Technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens. There were also incidents of voter intimidation by local officials. The National Election Commission (NEC) failed to establish a credible process to resolve election complaints, including charges of political intimidation, gift giving, vote buying, and procedural irregularities. The appointment of NEC members by the MOI was not transparent and left the NEC open to charges of political influence by the ruling CPP.

There were improvements in media access for registered parties, and open political debate and multi party debates were televised nationally for the first time; however, electronic media coverage still heavily favored the ruling CPP. In June 2003, at least six private radio and television stations refused to sell airtime to political parties, a move that critics viewed as CPP inspired. The National TV of Cambodia was the sole television station to broadcast news of the general elections; however, five private radio stations sold airtime to political parties.

Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts or access to government emergency aid.

There were no limitations on political participation in traditional society; however, Buddhist sect leader Tep Vong, who was believed to be pro-government, published an edict urging monks not to vote in the 2003 elections.

The Government did not prohibit youth wings of political parties, but also did not restrict the activities of the pro CPP Pagoda Boys Association when it held counter opposition demonstrations. However, unlike in previous years, there were no reports of activity by the Pagoda Boys Association during the year.

In 2002, the Government held its first nationwide commune, local level elections. The election results loosened the CPP's 23 year hold on local governance. The CPP won 7,703 council members seats nationwide, FUNCINPEC won 2,211 member seats, and the SRP won 1,346 member seats. Although CPP commune chiefs remained in 99 percent of the 1,621 communes, as a result of the elections, power was shared with other parties in all but 148 communes. The transfer of power to the newly elected Commune Councilors was smooth. At year's end, the MOI had yet to issue instructions for elected commune councils to implement the Commune Administration Law describing the power, duties, and functions of the councils.

During the commune level election campaign period, NGOs reported 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including 7 killings that human rights monitoring organizations agreed were motivated politically.

Traditional culture has limited the role of women in government; however, women took an active part in the July 2003 National Assembly elections. The number of women in the National Assembly, Senate, and high level government positions in-

creased. There were 22 women in the 123 seat National Assembly. There were also 11 women in the 61 seat Senate. After the formation of the new Government, there were 24 women working as ministers, secretaries of state, under secretaries of state, and for the NEC. Women also served as advisors, and there were 12 female judges at the Municipal, Provincial, and Appeals Court levels. The Dean of the Royal School of Judges and Prosecutors was also a woman. After the 2002 local elections, women held 933 (8.3 percent) of the 11,261 commune council seats.

Minorities also took part in the Government. There were 6 members of minorities—2 Cham, 3 tribal, 1 Thai in the 123 seat National Assembly. There also were 6 members of minorities—2 Cham, 2 tribal, and 2 Thai in the 61 seat Senate. At least eight officials in senior positions in the Government were from minority groups.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government generally cooperated with human rights workers in performing their investigations; however, there were numerous reports of lack of cooperation or even intimidation by local authorities throughout the country.

There were approximately 40 NGOs involved in human rights activities; however, only a small portion of them actively were involved in organizing training programs or investigating abuses.

While the central government generally was cooperative, human rights NGOs faced a variety of threats and harassment from local officials. These took the form of restrictions on gatherings sponsored by NGOs, verbal intimidation, threats of legal action, bureaucratic obstruction, and other acts of interference.

During the year, there were credible threats against the safety of local NGO staff providing shelter to trafficked victims and conducting anti trafficking advocacy and investigations. The threats were made by traffickers and followed raids and operations that threatened their interests. In contrast to previous years, NGOs investigating illegal logging activity were not known to have been harassed.

In 2002, the Government and UNHCHR signed a memorandum of understanding, which extended the UNHCHR's activities in the country for 2 more years. UNHCHR was in the process of renewing the memorandum at year's end. During the year, the UNHCHR conducted activities related to human rights and the judiciary, and maintained its headquarters in Phnom Penh and a regional office in Battambang.

The Cambodian Human Rights Committee, which the Government established in 1998, was largely inactive. The Committee does not have regular meetings or a transparent operating process. In April, the Committee issued a report for the first quarter of the year detailing mob killings, but did not address the killing of union leader Chea Vichea and other serious human rights issues.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, color, language, religious beliefs, or political views; however, the Government did not always protect these rights.

*Women.*—Domestic and international NGOs reported that violence against women, including domestic violence and rape, was common. The law prohibits rape and assault. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury," or "indecent assault," but such charges were rare. The MOI investigated 270 cases of rape between January and November, arresting 297 perpetrators. One local NGO reported 387 cases of violence against women from January through October; 22 cases resulted in death, and 306 cases resulted in injury. The NGO also reported 267 cases of rape between January and October, resulting in 6 deaths. Of these cases, 171 involved minors. The authorities normally declined to become involved in domestic disputes, and the victims frequently were reluctant to issue formal complaints. Of 135 lawsuits filed in courts, 18 suspects were arrested, but none have been tried.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation (*see* Section 5, Trafficking). Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and trafficking related to it continued to be a problem. A 1997 Commission on Human Rights report to the National Assembly reported 14,725 working prostitutes. In 2003, a statistical study generally supported this figure by estimating that there were 18,256 working prostitutes in the country.

The Labor Law has provisions against sexual harassment in the workplace, and the International Labor Organization (ILO) reported that sexual harassment in the industrial sector was rare. Sexual harassment was not known to be a problem in other sectors of the economy.

The Constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice, women had equal property rights, the same legal status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas. Demographic trends and a history of conflict have resulted in increasing labor force participation on the part of women. According to the most recent Labor Force Survey, conducted in 2001, women made up 52 percent of the population; 60 percent of agricultural workers; 85 percent of the business work force; 70 percent of the industrial work force, a result of the high proportion of women working in garment factories; and 60 percent of all service sector workers, which was dominated by the tourism industry. Women often were concentrated in low paying jobs and largely were excluded from management positions. Men make up the vast majority of the military, police, and civil service.

A large number of NGOs provided training for poor women and widows and addressed social problems such as spousal abuse, prostitution, and trafficking. A media center produced and broadcast programming on women's issues. NGOs provided shelters for women in crisis.

*Children.*—The Constitution provides for children's rights, and the Government made the welfare of children a specific goal. The Government relied on international aid to fund most child social welfare programs, resulting in only modest funds for problems that affect children.

Children were affected adversely by an inadequate education system. Education was free, but not compulsory, through grade nine. Many children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. A 2003 Ministry of Education (MOE) report stated that primary school enrollment was 90 percent of eligible children, but only 21 percent of eligible students had access to secondary education. Despite an extensive school construction program, schools were overcrowded and lacked sufficient equipment. In rural areas, schools often provided only a few years of education. According to MOE data, 52 percent of schools lacked drinking water and 41 percent had no toilets. Less than 5 percent of primary school teachers had completed high school. Teachers' salaries were irregularly paid and inadequate to support a decent standard of living, leading to demands for unofficial payments from parents, which the poorest families could not afford. The Government did not deny girls equal access to education; however, families with limited resources often gave priority to educating boys. In many areas, schools were remote, and transportation was a major problem. This particularly affected girls because of safety concerns in traveling between their homes and schools.

Children frequently suffered from malnutrition, and the health care system was inadequate. In 2002, infant mortality was estimated at 96 per thousand. It was also estimated that the mortality rate for children under the age of 5 years was 138 per thousand.

Child abuse was believed to be common, although there were no statistics available. A domestic NGO estimated there were more than 1,200 children living on the streets of Phnom Penh who had no relationship with their families, and more than 10,000 children that worked on the streets, but returned to their family homes in the evenings. It was estimated that there were between 500 and 1,500 children living on the streets in provincial towns. In June, the Governor of Phnom Penh began a controversial roundup of street children who were deemed "an eyesore to the outside tourists." The news reported that government officials stated the children were being sent to an NGO in Banteay Meanchey Province for drug rehabilitation. Many children were dropped off on the roadside outside the city and subsequently made their way back to Phnom Penh; however, some children were never accounted for, and no NGO claimed to have received them.

Sexual intercourse with a person under the age of 15 is illegal; however, child prostitution and trafficking in children were common (*see* Section 5, Trafficking). In 2000, the Government adopted a 5 year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (*see* Section 5, Trafficking). During the year, there were at least four cases in which foreigners were charged with pornography violations or pedophilia. Rape of children remained a serious issue, and 57 cases of rape involving children below 10 years of age were reported between January and October.

The illegal purchase and sale of infants and children for prostitution and adoption was a serious problem. During the year, raids on brothels rescued numerous underage girls who were trafficked to the country for prostitution. There were no reported cases of individuals or organizations purchasing infants or children to sell for profit to unwitting adoptive families; this was due primarily to the moratorium on adoptions in place for the United States, France, and the United Kingdom. Some of these children were exploited. In some cases, the perpetrators encouraged women to give up their children under false pretenses. For example, the perpetrators promised to care for the children temporarily, but then refused to return them.

Child labor was a problem in the informal sector of the economy (*see* Section 6.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, persons were trafficked to, from, and within the country. The Law on the Suppression of Kidnapping, Trafficking, and Exploitation of Humans (the Trafficking Law) establishes a prison sentence of 15 to 20 years for any person convicted of trafficking in persons under 15 years of age; the penalty is from 10 to 15 years for trafficking persons over the age of 15. In October, at the Coordinated Mekong Ministerial Initiative Against Trafficking meeting, the country joined five other countries in the region in signing a memorandum on regional anti-trafficking cooperation including a commitment to prepare country-specific plans of action. A local NGO reported 150 arrests of suspected traffickers and rescue of 672 victims during the year. Approximately one fifth (134) of these cases involved underage girls. The trafficking law contains no provisions to protect foreign victims from being charged under the country's immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants.

Enforcement of the anti trafficking laws and prosecution of perpetrators continued to be uneven; however, there was some improvement in prosecution and conviction rates. The MOI reported that during the year police investigated 106 trafficking cases, arresting 113 individuals and rescuing 366 victims under the Trafficking Law. Phnom Penh Municipal Police arrested 52 suspected traffickers and rescued 202 trafficking victims, including 45 underage victims. A local NGO reported that only 7 of the 150 trafficking suspects arrested during the year were successfully prosecuted by year's end, with 75 released for lack of evidence and the remainder awaiting trial. A legal advocacy NGO brought 50 trafficking cases to court during the year. Of the 14 cases that went to trial, convictions were obtained against 6 traffickers with sentences ranging from 2 years' to 20 years' imprisonment. Additionally, the convicted traffickers were ordered to pay \$400 to \$600 (1.6 million to 2.4 million riel) to each victim as compensation. There were no reports of cases settled out of court. In February, a New Zealander was convicted of debauchery and sentenced to 20 years. In August, another New Zealander was convicted of debauchery for sexually abusing 4 boys age 11 to 16 and sentenced to 10 years in prison in addition to being ordered to pay \$2,000 (8 million riel) to each victim as compensation.

Several government ministries were active in combating trafficking. In 2000, the Government adopted a 5 year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement. The Government has established mechanisms for monitoring and reporting on the plan and has established a Department of Anti-Human Trafficking and Juvenile Protection. There were specialized MOI anti trafficking departments in 7 provinces and anti trafficking units in the remaining 17 provinces. The Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY) worked with the International Organization for Migration (IOM) to repatriate trafficked victims from Thailand to Cambodia and from Cambodia to Vietnam. However, repatriation to Vietnam continued to be a long and arduous process. In addition, the MOSAVY worked with UNICEF and local NGOs to manage community based networks aimed at preventing trafficking. The Ministry of Women's Affairs continued a public education campaign against trafficking, focusing on border provinces. In June 2003, the Government signed a Memorandum of Understanding with Thailand to pursue joint investigations of transnational traffickers.

Most adult and child victims were trafficked for the purpose of commercial sexual exploitation. Estimates of the number of trafficking victims in the sex industry ranged from 2,000 to more than 3,000, approximately 80 percent of whom were Vietnamese women and girls. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries.

One study estimated that 88,000 citizens worked in Thailand as bonded laborers at any given time; many were exploited in the sex industry or were employed as beggars, particularly children. Similarly, children were trafficked to Vietnam for begging.

Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. In some cases, victims were detained and physically and mentally abused by traffickers, brothel owners, and clients.

Traffickers used a variety of methods to acquire victims. In many cases, victims were lured by promises of legitimate employment. In other cases, acquaintances, friends, and family members sold the victims or received payment for helping deceive them. Young children, the majority of them girls, were often "pledged" as collateral for loans by desperately poor parents; the children were responsible for repaying the loan and the accumulating interest. Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement.

It was believed widely that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons. High ranking government officials or their family members reportedly operated, had a stake in, or received protection money from brothels that housed trafficking victims, including underage sex workers. There were no known prosecutions of corrupt officials for suspected involvement in trafficking in persons.

The MOSVY referred trafficking victims to NGOs. Most assistance to victims was provided by local NGOs and international organizations. The Government participated as a partner in a number of these efforts; however, its contributions were hampered severely by limited resources. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, in the general climate of impunity, victim protection was problematic, and victims often were intimidated into abandoning their cases.

During the year, NGOs worked with the Ministry of Women's Affairs to repatriate nine victims of sex trafficking from Malaysia. The MOI was conducting an investigation into the trafficking of women and girls to Malaysia for sex.

The Government has established specialized anti trafficking and juvenile protection units in several provinces, which raided a number of brothels. The raids of the specialized unit in Phnom Penh resulted in the rescue of 68 victims of human trafficking, 36 of whom were under the age of 18. Other police units also conducted raids of brothels and rescued numerous prostitutes, including underage workers. The Government provided most rescued victims with protection, while working with NGOs to either reunite the victims with their families or to place them in a shelter. Trafficking victims, especially those exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

In December, the Ministry of Interior's Anti-Trafficking and Juvenile Protection Police raided a notorious Phnom Penh hotel, detaining 8 suspected traffickers and placing 83 women and girls from the hotel under NGO care. A day after the raid the suspects were released by police, and a mob of family members and other unidentified persons removed or caused to be released 91 women and girls from the NGO shelter, including the 83 women and girls taken from the hotel. The Government subsequently failed to protect the women and girls during the process of an investigation that was still pending at year's end. It has not yet been determined how many of these women and girls were trafficking victims.

During the year, there were no reported cases of trafficking victims being treated as illegal immigrants. Although the Government protected persons who admitted they were victims of trafficking, there were cases in 2002 in which victims, who claimed they were 18 and had entered prostitution willingly, were treated as deportable aliens. Repatriation to Vietnam continues to be a long and arduous process.

During the year, the Government, together with the ILO, IOM, UNICEF, and local and international NGOs cosponsored a national forum against trafficking. Four child delegates selected during this event then represented the country at a regional trafficking forum convened as a complementary advocacy effort to the Coordinated Mekong Ministerial Initiative Against Trafficking.

The Government used posters, television, radio, and traditional local theater to raise public awareness of human trafficking. In 2001, the Ministry of Women's Affairs launched a major information campaign as part of a 3 year education project in conjunction with IOM. The IOM continued to work with the Ministry throughout the year to expand this project to all provinces.

*Persons With Disabilities.*—The Government does not require that buildings or government services be accessible to persons with disabilities. The Government also prohibits persons with even minor disabilities from being teachers in public schools. In the most recent figures available dating from 1999, it was reported that there

were 170,000 persons with disabilities, including 24,000 persons missing at least 1 limb and 6,744 persons missing more than 1 limb. Disability due to landmines accounted for 11.5 percent of the total population of persons with disabilities, while disability due to congenital problems and disease accounted for 53 percent. During the year, there were approximately 800 landmine and unexploded ordnance casualties. Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons who had lost limbs; however, persons who had lost limbs faced considerable societal discrimination, particularly in obtaining skilled employment.

*National/Racial/Ethnic Minorities.*—Citizens of Chinese and Vietnamese ethnicity constituted the largest ethnic minorities. Ethnic Chinese citizens were accepted in society; however, animosity toward ethnic Vietnamese, who were seen as a threat to the nation and culture, continued. The rights of minorities under the 1996 nationality law are not explicit; constitutional protections are extended only to “Khmer people.”

Preceding the July 2003 National Assembly elections, the SRP, FUNCINPEC, and a number of smaller political parties exploited anti Vietnamese sentiment. Political parties attempted to disenfranchise thousands of ethnic Vietnamese citizens by challenging their voter registration rights, and at least at one polling station a mob prevented ethnic Vietnamese from voting. In addition, student groups continued to make strong anti Vietnamese statements. They complained of political control of the CPP party by the Vietnamese government, border encroachment, and other problems for which they held ethnic Vietnamese persons at least partially responsible. There was increased ethnic tension after the 2003 elections, which resulted in the burning of homes of Vietnamese and tense relations in several areas of Kandal Province.

*Other Societal Abuses and Discrimination.*—Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs. There was no official discrimination against those infected with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Law provides workers with the right to form professional organizations of their choosing without prior authorization, and all workers are free to join the trade union of their choice; however, the Government’s enforcement of these rights was selective, and two trade unionists were killed during the year (*see* Section 1.a.). Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations; however, the Ministry of Labor and Vocational Training (MOLVT) has accepted the charter of at least one union that requires workers to obtain permission before they may withdraw. The Labor Law does not apply to civil servants, including teachers, judges, and military personnel, or to household servants. Personnel in the air and maritime transportation industries were not entitled to the full protections of the law but were free to form unions.

Most workers were subsistence rice farmers, and although there was an expanding service sector, most urban workers were engaged in small scale commerce, self employed skilled labor, or unskilled day labor. Only a small fraction (estimated at less than 1 percent) of the labor force was unionized, and the trade union movement was still nascent and very weak. Unions suffered from a lack of resources, training, and experience. Unions were concentrated in the garment and footwear industries, where approximately 50 to 60 percent of the 250,000 workers were union members. The Cambodian Tourism and Service Workers Federation, formed in 2003, represented over 3,500 hotel, casino, and airport workers. The 1 public sector union, the Cambodia Independent Teachers Association (CITA), was registered as an “association” and represented 5,300 members. Local and provincial authorities, acting on the Government’s orders, banned most of CITA’s activities.

The Labor Law requires unions and employer organizations to file a charter and list of officers with the MOLVT. The MOLVT has registered 675 factory unions, 18 national labor federations, and 1 national confederation (an alliance of several like-minded federations) since the Labor Law went into effect in 1997, including 175 unions, 5 federations, and 1 confederation during the year. During the year, there were no complaints that the Government failed to register unions or labor federations; however, some unions and federations complained of unnecessary delays and costs. Although all unions collect dues from members, none was able to operate without outside sources of financial support.

Two major labor federations and several unaffiliated factory unions are independent. Eleven registered labor federations have ties to the Government or CPP

affiliated individuals within the Government. There was credible evidence of management involvement in some labor unions. In some factories, management appeared to have established their own unions, supported pro management unions, or compromised union leaders. Independent union leaders complained that the Cambodian Confederation of Trade Unions (CCTU)—a newly formed confederation comprised of the 11 pro government, pro management labor federations—frequently intervened in the affairs of other unions and extorted money from management in exchange for discouraging workers from conducting legal strikes and demonstrations. Some labor unionists alleged that CCTU representatives threatened rival union leaders as well as employers.

The CCTU has effectively supplanted the Cambodian Labor Solidarity Organization, a government-affiliated NGO that claimed to protect workers and the economy from disruptive union activists and intimidated and used violence against unionists and other workers.

Union activists frequently were the targets of violence. On January 22, Chea Vichea, President of the Free Trade Union of the Workers of Cambodia (FTUWKC), was killed on a busy street in Phnom Penh (*see* Section 1.a.). On May 7, Ros Sovannareth, President of the Trinonga Komara Garment Union and a steering committee member of the FTUWKC was killed (*see* Section 1.a.). In addition the International Confederation of Free Trade Unions reported that on June 23, Lay Sophead, the president of a union affiliated with the FTUWKC, was attacked and left for dead. Lay Sophead recovered and applied for a position in another factory; however, her application was turned down in an apparent act of anti-union discrimination.

Following the death of Vichea, several trade unionists reported receiving threats, including Rong Chhun, President of the Cambodian Independent Teacher's Association, and FTUWKC General Secretary Sum Som Neang, who has fled the country. In addition, Vichea's partner left the country and was granted asylum in another country.

During the post-election political deadlock, the Government's enforcement of the right of association and freedom from anti-union discrimination was poor and MOLVT activities declined significantly. The Government's enforcement efforts were further hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The Government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. The MOLVT often decided in favor of employees, but rarely used its legal authority to penalize employers who defied its orders. There were credible reports of anti union harassment by employers, including the dismissal of union leaders, in more than 25 garment factories and other enterprises during the year. On several occasions, dismissed union leaders accepted cash settlements after unsuccessfully appealing to the Government to enforce Labor Law provisions requiring their reinstatement; however, there were some cases in which the Government upheld labor rights. For example, the Government suspended the export privileges of a garment factory in which a manager abused and threatened a unionist. In addition, according to MOLVT statistics, 92 companies were fined for Labor Law violations between December 2003 and November.

Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally.

*b. The Right to Organize and Bargain Collectively.*—The Labor Law provides for the right to organize and bargain collectively; however, the Government's enforcement of these rights was inconsistent. Wages were set by market forces, except in the case of civil servants, whose wages were set by the Government.

Since passage of the Labor Law in 1997, there has been confusion about the overlapping roles of labor unions and elected shop stewards. The Labor Law provides unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. The law provides shop stewards the right to represent the union and to sign collective bargaining agreements; however, in practice, most factories elected shop stewards before a union was present in the enterprise. Many unions had no legally enforceable right to negotiate with management if a nonunion shop steward had been elected. In addition, the law specifically protects elected shop stewards from dismissal without permission from the MOLVT, but grants no such protection to elected union leaders. In 2000, MOLVT issued a regulation that gave trade unions roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise; however, these protections for union leaders have not proved effective.

There were 18 collective bargaining agreements registered with the Government, most of which were conciliation agreements between labor and management, which did not meet international collective bargaining standards. Only two genuine collective bargaining agreements existed within the garment industry. These agreements provided additional health and welfare provisions such as extra sick leave and maternity leave, factory clinic upgrades, and union controlled welfare funds. In 2001, the Government issued a regulation establishing procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. This regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. The Bureau of Labor Relations facilitates the process of union registration and certification for most representative status for unions, a status that entitles a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment.

The MOLVT granted most representative status to 56 unions, enabling them to represent workers for purposes of collective bargaining. Other unions that have applied for this status and had not yet received it complained of unnecessary bureaucratic delays.

In 2002, the ILO initiated a program to prevent and resolve labor disputes. A tripartite labor arbitration council launched by the ILO in May 2003 has received 139 collective worker and management dispute cases. Of these cases, 123 were resolved (82 through arbitral awards and 41 through conciliation during the arbitration process); 12 cases were pending at year's end.

The Labor Law provides for the right to strike and protects strikers from reprisal. The MOLVT reported that 79 strikes occurred during the year, most of which violated the 7 day strike notice requirement. Union leaders, in contrast, maintained that twice as many strikes had actually taken place, the majority of which were legal. Unions complained that a severe lack of MOLVT involvement during the period of political deadlock had led to a dramatic increase in industrial action.

The Government allowed most strikes, and police intervention generally was minimal and restrained, even in those cases where property damage occurred. During the period of political deadlock between the July 2003 elections and the formation of the new government, the Government disapproved most demonstration requests, citing security concerns as justification. Police presence at the few demonstrations that occurred tended to be excessive and often included a specialized police intervention unit. In October, police used a water hose against 1,700 workers in Sihanoukville who conducted an unauthorized strike following the mass dismissal of 41 workers.

The Government allowed some demonstrations to take place without significant interference, including a march in honor of slain union leader Chea Vichea (*see* Section 1.a.) that was attended by thousands of his supporters and a 250 person funeral procession for another union leader who was murdered in May (*see* Section 1.a.).

In spite of the provisions in the law protecting strikers from reprisals, there were credible reports of workers being dismissed on spurious grounds after organizing or participating in strikes. In some cases, strikers were pressured by employers to accept compensation and to leave their employment. Employees at two luxury hotels were fired following an April strike, which they maintained was legal. The employees alleged that management locked them out of the hotel when they refused to sign a statement waiving their legal right to strike in the future. After 5 months of negotiations, management and workers signed a memorandum of understanding in September to rehire 60 percent of the workers with backpay and to provide severance packages to the remaining workers.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Law prohibits forced or compulsory labor, including forced labor by children; however, the Government did not enforce its provisions adequately. Involuntary overtime remained widespread. Under the Labor Law, legal overtime work cannot exceed 2 hours daily and must be voluntary; however, in practice, overtime was often extended beyond the legal limit and employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

There also were reports of isolated cases of forced labor by domestic servants.

Forced child labor was a serious problem in the commercial sex industry (*see* Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government has adopted laws to protect children from exploitation in the workplace.

The Labor Law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between

12 and 15 years of age to engage in “light work” that is not hazardous to their health and that does not affect school attendance. A tripartite Labor Advisory Committee is responsible for defining what constitutes work that is hazardous to the health, safety, and morality of adolescents, as well as consulting with the MOLVT to determine which types of employment and working conditions constitute “light work.”

Of children between the ages of 5 years and 17 years, 53 percent were employed. One third of these children were over the age of 14 years, and 71 percent of them were engaged in agricultural, farming, or forestry activities; 21 percent of working children were sales or service workers, and 7 percent were engaged in production work.

During the year, the ILO reported that there was no evidence that child labor was a problem in the garment sector. Historically, child labor has been extremely rare in the garment industry, although young workers occasionally misrepresented their age to gain employment. Lack of credible civil documents made it difficult for employers to guard against this, and most garment factories had policies that set the age of employment above the legal minimum age of 15 years.

The most serious child labor problems were in the informal sector. Some observers noted that existing regulations do not address the problem of child labor in the informal sector adequately. MOLVT was working with the ILO to identify gaps in existing legislation proscribing child labor and to develop measures to fully implement the relevant conventions. With assistance from the ILO, MOLVT established a child labor unit to investigate and combat child labor. The Government has developed a national plan that will serve as a framework for policies and interventions against the worst forms of child labor.

The Constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry (see Section 5). Although law enforcement agencies had authority to combat child prostitution, they failed to do so in a sustained, consistent manner. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles.

*e. Acceptable Conditions of Work.*—The Labor Law requires the MOLVT to establish minimum wages based on recommendations from the Labor Advisory Committee. By law, the minimum wage can vary regionally. In 2000, the Labor Advisory Committee approved a minimum wage of \$44 (175,500 riel) per month, but this only extended to the garment and footwear industries. Most garment and footwear factories respected the minimum wage. There was no minimum wage for any other industry.

Garment workers earned an average of \$65 (260,000 riel) per month, including overtime and bonuses. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The Labor Law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time and one half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday; however, the Government did not enforce these standards effectively. Workers in many garment factories reported that overtime was excessive or involuntary or that they were required to work 7 days per week. Outside the garment industry, regulations on working hours were rarely enforced.

The Labor Law states that the workplace should have health and safety standards adequate to ensure workers’ well being. The Government enforced existing standards selectively, in part because it lacked trained staff and equipment. Work-related injuries and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in some small scale factories and cottage industries were poor and often did not meet international standards. The Government issued several instructions on workplace standards, and more detailed regulations awaited approval by the Labor Advisory Committee before they could be promulgated. Penalties are specified in the Labor Law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.

The Labor Law applies to all local and foreign workers. A Ministry of Labor regulation limits the number of foreign workers an employer can hire to 10 percent.

## CHINA

The People's Republic of China (PRC) is an authoritarian state in which, as specified in its Constitution, the Chinese Communist Party (CCP or Party) is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its 9-member standing committee. Leaders made a top priority of maintaining stability and social order and were committed to perpetuating the rule of the CCP. Citizens lacked the freedom to express opposition to the Party-led political system and the right to change their national leaders or form of government. Socialism continued to provide the theoretical underpinning of national politics, but Marxist economic planning has given way to pragmatism, and economic decentralization has increased the authority of local officials. The Party's authority rested primarily on the Government's ability to maintain social stability; appeals to nationalism and patriotism; Party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. The Constitution provides for an independent judiciary; however, in practice, the Government and the CCP, at both the central and local levels, frequently interfered in the judicial process and directed verdicts in many cases.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. Civilian authorities generally maintained effective control of the security forces. Security policy and personnel were responsible for numerous human rights abuses.

The country's transition from a centrally planned economy toward a market based economy continued. Although state-owned industry remained dominant in key sectors, the Government has taken steps to restructure major state-owned enterprises (SOEs), privatized many small and medium SOEs, and allowed private entrepreneurs increasing scope for economic activity. Rising urban living standards; a burgeoning middle class; greater independence for entrepreneurs; the reform of the public sector, including government efforts to increase transparency and eliminate administrative hurdles; and expansion of the private sector, including foreign-invested enterprises, continued to increase workers' employment options and reduce state control over citizens' daily lives.

The country faced many economic challenges, including reform of SOEs and the banking system, growing unemployment and underemployment, an aging population, the need to construct an effective social safety net, and rapidly widening income gaps between coastal and interior regions and between urban and rural areas. In recent years, between 100 and 150 million persons voluntarily left rural areas to search for better jobs and living conditions in cities, where they were often denied access to government-provided economic and social benefits, including education and health care. The Government continued to relax controls over migration from rural to urban areas, and many cities took steps to expand the rights of migrants and their dependents to basic social services. In the industrial sector, continued downsizing of SOEs contributed to rising urban unemployment that was widely believed to be much higher than the officially estimated 4 percent, with many sources estimating the actual figure to be as high as 20 percent. The Government reported that urban per capita disposable income in 2003 was \$1,028 and grew by 9 percent over the previous year, while rural per capita cash income was \$317 and grew by 4 percent. Official estimates of the percentage of citizens living in absolute poverty showed little change from the previous year. The Government estimated that 30 million persons lived in poverty, and the World Bank estimated the number whose income does not exceed one dollar per day to be 100 to 150 million persons.

The Government's human rights record remained poor, and the Government continued to commit numerous and serious abuses. Citizens did not have the right to change their government, and many who openly expressed dissenting political views were harassed, detained, or imprisoned, particularly in a campaign late in the year against writers, religious activists, dissidents, and petitioners to the Central Government. Authorities were quick to suppress religious, political, and social groups that they perceived as threatening to government authority or national stability, especially before sensitive dates such as the 15th anniversary of the 1989 Tiananmen massacre and other significant political and religious occasions. However, the Constitution was amended to mention human rights for the first time.

Abuses included instances of extrajudicial killings; torture and mistreatment of prisoners, leading to numerous deaths in custody; coerced confessions; arbitrary arrest and detention; and incommunicado detention. The judiciary was not independent, and the lack of due process remained a serious problem. The lack of due

process was particularly egregious in death penalty cases, and the accused was often denied a meaningful appeal. Executions often took place on the day of conviction or on the denial of an appeal. In Xinjiang, trials and executions of Uighurs charged with separatism continued. Government pressure continued to make it difficult for lawyers to represent criminal defendants. The authorities routinely violated legal protections in the cases of political dissidents and religious figures. They generally attached higher priority to suppressing political opposition and maintaining public order than to enforcing legal norms or protecting individual rights. According to 2003 government statistics, more than 250,000 persons were serving sentences in "reeducation-through-labor" camps and other forms of administrative detention not subject to judicial review. Other experts reported that more than 310,000 persons were serving sentences in these camps in 2003.

Throughout the year, the Government prosecuted individuals for subversion and leaking state secrets as a means to harass and intimidate, while others were detained for relaying facts about Chinese human rights issues to those outside the country. Among those detained or convicted on such charges were Christian activists Zhang Rongliang, Liu Fenggang, Xu Yonghai and Zhang Shengqi, and journalists Zhao Yan, Shi Tao, Li Guozhu and members of the independent PEN Center's China branch. The Government detained individuals administratively to suppress dissent and intimidate others. In April and June, authorities detained many who planned 15th anniversary commemorations of the 1989 Tiananmen massacre, including activist Hu Jia and "Tiananmen Mothers" organization founders. Similarly, military officials detained Dr. Jiang Yanyong because he wrote to government leaders requesting an official reassessment of the 1989 Tiananmen massacre.

The number of individuals serving sentences for the now-repealed crime of counterrevolution was estimated at 500 to 600; many of these persons were imprisoned for the nonviolent expression of their political views. Nongovernmental organizations (NGOs) estimated that as many as 250 persons remained in prison for political activities connected to the 1989 Tiananmen demonstrations.

The authorities granted early release from prison to Tibetan nun Phuntsog Nyidrol in February and China Democracy Party (CDP) co-founder Wang Youcai in March. Counterrevolutionary prisoners Liu Jingsheng and Chen Gang were also released during the year, after their sentences were reduced. However, many political prisoners, including Internet activists Xu Wei, Yang Zili, and Huang Qi; Uighurs Rebiya Kadeer and Tohti Tunyaz; journalists Zhao Yan and Jiang Weiping; labor activists Yao Fuxin and Xiao Yunliang; civil activist Mao Hengfeng; Catholic Bishop Su Zhimin; Christian activists Zhang Rongliang, Zhang Yinan, Liu Fenggang, and Xu Yonghai; Tibetans Jigme Gyatso, Tenzin Deleg, and Gendun Choekyi Nyima; Inner Mongolian cultural activist Hada; CDP co-founder Qin Yongmin; and political dissident Yang Jianli remained imprisoned or under other forms of detention, some in undisclosed locations.

The Government used the international war on terror as a pretext for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders. The human rights situation in the Tibet Autonomous Region (TAR) and in some Tibetan regions outside the TAR also remained poor (*see* Tibet Addendum).

The Government maintained tight restrictions on freedom of speech and of the press, and a wave of detentions late in the year signaled a new campaign targeting prominent writers and political commentators. The Government regulated the establishment and management of publications, controlled broadcast and other electronic media, censored some foreign television broadcasts, and jammed some radio signals from abroad. During the year, publications were closed and otherwise disciplined for publishing material deemed objectionable by the Government, and journalists, authors, academics, Internet writers, and researchers were harassed, detained, and arrested by the authorities. Although the scope of permissible private speech has continued to expand in recent years, the Government continued and intensified efforts to monitor and control use of the Internet and other wireless technology, including cellular phones, pagers, and instant messaging devices. During the year, the Government blocked many websites, began monitoring text messages sent by mobile phones, and pressured Internet companies to censor objectionable content. NGOs reported that 43 journalists were imprisoned at year's end.

The Government severely restricted freedom of assembly and association and infringed on individuals' rights to privacy. The authorities harassed and abused many who raised public grievances, including petitioners to the Central Government. The Government outlawed public commemoration of the 1989 Tiananmen massacre. Thousands of individuals protesting forced evictions and workplace and health issues were detained during the year. Petitioner issues were increasingly considered

suspect by the Government, and petitioner leader Ye Guozhu was arrested in August while seeking permission to hold a 10,000-person rally against forced eviction.

While the number of religious believers in the country continued to grow, the Government's record on respect for religious freedom remained poor, and repression of members of unregistered religious groups increased in some parts of the country. Members of unregistered Protestant and Catholic congregations, Muslim Uighurs, and Tibetan Buddhists, including those residing within the TAR (*see* Tibet Addendum) experienced ongoing and, in some cases, increased official interference, harassment, and repression. Government officials increased vigilance against "foreign infiltration under the guise of religion." The Government detained and prosecuted a number of underground religious figures in both the Protestant and Catholic Church. Among them, Protestants Liu Fengang, Xu Yonghai, and Zhang Shengqi were sentenced for sending to overseas organizations information that the Government considered sensitive.

The extent of religious freedom varied significantly from place to place. The Government continued to enforce regulations requiring all places of religious activity to register with the Government. Many provincial authorities required groups seeking to register to come under the supervision of official, "patriotic" religious organizations. Religious worship in many officially registered churches, temples, and mosques occurred without interference, but unregistered churches in some areas were destroyed, religious services were broken up, and church leaders and adherents were harassed, detained, or beaten. At year's end, scores of religious adherents remained in prison because of their religious activities. No visible progress was made in normalizing relations between the official Patriotic Catholic Church and Papal authorities, although both the Government and the Vatican stated that they were ready to resume negotiations aimed at establishing diplomatic relations. The Government continued its crackdown against the Falun Gong spiritual movement, and tens of thousands of practitioners remained incarcerated in prisons, extrajudicial reeducation-through-labor camps, and psychiatric facilities. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999.

Freedom of movement continued to be restricted. However, the Government continued to relax its residence-based registration requirements. The Government denied the U.N. High Commissioner for Refugees (UNHCR) permission to operate along its border with North Korea and deported several thousand North Koreans, many of whom faced persecution and some of whom may have been executed upon their return, as provided in North Korean law. Abuse and detention of North Koreans in the country was also reported.

The Government did not permit independent domestic NGOs to monitor human rights conditions. However, in September, the U.N. Working Group on Arbitrary Detention visited Beijing, Sichuan, and the TAR and toured 10 detention facilities. Although the Government extended invitations to the U.N. Special Rapporteur for Torture and the U.N. Special Rapporteur for Religious Intolerance, those visits did not occur by year's end. The Government also extended an invitation to the leaders of the U.S. Commission on International Religious Freedom, but the visit did not occur due to restrictive conditions that the Government placed on the visit. In December, the Government postponed a planned seminar by the Organization for Economic Cooperation on Socially Responsible Investment, which resulted in the cancellation of a visit by the OECD's Trade Union Advisory Council to discuss labor issues.

Violence against women, including imposition of a coercive birth limitation policy that resulted in instances of forced abortion and forced sterilization, continued to be a problem, as did prostitution. Discrimination against women, persons with disabilities, and minorities persisted. Trafficking in persons continued to be a serious problem.

Labor demonstrations, particularly those protesting nonpayment of back wages, continued. Workplace safety remained a serious problem, particularly in the mining industry. The Government continued to deny internationally recognized worker rights, including freedom of association. Forced labor in prison facilities remained a serious problem.

Significant legal reforms continued during the year, including a Constitutional amendment specifically to include protection of citizens' human rights and legally obtained private property for the first time. In July, the Government enacted the Administrative Procedures Law, which prohibits government agencies from violating citizens' rights or seizing property without clear legal authority. A new infectious disease law was enacted prohibiting discrimination against people with HIV/AIDS and Hepatitis B, and employment discrimination against those with HIV/AIDS and Hepatitis B was outlawed. Treatment of some migrant workers was improved in

many major cities through the passage of laws intended to guarantee migrant children access to public education and to protect migrant workers' rights to receive their salary on a regular basis. The Government enacted reforms related to interrogation of detainees, fighting corruption, procedures for requisitioning land, confiscation of personal property, extending social security, regulating religion, and providing legal aid. At year's end, it remained unclear how widely these reforms would be implemented and what effect they would have.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year, politically motivated and other arbitrary and unlawful killings occurred. While no official statistics on deaths in custody were available, state-run media reported that 460 people were killed by law enforcement officials and over 100 seriously injured through abuse or dereliction of duty in 2003. In August, the Sichuan Provincial Procuratorate issued a report stating that, in the first half of the year, 118 individuals in Sichuan Province died and 10 were severely injured due to malfeasance by police and prison officials. In June, state-run media reported that in Guizhou Province police beat Jiang Zongxiu to death after she was detained administratively for distributing Bibles (see Section 2.c.). In April, Gu Xianggao died in police custody in Harbin, Heilongjiang Province. Public security officials offered compensation to his family in connection with his death. In these cases, officials denied that the deaths occurred because of police abuse, but others who viewed the bodies stated that beatings had occurred (see Sections 1.c. and 1.d.).

Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999 (see Section 2.c.). Some groups based abroad estimated that as many as 2,000 Falun Gong practitioners have died as a result of official persecution.

Trials involving capital offenses sometimes took place under circumstances involving severe lack of due process and with no meaningful appeal. Executions often took place on the day of conviction or appeal. For example, on international antidrug day, June 26, dozens of prisoners were executed, many within hours of their trial and conviction. In Xinjiang, executions of Uighurs accused by authorities of separatism, which some observers claimed were politically motivated, were reported (see Section 5). The Government regarded the number of death sentences it carried out as a state secret. However, in March, a National People's Congress deputy asserted that nearly 10,000 cases per year "result in immediate execution." The statement sparked calls for reform, including returning the power to issue death sentences from provincial courts to the Supreme People's Court (SPC) and eliminating the death penalty for economic and other nonviolent crimes. Nonetheless, media reports stated that approximately 10 percent of executions were for economic crimes, especially corruption. SPC and Ministry of Justice officials stated that the 10,000 executions per year figure is exaggerated. Amnesty International (AI) reported that China executed more persons than any other country. Some foreign academics estimated that as many as 10,000 to 20,000 persons are executed each year.

*b. Disappearance.*—The Government used incommunicado detention. The law requires notification of family members within 24 hours of detention, but many individuals were held without notification for significantly longer periods, especially in sensitive political cases. Dr. Jiang Yanyong and his wife were detained on June 1 and held incommunicado for several weeks in connection with a letter he wrote to government leaders about the 1989 Tiananmen massacre (see Section 2.d.). New York Times researcher Zhao Yan also was held for several days in September before authorities notified his relatives and employer (see Section 2.a.).

By year's end, the Government had not provided a comprehensive, credible accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations. Public calls for a reassessment of the 1989 Tiananmen massacre increased during the year, especially around the 15th anniversary of the crackdown.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Prison Law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. While senior officials acknowledged that torture and coerced confessions were chronic problems, they did not take sufficient measures to end these practices. Former detainees reported

credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse.

Since the crackdown on Falun Gong began in 1999, several hundred Falun Gong adherents reportedly died in custody due to torture, abuse, and neglect (*see* Section 2.c.). During the year, the Government arrested Falun Gong members and formally charged them with manufacturing claims that they were tortured.

During the year, police continued to use torture to coerce confessions from criminal suspects. A Supreme People's Procuratorate (SPP) investigation uncovered more than 4,000 cases of official abuse, including torture and extracting confessions through coercion, from 2001 to 2003. Lawyers and other observers continued to point to the December 2003 conviction and execution of crime syndicate figure Liu Yong on corruption charges as a prominent example of the Government ignoring evidence of torture in the interest of fighting crime. Liu was sentenced to death in 2002, but Beijing-based defense attorneys discovered evidence that a key witness' confession was coerced through torture. As a result, the Liaoning High Court overturned Liu's death sentence in August 2003. Yielding to public opposition to the ruling, the SPC reinstated the death penalty in December 2003, and Liu was executed the same day.

Mao Hengfeng, a Shanghai housing activist and organizer sentenced to reeducation through labor for staging "disorderly visits" to Government offices, reportedly suffered various forms of torture. She reportedly was held with drug addicts who were allowed to abuse her, was strapped to her bed for hours at a time, was forced an unidentified medicine that turned her mouth black, and, on one occasion, had her limbs pulled in different directions for a period of 2 days.

The Government made some efforts to address the problem of torture during the year. Some provincial governments issued regulations stipulating that judges and police who used torture to extract confessions from suspects would face dismissal. In May, the SPP announced a 1-year campaign to punish officials who infringed on human rights, including officials who coerced confessions through torture or illegally detained or mistreated prisoners. In August, the Government issued new regulations governing the length and conditions of interrogation for pretrial detainees, including protections for pregnant women, juveniles, and the elderly. Police officers who tortured suspects faced dismissal and criminal prosecution in some cases. For example, in June two police officers in Bazhou, Hebei Province, were sentenced to life in prison and a suspended death sentence after torturing a suspect to death and hiding the body in 2001. In July, two Sichuan Province police officers were sentenced to 12 years and 1 year in prison, respectively, in another case in which a suspect died after being tortured.

During the year, there were reports of persons, including Falun Gong adherents, sentenced to psychiatric hospitals for expressing their political or religious beliefs (*see* Section 1.d.). Some reportedly were forced to undergo electric shock treatments.

Petitioners and other activists sentenced to administrative detention also reported being tortured. Such reports included being strapped to beds or other devices for days at a time, being beaten, being forcibly injected or fed medications, and being denied food and use of toilet facilities.

The Ministry of Justice administered more than 670 prisons with a population of over 1.5 million inmates, according to official statistics. In addition, 33 jails for juveniles housed over 19,000 juvenile offenders. The country also operated hundreds of administrative detention centers, which were run by security ministries and administered separately from the Ministry of Justice and the formal court system (*see* Section 2.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation. Prison capacity became an increasing problem in some areas, including Guangdong Province. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives. Some prominent dissidents were not allowed to receive supplemental food and medicine from relatives. Political prisoners often were kept segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards. Xu Guang, a former CDP member released from prison in September, stated that he was beaten and placed in a metal cage for 2 months after he commemorated the anniversary of the 1989 Tiananmen massacre while in Qiaoci Prison in Hangzhou, Zhejiang Province. Newly arrived prisoners or those who refused to acknowledge committing crimes were particularly vulnerable to being beaten in prison. In January, political dissident He Depu was reportedly beaten by guards at Beijing No. 2 Prison and made deaf in one ear. Authorities acknowledged He's deafness, but asserted that he was already deaf when he entered prison, a claim denied by his family members. Prolonged use

of electric shocks and use of a rack-like disciplinary bed were reported at Inner Mongolia's Chifeng Prison. Inner Mongolian cultural activist Hada was among those tortured, according to credible NGO reports. Chinese prison management relied on the labor of prisoners both as an element of punishment and to fund prison operations (see Section 6.c.).

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. In August, businessman Wu Daiyou died in a Chongqing prison. His family claimed he contracted tuberculosis in prison and died because authorities denied him needed medical treatment. Political prisoners continued to have difficulties obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community. Foreign citizen Jude Shao suffered a serious heart ailment in a Shanghai prison that authorities were unable to treat. Foreign legal residents Yang Jianli and Wang Bingzhang suffered strokes in prison, but authorities rejected their requests for outside medical care. Others with health concerns included Uighur businesswoman Rebiya Kadeer; democracy activists Qin Yongmin, Hua Di, and He Depu; Internet writers Yang Zili and Luo Yongzhang; labor activists Xiao Yunliang, Yao Fuxin, Hu Shigen, and Zhang Shanguang; civil activist Mao Hengfeng; Inner Mongolian activist Hada; and religious prisoners Zhang Rongliang, Liu Fenggang, Xu Yonghai, Gong Shengliang, Chen Jingmao, and Bishop Su Zhimin. During the year, some political prisoners went on hunger strikes in prison to protest their treatment.

Special prisons to segregate HIV-positive prisoners and provide care to those with HIV/AIDS were established during the year, including facilities in Henan and Zhejiang Provinces. In July, supporters of a Shangqiu, Henan Province AIDS orphanage and school, which the Government claimed was operating illegally, were detained for contesting the closure of the institution. Wang Guofeng and Li Suzhi, who have HIV, claimed they received inadequate treatment while detained and that authorities refused to provide them with test results or allow them to travel to Beijing to see specialists after they were released on bail. The Government stated they were denied imported HIV medications because such medicines likely were smuggled into the country.

Acknowledging guilt was a precondition for receiving certain privileges, including the ability to purchase outside food, make telephone calls, and receive family visits. Prison officials often denied privileges to those, including political prisoners, who refused to acknowledge guilt or obey other prison rules. After CCP activist Wang Bingzhang told jailers he intended to stage a hunger strike, prison staff withheld prison visits, letters, telephone privileges, and other communication for 6 months as punishment. Foreign Falun Gong member Charles Lee staged a hunger strike to protest forced "reeducation" sessions he was given in prison. Some prominent political prisoners, however, received better than standard treatment.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Beating deaths occurred in administrative detention. The March 2003 death of university graduate Sun Zhigang in a custody-and-repatriation camp designed to hold illegal migrants focused public attention on abuses in the administrative detention system. Under the custody-and-repatriation system, police detained and forcibly repatriated to their home provinces migrants, petitioners, and political activists caught without an identification card, work permit, or temporary residence permit. Public outcry following Sun's death played an important role in the State Council's decision, in June 2003, to abolish the custody-and-repatriation system and convert custody-and-repatriation camps across the country into voluntary humanitarian aid shelters for the homeless. Initial reports indicated that most current residents of the camps are indeed there voluntarily. In June, a facility employee who urged inmates to beat Sun was sentenced to death. During the year, one inmate was given a suspended death sentence, and 17 others received prison sentences in connection with Sun's death.

Deaths in reeducation-through-labor camps led to calls to reform or abolish that system as well. Reform of the reeducation-through-labor law was placed on the legislative agenda of the National People's Congress (NPC), but no concrete steps were taken to enact a new law during the year. Scholars publicly discussed reforms, including introducing judicial oversight of reeducation-through-labor sentences, allowing lawyers to participate in hearings prior to reeducation sentences, limiting the types of behavior punishable by reeducation, establishing alternatives to incarceration, and shortening the maximum term of reeducation.

Sexual and physical abuse and extortion were reported in some detention centers. Forced labor in prisons and reeducation-through-labor camps was also common.

The Government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to most inter-

national human rights organizations. However, the Government hosted a visit by the U.N. Working Group on Arbitrary Detention that included visits to 10 detention facilities in Beijing, Chengdu, and the TAR (*see* Section 1.d.). The Government also agreed to invite the U.N. Special Rapporteur for Torture, but the visit stalled, in part because of the Government's refusal to allow him to visit prisons without advance notice (*see* Section 4). By year's end, the Government had not announced any progress in talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons, although there were several rounds of consultations between the ICRC and the Government about allowing the ICRC to open an office in Beijing. Monthly working level meetings intended to renew cooperation on the U.S.-China Prison Labor Memorandum of Understanding continued during the year, and visits were conducted in July, September, and December (*see* Section 6.c).

*d. Arbitrary Arrest or Detention.*—Arbitrary arrest and detention remained serious problems. The law permits authorities, in some circumstances, to detain persons without arresting or charging them, and persons may be sentenced administratively to up to 3 years in reeducation-through-labor camps and other administrative detention facilities without a trial. Because the Government tightly controlled information, it was impossible to determine the total number of persons subjected to new or continued arbitrary arrest or detention. According to 2003 official government statistics, more than 250,000 persons were in reeducation-through-labor camps. Other experts reported that more than 310,000 persons were serving sentences in these camps in 2003. According to published reports of the Supreme People's Procuratorate, the country's 340 reeducation-through-labor facilities had a total capacity of about 300,000 people. In addition, special administrative detention facilities existed for drug offenders and prostitutes. In 2002, these facilities held over 130,000 offenders, and the number reportedly has increased. An additional form of administrative detention for migrants and homeless persons, known as custody and repatriation, was abolished in 2003 and converted into a system of over 900 voluntary humanitarian aid shelters (*see* Section 1.c.). According to official statistics, those facilities had served more than 670,000 people from August 1, 2003 to November 30, 2004. The Government also confined some Falun Gong adherents, petitioners, labor activists, and others to psychiatric hospitals.

Approximately 500 to 600 individuals continued to serve sentences for the now-repealed crime of counterrevolution. Many of these persons were imprisoned for the nonviolent expression of their political views (*see* Section 1.e.).

The Ministry of Public Security (MPS) coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight is limited and checks and balances are absent. Corruption at the local level was widespread. Police officers reportedly coerced victims of crimes, took individuals into custody without due cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators. The SPP investigated approximately 1,980 police officials for dereliction of duty in the period from January to September. Among them was a Hunan Province police official who was sentenced to 6 months in prison for failing to investigate the abduction and rape of a 9-year-old girl. Public interest lawyers also sued police in a Hunan Province village for failing to investigate the murder of a young woman, allegedly committed by her police officer boyfriend. Through September, the SPP filed 938 corruption cases against 1,078 officials working in prisons, jails, and other detention facilities.

Extended, unlawful detention by security officials remained a serious problem. The SPP reported that from 1998 through 2002 there were 308,182 persons detained for periods longer than permitted by law. In 2003, the Government initiated a campaign to resolve cases of extended, unlawful detention. According to state media, 7,064 criminal suspects endured extended unlawful detention during the year (including some whose detention was prolonged from 2003). Courts reviewed and resolved 6,775 of those cases from January to October 2004, leaving only 289 cases unresolved, the Government stated. In March, the SPC and SPP reported to the National People's Congress that they had reviewed nearly 30,000 extended detention cases in 2003, including many that dated back several years, and resolved nearly all. In most cases, those detained unlawfully were formally charged or convicted, but a few, including Internet writer Liu Di, were released. Procuratorates in Hainan and Guizhou Provinces formally punished local police officers who unlawfully extended a suspect's term in custody.

According to the Criminal Procedure Law, police may unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest. After a suspect is arrested, the law allows police and prosecutors to detain him for up to 6 and one-half months before trial while a case is being further investigated. In practice, pretrial detention in some cases lasted for a year or longer. Dissident Yang Jianli was held without conviction for more than 2 years before his verdict and 5-year sentence on espionage and illegal entry charges was announced in May. Originally detained in April 2002, he was not tried until August 2003. The U.N. Working Group on Arbitrary Detention found that the country's pretrial detention of Yang Jianli violated the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

The law stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. However, in practice, failure to provide timely notification remained a serious problem, particularly in sensitive political cases. Under a sweeping exception, officials are not required to provide notification if doing so would "hinder the investigation" of a case. In some cases, police treated those with no immediate family more severely. Police continued to hold individuals without granting access to family members or lawyers, and trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail, but, in practice, few suspects were released pending trial.

The Criminal Procedure Law does not address the reeducation-through-labor system, which allows non-judicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to 3 years in prison-like facilities. The committees can also extend an inmate's sentence for an additional year. Defendants legally were entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for example, for prostitutes and their clients) and "custody and training" (for minors who committed crimes). A special form of reeducation center was used to detain Falun Gong practitioners who had completed terms in reeducation through labor, but whom authorities decided to detain further.

According to foreign researchers, the country had 20 "ankang" institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the Ministry of Public Security. Some dissidents, persistent petitioners, and others were housed with mentally ill patients in these institutions. "Patients" in these hospitals were reportedly given medicine against their will and forcibly subjected to electric shock treatment. The regulations for committing a person into an ankang facility were not clear. Credible reports indicated that a number of political and trade union activists, "underground" religious believers, persons who repeatedly petitioned the Government, members of the banned China Democratic Party, and Falun Gong adherents were incarcerated in such facilities during the year. These included Wang Miaogen, Wang Chanhao, Pan Zhiming, and Li Da, who were reportedly held in an ankang facility run by the Shanghai Public Security Bureau. The Government negotiated with the World Psychiatric Association to resolve a motion pending in previous years that would have expelled the country from the organization for using psychiatric facilities to incarcerate political prisoners, but a planned WPA visit to the country did not take place.

Administrative detention was frequently used as a vehicle to intimidate political activists and prevent public demonstrations (*see* Section 2.b.). For example, authorities detained several persons in the period before the April "Qingming" memorial holiday as a means to prevent public commemoration of the 1989 Tiananmen massacre. Tiananmen Mothers organization co-founders Ding Zilin, Jiang Xianling, and Huang Jinping were detained at separate locations in late March. AIDS activist Hu Jia also was detained after he stated his intention to commemorate the anniversary on their behalf. All were released eventually, but some were prevented from returning to Beijing until after the holiday was over. On June 1, military officials detained retired PLA doctor Jiang Yanyong, who in 2003 had helped focus international attention on the spread of Severe Acquired Respiratory Syndrome (SARS) in Beijing, because he wrote to government leaders requesting a reassessment of the 1989 Tiananmen crackdown. The 72-year-old Jiang and his wife, Hua Zhongwei, were interrogated in an undisclosed location. Hua was released on June 15. Jiang was released without charges on July 20, but he was forbidden to speak with journalists or foreigners, and he remained in a form of house arrest. Dr. Jiang also was pressured not to leave the country to accept an award (*see* Section 2.d.).

Arrests on charges of revealing state secrets, subversion, and common crimes were used during the year by authorities to suppress political dissent and social ad-

vocacy. Citizens were detained and prosecuted during the year under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity. The number of persons executed each year has been deemed by the Government to be a state secret. Information could retroactively be classified a state secret by the Government. Dozens of citizens writing on the Internet or engaging in on-line chat about political topics were detained on state secrets and subversion charges during the year (*see* Section 2.a.). More than 100 intellectuals signed a petition urging the Government to revise the subversion law because its use in the prosecution of Internet writer Du Daobin contradicted the constitutional guarantee of free speech.

In September, the U.N. Working Group on Arbitrary Detention visited detention facilities in Beijing, Sichuan Province, and the TAR. Although satisfied with its access, the Working Group noted that all four recommendations from its 1997 visit to China still had not been implemented and continued to be serious problems. First, the law lacks a presumption of innocence until proven guilty. Second, it fails to define “endangering national security” so that overly broad prosecutions can and do occur. Third, the law includes no protection for those peacefully exercising rights protected by the Universal Declaration of Human Rights. Fourth, no “real judicial control” exists over the reeducation-through-labor system. The Working Group noted the Government’s announced plan to adopt legislation that would address deficiencies in reeducation through labor and regulate the use of psychiatric institutions in administrative detention.

Police sometimes harassed and detained relatives of dissidents. Journalists also were detained or threatened during the year, often when their reporting met with the Government’s or local authorities’ disapproval (*see* Section 2.a.). For example, New York Times researcher Zhao Yan was detained in September shortly after the newspaper published an article correctly predicting the resignation of Jiang Zemin as chairman of the Central Military Commission. The newspaper denied that Zhao had any involvement with the story, and prosecutors did not disclose the basis for the charges, citing state secrets laws (*see* Section 2.a.). In December, farmers’ advocate and writer Li Boguang and three members of the independent PEN Center promoting writers’ freedoms were among those detained in what appeared to be a campaign targeting writers (*see* Section 2.a.). Local authorities used the Government’s campaign against cults to detain and arrest large numbers of religious practitioners and members of spiritual groups, including Christian leader Zhang Rongliang (*see* Section 2.c.).

The campaign that began in 1998 against the China Democracy Party (CDP), an opposition party, continued during the year. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined as a result of this campaign. Since December 1998, over 40 core leaders of the CDP have been given severe punishments on subversion charges. Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced in 1998 to prison terms of 13, 12, and 11 years, respectively. Xu Wenli and Wang Youcai were released on medical parole to the United States in December 2002 and March 2004, respectively. Qin remained in prison at year’s end. During the year, Sang Jiancheng was sentenced to a 3-year prison term in connection with an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre signed by 192 activists, including former CDP members, prior to the 16th Party Congress in November 2002. Internet writer Ouyang Yi, one of the signers of the open letter, was released after serving a 2-year prison sentence in December, but other signers of the letter remained jailed.

Since the Government banned the Falun Gong spiritual group in 1999, criminal proceedings involving accused Falun Gong activists were held almost entirely outside the formal court system. In December, a Beijing attorney sent an open letter to the National People’s Congress highlighting issues of arbitrary detention and unlawful process in cases involving Falun Gong. The letter focused on the April detention and subsequent administrative sentencing of his client, Huang Wei of Shijiazhuang, Hebei Province, who was released in 2002 from a 3-year reeducation sentence for Falun Gong activities. On April 13, Huang was detained again, his home was searched, and a security official signed Huang’s name on a confession, according to the open letter. Huang was sentenced on June 3 to three more years of reeducation in connection with Falun Gong. When Huang tried to sue the Government in protest, his attorney was denied permission to see his client. According to the letter, court and prison authorities told the attorney that only the “610 Office” of the Ministry of Justice could address Falun Gong matters. In the process, the letter described how judges explained that courts are under strict orders not to accept Falun Gong cases and that, in such cases, the courts do not follow normal pretrial procedures. The attorney’s letter concluded that such treatment of accused Falun Gong adherents was unlawful.

The campaign against separatism in Xinjiang specifically targeted the “three evils” of extremism, splittism, and terrorism as the major threats to Xinjiang’s social stability. Because authorities in Xinjiang regularly failed to distinguish carefully among those involved in peaceful activities in support of independence, “illegal” religious activities, and violent terrorism, it was often difficult to determine whether particular raids, detentions, arrests, or judicial punishments targeted those seeking to worship, those peacefully seeking political goals, or those engaged in violence (see Section 5).

*e. Denial of Fair Public Trial.*—The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice, the judiciary was not independent. It received policy guidance from both the Government and the Party, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the Government frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the trial committee in each court. In addition, the Communist Party’s Law and Politics Committee, which includes representatives of the police, security, procuratorate, and courts, has authority to review and influence court operations at all levels of the judiciary; the Committee, in some cases, altered decisions. People’s Congresses also had authority to alter court decisions, but this happened rarely. Corruption and conflicts of interest also affected judicial decision-making. Judges were appointed by the People’s Congresses at the corresponding level of the judicial structure and received their court finances and salaries from those government bodies. This sometimes resulted in local authorities exerting undue influence over the judges they appointed and financed.

The Supreme People’s Court (SPC) is the highest court, followed in descending order by the higher, intermediate, and basic people’s courts. These courts handle criminal, civil, and administrative cases, including appeals of decisions by police and security officials to use reeducation through labor and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

Corruption and inefficiency were serious problems in the judiciary as in other areas (see Section 3). Safeguards against corruption were vague and poorly enforced.

In recent years, the Government has taken steps to address systemic weaknesses in the judicial system and to make the system more transparent and accountable to public scrutiny. In 2003, the SPP prosecuted 9,720 officials involved in investigating, prosecuting, or adjudicating criminal cases. In its March report to the National People’s Congress (NPC), the SPC reported that 794 judges were investigated for corruption in 2003, and 52 faced criminal prosecution. SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. The legal exception for cases involving state secrets was used to keep politically sensitive proceedings closed to the public and even to family members in some cases. Under the regulations, “foreigners with valid identification” are to be allowed the same access to trials as citizens. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as “state secrets” cases, thus closing them to the public. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

Citizens continued to use the court system to seek legal redress against government malfeasance. According to official statistics, 110,199 administrative lawsuits were filed against the Government in 2002, slightly fewer than in the previous year. Administrative actions were affirmed 18 percent of the time, transferred 23 percent of the time, and dismissed or rejected 59 percent of the time, according to those 2002 statistics. Decisions of any kind in favor of dissidents remained rare.

Court officials continued efforts to enable the poor to afford litigation by exempting, reducing, or postponing court fees. During the year, new regulations went into effect requiring law firms and private attorneys to provide some legal aid. Criminal and administrative cases remained eligible for legal aid, although the vast majority of defendants still went to trial without a lawyer. During the year, courts waived over \$128 million (RMB 1.057 billion) in litigation costs. Legal aid to migrant workers accounted for 137,656 cases; in most cases, migrant workers sued for unpaid wages. State media claimed that the number of attorneys in the country increased to 102,000, but the supply of legal aid attorneys remained inadequate to meet demand. For example, the number of registered legal aid attorneys in Guangdong Province dropped 25 percent in 2003, and no legal aid agency existed in 45 counties

in Guangxi Province. Nonattorney legal advisors and government employees provided the only legal aid options in many areas.

During the year, the conviction rate in criminal cases remained over 95 percent. In 2003, 730,355 of the 747,096 persons (97.7 percent) whose criminal cases were resolved at trial were found guilty and received criminal punishment. Of this number 158,562 (21.2 percent) were sentenced to terms of imprisonment of 5 years or greater. In practice, criminal defendants often were not assigned an attorney until a case was brought to court. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. Defendants who refused to acknowledge guilt often received harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversals.

Police and prosecutorial officials often ignored the due process provisions of the law and of the Constitution. The lack of due process was particularly egregious in death penalty cases. There were over 60 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption. Executions were often carried out on the date of conviction (*see* Section 1.a.). The SPC reported that, in 2003, it reviewed 300 serious criminal cases, including capital cases, and affirmed 182 of them. Tibetan Lobsang Dondrub was executed in January 2003 for his alleged connection to a series of bombings in 2002. His execution occurred despite government assurances that he would be afforded full due process and that the national-level Supreme People's Court would review his sentence (*see* Tibet Addendum). The Government regarded the number of death sentences it carried out as a state secret. Minors and pregnant women were expressly exempt from the death sentence, although AI reported that a few criminals who were under age 18 at the time they committed an offense were executed as a result of courts' failure properly to determine their age. On March 8, Gao Pan was allegedly executed for a murder committed in August 2001, when he was not yet 18 years old.

The Criminal Procedure Law falls short of international standards in many respects. For example, it has insufficient safeguards against the use of evidence gathered through illegal means, such as torture, and it does not prevent extended pre- and posttrial detention (*see* Sections 1.c. and 1.d.). Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Furthermore, under the law, there is no right to remain silent, no protection against double jeopardy, and no law governing the type of evidence that may be introduced. The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal "trials" consisted of the procurator reading statements of witnesses whom neither the defendant nor his lawyer ever had an opportunity to question. Defense attorneys have no authority to compel witnesses to testify. Anecdotal evidence indicated that implementation of the Criminal Procedure Law remained uneven and far from complete, particularly in politically sensitive cases.

The Criminal Procedure Law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation; however, police often used loopholes in the law to circumvent defendants' right to seek counsel. Defendants in politically sensitive cases frequently found it difficult to find an attorney. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. Even in nonsensitive trials, criminal defense lawyers frequently had little access to their clients or to evidence to be presented during the trial. Defendants in only one of every seven criminal cases had legal representation, according to credible reports citing internal government statistics. Government-employed lawyers often were reluctant to represent defendants in politically sensitive cases. The percentage of lawyers in the criminal bar reportedly declined from 3 percent in 1997 to 1 percent in 2001.

Defense attorneys rarely entered not guilty pleas on behalf of their clients, choosing instead to argue only for mitigation of the sentence. In June, a Hubei Intermediate Court scheduled the trial of Internet dissident Du Daobin on less than a week's notice, in part to prevent Du's Beijing-based defense counsel from appearing in court and presenting a not guilty plea. The local attorney who defended Du declined to submit a not guilty plea, citing fear of pressure by local authorities.

Some lawyers who tried to defend their clients aggressively continued to face serious intimidation and abuse by police and prosecutors, and some were detained. According to Article 306 of the Criminal Law, defense attorneys could be held responsible if their clients commit perjury, and prosecutors and judges in such cases have wide discretion in determining what constitutes perjury. In May, prominent Beijing defense attorney Zhang Jianzhong was released after serving a 2-year sentence under Article 306. Chinese legal scholars claimed he was singled out for being too

effective at representing criminal defendants, and approximately 600 lawyers signed a petition demanding that Zhang be found not guilty. According to the All-China Lawyers Association, since 1997 more than 400 defense attorneys have been detained on similar charges, and such cases continued during the year.

During the year, Chinese and foreign lawyers, law professors, legal journals, and jurists held seminars and publicly debated systemic legal reform. Among the suggested reforms were the introduction of a more transparent system of discovery, the abolition of coerced confessions, abolition of all forms of administrative detention, a legal presumption of innocence, an independent judiciary, improved administrative laws, restriction on use of the death penalty, reform of the media's interaction with the court system, and adoption of a plea bargaining system.

Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in labor camps. The Government did not grant international humanitarian organizations access to political prisoners.

Western NGOs estimated that approximately 500 to 600 persons remained in prison for the repealed crime of "counterrevolution," and thousands of others were serving sentences under the State Security Law, which Chinese authorities stated covers crimes similar to counterrevolution. Persons detained for counterrevolutionary offenses included labor activist Hu Shigen; writer Chen Yanbin; Inner Mongolian activist Hada; and dissidents Yu Dongyue, Zhang Jingsheng, and Sun Xiongying. Foreign governments urged the Government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under the old statute. During the year, the Government held expert-level discussions with foreign officials on conducting such a review, but no formal review was initiated. However, a number of "counterrevolutionary" prisoners were released during the year, some after receiving sentence reductions, including Liu Jingsheng in November and Chen Gang in April.

Amnesty International has identified more than 80 persons by name who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 250 persons remained in prison for political activities connected to the 1989 Tiananmen demonstrations.

The authorities granted early release from prison to Tibetan nun Phuntsog Nyidrol in February and CDP co-founder Wang Youcai in March. In March, Uighur businesswoman Rebiya Kadeer received a 1-year sentence reduction on her 8-year sentence for supplying state secrets to foreigners, but she was scheduled to remain in prison until August 2006. Many others, including Internet activists Xu Wei, Yang Zili, and Huang Qi; journalists Zhao Yan and Jiang Weiping; labor activists Yao Fuxin and Xiao Yunliang; Catholic Bishop Su Zhimin; Christian activists Zhang Rongliang, Zhang Yinan, Liu Fenggang, and Xu Yonghai; Tibetans Jigme Gyatso, Tenzin Deleg, and Gendun Choekyi Nyima; Uighur writer Tohti Tunyaz; CDP co-founder Qin Yongmin; and political dissident Yang Jianli remained imprisoned or under other forms of detention during the year. Political prisoners generally benefited from parole and sentence reduction at significantly lower rates than ordinary prisoners.

Criminal punishments could include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the limited rights of free speech and association granted to other citizens. Former prisoners also sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing.

Officials confirmed that executed prisoners were among the sources of organs for transplant. Transplant doctors stated publicly in September 2003 that "the main source [of organ donations] is voluntary donations from condemned prisoners," but serious questions remained concerning whether meaningful or voluntary consent from the prisoners or their relatives was obtained. There was no national law governing organ donations, but a draft law was under consideration during the year. A Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. In 2003, the first local law regulating organ donation was passed in Shenzhen, prohibiting the sale or trade of human organs. The impact of this law in practice remained unclear. As of year's end, there were no reports of other localities passing a similar law. There were no reliable statistics on how many organ transplants occurred using organs from executed prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, Correspondence.*—The Constitution states that the “freedom and privacy of correspondence of citizens are protected by law”; however, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the Public Security Bureau and the Procuratorate could issue search warrants on their own authority. Cases of forced entry by police officers continued to be reported.

During the year, authorities monitored telephone conversations, facsimile transmissions, e-mail, text-messaging, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. All major hotels had a sizable internal security presence, and hotel guestrooms were sometimes bugged and searched for sensitive or proprietary materials.

Some dissidents were under heavy surveillance and routinely had their telephone calls monitored or telephone service disrupted. The authorities frequently warned some dissidents and activists not to meet with foreigners. During the year, police in Beijing ordered several dissidents not to meet with Western journalists or foreign diplomats, especially before sensitive anniversaries, at the time of important Government or Party meetings, and during the visits of high-level foreign officials. These events also sparked greater surveillance, short-term detention, and harassment of dissidents. The authorities also confiscated money sent from abroad that was intended to help dissidents and their families.

Security personnel monitored and harassed relatives of prominent dissidents, particularly during sensitive periods. For example, security personnel followed the family members of political prisoners to meetings with Western reporters and diplomats. Dissidents and their family members routinely were warned not to speak with the foreign press. Police sometimes detained the relatives of dissidents.

Official poverty alleviation programs and major state projects have included forced relocation of persons to new residences. The Government estimated that at least 1.2 million persons have been relocated for the Three Gorges Dam project on the Yangtze River.

Forced relocation because of urban development continued and, in some locations, increased during the year. Protests, some of which included thousands of participants, over relocation terms or compensation were common, and some protest leaders were prosecuted during the year (*see* Sections 2.b. and 3). Some evictions in Beijing were linked to construction for the 2008 Olympics.

In urban areas, many persons historically depended on government-linked work units for housing, healthcare, and other aspects of ordinary life. With the increase in market activities and private business, these benefits have changed so that newer employees at some government-linked work units no longer enjoy all of these benefits. For example, most work units now provide housing subsidies to employees, instead of directly allotting housing. Similarly, the work unit and the neighborhood committee have become less important as means of social and political control. Government interference in daily personal and family life continued to decline for most citizens. For example, work unit permission is no longer required before obtaining a divorce.

Under the country’s family planning law and policies, citizens in 6 of the country’s 31 provinces still were required to apply for government permission before having a first child, and the Government continued to restrict the number of births. Penalties for out-of-plan births still included social compensation fees and other coercive measures.

The Population and Family Planning Law, the country’s first formal law on the subject, entered into force in 2002. The National Population and Family Planning Commission (NPFPC) enforces the law and formulates and implements policies with assistance from the China Family Planning Association, which had 1 million branches nationwide. The law is intended to standardize the implementation of the Government’s birth limitation policies; however, enforcement continued to vary from place to place. The law grants married couples the right to have one child and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many provincial regulations require women to wait 4 years or more after their first birth before making such an application. According to the U.N. Population Fund (UNFPA), the spacing requirement was removed in 5 and relaxed in 10 of the 30 counties across 30 provinces participating in UNFPA’s “Country Program V.” The NPFPC reported that the spacing requirement was removed in the provincial regulations of Hainan, Jilin, and Shanghai, and UNFPA reported that the requirement was relaxed by 15 other provincial-level governments.

The law requires counties to use specific measures to limit the total number of births in each county. Both the Constitution and the family planning law further require couples to employ birth control measures. According to a September 2002 U.N. survey, the percentage of women who select their own birth control method grew from 53 percent in 1998 to 83 percent in UNFPA-assisted counties in 2000. The law requires couples who have an unapproved child to pay a "social compensation fee," which sometimes reached 10 times a person's annual income, and grants preferential treatment to couples who abide by the birth limits. Officials often strongly encouraged women with multiple children to undergo sterilization, such as tubal ligation, according to multiple reports. Although the law states that officials should not violate citizens' rights, neither those rights nor the penalties for violating them are defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

The law delegates to the provinces the responsibility for drafting implementing regulations, including establishing a scale for assessment of social compensation fees. The National Population and Family Planning Law requires family planning officials to obtain court approval for taking "forcible" action, such as confiscation of property, against families that refuse to pay social compensation fees.

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200,000 persons), where approximately two-thirds of citizens lived, the policy was more relaxed, generally allowing couples to have a second child if the first was a girl or disabled. Local officials, caught between pressures from superiors to show declining birth rates, and from local citizens to allow them to have more than one child, frequently made false reports. Ethnic minorities, such as Muslim Uighurs and Tibetans, were subject to much less stringent population controls (*see* Tibet Addendum). In remote areas, limits often were not enforced, except on government employees and Party members.

The 2000 census enumerated the fertility rate at 1.3 births per woman, but later the Government adjusted the figure upward to 1.8 births per woman. According to the U.N., the fertility rate does not exceed 1.7. According to Chinese census authorities, the yearly growth rate of the population is 0.7 percent per year. Media reports indicated that some parts of the country had zero or even negative population growth, while the growth rate continued to increase elsewhere.

Authorities continued to reduce the use of targets and quotas. Authorities who still used the target and quota system required each eligible married couple to obtain government permission before the woman became pregnant. In some counties, only a limited number of such permits were made available each year, so couples who did not receive a permit were required to wait at least a year before obtaining permission. Counties that did not employ targets and quotas allowed married women to have a first child without prior permission. UNFPA research showed, and the NPFPC confirmed, that 25 of China's 31 provincial-level governments had done away with the requirement for birth permits before conceiving a first child, the principal mechanism for enforcing targets and quotas. Some targets remained, such as in Liaoning Province which continues to set provincial targets in its 5-year plan, despite having abolished birth permits four years ago and having eliminated target-setting at the city, county and township levels. UNFPA reports that only Fujian, Henan, Jiangxi, and Yunnan Provinces and the Xinjiang Uighur Autonomous Region still required birth permits.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressure were very common; during unauthorized pregnancies, women sometimes were visited by birth planning workers who used threats, including that of social compensation fees, to pressure women to terminate their pregnancies. The fees were assessed at widely varying levels and were generally extremely high. According to provincial regulations, the fees ranged from one-half to 10 times the average worker's annual disposable income. Local officials have authority to adjust the fees downward and did so in many cases. Additional disciplinary measures against those who violated the child limit policy by having an unapproved child or helping another to do so included job loss or demotion, loss of promotion opportunity, expulsion from the Party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including, in some cases, the destruction of property. In the cases of families that already had two children, one parent was often pressured to undergo sterilization, according to reliable reports. These penalties sometimes left women little practical choice but to undergo abortion or sterilization. Rewards for couples who adhered to birth limitation laws and policies included monthly stipends

and preferential medical and educational benefits. During the year, the NPFPC began a number of programs to encourage smaller families. For example, new pension benefits were made available for those who adhered to birth limitation laws.

Seven provinces—Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, and Ningxia—require “termination of pregnancy” if the pregnancy violates provincial family planning regulations. An additional 10 provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shannxi, and Yunnan—require unspecified “remedial measures” to deal with out-of-plan pregnancies. Article 33 of the 2002 law states that family planning bureaus will conduct pregnancy tests and follow-up on married women. Some provincial regulations provide for fines if women do not undergo periodic pregnancy tests. For example, in Hebei the range was \$24 to \$60 (RMB 200 to 500), and in Henan it was \$6 to \$60 (RMB 50 to 500).

At the same time, because of economic development and other factors, such as limited housing size, both parents working full-time, and high education expenses, couples in major urban centers often voluntarily limited their families to one child.

The Population and Family Planning Law delegates to the provinces the responsibility for implementing appropriate regulations to enforce the law. By year’s end, all provincial-level governments except the TAR had amended their regulations to conform with the new law. Anhui Province, for example, passed a law permitting 13 categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. The law does not require such amendments, however, unless existing regulations conflict with it. Existing regulations requiring sterilization in certain cases are not contradicted by the new law, which says simply that compliance with the birth limits should “mainly” be achieved through the use of contraception.

Central Government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. Because it is illegal, the use of physical coercion was difficult to document. A few cases were reported during the year. In June, officials in Jieshou City, Anhui Province, forced a woman to be sterilized, and state media reported that the woman was injured when she jumped out of a window in the operating room in an attempt to avoid the procedure. In the same city, another woman committed suicide when her relatives were detained in population schools, facilities designed to provide reeducation to those who violate family planning guidelines. The use of population schools as detention centers was condemned by Central Government officials. According to state-media reports, the local officials responsible for the detentions were fired or sanctioned administratively. In response, NPFPC officials ordered an investigation, sent a letter to each province condemning the actions in Anhui Province, and called on all provincial-level family planning officials to focus on “implementing the rule of law.” Earlier in the year, media reports noted that a drug offender in Gansu Province was forced to have an abortion before her trial on charges punishable by the death sentence.

Senior officials stated repeatedly that the Government “made it a principle to ban coercion at any level,” and the NPFPC has issued circulars nationwide prohibiting birth planning officials from coercing women to undergo abortions or sterilization. However, the Government does not consider social compensation fees and other administrative punishments to be coercive. Under the State Compensation Law, citizens also may sue officials who exceed their authority in implementing birth planning policy, and, in a few instances, individuals have exercised this right. The NPFPC has set up a hotline for use by UNFPA project county residents to lodge complaints against local officials.

Corruption related to social compensation fees reportedly decreased after the 2002 passage of State Council Decree 357, which established that collected “social compensation fees” must be submitted directly to the National Treasury rather than retained by local birth planning authorities. NPFPC officials reported in 2002 that they responded to more than 10,000 complaints against local officials.

In order to delay childbearing, the Marriage Law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to bear a child, and social compensation fees have been levied on unwed mothers. The Government stated that the practice of levying social compensation fees for “pre-marriage” births was abolished on an experimental basis in some counties during the year and was relaxed in cases where couples promptly registered their marriages. In 2002, Jilin Province passed a law making it legal, within the limits of the birth limitation law, for an unmarried woman who “intends to remain single for life” to have a child.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies

(see Section 5). The use of ultrasound for this purpose is prohibited specifically by the Population Law and by the Maternal and Child Health Care Law, both of which mandate punishment of medical practitioners who violate the provision. According to the NPFPC, few doctors have been charged under these laws. The most recent official figures, from November 2000, put the overall male to female sex ratio at birth at 116.9 to 100 (as compared to the statistical norm of 106 to 100), and, in some parts of the country, the ratio was even more skewed. For second births, the national ratio was 151.9 to 100. Several localities experimented with new measures to address the sex ratio imbalance. These included restricting promotions for officials in extremely unbalanced areas of Shaanxi Province and limiting abortions after 14 weeks for pregnancies that were authorized by a birth or family planning permit in Guiyang. During the year, the NPFPC launched a "Care for the Girl Child" initiative in 11 pilot counties to raise awareness of the sex ratio imbalance and to improve protection of the rights of girls.

In 2003, a new Marriage Law abolished a requirement that couples have premarital examinations to determine if they were at risk for passing on debilitating genetic diseases. In addressing the risk of genetic disease, the Maternal and Child Health Care Law continued to recommend abortion or sterilization in some cases. In practice, however, most regions of the country still did not have the medical capacity to determine accurately the likelihood of passing on debilitating genetic diseases.

Lack of informed consent was a general problem in the practice of medicine throughout the country.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution states that freedom of speech and freedom of the press are fundamental rights to be enjoyed by all citizens; however, the Government tightly restricted these rights in practice. The Government interpreted the Party's "leading role," as mandated in the preamble to the Constitution, as circumscribing these rights. The Government continued to threaten, arrest, and imprison many individuals for exercising free speech. A wave of detentions late in the year appeared to signal a new campaign against writers. Internet essayists in particular were targeted. The Government strictly regulated the establishment and management of publications. The Government did not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenged Communist Party rule. The Party and Government continued to control print, broadcast, and electronic media tightly and used them to propagate Government views and Party ideology. All media employees were under explicit, public orders to follow CCP directives and "guide public opinion," as directed by political authorities. Formal and informal guidelines continued to require journalists to avoid coverage of many politically sensitive topics. These public orders, guidelines, and statutes greatly restricted the freedom of broadcast journalists and newspapers to report the news and led to a high degree of self-censorship. The Government continued an intense propaganda campaign against the Falun Gong.

Journalists who reported on topics that met with the Government's or local authorities' disapproval continued to suffer harassment, detention, and imprisonment. In January, the chief editor and six staff members of Guangdong Province's Southern Metropolitan Daily newspaper were detained for alleged economic crimes. Three of the editors were prosecuted in March on corruption charges that many observers viewed as retaliation for the newspaper's muckraking coverage of stories such as the emergence of SARS in 2003, its brief recurrence in 2004, and the 2003 beating death of college graduate Sun Zhigang in a custody and repatriation camp (see Section 1.c). The news group's general manager Yu Huafeng was sentenced to 12 years imprisonment for embezzlement, and former editor Li Minying received an 11-year sentence for taking bribes. In June, their sentences were reduced on appeal to 8 and 6 years, respectively. Current editor-in-chief Cheng Yizhong was released in August after charges against him were dropped. In September, New York Times employee Zhao Yan was detained and later formally charged with leaking state secrets shortly after the newspaper published an article correctly predicting the resignation of Jiang Zemin as chairman of the Central Military Commission. The newspaper denied that Zhao had any involvement with the story, and prosecutors did not disclose the basis for the charges, citing state secrets laws. Zhao Yan had previously published several articles on rural protests for China Reform magazine. Another farmers' advocate who had also worked with Zhao Yan, Li Boguang, was detained December 14. In addition, Liaoning Province anti-corruption reporter Jiang Weiping remained jailed, as did Sichuan local official Li Zhi, who was convicted in 2003 of "subverting state power" after writing on the Internet to expose official corruption.

The Committee to Protect Journalists again assessed China as “the world’s leading jailer of journalists,” with 43 journalists imprisoned at year’s end.

A wave of detentions late in the year appeared to signal a new campaign targeting writers, political commentators, and academics. In November, Li Guozhu was detained for passing to foreign journalists information and photographs about ethnic violence in Henan Province (see Section 5). On November 24, Hunan Province journalist Shi Tao was detained under suspicion of leaking state secrets. On December 13, organizers of the independent PEN Center, which defends writers’ freedoms, were detained and later released. Those detained included Yu Jie, Liu Xiaobo, and Zhang Zuhua. They had previously published articles in defense of Shi Tao and held an awards ceremony honoring the author of a banned book on the 1950s. Editor Wang Guangze of the 21st Century Business Herald was dismissed from his job, editor Chen Min of China Reform magazine was temporarily detained, and the New Weekly newspaper in Wuhan was ordered closed during this period. The week of December 6, People’s Daily twice published editorials urging authorities to silence speech that provokes trouble and to provide greater control over the Internet.

In addition to criminal prosecution of writers, some government officials used civil lawsuits to block controversial writings. In August, the Fuyang Intermediate People’s Court in Anhui Province heard a libel action against authors Chen Guidi and Wu Chuntao over their book “China Peasant Survey” (Nongmin Diaocha). The book, which was a best-seller until it was banned from further distribution in the spring, describes abuse and extortion of farmers by officials. One official named in the book, former Linquan County Communist Party secretary Zhang Xide, sued the authors and publishing house for libel. Scholars and attorneys stated that the lawsuit and high damages sought of approximately \$25,000 (RMB 200,000) were intended to intimidate the publisher and inhibit criticism.

Newspapers could not report on corruption without government and party approval, and publishers published such material at their own risk. During the year, journalists and editors who exposed corruption scandals frequently faced problems with the authorities, and the Government continued to close publications and punish journalists for printing material deemed too sensitive. The State Press and Publication Administration ordered the influential bimonthly journal “Strategy and Management” closed indefinitely during the year, although the Government claimed that business reasons, not editorial ones, were behind the closure.

In August, authorities detained and deported two foreign individuals and two journalists for displaying a banner in Beijing reading “No Olympics for China until Tibet is Free.”

Some citizens continued to speak out and publish on controversial topics, despite the Government’s restrictions on freedom of speech and the press. For example, scholar Cao Siyuan, who convened a symposium on constitutionalism, freedom of speech, and direct elections in 2003 that attracted government attention, continued to publish but remained under surveillance by authorities. Huang Jingao, Party Secretary of Lianjiang County, Fujian Province, wrote an open letter critical of endemic corruption that was published on websites and in the People’s Daily in August. Following the publication of the letter, he was sanctioned, and his duties were restricted by party officials in Fujian.

The scope of permissible private speech continued to expand. Controversial political topics could be discussed privately and in small groups without punishment, so long as the speaker did not publish controversial views or disseminate them to overseas audiences.

Censorship related to health issues continued. In early 2003, Government censorship of news concerning SARS was largely responsible for slowing the public health response to the disease. But after May 2003, when the Government publicly acknowledged the spread of the disease, the Government permitted greater reporting about SARS and other infectious diseases. As a result of lessons learned during the SARS epidemic, the Shanghai Municipal Government named its first public spokesperson. Nonetheless, in January, when Guangdong Province’s Southern Metropolitan Daily newspaper reported on the reemergence of SARS cases, an editor and six journalists working for the newspaper were temporarily detained. Three of them later faced criminal corruption charges. Also, Dr. Jiang Yanyong, who exposed the spread of SARS in Beijing in April 2003, was detained for 45 days in June and July. Dr. Jiang’s detention likely was a response to his open letter on the 1989 Tiananmen massacre (see Section 1.d.), rather than a direct reaction to his writings about SARS. Government restrictions on the press and the free flow of information also affected accurate reporting on HIV/AIDS. Those seeking to bring attention to the plight of AIDS orphans in Henan Province faced continued pressure to remain silent and were warned against speaking to journalists. However, in April, Vice Premier Wu Yi stated that the Government “would strictly investigate and affix respon-

sibility” for those who hide, delay, or fail to report HIV/AIDS. In August, concerns were raised that the country failed to report outbreaks of avian influenza in poultry. Reporting on outbreaks of the disease in bird and animal populations was inconsistent, but there were no reports that media coverage of the outbreak was suppressed.

In 2003, the Government ended the practice of requiring government work units to subscribe to official newspapers, forcing many official newspapers to compete for readership or face insolvency. As a result, 677 newspapers were closed between September 2003 and March 2004. Journalists noted that the pressure to expand circulation sometimes conflicted with state control and censorship dictates because one way to expand readership was to provide accurate reporting about controversial topics.

There were a few privately owned print publications, but they were subject to pre- and post-publication censorship. There were no privately owned television or radio stations, and the Government had authority to approve all programming, although it occasionally did not preview all programs.

The publishing industry consists of three kinds of book businesses: Approximately 560 government-sanctioned publishing houses, smaller independent publishers that cooperated with official publishing houses to put out more daring publications, and an underground (illicit) press. Government-approved publishing houses were the only organizations legally permitted to print books. No newspaper, periodical, book, audio, video, or electronic publication may be printed or distributed without the printer and distributor being approved by the relevant provincial publishing authorities and the State Press and Publications Administration (PPA). The Communist Party exerted control over the publishing industry by preemptively classifying certain topics as off-limits; selectively rewarding with promotions and perks those publishers, editors, and writers who adhered to Party guidelines; and punishing those who did not adhere to Party guidelines with administrative sanctions and blacklisting. Some independent publishers took advantage of a loophole in the law to sign contracts with government publishing houses to publish politically sensitive works. These works generally were not subject to the same multi-layered review process as official publications of the publishing houses.

Underground printing houses have been targets of periodic campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products). These campaigns sometimes had the effect of restricting the availability of politically sensitive books.

Many intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercised self-censorship. Overt intervention by the PPA, responsible for all printing and distribution in the country, and by the Party Central Propaganda Department, which provides editorial guidelines for all media, mostly occurred after publication. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate. Criticism of Central Government authorities continued to remain largely off-limits.

Among books banned during the year were “China Peasant Survey,” and “The Past Does Not Go Up In Smoke,” a collection of essays dealing with the effect of political tumult in the 1950s and 1960s on the lives of prominent Chinese intellectuals. In January, authorities issued regulations restricting publication of books on constitutional reform to three official publishing houses. In 2002, the Department of Cultural Affairs in Urumqi, Xinjiang, ordered the destruction of thousands of books on Uighur history and culture. The books detailing and documenting Uighur history originally had been published with the approval of the authorities.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA) and the British Broadcasting Corporation (BBC). English-language broadcasts on VOA generally were not jammed, unless they immediately followed Chinese-language broadcasts, in which case portions of the English-language broadcasts were sometimes jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of “streaming radio” news from these sources often was blocked. Despite jamming, in the absence of an independent press, overseas broadcasts such as VOA, BBC, RFA, and Radio France International had a large audience, including activists, ordinary citizens, and even government officials.

The Government prohibited some foreign and domestic films from appearing in the country. Television broadcasts of foreign programming, which were restricted largely to hotel and foreign residence compounds, also suffered from occasional censorship of topics including sensitive political issues. In southern China, where television programming from Hong Kong was available, “public service announcements” frequently interrupted news items critical of the Government.

The Government continued to encourage expanded use of the Internet; however, it also took steps to increase monitoring of the Internet and continued to place restrictions on the information available. Over 80 million persons regularly used the Internet, including those in urban and rural areas, according to surveys conducted during the year. In July, the Government began implementing new measures to monitor and filter text-messaging. The measures were designed to control for politically sensitive content and to stop the spread of pornography.

The country's Internet control system employed more than 30,000 persons and was allegedly the largest in the world. According to a 2002 Harvard University report, the Government blocked at least 19,000 sites during a 6-month period and may have blocked as many as 50,000. At times, the Government blocked the sites of some major foreign news organizations, health organizations, educational institutions, Taiwanese and Tibetan businesses and organizations, religious and spiritual organizations, democracy activists, and sites discussing the 1989 Tiananmen massacre. The number of blocked sites appeared to increase around major political events and sensitive dates. The authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire websites in some cases. Such technology was also used to block e-mails containing sensitive content. The Government generally did not prosecute citizens who received dissident e-mail publications, but forwarding such messages to others sometimes did result in detention. Internet usage reportedly was monitored at all terminals in public libraries.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities have interpreted as subversive or as slanderous to the state, including the dissemination of any information that might harm unification of the country or endanger national security. Promoting "evil cults" was banned, as was providing information that "disturbs social order or undermines social stability." Internet service providers (ISPs) were instructed to use only domestic media news postings, record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately end transmission of so-called subversive material. Many ISPs practiced extensive self-censorship to avoid violating very broadly worded regulations. A study released in 2003 by Reporters Without Borders reported that only 30 percent of messages with "controversial content" were allowed onto Chinese "chatroom" websites. The remaining 70 percent of messages were filtered out by censors or removed by the site host.

Several individuals were jailed for their Internet publications during the year. On March 16, Shanghai resident Ma Yalian was sentenced to 18 months' reeducation through labor for posting articles on legal websites about her attempts to stop destruction of her home. Ma's web postings described police harassment of petitioners and suicide attempts outside government offices. In May, freelance journalist Liu Shui was sentenced to 2 years' administrative detention in Shenzhen in what NGOs claimed was retaliation for essays about reassessing the 1989 Tiananmen massacre and political reform that he wrote and posted on the Internet. Former Hubei Province civil servant Du Daobin was convicted of inciting subversion in June for his Internet writings about democracy. Du's prison sentence was suspended, but he appealed his conviction, arguing that his trial was unfair and that his writings did not incite subversion and were protected free speech (*see* Section 1.e.). In August, house Christians Liu Fenggang, Xu Yonghai, and Zhang Shengqi were convicted of disclosing state intelligence after using the Internet to send reports about the abuse of house Christians to overseas organizations. They were sentenced to 1 to 3 years in prison (*see* Section 2.c.). In September, Shenyang Internet writers Kong Youping and Ning Xianhua were sentenced, respectively, to 15 and 12 years in prison on charges of "subversion of state power" for posting articles and poems in support of the CDP. In November, Hunan Province journalist Shi Tao was detained, reportedly on state secrets charges. Shi had previously written for Contemporary Trade News and published an on-line article in April opposing the detention of Tiananmen Mothers' organization co-founder Ding Zilin. The NGO Reporters Without Borders called China "the biggest jail in the world for cyberdissidents." The Committee for the Protection of Journalists reported that the country had 43 journalists jailed at year's end.

In addition to imprisoning several persons during the year for disseminating information through the Internet, the Government detained several individuals for using the Internet to express support for other detained Internet activists. Liu Di was detained for a year after she expressed sympathy for Sichuan website manager Huang Qi and wrote pro-reform articles on-line. Huang ran a website that contained postings discussing the June 4, 1989 Tiananmen massacre until it was closed down, and he was detained on June 3, 2000. In November 2003, Liu Di was released after

a court found that the evidence against her was insufficient; however, some persons detained for supporting her remained in custody at year's end. Among them, Kong Youping was sentenced to 15 years in prison in September for political writings, including many that expressed support for Liu Di.

The Government's "Public Pledge on Self Discipline for China's Internet Industry" continued during the year. More than 300 companies signed the pledge, including the popular Sina.com and Sohu.com, as well as foreign-based Yahoo!'s China division. Those who signed the pledge agreed not to spread information that "breaks laws or spreads superstition or obscenity." They also promised to refrain from "producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability." The China Internet Association adopted a "self-regulatory pledge" for search engine services during the year that was viewed by many as even stricter than the Government's self discipline pledge.

As of July, the China Internet Network Information Center said there were 87 million Internet users, 22 percent of whom access the web at Internet cafes. As of 2002, the country had more than 200,000 licensed Internet cafes, and a number of unlicensed ones as well. During the year, state media reported that several municipalities cracked down on illegal Internet cafes, including over 2,000 illegal cafes in Shenzhen. On April 27, the Ministry of Culture announced that, by the end of the year, all Internet cafes must install software that allows Government officials to monitor customers' web usage. Internet users at the cafes often are subject to surveillance. A May 24 China Newsweek article reported that at one popular Beijing Internet cafe with 320 computers, eight employees served as Internet monitors, while 10 other staff members walked around the room to check if customers were accessing "illegal" websites. Patrons caught entering such sites were given warnings. Most places sporadically enforced regulations requiring patrons to provide identification when using Internet cafes. In response to the health crisis caused by SARS, the authorities closed all the nation's Internet cafes in April 2003. Beijing cafes stayed closed until August 2003, while cafes in Shanghai and Sichuan reopened sooner.

In February, the Government announced that it would invest nearly \$6 million (RMB 49.8 million) to create a new system to control political publication on the Internet. Monitoring and censorship of Internet bulletin boards and chatrooms was especially strict at the time of sensitive anniversaries or key political meetings. For example, in September, a popular bulletin board at Beijing University was closed in the period before the Fourth Party Plenum meeting, and Internet censorship also increased before the March NPC session. In September, a local newspaper reported that authorities in Liaoning Province shut down an Internet website devoted to exposing official corruption, even though the website's administrator had obtained prior official approval.

In July, the Government began censoring text messages distributed by mobile telephone. According to state media, the campaign was designed to stop the spread of pornographic messages by phone, as well as to block circulation of illicit news and information. All text messaging service providers were required to install filtering equipment to monitor and delete messages deemed offensive by authorities. In the first week of the campaign's operation, the Government reportedly fined 10 companies and forced 20 others to close for failure to comply. As with print, broadcast, and Internet media, the Propaganda Department determined banned topics. In 2003, mobile phone users sent approximately 220 billion text messages, according to China Telecom.

The Government did not respect academic freedom and continued to impose ideological controls on political discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. For example, several professors were warned against calling for abolition of reeducation through labor. In March, Beijing University professor Jiao Guobiao published a criticism of Chinese censorship, listing his "14 Evils of the Central Propaganda Department." In August, his university threatened him with dismissal and indefinitely suspended him from teaching. Guangxi Normal University Professor Chen Qin reportedly suffered a stroke in July while being interrogated by security officials concerning his on-line essays criticizing political and social institutions. Scholar Xu Zerong remained in prison for "illegally providing state secrets" by sending sensitive reference materials on the Korean War to a contact in Hong Kong. Scholars studying religion reported that, during the year, the official Protestant church blocked some publications it found objectionable.

The Government continued to use political attitudes as criteria for selecting persons for the few government-sponsored study abroad programs, but did not impose

such restrictions on privately sponsored students. More than 7,200 students studied abroad, a record according to the China Scholarship Council.

Researchers residing abroad also were subject to sanctions from the authorities when their work did not meet with official approval. In July, a Chinese-born overseas scholar was detained in Shanghai for 2 weeks and then forced to leave the country after being charged with disclosing state secrets in the course of his academic research on reform of the household registration system.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. The Constitution stipulates that such activities may not challenge “Party leadership” or infringe upon the “interests of the State.” Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly moved to suppress demonstrations involving expression of dissenting political views.

At times, police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The vast majority of demonstrations during the year concerned economic and social issues such as land, housing, health, and welfare. Land disputes, industrial disputes, and anti-government protests were the three main causes of civil disturbances, according to a 2004 study of publicly reported protests. Citing government statistics, government-run Outlook magazine reported that over 58,000 “mass incidents” took place during 2003, more than 6 times the number reported 10 years earlier. Some of these demonstrations included thousands of participants. According to government statistics reported in Hong Kong, more than 2.3 million people took part in petitions, marches, and sit-ins in urban areas in 2003, while over 8 million participated in demonstrations in rural areas. Ministry of Public Security publications indicated that the number of demonstrations continued to grow and that protesters were becoming more organized.

Authorities detained potential protesters before the anniversary of the 1989 Tiananmen massacre and other sensitive events to head off public demonstrations (see Section 1.d.). In the period before the April “Qingming” holiday, which has often served as a time of public commemoration of the 1989 Tiananmen events, regulations were passed outlawing Tiananmen commemorative activities. In late March, “Tiananmen Mothers” organization co-founders Ding Zilin, Jiang Xianling, and Huang Jinping were confined in separate locations to prevent them from meeting with other victims’ family members to commemorate the death of their relatives in the June 4, 1989 violence. In early April, when AIDS activist Hu Jia stated his intention to commemorate the anniversary in their absence, he was also detained. All were released but some were prevented from returning to Beijing until after the holiday was over. On June 1, retired PLA doctor Jiang Yanyong and his wife were also detained in the period before the anniversary of the 1989 Tiananmen massacre (see Section 2.d.). Western media reported that approximately 20 people were detained and taken away from Tiananmen Square on June 4 for attempting to commemorate the 1989 events.

Labor protests over restructuring of SOEs and resulting unemployment continued, and the number of such protests increased slightly over 2003, although they remained smaller in scale than the large labor protests which occurred in 2002. In February, a protest by some 2,000 workers seeking severance benefits from Hubei Province’s bankrupt, state-owned Tieshu textile factory was suppressed by force. Nine workers were detained, and four faced criminal charges. In July, 23 laid-off coal miners from Heilongjiang Province threatened a mass suicide from the roof of a building near the Supreme People’s Court when their petitions for compensation went unanswered. They were detained, and miners traveling to Beijing to support them were stopped by police. Protests by migrant laborers and construction workers, who demonstrated when employers withheld their salaries or underpaid them, continued. The Government passed legislation requiring that companies pay such workers and stepped up enforcement measures against some delinquent employers during the year (see Section 6.b.).

Protests, some of which included thousands of participants, concerning land, housing, and forced evictions were also widespread. The jailing of former Shanghai housing lawyer Zheng Enchong in October 2003, after his advocacy for hundreds of Shanghai residents displaced in a controversial urban redevelopment project, prompted demonstrations by his supporters in March. Similarly, Beijing and Tianjin-based housing petitioners and victims of forced eviction policies were detained in August and September to prevent them from holding a planned 10,000-person rally (see Section 3). On August 1, in Fujian Province’s Wanli village, police officers beat hundreds of farmers who protested government land seizures.

The Government continued to wage a severe political, propaganda, and police campaign against the Falun Gong movement. The sustained government crackdown against the movement, which the Government banned in 1999, continued, and there were no reports of public protests during the year. In many cases, Falun Gong practitioners were subject to close scrutiny by local security personnel, and their personal mobility was tightly restricted, particularly at times when the Government believed public protests were likely.

Activist Li Dan was beaten and Pan Zhongfeng was detained in Shangqiu, Henan Province, during a July demonstration protesting closure of an AIDS orphanage and school.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. Communist Party policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. Ostensibly aimed at restricting secret societies and criminal gangs, these regulations also prevented the formation of truly autonomous political, human rights, religious, spiritual, environmental, social, labor, and youth organizations that might challenge government authority. Since 1999, all concerts, sports events, exercise classes, or other meetings of more than 200 persons require approval from Public Security authorities. In practice, much smaller gatherings ran the risk of being disrupted by authorities in some places.

No laws or regulations specifically govern the formation of political parties. But the China Democracy Party (CDP) remained banned, and the Government continued to surveil, detain, and imprison current and former CDP members (see Section 3).

According to government statistics on NGOs, at the end of 2003, there were approximately 142,000 social organizations, including 1,736 national-level and cross-provincial organizations, 21,030 provincial organizations, 48,731 local and county-level organizations registered with the Ministry of Civil Affairs, and others. NGOs were required to register with the Government. To register, an NGO must find a government agency willing to serve as the NGO's organizational sponsor, have a registered office, and hold a minimal amount of funds. Experts estimated that there were between one and two million unregistered NGOs. Although the registered organizations all came under some degree of government control, some were able to develop their own agendas. Some had support from foreign secular and religious NGOs. Some were able to undertake limited advocacy roles in such public interest areas as women's issues, the environment, health, and consumer rights. According to government guidelines, NGOs must not advocate non-party rule, damage national unity, or upset ethnic harmony. Groups that disobeyed guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges. In addition, there were 124,000 private, nonprofit corporations registered in 2003, an increase of 11.7 percent over 2002. Many of these groups functioned like NGOs, with 90,000 operating in the education and health fields, 9,037 in labor, 7,792 in civil society, 1,777 providing social services, and 728 in legal services. During the year, the Government passed a new law regulating charitable foundations and gave NGOs greater autonomy to establish the amount of their membership dues.

*c. Freedom of Religion.*—The Constitution provides for freedom of religious belief and the freedom not to believe; however, the Government sought to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. There are five official religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of the five faiths. Membership in religions grew rapidly. While the Government generally did not seek to suppress this growth outright, it tried to control and regulate religious groups to prevent the rise of sources of authority outside the control of the Government and the Party.

Overall, government respect for religious freedom remained poor, although the extent of religious freedom varied widely within the country. Freedom to participate in officially sanctioned religious activity increased in many areas of the country, but crackdowns against unregistered groups, including underground Protestant and Catholic groups, Muslim Uighurs, and Tibetan Buddhists (see Tibet Addendum) continued and worsened in some locations. The Government continued its repression of groups that it determined to be "cults" and of the Falun Gong spiritual movement in particular.

All religious groups and spiritual movements were required to register with the State Administration for Religious Affairs (SARA, formerly known as the central Religious Affairs Bureau) or its provincial or local offices (still known as Religious Af-

fairs Bureaus (RABs)). SARA and the RABs were responsible for monitoring and judging the legitimacy of religious activity. SARA and the Communist Party's United Front Work Department provided policy "guidance and supervision" over implementation of government regulations on religious activity.

In January, a national work conference on religion organized by SARA was held to "strengthen religious work." According to official media, the conference recommended that officials guard against Christian-influenced "cults" and avoid negative influences, including "foreign infiltration under cover of religion." Conference attendees also raised concern about circulation of foreign religious materials addressing the growth of Christianity in the country, including a documentary film entitled "The Cross" and a book entitled "Jesus in Beijing." Subsequently, many provinces convened their own local work conferences. In March, the 10th National Committee of the Chinese People's Political Consultative Conference (CPPCC) recommended revising the CPPCC Charter to permit the "freedom of religious belief." On November 30, the State Council issued new regulations governing religious affairs, shifting the national system of registration from one focused on religious sites to one focused on religious organizations and individuals. The new regulations made no reference to the five official religions.

A national campaign to require religious groups to register or to come under the supervision of official "patriotic" religious organizations continued during the year. Some groups registered voluntarily, some registered under pressure, some avoided officials in an attempt to avoid registration, and authorities refused to register others. Some unofficial groups reported that authorities refused them registration without explanation. The Government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Many religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

Local authorities' handling of unregistered religious groups, particularly Protestant "house churches," varied widely. In certain regions, Government supervision of religious activity was minimal, and registered and unregistered Protestant and Catholic churches existed openly side-by-side and were treated similarly by the authorities. In such areas, many congregants worshipped in both types of churches, and congregants in unregistered churches procured Bibles at official churches. In some parts of the country, unregistered house churches with hundreds of members met openly, with the full knowledge of local authorities, who characterized the meetings as informal gatherings to pray, sing, and study the Bible. In other areas, house church meetings of more than a handful of family members and friends were strictly proscribed. House churches often encountered difficulties when their membership grew, when they arranged for the regular use of facilities for the purpose of conducting religious activities, or when they forged links with other unregistered groups. As a result, urban house churches were generally limited to meetings of a few dozen members or less, while meetings of unregistered Protestants in small cities and rural areas could number in the hundreds.

Leaders of unauthorized groups were sometimes the targets of harassment, interrogation, detention, and physical abuse. Police closed scores of "underground" mosques, temples, seminaries, Catholic churches, and Protestant "house churches," including many with significant memberships, properties, financial resources, and networks. Authorities particularly targeted unofficial religious groups in locations where there were rapidly growing numbers of unregistered churches or in places of long-seated conflict between official and unofficial churches, such as with Catholics in Baoding, Hebei Province or with evangelical underground Protestant groups as in Henan Province and elsewhere.

The Government in many areas intensified pressure against Protestant house churches and their leaders during the year. In January, house Christian activists Qiao Chunling, Xu Yongling, and Zeng Guangbo reportedly were detained because of their alleged effort to communicate with foreigners about activities of house churches. House Christian activists in several regions were prevented from leaving their homes during the meeting of the National People's Congress in March. In June, the government-run Legal Daily newspaper reported that Jiang Zongxiu had died in police custody in Guizhou Province after being detained for distributing Bibles. Her body showed signs of physical abuse, and reliable reports indicated that she had been beaten in administrative detention. A Legal Daily editorial comment condemned local officials for mistreating Jiang. In April, more than 100 members of the Three Classes of Servants Church reportedly were detained in Heilongjiang Province, and most were later released. In June, dozens of leaders of the China Gospel Fellowship Protestant Church reportedly were detained in Wuhan, Hubei Province, but they were later released. In July, more than 100 house church leaders

from Anhui Province were reportedly detained in Xinjiang while on a religious retreat. The same month, some 40 house church leaders were detained while attending a religious training seminar in Chengdu, Sichuan Province. In August, more than 100 house Christians were reportedly detained while on a religious retreat in Kaifeng, Henan Province. On August 6, Beijing-based Christian activist Liu Fenggang, Beijing homeless advocate Dr. Xu Yonghai, and Jilin Internet writer Zhang Shengqi were convicted and sentenced to 3, 2, and 1 years in prison, respectively, on charges of providing national intelligence overseas. The charges stemmed from an article Liu wrote and allegedly distributed to the foreign-based Chinese Christian magazine *Christian Life Quarterly*, which discussed persecution of other Chinese Christians and destruction of house churches. On September 11, Beijing-based pastor Cai Zhuohua was detained for his involvement in printing and distributing Christian literature. In December, underground church leader Zhang Rongliang was detained in Henan Province, and his whereabouts remained unknown at year's end. House church historian Zhang Yinan, who was detained in 2003, remained in a reeducation-through-labor camp in Pingdingshan County, Henan Province. Gouxing Philip Xu, however, reportedly was released from a reeducation-through-labor camp in June after being detained in 2002 in Shanghai.

A number of Catholic priests and lay leaders also were beaten or otherwise abused during the year, prompting Vatican officials formally to protest mistreatment. In Hebei Province, where approximately half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued. Hebei authorities have forced many underground priests and believers to choose between joining the Patriotic Church (the officially sanctioned Catholic Church) or facing fines, job losses, periodic detentions, and, in some cases, the removal of their children from school. Some Catholics have been forced into hiding. In June, the Vatican formally protested the detention earlier in the year of three underground Catholic bishops from Hebei Province. Two were released shortly after their detention, although the whereabouts of 84-year-old Zhao Zhendong of Xuanhua City remained unclear at year's end. Underground Bishops Wei Jingyi of Heilongjiang Province and Jia Zhiguo of Hebei Province reportedly were detained for a few days before being released in March and April, respectively. Jia Zhiguo reportedly was again detained for several days in June, along with two other underground bishops. In August, eight underground clergy in Quyang County, Hebei Province, reportedly were detained while attending a religious retreat. At Christmas, a priest in Zhejiang Province, Wang Zhongfa, was reportedly detained, and religious services for both Catholics and Protestants were disrupted. There were conflicting reports about 76-year-old Shandong Province Bishop Gao Kexian, whom some sources claimed died in prison during the year. Reliable sources also reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained detained in Hebei Province. There was no new information about underground Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. Reports suggested that he had been held in a form of house arrest. The Government continued to deny taking coercive measures against him and stated he was traveling as a missionary.

During the year, local officials destroyed several unregistered places of worship around the country. In Zhejiang Province, there were continued reports that churches and shrines were closed or destroyed, although less often than in 2003. Zhejiang authorities often claimed that destroyed buildings were not zoned for religious activities, or were unsafe, or both. In February, a fire killed 39 worshippers and destroyed a makeshift temple in Zhejiang's Haining City. Visitors to Xinjiang Autonomous Region reported that mosques also have been destroyed, although some attributed the demolition as much to inter-religious conflict between Hui and Uighur Muslims as to government antagonism. In August, members of the Buddhist Foundation of America reported that a temple they had helped to restore in Tongliao, Inner Mongolia, was closed and the rededication ceremony cancelled by local officials. Spiritual leader Dechan Jeren (Yu Tianjian) was detained, and government authorities claimed he had misled followers about his status as a living Buddha.

The Government continued to restore or rebuild some churches, temples, mosques, and monasteries damaged or destroyed during the Cultural Revolution, and new facilities were constructed during the year. In March, the Government began construction of two new Protestant churches in Beijing, the first new churches to be constructed in the capital since 1949. Similarly, the site of the 135-year-old former Holy Trinity Cathedral in Shanghai was renovated at government expense and reopened as headquarters of the official Protestant China Christian Council and Three-Self Patriotic Movement. The number of restored and rebuilt temples, churches, and mosques remained inadequate to accommodate the increase in religious believers. The difficulty in registering new places of worship led to serious overcrowding in

existing places of worship in some areas. Some observers cited the lack of adequate meeting space in registered churches to explain the rapid rise in attendance at house churches and “underground” churches.

The law does not prohibit religious believers from holding public office; however, party membership is required for almost all high-level positions in Government, state-owned businesses, and many official organizations. During the year, Communist Party officials again stated that party membership and religious belief were incompatible. The Routine Service Regulations of the People’s Liberation Army state explicitly that service members “may not take part in religious or superstitious activities.” Party and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite official regulations encouraging officials to be atheists, in some localities as many as 25 percent of Party officials engaged in some kind of religious activity. Most of these officials practiced Buddhism or a folk religion. The National People’s Congress (NPC) included several religious representatives. Two of the NPC Standing Committee’s vice chairmen are Fu Tieshan, a bishop and vice-chairman of the Chinese Catholic Patriotic Association, and Pagbalha Geleg Namgyal, a Tibetan reincarnate lama. Religious groups also were represented in the Chinese People’s Political Consultative Conference, an advisory forum for “multiparty” cooperation and consultation led by the CCP, and in local and provincial governments.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate “political reliability,” and all graduates must pass an examination on their political as well as theological knowledge to qualify for the clergy. The Government permitted registered religions to train clergy and allowed limited numbers of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies, but some religion students have had difficulty getting passports or obtaining approval to study abroad. In most cases, foreign organizations provided funding for such training programs.

Both official and unofficial Christian churches had problems training adequate numbers of clergy to meet the needs of their growing congregations. Because of restrictions and prohibitions on religion between 1955 and 1985, no priests or other clergy in official churches were ordained during that period. Thus, as senior clerics retire, there were relatively few experienced clerics to replace them. The Government stated that the official Catholic Church had trained more than 900 priests in the past decade.

Traditional folk religions such as Fujian Province’s “Mazu cult” were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, at the same time, folk religions were labeled “feudal superstition” and sometimes were repressed because their resurgence was seen as a threat to Party control. In recent years, local authorities have destroyed thousands of shrines; however, there were no reports of widespread destruction during the year.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. Tibetan Buddhists in some areas outside of the TAR had growing freedom to practice their faith. However, some government restrictions remained, particularly in cases in which the Government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. Visits by emissaries of the Dalai Lama occurred in 2002, 2003, and September, 2004. Lodi Gyari, the Dalai Lama’s representative to the United States, was a member of the September delegation (*see* Tibet Addendum).

Regulations restricting Muslims’ religious activity, teaching, and places of worship continued to be implemented forcefully in Xinjiang. In some areas of Xinjiang where ethnic unrest has occurred, officials restricted the building of mosques and the training of clergy. Authorities reportedly continued to prohibit the teaching of Islam to children under the age of 18 in some areas where ethnic unrest has occurred, although children studied Arabic and the Koran without restriction in many other areas. For example, local officials have stated that persons younger than 18 are forbidden from entering mosques in Xinjiang, but this policy was enforced unevenly. Authorities also reserved the right to censor imams’ sermons. In particular, imams were urged to emphasize the damage caused to Islam by terrorist acts in the name of the religion.

Fundamentalist Muslim leaders received particularly harsh treatment. In 2000, the authorities began conducting monthly political study sessions for religious personnel; the program reportedly continued during the year. In August, eight Uighur Muslims in Hotan District were reportedly charged with endangering state security,

and scores were detained on charges of engaging in “illegal religious activities.” Because of government control of information coming from Xinjiang, such reports were difficult to confirm.

There were numerous official media reports that the authorities confiscated illegal religious publications in Xinjiang. The Xinjiang People’s Publication House was the only publisher allowed to print Muslim literature, and stores reported that those selling literature not included on Government lists of permitted items risked closure. In addition to the restrictions on practicing religion placed on party members and government officials throughout the country, teachers, professors, and university students in Xinjiang were not allowed to practice religion openly. Officials also reportedly restricted mosque building in some areas of Xinjiang, especially where unrest had occurred. However, in other areas, particularly in areas traditionally populated by the non-Central Asian Hui ethnic group, there was substantial religious building construction and renovation. Mosque destruction, which sometimes occurred in Xinjiang, occasionally resulted from intra-religious conflict.

The Government permitted Muslim citizens to make the Hajj to Mecca and in some cases subsidized the journey. A record number of nearly 10,000 Muslims made the Hajj during the year, nearly half of whom went with government-organized delegations. Other Muslims made the trip to Mecca via third countries. According to international Uighur groups, Uighur Muslims had greater difficulty getting permission to make the Hajj than other Muslim groups, such as Hui Muslims, and some Uighurs elected not to attempt to go for fear of repercussions.

The Government and the Holy See had not established diplomatic relations, and there was no Vatican representative on the Mainland. The Government stated that the role of the Pope in selecting bishops, the status of underground Catholic clerics, Vatican recognition of Taiwan, and the canonization of controversial Catholic missionaries on Chinese National Day in 2000 remained obstacles to improved relations. During the year, the Government stated that the political activities of Hong Kong Diocese Bishop Joseph Zen in the Hong Kong SAR had become a further obstacle to normalization of relations with the Vatican. Nonetheless, Bishop Zen paid a public visit to Shanghai in April.

The Government’s refusal to allow the official Catholic Church to recognize the authority of the Papacy in many fundamental matters of faith and morals caused many Catholics to reject the official Catholic Church. Most bishops of the official Catholic Church were, in fact, recognized by the Vatican. However, friction between bishops who have been consecrated with Vatican approval and others consecrated without such approval continued, producing leadership conflicts. Foreign media reported that, at the consecration ceremony of some bishops during the year, both government and Vatican approval was stated publicly.

The increase in the number of Christians resulted in a corresponding increase in the demand for Bibles, which were available for purchase at most officially recognized churches and some bookstores. Although the country had only one government-approved publisher of Bibles and distribution had been a problem in the past, the shortage of Bibles in previous years appeared largely to have abated. Members of underground churches complained that the supply and distribution of Bibles in some places, particularly rural locations, was inadequate. Official churches said they discouraged the sale of Bibles outside the church to protect their copyright and financial interests, not to restrict distribution. They emphasized that versions of the Bible are available for less than \$1 (RMB 8.3). Individuals could not order Bibles directly from publishing houses, making it difficult for some Christians to buy Bibles in volume. Customs officials continued to monitor for the “smuggling” of Bibles and other religious materials into the country, but there were no new cases of significant punishments for Bible importation. There were credible reports that the authorities sometimes confiscated Bibles and other religious material in raids on house churches.

Regulations enacted in 1994 and expanded in 2000 codified many existing rules involving religious practice by foreigners, including a ban on proselytizing. However, for the most part, the authorities allowed foreign nationals to preach to other foreigners, to bring in religious materials for personal use, and to preach to citizens at churches, mosques, and temples at the invitation of registered religious organizations. Religious worship by foreigners was permitted in unregistered facilities so long as citizens did not attend the services. In a number of major cities, regular worship services for foreigners were held, including Catholic, Protestant, Muslim, Jewish, and Church of Jesus Christ of Latter-Day Saints services. Foreigners were barred from conducting missionary activities, but some foreign religious groups were involved in education and providing social services.

Some foreign church organizations came under pressure to register with government authorities, and some foreign missionaries whose activities extended to citi-

zens were expelled or asked to leave the country. The Government stated that those asked to leave had violated the law. In addition, the Government banned foreign-produced materials about Christianity in the country, including the documentary film "The Cross" and the book "Jesus in Beijing."

The authorities continued a general crackdown on groups considered to be "cults." Premier Wen Jiabao, in his address to the NPC in March, stressed that government agencies should strengthen their anti-cult work. These "cults" included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as "qigong" groups) but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine. Groups that the Government labeled cults included Eastern Lightning, the Servants of Three Classes, the Shouters, the South China Church, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, and the Family of Love. Authorities accused some in these groups of lacking proper theological training, preaching the imminent coming of the Apocalypse or holy war, or exploiting the reemergence of religion for personal gain. The Eastern Lightning group was accused by the Government and some other unregistered Christian groups of involvement in violence.

Actions against such groups continued during the year. In April, over 100 members of the evangelical group the "Servants of Three Classes" were detained in Harbin, Heilongjiang Province. Most were released, but Gu Xianggao died in custody, allegedly as a result of beatings by police (*see* Section 1.c.) Police also continued their efforts to close down an underground evangelical group called the "Shouters," an offshoot of a pre-1949 indigenous Protestant group. In 2001, Gong Shengliang, founder of the South China Church, was sentenced to death on criminal charges including rape, arson, and assault. In 2002, an appeals court overturned his death sentence, and Gong was sentenced to life in prison. In the retrial, four women from his congregation claimed that, prior to the first trial, police had tortured them into signing statements accusing Gong of raping them. The four women, who were found not guilty of "cultist activity" in the retrial, were nonetheless immediately sent to reeducation-through-labor camps. In the retrial, the court also dropped all "evil cult" charges against the South China Church. During the year, elderly church member Chen Jingmao reportedly was abused in prison for attempting to convert inmates to Christianity.

The extent of public Falun Gong activity in the country continued to decline considerably, and practitioners based abroad reported that the Government's crackdown against the group continued. Since the Government banned the Falun Gong in 1999, the mere belief in the discipline (even without any public manifestation of its tenets) was sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of the tens of thousands of practitioners detained since 1999 have been released, many were detained again after release (*see* Section 1.e.), and thousands reportedly remained in reeducation-through-labor camps. Those identified by the Government as "core leaders" have been singled out for particularly harsh treatment. More than a dozen Falun Gong members have been sentenced to prison for the crime of "endangering state security," but the great majority of Falun Gong members convicted by the courts since 1999 have been sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. Most practitioners, however, were punished administratively. In addition to being sentenced to reeducation through labor, some Falun Gong members were sent to detention facilities specifically established to "rehabilitate" practitioners who refused to recant their belief voluntarily after release from reeducation-through-labor camps. In addition, hundreds of Falun Gong practitioners have been confined to mental hospitals (*see* Section 1.d.).

Police in the past often used excessive force when detaining peaceful Falun Gong protesters. During the year, allegations of abuse of Falun Gong practitioners by the police and other security personnel continued. According to the foreign-based Global Mission to Rescue Persecuted Falun Gong Practitioners, 1,047 Falun Gong practitioners, including children and the elderly, have died since 1997 as a result of official persecution (*see* Section 1.c.). Other groups based abroad estimated that as many as 2,000 practitioners have died in custody.

During the 2003 SARS epidemic, the Government launched new accusations that Falun Gong practitioners were disrupting SARS-prevention efforts. State-run media claimed that, beginning in April, Falun Gong followers "incited public panic" and otherwise "sabotaged" anti-SARS efforts in many provinces by preaching that belief in Falun Gong will prevent persons from contracting SARS. Authorities detained hundreds of Falun Gong adherents on such charges, including 69 in Jiangsu Prov-

ince during May 2003 and 180 in Hebei Province during June 2003, according to state-run media. At year's end, their whereabouts remained unknown.

As recently as 2003, the Government continued its effort to round up practitioners not already in custody and sanctioned the use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps, where in some cases, beatings and torture reportedly were used to force them to recant. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

The Government taught atheism in schools. While the Government claimed that there were no national-level regulations barring children from receiving religious instruction, in some regions local authorities barred persons under 18 from attending services at mosques, temples, or churches.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.*—Although the Government maintained restrictions on the freedom to change one's workplace or residence, the national household registration and identification card system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. However, the Government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions periodically during the year, particularly before politically sensitive anniversaries and to forestall demonstrations.

The Government's "hukou" system of national household registration underwent further liberalization during the year, as the country responded to economic demands for a more mobile labor force. Nonetheless, many persons could not officially change their residence or workplace within the country. Government and work unit permission were often required before moving from city to city. It was particularly difficult for peasants from rural areas to obtain household registration in some economically more developed urban areas. There remained a "floating population" of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it was difficult or impossible to gain full access to social services, including education. Further, migrant workers were generally limited to types of work considered least desirable by local residents, and they had little recourse when subject to abuse by employers and officials. In some major cities, access to education for children of migrant workers continued to improve during the year, and some cities began to offer migrants some other social services free of charge. Many cities and provinces continued experiments aimed at abolishing the distinction between urban and rural residents in household registration documents, including Guangdong, Jiangsu, Shandong, Anhui, Hebei, Hubei, and Sichuan Provinces. However, other localities, including Zhengzhou in Henan Province, re-established registration requirements during the year to halt the drain on public resources that had resulted from an influx of migrants. In June 2003, the administrative detention system of custody and repatriation applied to migrants was abolished and replaced by a network of aid shelters offering services to migrants, but it remained unclear at year's end how these reforms would be implemented (*see* Section 1.d.).

Prior to sensitive anniversaries, authorities in urban areas rounded up and detained some "undesirables," including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or disabled. Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods and visits by foreign dignitaries, including on some occasions removing suspected dissidents from Beijing.

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities have denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement. Former senior leaders Zhao Ziyang and Bao Tong remained under house arrest in Beijing for their role in the 1989 Tiananmen protests, and security around them routinely was tightened during sensitive periods.

The Government permitted legal emigration and foreign travel for most citizens. Passports were increasingly easy to obtain in most places, although those whom the Government deemed to be threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (*see* Tibet Addendum). According to media reports, more than 2.6 million mainland

tourists have traveled to Hong Kong since the Government relaxed restrictions on such travel.

There were reports that some academics faced travel restrictions around the year's sensitive anniversaries, particularly the June 4 anniversary of the 1989 Tiananmen Square massacre, and there were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of underground churches sometimes were refused passports and other necessary travel documents. Some Falun Gong members also had difficulty in obtaining passports. On June 1, Dr. Jiang Yanyong and his wife were detained while en route to pick up a visa to travel abroad to visit their daughter. They were held for 7 and 2 weeks, respectively, because he wrote to government leaders requesting an official reassessment of the Tiananmen massacre. He was released in July, but remained in a form of house arrest. Dr. Jiang also was pressured not to accept the Ramon Magsaysay Award for Public Service and was not permitted to travel to a September awards ceremony in the Philippines.

Similarly, visas to enter the country were sometimes denied for political reasons. For example, some foreign academics who had been critical of the country continued to be denied visas. Some others who intended to discuss human rights or rule of law issues also were denied visas. For foreigners whose business did not raise political sensitivities, the Government introduced a long-term residence permit during the year.

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens whom it considered to be dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists resident abroad have sometimes been imprisoned upon their return to the country.

The Government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constituted a form of internal exile.

Although a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the country has no laws or regulations that authorize the authorities to grant refugee status. The Government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year, the Government and UNHCR continued ongoing discussions concerning the granting of citizenship to these residents. Since the late 1980s, the Government has adopted a de facto policy of tolerance toward the small number of persons, fewer than 100 annually, from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The Government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the Government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

During the year, several thousand North Koreans were reportedly detained and forcibly returned to North Korea, where many faced persecution and some of whom may have been executed upon their return, as provided in North Korean law. Several hundred North Koreans were permitted to travel to Seoul after they had entered diplomatic compounds or international schools in China, and approximately 1,900 arrived in South Korea via third countries such as Mongolia, Vietnam, Thailand, and Cambodia, most after transiting through China. There were numerous credible reports of harassment and detention of North Koreans in the country. The Government also arrested and detained foreign journalists, missionaries and activists, as well as some Chinese citizens, for providing food, shelter, transportation, and other assistance to North Koreans. According to NGOs, the Government reportedly allowed North Korean security forces to enter China to forcibly repatriate North Korean citizens during the year.

While UNHCR reported that more than 2,000 Tibetans each year continued to cross into Nepal, the Government continued to try to prevent many Tibetans from leaving (*see* Tibet Addendum).

In October 2003, the Government executed Uighur Shaheer Ali after he and another Uighur were forcibly returned to China in 2002 from Nepal, where they had been granted refugee status by UNHCR (*see* Section 5).

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens lack the right to change their government peacefully and cannot freely choose or change the laws and officials that govern them. While recent reforms

allow citizens to elect members of village committees, which are not considered to be government bodies, and representatives to local people's congresses, the Communist Party continued to control appointments to positions of political power.

According to the Constitution, the National People's Congress (NPC) is the highest organ of state power. Formally, it elects the President and Vice President, selects the Premier and Vice Premiers, and elects the Chairman of the State Central Military Commission. In practice, the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the CCP's Politburo Standing Committee. The NPC does not have the power to set policy or remove Government or Party leaders.

Under the 1987 Organic Law of Village Committees and its 1998 amendments, all of the country's approximately 1 million villages were expected to hold competitive, direct elections for subgovernmental village committees. Beginning in 1987, rural citizens voted directly for their local village committees, which were not considered government bodies. Most provinces already have held four or five rounds of village committee elections, according to the Ministry of Civil Affairs. Foreign observers who have monitored local village committee elections judged the elections they observed, on the whole, to have been fair. However, the Government estimated that one-third of all elections had serious procedural flaws. Corruption and interference by township level and Party officials continued to be a problem in some cases.

The 1979 Election Law governs elections of legislative bodies at all levels. Under this law, citizens have the opportunity to vote for local people's congress representatives at the county level and below, although in most cases the nomination of candidates in those elections was strictly controlled. People's congress delegates above the county level are selected by legislators at the level below. For example, provincial-level people's congresses select delegates to the NPC. Beginning in late 2002, a practice began of naming local Communist Party secretaries to concurrently serve as the head of the local people's congress. This move dramatically strengthened Party control over these legislatures.

Although the Party controls appointments of officials to government and Party positions at all levels, some township, county, and provincial elections featured experiments with increased competition, including self-nomination of candidates, campaign speeches by candidates, public vetting of nominees, and a two-tiered indirect election system. In October, the Election Law was amended to permit preliminary elections to establish the list of candidates for direct elections in certain, limited situations.

The CCP retained a monopoly on political power and forbade the creation of new political parties. The Government continued efforts to suppress the China Democracy Party (CDP), an opposition party that had attracted hundreds of members nationwide within a few months of its founding in 1998. Public security forces had previously arrested nearly all of the CDP's leaders: Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced in 1998 to prison terms of 13, 12, and 11 years, respectively. Xu Wenli and Wang Youcai were released on medical parole to the United States in December 2002 and March 2004, respectively, but Qin remained in prison. At the time of the 16th Party Congress in 2002, authorities targeted many remaining activists for signing an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre (*see* Section 1.d.). More than 40 current or former CDP members remained imprisoned or held in reeducation-through-labor camps during the year, including Zhao Changqing, Sang Jiancheng, He Depu, Yao Zhenxiang, Han Lifa, Dai Xuezhong, and Jiang Lijun. In December, Zhejiang and Jiangsu Province activists were interrogated and a few, including Yang Tianshui and Wang Rongqing, were detained after they publicly proposed that the NPC draft a political party law.

Freedom of information regulations were enacted in many locations during the year, aimed at improving the public's communication with and supervision over local government initiatives. In Wuhan, freedom of information regulations were used in August to force a state-owned enterprise (SOE) to provide a laid-off worker with information about SOE restructuring. In July, a lawsuit was filed in Shanghai to force a local land office to comply with a citizen's request for information. The Government experimented with other forms of public oversight of government, including telephone hotlines and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation. For example, citizen feedback was an important factor in selecting the site for a new airport in Hubei Province. Most major cities have introduced at least one of these mechanisms for citizens to provide input and feedback on government performance. The experiments have been generally well-received by the public.

Corruption remained an endemic problem. According to the Auditor General, embezzlement and misuse of public funds affected 75 percent of commissions and ministries under the State Council and accounted for approximately \$170 million (RMB 1.4 billion) missing from the Central Government's 2003 budget. Transparency International continued to rank China among the worst countries in the world for bribery. Economists estimated that the cost of corruption may exceed 14 percent of gross domestic product.

The courts and Party agencies took disciplinary action against some public and Party officials during the year. According to the Supreme People's Procuratorate (SPP), prosecutors at all levels in 2003 investigated 39,562 cases of abuse of official power involving 43,490 individuals. They prosecuted 22,761 cases involving 26,124 individuals. From January to November, prosecutors investigated 42,258 officials, up one percent from 2003. During the 5-year period ending in 2002, 83,308 public officials were convicted for graft or bribery, a 65 percent increase over the previous 5-year period, according to the Supreme People's Court (SPC). In April 2003, the Minister of Supervision reported that 860,000 corruption cases were filed against Party members from 1997 to 2002, resulting in more than 137,000 expulsions and disciplinary action in more than 98 percent of cases. The Party's Central Discipline and Inspection Commission (CDIC) reported that 174,580 officials at various levels were disciplined for breaking laws and Party discipline in the period from December 2003 to November 2004. Of those, 8,691 lost Party membership and were prosecuted, according to state media reports. In some cases, the CDIC reportedly acted as a substitute for sanctions by the courts and other legal agencies.

During the year, citizens seeking to petition the Central Government for redress of grievances faced harassment, detention, and incarceration. Tens of thousands of citizens sought to redress grievances through petitions to the Central Government. Among them, Mao Hengfeng, a Shanghai housing activist and organizer, was sentenced in April to 18 months in a reeducation-through-labor facility for staging "disorderly visits" to government offices in support of her petition efforts. In August, two women were sentenced to 3 years reeducation after they and four others climbed atop a building near the central Zhongnanhai compound and threatened to commit suicide to protest the Government's neglect of their petitions. In August, Beijing-based petitioner leader Ye Guozhu was arrested for planning to hold a rally to protest forced evictions. He was tried in November, but the outcome of the trial was not available by year's end.

During the year, Central Government officials stated that provincial cadres would be evaluated, in part, on the number of petitions to Beijing coming from their provinces. This initiative aimed to improve accountability by provincial officials and to encourage them to resolve those complaints deemed legitimate. While a few cases were favorably resolved, most petitions languished. In some cases, provincial officials of "Letters and Visits" offices and local police pursued petitioners to Beijing and forcibly returned them to their home provinces. Such detentions often went unrecorded. In November 2003 and March 2004, Jiang Meili, the wife of imprisoned Shanghai housing attorney Zheng Enchong, was pursued to Beijing, abducted, and forced back to Shanghai by local "Letters and Visits" officials. She was seeking legal opinions from Beijing scholars and attorneys to support her husband's appeal of a 2003 conviction for "disclosing state secrets" in Shanghai housing disputes. In Hebei Province's Tangshan County, over 11,000 people signed a petition protesting corruption over land distribution and demanding recall of the local party secretary. When petition leader Zhang Youren carried the petition to Beijing in March, he was detained and forced back to Tangshan, where he was released. In July, Zhang was detained again. In the period before a key Party meeting in September, authorities rounded up thousands of the approximately 50,000 homeless petitioners living in temporary shanties known as Beijing's "petitioners village." Many were forcibly returned to their home provinces. In December, Liaoning Province resident Qu Huiqian was detained at the State Council complaints office in Beijing while petitioning for her father's right to free housing as a retired military official. According to published reports, she was beaten unconscious by local officials from Liaoning Province and left in a ditch in Beijing. Hundreds of petitioners were also reportedly detained in sports stadiums or forced back to their home provinces at the time of the March NPC session. Some were reportedly sent to psychiatric facilities.

The Government placed no special restrictions on the participation of women or minority groups in the political process. However, women still held few positions of significant influence at the highest rungs of the Party or government structure. There was one woman on the 24-member Politburo; she concurrently held the only ministerial post (out of 28) occupied by a woman. There was also one woman among the five State Councilors. The head of a key Communist Party organization, the United Front Work Department, was a woman. In the country's 28 ministries, only

14 women served at the level of vice minister or higher. Women freely exercised their right to vote in village committee elections, but only a small fraction of elected members were women. As of the end of 2003, there were 12.3 million female Party members, making up over 18 percent of the 66.4 million members of the Communist Party. Women constituted 20.2 percent of the NPC and 13.2 percent of the NPC Standing Committee. The 16th Party Congress in 2002 elected 27 women to serve as members or alternates on the 198 person Central Committee, a slight increase over the total of the previous committee.

Minorities constituted 14 percent of the NPC, although they made up approximately 9 percent of the population. All of the country's 55 officially recognized minority groups were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minorities to serve as members or alternates on the Central Committee and one ministerial-level post was held by an ethnic minority. However, minorities held few senior Party or government positions of significant influence.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions. It was difficult to establish an NGO, and the Government tended to be suspicious of independent organizations; most existing NGOs were quasi-governmental in nature and were closely controlled by government agencies (see Section 2.b.). However, an informal network of dissidents in cities around the country has become a credible source of information about government actions taken against activists. The information was disseminated outside of the country through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement in China and the New York-based Human Rights in China.

The press regularly printed articles about officials who exceeded their authority and infringed on citizens' rights. However, the Government remained reluctant to accept criticism of its human rights record by other nations or international organizations and criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Individuals were charged with and often convicted of "disclosing state secrets" during the year after passing information to human rights NGOs based abroad (see Sections 1.c. and 2.a.). The Government maintained that there were legitimate, differing approaches to human rights based on each country's particular history, culture, social situation, and level of economic development. The Government established the China Society for Human Rights, a "nongovernmental" organization whose mandate was not to monitor human rights conditions, but to defend the Government's views and human rights record.

The Government had active human rights dialogues with Australia, Canada, Germany, Hungary, Japan, Mexico, Norway, Switzerland, the United Kingdom, and the European Union. In March, the Government announced that it was suspending its human rights dialogue with the United States in reaction to the U.S. decision to table a resolution critical of the country's human rights record at the U.N. Commission on Human Rights 2004 session. The U.S. did not agree to schedule a new round of dialogue with China because of the lack of sufficient concrete results from the last round, held in December 2002. The Government also terminated some legal reform cooperation with the United States and U.S.-supported organizations.

The Government continued its unofficial dialogue on human rights and prisoner issues with a San Francisco-based human rights group. Visits by the group's executive director, including a prison visit, occurred during the year.

In September, members of the U.N. Working Group on Arbitrary Detention visited Beijing, Sichuan Province, and the TAR (see Section 1.d.). The Government agreed to invite the U.N. Special Rapporteur on Torture and the U.N. Special Rapporteur on Religious Intolerance, but those visits did not take place by year's end. The Government also extended an invitation to the leaders of the U.S. Commission on International Religious Freedom, but the visit did not occur due to restrictive conditions that the Government placed on the visit.

*Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice, some societal discrimination based on ethnicity, gender, and disability persisted.

*Women.*—Violence against women was a significant problem. There was no national law criminalizing domestic violence, but Articles 43 and 45 of the Marriage Law provide for mediation and administrative penalties in cases of domestic vio-

lence. Over 30 provinces, cities, or local jurisdictions have passed legislation specifically to address domestic violence. According to a survey by the All-China Women's Federation, 16 percent of women had been beaten by their husbands. In 2002, women's federations at all levels received 36,600 complaints about family violence, up nearly 40 percent over the previous year, while the number of letters received complaining of family violence was nearly 30,000, up nearly 30 percent. Two-thirds of children were victims of family violence during their lives, according to the China Society for Human Rights. Actual figures were believed to be higher because spousal abuse still went largely unreported. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

The Central Government prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations (*see* Section 1.f.) has resulted in instances of local birth planning officials reportedly using physical coercion to meet government goals. In addition, women faced a disproportionate burden due to the government's enforcement of its birth limitation laws and practices, which require the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics accounted for over 80 percent of birth control methods employed) and the abortion of certain pregnancies.

According to expert estimates, there were 1.7 to 5 million commercial sex workers in the country. The increased commercialization of sex and related trafficking in women trapped thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to the official Xinhua News Agency, one in five massage parlors in the country was involved in prostitution, with the percentage higher in cities. A 2004 Guangdong Province survey found that 74.2 percent of massage parlor workers were involved in prostitution. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars that have sprung up in large cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis. In light of this and, in particular, of the growing threat of AIDS among sex workers, the U.N. Convention on the Elimination of Discrimination Against Women Committee in 1998 recommended that due attention be paid to health services for female prostitutes.

Although the Central Government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Actions to crack down on this lucrative business, which involved organized crime groups and businesspersons as well as the police and the military, had limited results. In August, an investigation of prostitution at entertainment facilities in Guangdong Province led to the permanent closure of 15 percent and temporary closure of another 40 percent of the facilities investigated, according to state-run media. There have been instances in which persons involved in organizing and procuring prostitutes have been prosecuted.

No statute outlaws sexual harassment in the workplace, and the law does not specifically define sexual harassment. In 2003, Beijing courts accepted and issued judgments in their first sexual harassment cases. There was no reliable data about the extent of sexual harassment, and the law did not specifically define sexual harassment. Experts suggested that many victims of sexual harassment did not report it out of fear of losing their jobs, but awareness was growing. State media reported that a television series on sexual harassment aired on many channels.

The Government has made gender equality a policy objective since 1949. The Constitution states that "women enjoy equal rights with men in all spheres of life." The Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Policies that once allotted work unit housing only to the husband in a couple have become gender-neutral, and an April Supreme Court interpretation emphasized that housing rights are shared equally, even in cases of divorce. Nonetheless, many activists and observers increasingly were concerned that the progress that has been made by women over the past 50 years was being eroded. They asserted that the Government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as by the Government to educate women about their legal rights, and

there was anecdotal evidence that women increasingly were using laws to protect their rights.

Women's networks, involving lawyers, activists, and the press, were active in Beijing, Shanghai, and other cities, highlighting problems and calling for solutions to gender-based discrimination.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was very hard to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result, very few cases were brought to court. Some observers also noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment.

The All China Women's Federation reported that 47 percent of laid-off workers were women, a percentage significantly higher than their representation in the labor force. Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some even lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). Lower retirement ages also had the effect of reducing pensions, which generally were based on years worked. Some employers required that women be below the age of 30 to qualify for certain jobs.

The law provides for equal pay for equal work. However, a 1999 Government survey found that urban women were paid only 70.1 percent of what men received for the same work, while women in rural areas received only 59.6 percent of male peasants' incomes. Average incomes of female executives and senior professionals were only 57.9 percent and 68.3 percent of their male colleagues' salaries. Women have borne the brunt of the economic reform of state owned enterprises. Most women employed in industry worked in lower skilled and lower paid jobs and in sectors, such as textiles, which were particularly vulnerable to restructuring and layoffs. Women accounted for 60 percent of those below the poverty line in the country.

UNESCO reported during the year that less than 2 percent of women between the ages of 15–24 were illiterate, adding that 15 percent of women 15 years and older were illiterate. The female illiteracy rate was double that for men. Official government statistics claimed that the illiteracy rate among women ages 15–40 was 4.2 percent.

A high female suicide rate continued to be a serious problem. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country's birth limitation policies, and other societal factors contributed to the especially high female suicide rate.

While the gap in the education levels of men and women was narrowing, men continued to constitute a disproportionate number of the relatively small percentage of the population that received a university-level education. According to figures released by the All-China Women's Federation, in 2002 women made up 44.0 percent of university students and 46.7 percent of all high school students. However, women with advanced degrees reported an increase in discrimination in the hiring process as the job distribution system opened up and became more competitive and market driven. According to Government statistics, 98.5 percent of girls nationwide were enrolled in elementary school, but it was widely believed that the proportion of girls attending school in rural and minority areas was far smaller than in cities.

*Children.*—The Constitution prohibits maltreatment of children and provides for compulsory education. The country has outlawed child labor and trafficking in children, but serious problems in those areas persisted.

The Constitution provides for 9 years of compulsory education for children, but in economically disadvantaged rural areas, many children did not attend school for the required period and some never attend. Public schools were not allowed to charge tuition, but after the Central Government largely stopped subsidizing primary education in the early 1990s, many public schools began to charge mandatory fees to meet revenue shortfalls. Such fees made it difficult for poorer families to send their children to school or to send them on a regular basis. Some charitable schools have opened in recent years in rural areas, but not enough to meet demand. Children of migrant workers in urban areas also often had difficulty attending school. For these families, excessive school fees were a significant problem. The Government campaign for universal primary school enrollment by 2000 (which was not met) helped to increase enrollment in some areas. It also reportedly led some school officials to inflate the number of children actually enrolled.

In 2003, the U.N. Special Rapporteur on the Right to Education visited the country. Following the visit, the Special Rapporteur reported that the Government failed

to provide education to many children of migrant workers and prohibited children from receiving religious education. The Special Rapporteur expressed serious concern about the recent privatization of the costs of public education, reporting that the Government compels parents to pay nearly half the costs of public education, making education inaccessible to many children. The Special Rapporteur also recommended the immediate prohibition of the practice of children performing manual labor at their schools to raise funds.

An extensive health care delivery system has led to improved child health and a continued decline in infant mortality rates. According to the 2000 Census, the infant mortality rate was 28.4 per 1,000. According to UNICEF statistics, the mortality rate for children under 5 years of age was 37 per 1,000 live births. The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family Planning Commission, only a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against disabled minors and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

Despite government efforts to prevent kidnapping and the buying and selling of children, these problems persisted in some rural areas, and children also were trafficked for labor purposes (*see* Section 5, Trafficking).

In 2004, Guangzhou and Chengdu cities established the country's first specialized juvenile courts designed to protect minors' rights and interests. Authorities arrested 69,780 juveniles in 2003 and approximately 19,000 juveniles were incarcerated in formal prisons. Abolition of the system of custody and repatriation in 2003 (*see* Section 1.c.) reduced the number of children detained administratively. Nonetheless, more than 150,000 homeless "street children" lived in cities, according to state-run media. Many did not live with their parents and survived by begging. Juveniles were required by law to be held separately from adults except when facilities were insufficient. In practice, children sometimes were detained without their parents, held with adults, and required to work (*see* Sections 1.d. and 6.c.).

In 2003, 3-year-old Li Siyi starved to death at home in Chengdu, Sichuan Province, after police detained her mother for stealing two bottles of shampoo and reportedly ignored the mother's pleas to check on the girl. On August 19, two police officers were convicted of dereliction of duty in the case and sentenced to 2 and 3 years in prison.

Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the birth limitation policy (*see* Section 1.f.). Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies. An official study in Hainan Province found that 68 percent of abortions were of female fetuses. In a 2002 survey, 35 percent of women in one rural township admitting to having an abortion because of preference for a male child. Official figures from November 2000 put the overall male-female sex ratio at birth at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the ratio was 151.9 to 100. Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide trend. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

The Law on the Protection of Juveniles forbids the mistreatment or abandonment of children. According to the latest available figures, compiled in 1994, the number of children abandoned annually was approximately 1.7 million, and the number may have grown over the subsequent decade despite the fact that, under the law, child abandonment is punishable by a fine and a 5-year prison term. The vast majority of children in orphanages were female, although some were males who were either disabled or in poor health. Medical professionals frequently advised parents of children with disabilities to put the children into orphanages.

The Government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. A 1997 revision of the adoption law made it easier for couples to adopt. However, adopted children were counted under the birth limitation regulations in most locations. As a result, couples who adopted abandoned baby girls, for example, were sometimes barred from having additional children.

*Trafficking in Persons.*—The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking remained

serious problems. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purpose of providing lower middle income farmers with brides or sons. Some cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that certain victims, particularly children, were sold into forced labor.

Internal trafficking was a significant problem. The Ministry of Public Security estimated that at least 9,000 women and 1,000 children were kidnapped and sold illegally each year.

Some experts suggested that the demand for abducted women was fueled by the shortage of marriageable brides, particularly in rural areas. The serious imbalance in the male-female sex ratio at birth, the tendency for many village women to leave rural areas to seek employment, and the cost of traditional betrothal gifts all made purchasing a bride attractive to some poor rural families. Some families recruited brides from economically less advanced areas. Others sought help from criminal gangs, which either kidnapped women and girls or tricked them by promising them jobs and an easier way of life and then transporting them far from their home areas for delivery to buyers. Once in their new "family," these women were "married" and raped. Some accepted their fate and joined the new community; others struggled and were punished.

There were reports that women and girls from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or to be forced to marry Chinese men. Past reports noted that trafficking of North Korean women and girls into the country to work in the sex industry was reportedly widespread in the northeastern part of the country, but reliable sources suggested that the practice has decreased. According to press reports, North Korean brides were sold for approximately \$38 to \$150 (RMB 315 to RMB 1,245). Women reportedly also were trafficked from Vietnam into the country for the purpose of forced marriage.

Citizens were trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There were reports that citizens were trafficked to Australia, Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for the purpose of sexual exploitation), Singapore, Sri Lanka (for sexual exploitation), Taiwan, the United Kingdom (for sexual exploitation), and the United States.

At times, trafficked persons became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from \$30,000 to \$50,000 (RMB 248,000 to 415,000) each for their passage. Upon arrival, many reportedly were forced to repay the traffickers for the smuggling charges by working in specified jobs for a set period of time. They often also were forced to pay charges for living expenses out of their meager earnings. The conditions under which these trafficked persons had to live and work were generally poor, and they were often required to work long hours. The smuggling rings that trafficked them often restricted their movements and confiscated their often fraudulent travel documents. Victims of trafficking faced threats of being turned in to the authorities as illegal immigrants and threats of retaliation against their families at home if they protested the situation in which they found themselves. Persons who were trafficked from the country and then repatriated sometimes faced fines for illegal immigration upon their return; after a second repatriation, such persons could be sentenced to reeducation through labor. Alien smugglers were fined \$6,000 (RMB 49,600), and most were sentenced to up to 3 years in prison; some have been sentenced to death.

Kidnapping and the buying and selling of children continued to occur, particularly in poorer rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. During the year, media reported arrests in the case of 76 baby boys sold in Hohhot, Inner Mongolia, and a case of 200 children, mostly boys, who were kidnapped in Kunming, Yunnan Province. However, baby girls also were trafficked. During the year, 52 people were convicted in a March 2003 case in which 28 girls were found packed in suitcases on a bus from Yulin, Guangxi Province. The babies were purchased in Yulin for \$24 (RMB 200) to be resold for \$240 to \$360 (RMB 1992 to RMB 2988) to families in Anhui and Henan Provinces to work or serve as child brides. The oldest was 5 months of age; one baby died en route. Two leaders of the ring were sentenced to death. Children were also trafficked for labor purposes. Children trafficked to work usually were sent from poorer interior areas to relatively more

prosperous areas; traffickers reportedly often enticed parents to relinquish their children with promises of large remittances that their children would be able to send to them.

The purchase of women was not criminalized until 1991, with the enactment of the NPC Standing Committee's "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

Arrests of traffickers have decreased from the peak in 2000, when a nationwide crackdown was initiated. That year, more than 19,000 persons were arrested and more than 11,000 were sentenced to punishments, including, in a few cases, the death penalty. In May, two men were sentenced to death in Yunnan Province after being convicted of trafficking 22 women to Guangdong Province and forcing them into prostitution. According to official media reports, from 2001 to 2003, police freed more than 42,000 kidnapped women and children. More than 22,000 suspects were arrested, and police solved 20,360 cases involving kidnapped women and children. Official statistics indicate that during the year authorities registered 3,343 cases involving trafficking of women and children (a 76.2 percent increase from 2002); uncovered 2,966 new cases of trafficking (an 87.1 percent increase from 2002); and rescued a total of 8,949 trafficked women and children (an 18.7 percent decrease from 2002). During the year, 5,043 suspects were arrested, and 3,144 were referred for prosecution. In Guangdong Province alone, 68 prosecutions were undertaken against traffickers from 2002 to June 2004 and officials rescued more than 100 children.

Despite government efforts to eliminate trafficking in women and children, the problem persisted. Demand far outstripped the available supply, making trafficking a profitable enterprise for those willing to risk arrest and prosecution. The Government also continued to struggle with the pervasive problem of official corruption (see Section 3). There were reports of complicity of local officials in the related problem of alien smuggling, as well as reports of the complicity of local officials in prostitution, which sometimes involved trafficked women. Hong Kong-based media reported in November that a Guangdong police official was arrested after allegedly providing thousands of visas to prostitutes traveling to Hong Kong and Macao, some of whom had reportedly never been to the place of visa issuance. In some cases, village leaders sought to prevent police from rescuing women who had been sold as brides to villagers.

Agencies involved in combating trafficking included the MPS, the SPC, the SPP, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council. It was Central Government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The All-China Women's Federation assisted Chinese victims in obtaining medical and psychological treatment.

*Persons With Disabilities.*—The law protects the rights of persons with disabilities; however, the reality for persons with disabilities lagged far behind legal dictates, and many did not receive or have access to special assistance or to programs designed to assist them. According to the official press, all local governments have drafted specific measures to implement the law.

As attention began to focus on the Special Olympics and Paralympics to be held in the country in 2007–08, the press increasingly publicized the plight of persons with disabilities and the Government's efforts to assist them. State media reported that the Government increased its planned 2004 spending on infrastructure improvements for persons with disabilities to approximately \$15.75 million, up from \$12.5 million in 2003. The Government, at times in conjunction with NGOs such as the Lions Club International or the Special Olympics, sponsored a wide range of preventive and rehabilitative programs. For example, several thousand blind persons have been trained in therapeutic massage. The goal of many of these programs was to allow persons with disabilities to be integrated into society. However, misdiagnosis, inadequate medical care, pariah status, and abandonment remained common problems.

According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, often far from the parents, and in which care was often seriously inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty in getting adequate medical care, day care, and education for their children. Government statistics showed that almost one quarter of the approximately 60 million persons with disabilities lived in extreme poverty. Unemployment among adults with disabilities remained a serious problem. The Government's official strategy was to integrate

persons with disabilities into the mainstream work force, but efforts to do so were limited and confronted a cultural legacy of discrimination and neglect. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their “gradual” implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The Higher Education Law permits universities legally to exclude candidates for higher education who have disabilities.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The Population and Family Planning Law requires local governments to employ such practices to raise the percentage of healthy births.

*National/Racial/Ethnic Minorities.*—According to the 2000 census, the total population of the country’s 55 officially recognized ethnic minorities was 106.4 million, or 8.4 percent of the total population. In addition to these 55 ethnic minorities and the dominant Han ethnic group, some citizens identified themselves as members of unrecognized ethnic minorities. Most minority groups resided in the areas they traditionally have inhabited. The Government’s avowed policy on minorities calls for preferential treatment in marriage regulations, birth planning, university admission, and employment. Programs have been established to provide low interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice, minorities faced discrimination by the majority Han culture. Most of the minorities in border regions were less educated than the national average, and job discrimination in favor of Han migrants remained a serious problem. Racial discrimination was the source of deep resentment by minorities in some areas, such as Xinjiang, Inner Mongolia, and Tibetan areas. For example, ethnic Uighurs in Xinjiang did not have equal access to newly created construction jobs associated with development projects; Han workers were brought in from Sichuan and elsewhere to work, particularly on technical projects such as oil and gas pipelines. The Government did not openly recognize racism against minorities or tension among different ethnic groups as problems.

Government development policies have long been in place to improve minority living standards. However, while overall standards of living for those in minority areas have improved as a result of these policies, real incomes in minority areas, particularly for minorities, remained well below those in other parts of the country. The majority Han Chinese have benefited disproportionately from government programs and economic growth, even in minority areas. Many development programs have disrupted traditional living patterns of minority groups, and have included, in some cases, the forced evacuation of persons (*see* Section 2.d.).

Since 1949, government policy has resulted in a significant migration of Han Chinese to Xinjiang. According to a Government White Paper released in 2003, approximately 8.25 million of Xinjiang’s 19.25 million official residents were Han Chinese, up from 300,000 Han in 1949. Approximately 8 million Xinjiang residents were Uighurs. Significant numbers of Kazakhs, Hui, Tajiks, and other minorities also lived in Xinjiang. Official statistics underestimated the Han population of Xinjiang because the Government did not count as part of the official population the thousands of Han who were long-term “temporary workers.” The migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uighur ratio in the capital of Urumqi to shift from 20:80 to 80:20 and was a source of Uighur resentment. According to the 2000 census, non-Tibetan residents of the TAR comprised 6 percent of the population, but that figure did not include a large number of long-term Han residents. Their presence caused resentment among some Tibetans (*see* Tibet Addendum).

In many areas with a significant population of minorities, there were two-track school systems that used either standard Chinese or the local minority language. Students could choose to attend schools in either system. However, graduates of minority language schools typically needed 1 year or more of intensive Chinese before they could handle course work at a Chinese language university. Despite the Government’s efforts to provide schooling in minority languages, the dominant position of standard Chinese in government, commerce, and academia put graduates of minority schools who lacked standard Chinese proficiency at a disadvantage. The vast majority of Uighur children in Xinjiang attended Uighur-language schools and generally received an hour’s Chinese language instruction per day. During the year, the government allocated an additional US\$9 million (RMB 74.25 million) to promote Chinese-language instruction in Xinjiang.

The CCP has an avowed policy of boosting minority representation in the Government and the NPC, and minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. A 1999 government white paper reported that there were 2.7 million minority officials in the Government. The 2003 Government White Paper states that there are 348,000 minority cadres in Xinjiang, accounting for 51.8 percent of all Party members in the autonomous region. Many members of minorities occupied local leadership positions, but few held positions of influence in the local Party apparatus or at the national level. For example, 63 percent of Xinjiang's deputies to the NPC were ethnic minorities. However, in most areas, ethnic minorities were shut out of positions of real political and economic power, which fed their resentment of Han officials holding the most powerful Party positions in minority autonomous regions.

Tensions between ethnic Han citizens and Uighurs in Xinjiang continued, and the authorities continued to restrict political, civil, and religious freedoms (*see* Section 2.c.) in the region. A campaign that began in 1997 to stress unity and to condemn "splittism" and religious extremism showed no signs of abating. During the year, authorities continued to prohibit activities they deemed separatist in nature, announced tightened security measures, and mounted campaigns to crack down on opposition.

The campaign against separatism in Xinjiang specifically targeted the "three evils" of extremism, splittism, and terrorism as the major threats to Xinjiang's social stability. Because the Government authorities in Xinjiang regularly grouped together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it was often unclear whether particular raids, detentions, or judicial punishments targeted those peacefully seeking to express their political or religious views or those engaged in violence. Many observers raised concerns that the Government's war on terror was being used as a pretext for cracking down harshly on Uighurs expressing peaceful political dissent and on independent Muslim religious leaders. In December 2003, the Government published an "East Turkestan Terrorist List," which labelled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocated East Turkestan independence, but with the exception of one group, the East Turkestan Islamic Movement (ETIM), there was no available evidence that they advocated violence to achieve this goal. The U.N. has designated ETIM a terrorist organization.

Uighurs were sentenced to long prison terms and sometimes executed during the year on charges of separatism. During the strike-hard campaign, which officially concluded in 2003, authorities stated they prosecuted more than 3,000 cases in Xinjiang and held mass sentencing rallies attended by more than 300,000 persons. By its own account, the Government broke up 22 groups engaged in what it claimed were separatist and terrorist activities and meted out 50 death sentences to those charged with separatist acts from January to August. In July, two Muslim Uighurs reportedly were executed after being convicted in Aksu City, Xinjiang, of illegally organizing the East Turkestan People's Party and using armed tactics to split the country. Approximately 15 others were convicted of separatism and sentenced to long prison terms in the same case. In October 2003, Uighur Shaheer Ali was executed after being convicted of terrorism. He had been repatriated forcibly from Nepal in 2002, where he had been interviewed by the UNHCR and granted refugee status.

For many Uighurs, the ongoing imprisonment of Uighur businesswoman Rebiya Kadeer symbolized the Government's mistreatment of Uighurs. In 2000, a Xinjiang court sentenced Kadeer, a former member of the provincial-level Chinese People's Political Consultative Conference, to 8 years in prison on charges of "passing state intelligence" to foreigners; according to an official press report, the intelligence she was accused of passing included newspaper articles and a list of names of persons whose cases had been handled by the courts. Kadeer, her son, and her secretary were arrested in 1999 while on their way to meet a visiting foreign delegation. Kadeer reportedly suffered various health problems in prison. Some foreign observers believed Kadeer was singled out for her activism on behalf of Uighurs and for her husband's involvement with Uighur causes and Radio Free Asia. In March, Kadeer received a 1-year sentence reduction for good behavior. The Government claimed she had recognized that she was a victim of "splittism" and remained "on the side of the Party and the people." She was due for release in August 2006. On October 18, Uighur Dilkex Tilivaldi was detained after meeting a foreign journalist, and his whereabouts continued to be unknown.

Other Uighurs whose work emphasized pride in cultural identity have also been harassed and detained by the Government. Writer and translator Abdulghani Memetemin was convicted in June 2003 on charges of sending state secrets abroad

and sentenced to 9 years in prison for translating news articles into Chinese from the Uighur language and forwarding official speeches to the East Turkestan Information Center. In late 2001, the U.N. Working Group on Arbitrary Detention ruled that Uighur scholar and researcher of Xinjiang's ethnic minorities Tohti Tunyaz had been arbitrarily detained. He was sentenced in 1999 to an 11-year prison term for "inciting separatism" and "illegally acquiring state secrets" and remained in prison at year's end.

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted, and, according to reports, possession of such materials resulted in lengthy prison sentences.

Officials in the region claimed that the campaign against separatism was necessary to maintain public order. In March, Xinjiang's chairman Ismail Tiliwaldi said the campaign had improved security, noting in published reports that, since the start of 2003, there were no explosions or assassinations in the region and no tourists were killed in Xinjiang.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought tangible economic improvements to Xinjiang, Han residents have received a disproportionate share of the benefits. The majority of Uighurs were poor farmers, and 25 percent were illiterate. Regulations require Uighurs to use Mandarin Chinese characters for their names on identification documents.

In July, Guizhou University Law School dean Yuan Hongbing and former colleague Zhao Jing applied for asylum during a business trip to Australia. Yuan, an ethnic Mongolian who had been arrested in 1994 for dissident writings and political organizing, stated that he had decided to remain in Australia in order to publish his writings on the situation of ethnic Mongolians and Tibetans. Inner Mongolian cultural activist Hada also continued to serve a 15-year sentence during the year.

In October, violence erupted near Zhongmou Township in Henan Province after an ethnic Hui taxi driver struck and killed a 6-year-old Han girl. Ethnic retributions followed involving Han and Hui from several villages. In the end, dozens from both ethnic groups were killed or wounded. The Government closed Zhongmou to outsiders for several weeks and imposed a ban on domestic and foreign news reporting about the incident. Farmers' rights advocate Li Guozhu was detained in November after visiting the area, interviewing locals about the violence, and allegedly relaying his findings to foreign journalists.

*Other Societal Abuses and Discrimination.*—No laws criminalize private homosexual activity between consenting adults. The 1997 criminal code abolished the crime of "hooliganism," which had previously been used to prosecute gay men and lesbians. In 2001, medical authorities removed homosexuality from the national diagnostic handbook of psychiatric disorders. In May, prohibitions on homosexuality were dropped from regulations governing the behavior of individuals serving sentences. In July, the country's delegation to the 15th annual AIDS Conference in Bangkok, Thailand, included representatives of an NGO advocating gay rights. Gay men and lesbians stated that official tolerance has improved in recent years. However, societal discrimination and strong pressure to conform to family expectations deter most individuals from publicly discussing their sexual orientation.

During the year, the Government officially outlawed discrimination against persons with HIV/AIDS and Hepatitis B under a new Contagious Disease Law and adopted regulations forbidding employment discrimination against persons with HIV/AIDS and Hepatitis B. However, discrimination against persons with HIV/AIDS remained widespread in many areas. Hospitals and physicians often refused to treat HIV-positive patients.

In February, the Government created the State Council AIDS office, putting policy formation regarding the AIDS issue at the highest Government level. The Government also introduced the China CARES Program, the goal of which was to provide care and treatment to 60,000 poor, rural people with HIV/AIDS. The program began in 51 pilot counties in April and added an additional 76 counties in June. The day before World AIDS Day, President Hu Jintao publicly shook hands with an AIDS patient and spoke about the need for the country to address the disease candidly without stigma. Regulations were also revised to permit, for the first time, those with HIV/AIDS and Hepatitis B to work as civil servants.

Information about the number of HIV/AIDS cases in the country remained difficult to gather and assess. Officials acknowledged that over 1 million citizens were infected with HIV, although the Government had not updated its official estimate of 840,000 persons infected.

Activist Li Dan was beaten and Pan Zhongfeng detained in Shangqiu, Henan Province, during a July demonstration protesting closure of an AIDS orphanage and

school. Henan Province activists Wang Guofeng and Li Suzhi claimed they received inadequate treatment while detained and that authorities refused to provide them with test results or allow them to travel to Beijing to see specialists after they were released on bail (*see* Section 1.c.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association. However, in practice, workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the Communist Party and headed by a high-level Party official, was the sole legal workers' organization. The Trade Union Law gives the ACFTU control over the establishment and operation of all subsidiary union organizations and activities throughout the country, including enterprise-level unions. The Trade Union Law also allows workers to decide whether to join official unions in their enterprises. There were no reports of repercussions for the small percentage of workers in the state-owned sector that had not joined. Independent unions are illegal.

Although the ACFTU and its constituent unions had a monopoly on trade union activity, their influence over the workplace diminished with the economic reforms of recent years. ACFTU unions were relatively powerless to protect the tens of millions of members who have lost their jobs or had their wages or benefits delayed or cut in the massive restructuring of state-owned enterprises (SOEs), although, at the national level, the ACFTU may provide policy input on these issues. The unions have also provided some benefits and reemployment assistance to affected workers. The ACFTU had difficulty organizing in the country's rapidly growing private and foreign-invested sectors, where union membership during the year was estimated to be less than 20 percent. With declines in the state-owned sector and organizational weakness outside the state sector, the ACFTU's membership declined from nearly 100 percent of the urban workforce during the height of the planned economy to approximately 50 percent in recent years. The ACFTU reported a membership of 130 million at the end of 2003, out of an estimated 256 million urban workers.

The existence of an enormous rural labor force, some 490 million out of a total labor force of approximately 750 million, also complicated the organization and protection of workers. Farmers did not have a union or any other similar organization. Of some 130 million rural residents working in township and village enterprises, only a very small percentage were represented by unions. A "floating" migrant labor force of over 100 to 150 million persons has proven especially difficult to organize and protect, although state-run media reported that the ACFTU had stepped up a campaign to bring migrant workers into the union and that community unions for migrants had been established in a number of cities. Some migrants gravitated to temporary or seasonal low-wage work in urban areas where their household was not registered under the country's "hukou" system (*see* Section 2.d.). Many migrants, including substantial numbers of young women, were attracted to the growing private sector where unions were few and where their desire to earn more than they could in rural areas made them easy to exploit.

The ACFTU has shown some interest in adapting its organization to the needs of labor in a market economy. Local ACFTU federations have allowed a few limited experiments in more open union elections and decision-making. These included freely electing, by secret ballot, the leadership of ACFTU affiliated unions at several foreign-owned factories in Guangdong and Fujian Provinces in 2002 and 2003, although no new elections were reported during the year. At the national level, the ACFTU has had input into shaping the country's system of labor laws and regulations. In particular, the ACFTU actively pushed amendments to the Trade Union Law, passed in 2001, that give greater protection to union organizing efforts and legitimize union activity in the private sector, including foreign-invested enterprises, and will now allow migrant workers to become union members. In September, the ACFTU revised its Constitution to provide that the union's basic responsibility is to safeguard workers' legitimate rights and interests. Despite the ACFTU's stated goals to organize these new groups of workers, there had been very limited gains as of year's end.

During the year, the Government took specific actions against illegal union activity, including the detention and arrest of labor activists. In April, Chen Kehai and Zhao Yong, workers from the Tieshu Textile Factory in Suizhou, Hubei Province, were tried under summary proceedings and convicted on charges of disturbing public order for their involvement with a labor protest at the factory. A third worker, Zhu Guo, reportedly was tried and convicted on charges of assembling a crowd to disturb social order. Four other Tieshu workers were sentenced to reeducation through labor (*see* Section 2.b.).

Other labor activists, detained in previous years, were reportedly still in detention at year's end. In May 2003, Yao Fuxin and Xiao Yunliang, leaders of a large labor protest in Liaoyang City, Liaoning Province, who were detained in March 2002, were sentenced to 7 and 4 years in prison for subversion, based largely on allegations that they had made contact with the CDP in 1998, several years before the workers protests. Many observers believed that the sentences were largely in retaliation for their role in the labor protests and in exposing official corruption. Prison authorities continued to deny the two activists' applications for medical parole. Other labor activists reportedly still in detention included Hu Mingjun, Wang Sen, Wang Miaogen, Zhang Shanguang, Li Wangyang, Li Jiaqing, Miao Jinhong, Ni Xiafei, Li Keyou, Liao Shihua, Yue Tianxiang, Guo Xinmin, He Zhaohui, Peng Shi, Wang Guoqi, and labor lawyer Xu Jian.

The country was a member of the International Labor Organization (ILO) and had ratified core ILO conventions prohibiting child labor, the worst forms of child labor, and discrimination in remuneration between male and female workers. At year's end, the Government had not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor.

In March 2003, the International Confederation of Free Trade Unions (ICFTU) amended an existing complaint to the ILO, adding allegations of freedom of association violations in the handling of the Tieshu Textile Factory matter. At year's end, the Government had not replied to the ILO's communications with respect to this matter.

The ACFTU had active ties with foreign trade union organizations and had a cooperative relationship with the ILO's China office. In 2002, the ACFTU gained a deputy workers' member seat on the ILO's Governing Body, a seat it lost in 1990 during the crackdown following the Tiananmen Square massacre. The ICFTU has publicly condemned the country for its denial of the right of free association, in particular for arresting labor activists. Pursuant to a 2001 Memorandum of Understanding with the ILO, the Ministry of Labor and Social Security (MOLSS) held the China Employment Forum in April. MOLSS also hosted the annual meeting of the International Social Security Association (ISSA) in September. On December 3, the Development Research Center of the State Council announced that a seminar on Socially Responsible Investment was postponed and visas for some participants rescinded. As a result, a long-planned visit by the OECD's Trade Union Advisory Council did not take place. The ACFTU also cooperated with the U.N. Development Program on a program to develop market-based approaches to help laid-off workers start their own businesses. Part of the program was designed to assist unions to adapt to a new labor relations model.

*b. The Right to Organize and Bargain Collectively.*—The Labor Law permits collective bargaining for workers in all types of enterprises; however, in practice, genuine collective bargaining still did not occur. Under the law, collective contracts are to be developed through collaboration between the labor union (or worker representatives in the absence of a union) and management, and should specify such matters as working conditions, wage scales, and hours of work. The law also permits workers and employers in all types of enterprises to sign individual contracts, which are to be drawn up in accordance with the collective contract. The Ministry of Labor and Social Security in January promulgated new regulations, which took effect in May, governing collective contracts.

The country's shift toward a market economy and changing labor management relations created pressures for collective bargaining that would include more genuine negotiations and take workers' interests into greater account. The Trade Union Law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. However, given the non-democratic, Party-dominated nature of the country's unions, collective bargaining fell far short of international standards. Workers had no means to formally approve or reject the outcome of collective contract negotiations and, without the right to strike, only a limited capacity to influence the negotiation process.

In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargaining collectively with management. Workplace-based worker committees, serve as the vehicle for worker input into state-owned enterprise policies. These weakened during the year, and where they existed, the committees were often little more than rubber stamps for deals predetermined by enterprise management, the union, and the CCP representative.

The Trade Union Law provides specific legal remedies against anti-union discrimination and specifies that union representatives may not be transferred or termi-

nated by enterprise management during their term of office. These provisions were aimed primarily at the private sector, where resistance to unions was common. The degree to which these provisions were enforced was unknown. Anti-union activity was virtually unknown in the state-owned sector.

Neither the Constitution nor the Labor Law provides for the right to strike. The Trade Union Law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers interpreted this provision to offer at least a theoretical legal basis for the right to strike. However, the Government continued to treat worker protests as illegal demonstrations, indicating that there was still no officially accepted right to strike. In addition, no other types of planned worker action were allowed.

During the year, the profound economic and social changes affecting workers continued to produce labor-related disputes and worker actions (*see* Section 2.b.). Most worker protests involved actual and feared job losses, wage or benefit arrears, allegations of owner/management corruption, or worker dissatisfaction with new contracts offered in enterprise restructuring. The Government took swift action to halt protests. Police detained protest leaders and dispersed demonstrations. In some cases, management, often at the direction of the Government, subsequently offered payments that met at least a portion of protesters' demands. The most noteworthy recent labor protests involved thousands of organized workers and sympathizers demonstrating in Liaoyang, Liaoning Province, in 2002. The workers protested alleged corruption in the closure of a major local SOE, the loss of jobs, and wage and benefit irregularities. Two protest leaders, Yao Fuxin and Xiao Yunliang, were convicted on subversion charges and sentenced in May 2003 (*see* Section 6.a.). After the protests, the former manager of the SOE was convicted of smuggling. The local Government fired Liaoyang's police chief and demoted a top Party official in the city. During the year, worker protests also occurred at private companies. In March and April, significant strikes occurred at factories of Stella International in Dongguan, Guangdong Province. A series of incidents of unrest, including strikes, ended in the detention of over 75 workers on charges of destruction of property, including three workers under age 18. Ten workers were convicted of destruction of property in the incidents but were released on December 31 as a result of court action that either suspended their sentences or lifted criminal sanctions.

The Labor Law provides for mediation, arbitration, and court resolution of labor disputes. Under these procedures, cases are to be dealt with first in the workplace, through a mediation committee, then, if unresolved, through a local arbitration committee under government sponsorship. If no solution is reached at this level, the dispute may be submitted to the courts. According to the Ministry of Labor and Social Security, 134,700 disputes involving 477,000 workers were submitted to arbitration during the first half of the year. The Ministry's yearly statistical report stated that 226,391 disputes involving 800,000 workers were handled during the year, increases of approximately 22.8 percent and 31.7 percent, respectively, over the previous year. The vast majority of cases, 223,503 (98 percent) were resolved. Of these, 67,765 cases (30 percent) were resolved by mediation, 95,774 (43 percent) were resolved by arbitration and 59,954 (27 percent) were resolved by other means. In 2002, 10,823 (4.7 percent) of total cases were collective labor disputes.

Observers differed over the effectiveness of these dispute resolution procedures. Workers reportedly had little trust in the fairness of workplace mediation. They viewed unions, which played a major mediation role, as inclined to favor management. Workers favored arbitration over workplace mediation, although they often looked with suspicion on the local government role in the process. There appeared to be increasing recognition, including among government officials, that some aspects of the dispute resolution system needed revision.

Laws governing working conditions in Special Economic Zones (SEZs) were not significantly different from those in effect in the rest of the country. Lax enforcement of these laws by provincial and local officials was a serious problem in the SEZs, as in other parts of the country. Wages in the SEZs and in the southeastern part of the country generally were higher for some categories of workers. Officials acknowledged that some investors in the SEZs were able to negotiate "sweetheart" deals with local partners that bypassed labor regulations requiring the provision of benefits and overtime compensation. Some foreign businesses in the SEZs had ACFTU-affiliated unions, and management reported positive relations with union representatives, in part because the ACFTU discouraged strikes and work stoppages.

*c. Prohibition on Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, and the Government denied that forced or compulsory labor was a problem; however, forced labor was a serious problem in penal institutions. Citizens

were consigned without judicial process to penal labor institutions (*see* Section 1.c.) that, by law and policy, utilized labor as a means of reform and reeducation. Reeducation-through-labor detainees and prisoners and pretrial detainees in the regular prison system were required to work, often with little or no remuneration. Diplomatic observers generally were unable to gain access to reform institutions to evaluate allegations about the treatment of prisoners. In some cases, prisoners worked in facilities directly connected with penal institutions; in other cases, they were contracted to nonprison enterprises. Facilities and their management profited from inmate labor.

In 1992, the U.S. and Chinese Governments signed a memorandum of understanding (MOU), followed by an implementing statement of cooperation (SOC) in 1994. These agreements expressed the intention of the governments to cooperate to ensure that prison-made products were not exported to the United States. Chinese cooperation under the MOU and SOC improved during the year. Regular monthly working-level meetings were held from December 2003 through the end of the year. Visits to three prison-related facilities were conducted in February, July and December, and the cases related to these facilities were closed. At year's end, the backlog of cases remained substantial. The Government continued to explicitly exclude from the agreements reform- and reeducation through labor institutions.

The Government prohibits forced and bonded labor by children, but some child trafficking victims were reportedly sold into forced labor (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16, but the Government had not adopted a comprehensive policy to combat child labor. The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

The Government continued to maintain that the country did not have a widespread child labor problem and that the majority of children who worked did so at the behest of their families, particularly in impoverished rural areas, to supplement family income. Child workers in rural areas appeared to work primarily in township and village enterprises and in agriculture. In urban areas, they often worked as menial and street laborers. State-run media reported on children working at a Tianjin knitting mill and, in 2003, on children working at a handicrafts company in Fuzhou, in factories in Shanghai and Guangzhou, and in a hotel in Anhui Province. Some students worked in light industrial production within or for their schools. Some observers believed that coalmines, which often operated far from urban centers and out of the purview of law enforcement officials, also occasionally employed children. The existence of a large adult migrant labor force, often willing to work long hours for low wages, reduced the attractiveness of child labor for employers. State-run media reported on province-wide investigations into child labor by provincial labor and social security bureaus and on investigations done at the request of reporters.

*e. Acceptable Conditions of Work.*—The Labor Law provides for broad legal protections for workers on such matters as working hours, wages, and safety and health. The Trade Union Law invests unions with the authority to protect workers against violations of their legal rights or contractually agreed conditions of work. The Law on the Prevention and Treatment of Occupational Diseases and the Production Safety Law identify responsibilities for work-related illness and accidents and provide for specific penalties for violation of the law. In November, the Government promulgated regulations on labor inspections, which expand the powers of government inspectors and increase penalties against employers for failure to pay the minimum wage, for being in arrears on wages, and for unreasonably withholding wages. However, there remained a substantial gap between the law's formal provisions for work conditions and the actual situation in the workplace.

There was no national minimum wage. The Labor Law allows local governments to set their own minimum wage according to standards promulgated by the Ministry of Labor and Social Security. In January, the Ministry promulgated a new regulation on minimum wages. The regulation, which took effect in March, sets out the formula by which localities set the minimum wage; expands the range of employers required to observe the minimum wage to include individually-owned enterprises with fewer than eight employees, public institutions, and social organizations; and provides for an hourly minimum wage for part-time workers. The regulation states that the departments of labor and social security at or above the county level are responsible for enforcement of the law. The regulation also provides that where the ACF TU finds an employer in violation of the regulation, it shall have the power to

demand that the department of labor and social security deal with the case; at year's end, it was unclear whether the union had exercised this right. Widespread official corruption and efforts by local officials to attract and keep taxpaying, job-producing enterprises that might otherwise locate elsewhere undercut enforcement of the minimum wage provisions. Wage arrearages to employees of state-owned and private enterprises were common. During the year, the Government pledged to clear up wage arrearages in the construction industry within 3 years. State-run media reported that by year's end, 98.4 percent of the \$4 billion (RMB 33.2 billion) owed to migrant workers for work on construction projects had been repaid.

The Labor Law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of 3 hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, particularly in the private sector. They were particularly ignored in enterprises that could rely on a vast supply of low-skilled migrant labor. In many industries, such as textile and garment manufacturing, compulsory overtime reportedly was common, often without overtime pay. Some areas of the country in which wages and working conditions reportedly were substandard, including parts of Guangdong Province, experienced shortages of workers during the year. During the year, auditors found that some factories routinely falsified overtime and payroll records. There also were reports of workers being prevented from leaving factory compounds without permission.

Occupational health and safety concerns remained serious. The poor enforcement of occupational health and safety laws and regulations continued to put workers' lives at risk. The State Administration for Work Safety (SAWS), which was administratively joined with the State Administration for Coal Mine Safety Supervision (SACMSS), was responsible for providing a nationwide framework for work safety. With enactment of the Work Safety Act in 2002, the Government gave SAWS/SACMSS a specific, detailed legal framework for its responsibilities. SAWS/SACMSS staffed nearly 70 field offices throughout the country. In January, SAWS promulgated regulations requiring companies in the mining, construction, dangerous chemicals, fireworks, and explosives industries to obtain work safety licenses as a prerequisite to doing business. SAWS also promulgated regulations governing work safety in the construction and electrical industries. In 2003, SAWS was given responsibility for workplace health supervision and inspection. The Ministry of Health was responsible for prevention and treatment of occupational illness. Some provincial and local governments have followed the national pattern of establishing separate work safety agencies. However, enforcement of national health and safety standards, which was the responsibility of governments below the national level, remained very weak.

Workplace health and safety did not improve significantly during the year, and there continued to be a high rate of industrial accidents. According to official statistics, from January to November, there were 13,268 work-related accidents, resulting in 14,595 deaths, compared with 15,597 workplace accidents, resulting in 17,315 deaths, for all of 2003. Coalmines were by far the most deadly workplaces. From January to November, 3,413 mine accidents occurred, killing 5,286 persons, a decrease of 253 accidents (6.9 percent) and 451 deaths (7.9 percent) from the previous year. SAWS claimed that the rate of 3 deaths per million tons of coal mined was the lowest in the country's history. Coalmine accidents comprised approximately 27 percent of all non-traffic, non-fire-related workplace accidents but accounted for approximately 40 percent of corresponding workplace deaths. Industrial accidents involving chemical leaks also caused numerous deaths and injuries. Enterprise owners and managers sometimes failed to report accidents and health problems. Local officials also often underreported such incidents. As a result, the actual number of workplace deaths and casualties was likely far higher.

The high rate of coal mining accidents highlighted serious enforcement problems in that sector. An October gas explosion in a Henan mine reportedly killed 147 miners. In November, 166 miners were killed in a single accident at a state-owned mine in Shaanxi Province, sparking reportedly violent protests by relatives of miners.

In recent years, the Government has closed tens of thousands of small coalmines, many of them illegal operations. Despite these efforts, many mines reopened illegally soon after closing. Observers attributed the enforcement problem in the coalmining sector primarily to corruption, a need to sustain employment in poor areas where many of the most dangerous mines were located, and the paucity and poor training of inspectors.

Government officials and media have stressed the need to control workplace accidents. In June, Vice Premier Huang Ju called for adopting effective preventive measures to stem industrial accidents. In April, following the blowout of a natural

gas well, which killed 243 and injured more than 4,000 persons, a State Council Executive Committee Meeting chaired by Premier Wen Jiabao accepted the resignation of the general manager of the China National Petroleum Corporation (CNPC). The deputy manager of the CNPC subsidiary, an engineer, drilling team head, drilling technician, and two workers were prosecuted and received prison sentences for their role in the accident.

Fewer than half of rural enterprises met national dust and poison standards. Many factories that used harmful products, such as asbestos, not only failed to protect their workers against the ill effects of such products, but also failed to inform them about the hazards.

Almost 46 million workers participated in the country's work-injury insurance system at the end of 2003, an increase of 1.69 million over the previous year. In recent years, small but growing numbers of workers also began to use lawsuits to pursue work injury and illness claims against employers.

The Work Safety Law provides that employees have the right, after spotting an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts, or reduce the wages or benefits, of any employee who takes such action. There was little information about how this law was applied in practice.

## TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China. The Department of State follows these designations in its reporting. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and the protection of its people's fundamental human rights continue to be of concern.

*Respect for Integrity of the Person.*—The Government's human rights record in Tibetan areas of China remained poor. However, in positive developments, the Government permitted a third visit to the country by the Dalai Lama's representatives and released some political prisoners, including Tibetan Buddhist nun Phuntsog Nyidrol. The Government controlled information about all Tibetan areas, and in addition, strictly controlled access to the TAR, making it difficult to determine accurately the scope of human rights abuses. Authorities continued to commit serious human rights abuses, including extra-judicial killing, torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetans for peacefully expressing their political or religious views. The overall level of repression of religious freedom in the TAR remained high. Conditions generally were less restrictive in Tibetan areas outside of the TAR, although there were some exceptions. Individuals accused of political activism faced ongoing harassment during the year. There were reports of imprisonment and abuse of some nuns and monks accused of political activism. Security was intensified during sensitive anniversaries and festival days in some areas, and activities viewed as vehicles for political dissent, including celebration of some religious festivals, were suppressed. There were reports of small-scale political protests in a number of Tibetan areas.

The lack of independent access to prisoners and prisons made it difficult to ascertain the number of Tibetan political prisoners or to assess the extent and severity of abuses. The Tibet Information Network (TIN) estimated that approximately 145 Tibetans were imprisoned on political grounds, approximately two-thirds of whom were monks or nuns. Approximately 60 political prisoners remained in TAR Prison in Lhasa, most serving sentences on the charge of "counterrevolution," which was dropped from the Criminal Law in 1997. Chinese authorities have stated that acts previously prosecuted as counterrevolutionary crimes continue to be considered crimes under China's anti-subversion laws. TIN's analysis indicated that the majority of Tibetan political prisoners were incarcerated in Lhasa and western Sichuan Province. The overall number of political prisoners in Tibetan areas dropped slightly compared to 2003, according to this analysis, but rose in Tibetan autonomous areas of Sichuan Province in connection with several high-profile cases.

In October, Radio Free Asia (RFA) reported that police in Qinghai's Golog Prefecture shot and killed Tibetan Buddhist religious leader Shetsul after he and other monks demanded that the police pay for medical treatment for injuries suffered while in custody.

In January, RFA reported that authorities in Sichuan's Tawu County, Kardze Prefecture, had arrested students Nyima Dorjee and Lobsang Dorjee for putting up pro-independence posters on local government buildings.

On February 12, Choeden Rinzen, a young monk at Lhasa's Ganden Monastery, reportedly was arrested for possession of a picture of the Dalai Lama and a Tibetan national flag.

In April, RFA reported that authorities in Qinghai's Tsolho Prefecture had arrested Tibetan singer Namkha, as well as composer and Tibetan Buddhist monk Bakocha, for their music's implicit political content. Authorities reportedly confiscated CDs of Namkha and Bakocha's music. Authorities released both individuals in early May.

In May, Chinese state media reported that authorities jailed a Tibetan named Penpa after he admitted to causing a May 20 explosion near a television tower near Lhasa.

In September, RFA reported that authorities in Sichuan's Kardze Prefecture sentenced Tibetan Buddhist monks Chogri and Topden and layman Lobsang Tsering to 3-year jail terms for putting up pro-independence posters. The three were reportedly among a group of 60 individuals detained on July 27 at a reception ceremony at Chogri Monastery in Draggo County, Kardze. Witnesses claimed that police beat some of those detained. It was believed that the other 57 individuals initially detained had been released by year's end.

Also in September, authorities in the TAR's Nagchu Prefecture reportedly arrested Tibetans Dejour, Tsering Dawa, and Datsok after a clash with Chinese workers over a mining project. They reportedly also arrested Tibetans Nyima Tenzen and Sonam Nyidup, who protested the detention by shouting pro-independence slogans in a bar.

On February 24, authorities released Tibetan Buddhist nun Phuntsog Nyidrol from Lhasa's TAR Prison (also known as Drapchi Prison) approximately 1 year before her sentence was due to expire. She had received a 9-year sentence for taking part in a peaceful demonstration in support of the Dalai Lama in 1989. Authorities extended her sentence to 17 years after she and other nuns recorded songs about their devotion to Tibet and the Dalai Lama in 1993 but reduced that sentence by 1 year in 2001. According to Human Rights Watch, following her release, the Chinese government imposed restrictions on Phuntsog Nyidrol's movement and association.

On April 18, authorities reportedly released Tibetan Buddhist monk Ngawang Oezer from TAR Prison upon completion of his 15-year sentence for participating in pro-independence activities at Drepung Monastery.

In August, observers confirmed the release of Kunchok Choephel Labrang and Jigme Jamtruk, two monks from Labrang Tashikyil Monastery, Gansu Province. Authorities reportedly arrested the monks in April 2003 for possessing booklets containing speeches of the Dalai Lama.

In October, authorities released Geshe Sonam Phuntsog, a religious leader from Darge Monastery in Kardze County, Kardze Prefecture, Sichuan Province. Authorities arrested Sonam Phuntsog in 1999 and sentenced him to a 5-year term for "inciting splittism," traveling to India to visit the Dalai Lama, and holding long-life prayer ceremonies for the Dalai Lama.

During the year, authorities did not respond to international calls for an inquiry into the case of Nyima Dragpa. A monk from Nyatso Monastery in Sichuan's Kardze Prefecture, Nyima Dragpa died in custody in October 2003, allegedly from injuries sustained during severe beatings.

On January 15, Yeshe Gyatso, a former member of the Chinese People's Consultative Conference, died at his home in Lhasa at the age of 71. TAR authorities had arrested Yeshe Gyatso in June 2003 on charges of splittism and sentenced him to 6 years' imprisonment but released him in November 2003 in ill health.

Prominent religious leader Tenzin Deleg Rinpoche, arrested in April 2002 for his alleged connection to a series of bombings, remained imprisoned under a death sentence with a 2-year reprieve, although officials indicated to international observers in December that his suspended death sentence would likely be commuted to life in prison in accordance with Chinese law and practice. Tenzin Deleg's former associate, Lobsang Dondrub, was executed on January 26, 2003, for his part in the alleged bombings. Lobsang Dondrub's execution occurred despite Chinese Government assurances that both individuals would be afforded full due process, and that the national-level Supreme People's Court would review their sentences.

Many other political prisoners also remained in prison or detention at year's end, including former Tibet University student Lobsang Tenzin, arrested in 1988 in connection with the death of a policeman during riots in Lhasa and currently serving an 18-year sentence in the TAR's Pome Prison; Tibetan Buddhist monk Jigme Gyatso, arrested in 1996 for founding a Tibetan youth organization and serving a 15-year sentence in Lhasa's TAR Prison; farmers Sonam Dorje and Lhundrub Dorje, arrested in 1992 for unfurling a Tibetan flag and shouting pro-independence slo-

gans, respectively serving 15- and 13-year sentences at TAR Prison; and monks Kalsang Dondrub and Ngawang Dondrub, sentenced in 2003 on charges of “endangering state security” for nonviolent political activities. Chadrel Rinpoche, released in 2002 after 6 years and 6 months in prison for leaking information about the selection of the Panchen Lama, was reportedly still under house arrest near Lhasa. Requests to meet with him by foreign government officials continued to be denied.

As in the rest of China, the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Detainees released in 2003 reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention beatings, and other forms of abuse. Tibetans repatriated to China from Nepal in May 2003 reportedly suffered torture, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Their family members also were pressured for bribes to secure their release. Prisoners were subjected routinely to “political investigation” sessions and were punished if deemed to be insufficiently loyal to the State.

Legal safeguards for Tibetans detained or imprisoned were the same as those in the rest of China and were inadequate in both design and implementation. Most judges had little or no legal training. Authorities worked to address this problem through increased legal education opportunities. According to an official of the TAR Higher People’s Court, all seven cities and prefectures had established legal assistance centers, and 1,248 residents had received assistance by the end of 2003. However, some persons accused of political and other crimes did not have legal representation. Moreover, their trials were cursory and were closed if issues of state security were involved. Under the law, maximum prison sentences for crimes such as “endangering state security” and “splitting the country” were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions perceived to be in support of Tibetan independence, and activities did not have to be violent to be illegal or to draw a heavy sentence.

An unknown number of Tibetans were serving sentences in “reeducation-through-labor” camps and other forms of administrative detention not subject to judicial review. Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. In July, state media reported that authorities had established a new reeducation-through-labor camp in the TAR’s western Ngari Prefecture. The 40,000 square-foot camp reportedly could accommodate 200 inmates.

Prisoners in Tibetan areas were generally subject to the same conditions regarding forced labor as those in other areas of China. Forced labor was used in some prisons, detention centers, reeducation-through-labor facilities, and at work sites where prisoners were used as workers. The law states that prisoners may be required to work up to 12 hours per day, with 1 rest day every 2 weeks, but these regulations often were not enforced.

Family planning policies permitted Tibetans and members of other minority groups to have more children than Han Chinese. Urban Tibetans, including Communist Party members, were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children. These regulations were not strictly enforced.

The Office of the U.N. High Commissioner for Refugees (UNHCR) reported that 2,427 Tibetan new arrivals approached UNHCR in Nepal during the year, of whom 2,338 were found to be “of concern” and of whom 2,318 were provided with basic assistance; the remaining 89 Tibetan new arrivals departed for India without being registered or processed by UNHCR. In August, a TAR tourism official stated that approximately 400 TAR residents had traveled abroad in the first 8 months of the year, an increase over a total of 300 in 2003. Many Tibetans, particularly those from rural areas, continued to report difficulties obtaining passports. The application process was not transparent, and residents of different Tibetan areas reported obstacles ranging from bureaucratic inefficiency and corruption to denials based on the applicant’s political activities or beliefs. Police in China have stated that passport regulations permit them to deny passports to those whose travel will harm the national security and national interests.

Due in part to such difficulties and in part to the difficulty many Chinese citizens of Tibetan ethnicity encountered in obtaining entry visas for India, it was difficult for Tibetans to travel to India for religious and other purposes. The Government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. Nevertheless, thousands of Tibetans from China, including monks and nuns, visited India via third countries and returned to China after temporary stays. In February, RFA reported that the majority of Tibetans who transited Nepal to India were young Tibetans, whose ages ranged from 6 to 30, and that the main reason they migrated was the

lack of Tibetan-language educational facilities and opportunities for religious education.

There were reports of arbitrary detention of persons, particularly monks, returning to China from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought. In January, and again in September, there were reports that the Nepali government cooperated with Chinese authorities to repatriate Tibetans who crossed the border. NGOs reported that some individuals were detained and mistreated upon their return to China. For example, the Tibetan Centre for Human Rights and Democracy stated that when monks Gedun Tsundue and Jamphel Gyatso crossed back into China in February after studying in India, they were detained for 4 months and fined \$545 (RMB 4,500) each. In July, RFA reported that Tibetan Buddhist monks Tenzen Samten and Thubten Samdup remained in detention at Shigatse's Nyari Prison 5 months after being arrested while attempting to cross the border from Nepal into China. According to RFA, the two monks were arrested with two other individuals, Sherab and Nawang Namgyal, in February.

The Government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors (excluding individuals from Hong Kong, Macau, and Taiwan) were required to obtain an official confirmation letter issued by the Chinese Government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. In July, state media announced that foreign tourists would enjoy "unrestricted access to all 70 counties of the TAR." However, TAR authorities were unable to confirm the change, and travelers reported that many restrictions remained in place. Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the authorities. Foreigners could travel freely in most Tibetan areas outside the TAR. In March, authorities lifted restrictions on foreign travel to the last four closed counties in Sichuan's Ngaba Prefecture.

*Freedom of Religion.*—Overall, the level of repression in Tibetan areas remained high and the Government's record of respect for religious freedom remained poor during the year. The Constitution of the People's Republic of China provides for freedom of religious belief, and the Government's May White Paper on "Regional Ethnic Autonomy in Tibet" stated, "Tibetans fully enjoy the freedom of religious belief." However, the Government maintained tight controls on religious practices and places of worship in Tibetan areas. Although the authorities permitted many traditional practices and public manifestations of belief, they promptly and forcibly suppressed activities they viewed as vehicles for political dissent or advocacy of Tibetan independence, such as religious activities venerating the Dalai Lama (which the Chinese government described as "splittist").

The atmosphere for religious freedom varied from region to region. Conditions were generally more relaxed in Tibetan autonomous areas outside the TAR, with the exception of parts of Sichuan's Kardze Tibetan Autonomous Prefecture. Most abbots and monks in Tibetan areas outside the TAR reported that they had greater freedom to worship, to conduct religious training, and to manage the affairs of their monasteries than their coreligionists in the TAR; however, restrictions remained. The Associated Press reported that, in November, Communist officials met with Buddhist leaders in Qinghai Province and warned that the Buddhist leaders would be punished if they failed to win greater support for Beijing's policies toward the exiled Dalai Lama and greater acceptance among their followers for Gyaltzen Norbu, the boy picked by the PRC as the reincarnation of the Panchen Lama, the second most prominent figure in Tibetan Buddhism.

Most Tibetans practiced Tibetan Buddhism and, to a lesser extent, the traditional Tibetan Bon religion. This held true for many Tibetan government officials and Communist Party members. Bon includes beliefs and ceremonies that practitioners believe predate the arrival of Buddhism in Tibet in the 7th century. Approximately 615 Tibetan Buddhist religious figures held positions in local people's congresses and committees of the Chinese People's Political Consultative Conference in the TAR. However, the Government continued to insist that Communist Party members and senior employees adhere to the Party's code of atheism, and routine political training for cadres continued to promote atheism. Government officials confirmed that some Religious Affairs Bureau (RAB) officers were members of the Communist Party and that religious belief is incompatible with Party membership. However, some lower level RAB officials practiced Buddhism.

Security was intensified during the Dalai Lama's birthday, sensitive anniversaries, and festival days in the TAR and in some other Tibetan areas as well. In June, observers reported that students and faculty at Tibet University were re-

strained from participating in religious devotions connected to the Sagadawa festival. The prohibition on celebrating the Dalai Lama's birthday on July 6 continued. In August, some Lhasa residents privately expressed unhappiness with city authorities' plans to fix the date of the Drepung Shodon festival, which traditionally varied according to the Tibetan lunar calendar, on August 18th in order to promote tourism. However, residents were reportedly permitted to carry out observances on the traditional date a week later.

On May 23, the Government issued a White Paper on "Regional Ethnic Autonomy in Tibet," in which it urged the Dalai Lama to drop his "bid for Tibetan independence" and stated "the possibility of instituting another social system does not exist." In September, the Government extended invitations to emissaries of the Dalai Lama to visit Tibetan and other areas of China. The delegation visited Guangdong, Beijing, and Tibetan areas of western Sichuan Province. This marked the third visit of emissaries of the Dalai Lama to China in as many years. In September 2002, Lodi Gyari and Kelsang Gyaltsen, the Dalai Lama's representatives to the United States and Europe respectively, traveled to Beijing, Lhasa, and other cities and met with a number of government officials. These were the first formal contacts between the Dalai Lama's representatives and the Government since 1993. They made a second trip to China in June 2003 to meet with Chinese officials and visited Shanghai, Beijing, and Tibetan areas in Yunnan Province. Additionally, Gyalo Thondup, the Dalai Lama's elder brother, visited in July 2002, making his first trip to the TAR since leaving in 1959 and subsequently has made additional private visits to China. The Government asserted that the door to dialogue and negotiation were open, provided that the Dalai Lama public affirmed that Tibet and Taiwan were inseparable parts of China.

Government officials maintained that possessing or displaying pictures of the Dalai Lama was not illegal. Authorities, however, appeared to view possession of such photos as evidence of separatist sentiment when detaining individuals on political charges. Pictures of the Dalai Lama were not openly displayed in major monasteries and could not be purchased openly in the TAR. In August, TAR Deputy Chairman Wu Jilie told visiting western journalists that not displaying the Dalai Lama's photo was the voluntary choice of most TAR residents. During the year, diplomatic and other observers saw pictures of a number of religious figures, including the Dalai Lama, displayed more widely in Tibetan areas outside the TAR. The Government also continued to ban pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Photos of the "official" Panchen Lama, Gyaltzen Norbu, were not publicly displayed in most places, most likely because most Tibetans refuse to recognize him as the Panchen Lama. In February, RFA reported that authorities had warned Tibetans in two counties of Sichuan's Kardze Prefecture that they would lose their land if they did not surrender pictures of the Dalai Lama. There were no reports that this warning was enforced. However, in Sichuan's Kardze Tibetan Autonomous Prefecture and Litang, authorities reportedly conducted house to house searches in 2003 and confiscated private displays of the Dalai Lama's photo.

The Government's May White Paper stated that the TAR had over 46,000 Tibetan Buddhist monks and nuns and more than 1,700 venues for Tibetan Buddhist activities. Officials have cited almost identical figures since 1996, although the numbers of monks and nuns dropped at many sites as a result of the "patriotic education" campaign and the expulsion from monasteries and nunneries of many monks and nuns who refused to denounce the Dalai Lama or who were found to be "politically unqualified." These numbers represented only the TAR, where the number of monks and nuns was very strictly controlled; approximately 60,000 Tibetan Buddhist monks and nuns lived in Tibetan areas outside the TAR, according to informed estimates.

Government officials closely associated Buddhist monasteries with pro-independence activism in Tibetan areas of China. Spiritual leaders encountered difficulty re-establishing historical monasteries due to lack of funds, general limitations on monastic education, and denials of government permission to build and operate religious institutions, which officials in some areas contended were a drain on local resources and a conduit for political infiltration by the Tibetan exile community. The Government stated that there were no limits on the number of monks in major monasteries, and that each monastery's Democratic Management Committee (DMC) decided independently how many monks the monastery could support. Many of these committees, however, were government-controlled, and, in practice, the Government imposed strict limits on the number of monks in major monasteries, particularly in the TAR. The Government had the right to disapprove any individual's application to take up religious orders; however, the Government did not necessarily exercise this right in practice during the year. Authorities curtailed the traditional practice

of sending young boys to monasteries for religious training by means of regulations that forbade monasteries from accepting individuals under the age of 18. Nevertheless, some monasteries continued to admit younger boys, often delaying their formal registration until the age of 18.

The Government continued to oversee the daily operations of major monasteries. The Government, which did not contribute to the monasteries' operating funds, retained management control of monasteries through the DMCs and local religious affairs bureaus. Regulations restricted leadership of many DMCs to "patriotic and devoted" monks and nuns and specified that the Government must approve all members of the committees. At some monasteries, government officials also sat on the committees.

The quality and availability of high-level religious teachers in the TAR and other Tibetan areas remained inadequate; many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR. In recent years, DMCs at several large monasteries began to use funds generated by the sales of entrance tickets or donated by pilgrims for purposes other than the support of monks engaged in full-time religious study. As a result, some "scholar monks" who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks will be qualified to serve as teachers in the future. While local government officials' attempts to attract tourists to religious sites provided some monasteries with extra income, they also deflected time and energy from religious instruction. There were reports of disagreements between monastic leaders and government officials over visitors, vehicle traffic, and culturally inappropriate construction near monastic sites. However, in July, authorities permitted resumption of the Geshe Lharampa examinations, the highest religious examination in the Gelug sect of Tibetan Buddhism, at Lhasa's Jokhang Temple for the first time in 16 years.

Government officials have stated that the "patriotic education" campaign, which began in 1996 and often consisted of intensive, weeks-long sessions conducted by outside work teams, ended in 2000. However, officials stated openly that monks and nuns continued to undergo political education, likewise known as "patriotic education," on a regular basis, generally less than four times a year, but occasionally more frequently, at their religious sites. Some religious leaders also held local political positions. Since primary responsibility for conducting political education shifted from government officials to monastery leaders, the form, content, and frequency of training at each monastery appeared to vary widely. However, conducting such training remained a requirement and had become a routine part of monastic management.

In January, Khenpo Jigme Phuntsog, the charismatic founder of the Serthar Tibetan Buddhist Institute (also known as Larung Gar) in Sichuan Province's Kardze Prefecture, died while receiving medical treatment in the provincial capital Chengdu. Founded in 1980, the Institute grew to house 10,000 monks and nuns before authorities moved to destroy structures and expel students from the site in 2001, ultimately reducing the population to approximately 4,000. After a year's absence officially attributed to medical treatment, Khenpo Jigme Phuntsog returned to the Institute in 2002. As recently as May 2003, conflicts over attempts to rebuild some structures resulted in arrests and the enforced closure of the Institute to outsiders. After the abbot's death, Sichuan authorities forbade the province's Buddhist monks from attending his funeral; nonetheless, eyewitnesses reported that tens of thousands of Tibetan and Han monks defied the order to pay their respects.

The Karmapa Lama, leader of Tibetan Buddhism's Karma Kagyu sect and one of the most influential religious figures in Tibetan Buddhism, remained in exile following his 1999 flight to India. The Karmapa Lama stated that he fled because of the Government's controls on his movements and its refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his teachers to come to him. Visitors to Tsurphu Monastery, the seat of the Karmapa Lama, noted that the population of monks remained small and the atmosphere remained subdued.

The Government routinely asserted control over the process of finding and educating reincarnate lamas. The Panchen Lama is Tibetan Buddhism's second most prominent figure, after the Dalai Lama. The Government continued to insist that Gyaltzen Norbu, the boy it selected in 1995, is the Panchen Lama's 11th reincarnation. The Government continued to refuse to allow access to Gendun Choekyi Nyima, the boy recognized by the Dalai Lama in 1995 as the 11th Panchen Lama (when he was 6 years old), and his whereabouts were unknown. Government officials have claimed that the boy is under government supervision, at an undisclosed location, for his own protection and attends classes as a "normal schoolboy." All requests from the international community for access to the boy to confirm his well-

being have been refused. While the overwhelming majority of Tibetan Buddhists recognized the boy identified by the Dalai Lama as the Panchen Lama, Tibetan monks claimed that they were forced to sign statements pledging allegiance to the boy the Government selected. The Communist Party also urged its members to support the "official" Panchen Lama. Gyaltzen Norbu made his third highly orchestrated visit to Tibetan areas in summer 2004, and his public appearances were marked by a heavy security presence.

Similarly, the child the Government approved as the seventh reincarnation of Reting Rinpoche was not accepted by many of the monks at Reting Monastery in 2000 because the Dalai Lama did not recognize his selection. The Pawo Rinpoche, who was recognized by the Karmapa Lama in 1994, lived under strict government supervision at Nenang Monastery. In 2001, NGOs reported that he was denied access to his religious tutors and required to attend a regular Chinese school.

In July, Tibetan and Chinese intellectuals succeeded in their petition drive to prevent Han Chinese sportsman Zhang Jian from swimming across Lake Namtso in the TAR, which many Tibetan Buddhists hold sacred.

In its May White Paper, the Government claimed that since 1949 it had contributed approximately \$36 million (RMB 300 million) to renovate and open over 1,400 monasteries and to repair cultural relics, many of which were destroyed before and during the Cultural Revolution. In the same document, the Government claimed to have allocated an additional \$40 million (RMB 330 million) since 2001 for the second phase of the renovation of the Potala Palace, as well as the renovation of the Norbulingka Palace (another former residence of the Dalai Lama in Lhasa) and Sakya Monastery, the seat of the Sakya sect of Tibetan Buddhism in rural southern TAR. Despite these and other efforts, many monasteries destroyed during the Cultural Revolution were never rebuilt or repaired, and others remained only partially repaired. Government funding of restoration efforts ostensibly supported the practice of religion, but also promoted the development of tourism in Tibetan areas. Most recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects during the year.

*Economic Development and Protection of Cultural Heritage.*—The TAR is one of China's poorest regions, and Tibetans are one of the poorest groups; malnutrition among Tibetan children continued to be widespread in many areas of the TAR. The Central Government and other provinces of China heavily subsidized the TAR economy, which, according to official government statistics, grew by an average annual rate of more than 10 percent for the last decade. Over 90 percent of the TAR's budget came from outside sources, and residents of the TAR benefited from a wide variety of favorable economic and tax policies. Tibetan autonomous areas outside the TAR benefited to varying degrees from similar favorable policies. Government development policies helped raise the living standards of most Tibetans, particularly by providing better transportation and communications facilities. However, Han Chinese benefited disproportionately from the Government's development policies in Tibetan areas.

In June, state media reported that Tibetans and other minority ethnic groups made up 78 percent of all government employees in the TAR. However, Han Chinese continued to hold key positions, including Party Secretary of the TAR. A similar situation continued to pertain to areas outside the TAR.

Some Tibetans reported that they experienced discrimination in employment for some urban occupations and claimed Han were hired preferentially for many jobs and received greater pay for the same work. This situation was partially attributed to Han contractors' practice of hiring through connections in their home cities. In recent years, some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. The widespread use of the Chinese language in urban areas and many businesses limited employment opportunities for Tibetans who did not speak Chinese.

Fundamental worker rights recognized by the International Labor Organization, including the right to organize and the right to bargain collectively, which were broadly denied in the rest of China, were also denied in Tibetan areas.

According to China's 2000 census, the population of Tibetans in the TAR was 2,427,168. The population of Tibetans in autonomous prefectures and counties outside the TAR was 2,927,372. Tibetans made up 94 percent of the population of the TAR. Government-sponsored development and the prospect of new economic opportunities attracted migrant workers from China's large transient population to the region, resulting in a net increase in the non-Tibetan share of the population (chiefly China's Muslim Hui minority and Han Chinese) from approximately 4 percent in 1990 to 6 percent in 2000. However, census figures did not include a large number of long-term Han Chinese residents, such as cadres, skilled workers, unskilled labor-

ers, military and paramilitary troops, and their dependents. In Tibetan areas outside the TAR, Tibetans increased their majority share as natural population growth outpaced net migration by non-Tibetans. Migrants to the TAR were overwhelmingly concentrated in cities and towns, while Tibetans continued to make up nearly 98 percent of the population in rural areas. One official estimate put the number of Han Chinese residents in Lhasa at 100,000 out of a total population of 409,500, while many observers estimated that more than half of Lhasa's population was Han Chinese. Small businesses run by Han Chinese and Hui migrants—mostly restaurants and retail shops—predominated in cities throughout the Tibetan areas.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other Central Government policies initiated in 1994 and re-emphasized and expanded at the “Fourth Tibet Work Conference” in 2001, including the Qinghai-Tibet railroad, would continue to promote a considerable influx of Han Chinese, Hui, and other ethnic groups into the TAR. They feared that the TAR's traditional culture and Tibetan demographic dominance would be overwhelmed by such migration.

Rapid economic growth, the expanding tourism industry and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. In Lhasa, the Chinese cultural presence was obvious and widespread. Residents lacked the right to play a role in protecting their cultural heritage.

In February, an audiotape smuggled out of China, purportedly made by Tibetan workers, alleged that Chinese authorities were mishandling the renovation of the Potala Palace in Lhasa by making culturally inappropriate architectural decisions. In September, Lhasa Deputy Mayor Ou Guoxiang announced a project to give Lhasa a more traditional “Tibetan look” by renovating buildings along the main streets of the building. Ou stated that the project had been conceived in response to concerns about Lhasa's urban development plans raised during the June-July 2003 UNESCO World Heritage Committee meeting.

Both Tibetan and Chinese are official languages in the TAR, and both languages were used on public and commercial signs. However, the Chinese language was spoken widely, and Chinese was used for most commercial and official communications. The dominant position of the Chinese language in government, commerce, and academia left many young Tibetans seeking to get ahead with little choice but to use Chinese rather than Tibetan.

Official government media reports in 2003 stated that 92 percent of eligible students in the TAR attended primary school and 61 percent attended middle school and that 80 percent of the counties in the TAR had instituted 6-year compulsory education and 17 percent had 9-year compulsory education. However, in practice, many pupils in rural and nomadic areas received only 1 to 3 years of schooling. Official statistics put the illiteracy rate for young and middle-aged TAR residents at 37 percent, but some observers believed it to be much higher in some areas.

The Government has established a comprehensive national Tibetan-language curriculum, and many elementary schools in Tibetan areas used Tibetan as the primary language of instruction. However, Tibetan students were also required to study Chinese language, Chinese was generally used to teach certain subjects, such as arithmetic, and Han Chinese students in Tibetan areas generally had the option to attend exclusively Chinese-medium schools. In middle and high schools—even some officially designated as “Tibetan” schools—teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught many classes in Chinese. As a practical matter, proficiency in Chinese was essential to receive a higher education. China's most prestigious universities provided instruction only in Chinese, while the lower-ranked universities established to serve ethnic minorities allowed study of only some subjects in Tibetan. In general, opportunities to study at Tibetan-medium schools were greater in the TAR, while opportunities to study at privately funded Tibetan-language schools and to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activities on campus. The Government controlled curricula, texts, and other course materials.

There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, as in the rest of China, women were underrepresented at the provincial and prefectural levels of government.

Prostitution was a growing problem in Tibetan areas, as it was elsewhere in the country. Hundreds of brothels operated semi-openly in Lhasa. Up to 10,000 commercial sex workers may have been employed in Lhasa alone. Some of the prostitution

occurred at sites owned by the Party, the Government, and the military. Most prostitutes in the TAR were Han Chinese women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made an increase in the rate of HIV infection likely.

The TAR Tourism Bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials have stated that all tour guides working in the TAR were required to seek employment with the Tourism Bureau and to pass a licensing exam on tourism and political ideology. The Government's stated intent was to ensure that all tour guides provide visitors with the Government's position opposing Tibetan independence and the activities of the Dalai Lama. The Tourist Bureau's monopoly did not extend to Tibetan areas outside the TAR, and some tour guides educated abroad reportedly moved to those areas to seek employment.

The Tibetan-language services of Voice of America and RFA, as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by Chinese authorities as their Chinese-language services. However, Tibetans were able to listen to the broadcasts at least some of the time. Unlike in 2003, there were no reports during the year that Tibetans were subject to intimidation and fines for listening to foreign-language broadcasts.

In February, the Tibet Information Network reported that TAR authorities had banned Tibetan author Oser's book, "Notes on Tibet," for its politically "sensitive" content.

In March, RFA reported that authorities had instituted political education activities at Lhasa-based TV-3 for airing a program that showed the Tibetan national flag. The station director reportedly was demoted.

Although the Government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

## HONG KONG

Hong Kong is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong, and the Basic Law, the SAR's constitution approved by the PRC in 1990, specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. This autonomy under the "one country, two systems" formula in effect since 1997 has been tested severely this year. The Basic Law provides for the protection of fundamental rights and calls for progress toward universal suffrage and further democratization after a 10-year period, starting with Hong Kong's July 1, 1997, reversion to Chinese sovereignty. The Chief Executive is chosen by a selection committee composed of 800 directly elected, indirectly elected, or appointed individuals. The Chief Executive appoints and supervises a cabinet of principal officers. The Basic Law significantly circumscribes the power of the legislature, the Legislative Council (Legco). In September 12 elections, voters directly elected 30 members of the Legco from geographic constituencies and indirectly elected 30 from functional or occupational constituencies. Despite isolated allegations of voter intimidation prior to the election and some irregularities on election day, the voting was considered free and fair. Majorities are required in both the geographic and the functional constituencies to pass legislation introduced by individual legislators. Members may not initiate legislation involving public expenditure, political structure, government operations, or government policy. The judiciary is independent, and the Basic Law vests Hong Kong's highest court with the power of final adjudication. Under the Basic Law, however, the Standing Committee of the PRC's National People's Congress (NPC) has the power of final interpretation of the Basic Law.

An effective police force under the firm control of civilian authorities maintained public order. The Independent Police Complaints Council, made up of public members appointed by the Chief Executive, monitored and reviewed the work of an office that investigated public complaints against the police. The 4,000 Chinese troops sent to Hong Kong in 1997 to replace the British military garrison have maintained a low profile and have not performed or interfered in police functions.

Hong Kong's free market economy is an international trade, shipping, and finance center as well as a principal platform for trade and investment with the PRC. The

economy grew 7.5 percent during the year, with no inflation. Per capita gross domestic product was approximately \$23,000. The population was approximately 6.8 million.

The Government generally respected the human rights of residents, and the law and judiciary provided effective means of dealing with individual instances of abuse. In April, the Standing Committee of the NPC ruled out universal suffrage in the next elections for Chief Executive in 2007 and Legco in 2008. This was an initiative of the central authorities that cut short local debate and raised questions about the PRC's willingness to permit Hong Kong to operate with a high degree of autonomy. Human rights problems included: Limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies; allegations of intimidation of journalists and other media figures; violence and discrimination against women; discrimination against ethnic minorities; restrictions on workers' rights to organize and bargain collectively; and trafficking in persons for the purposes of forced labor and prostitution.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivations of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law forbids torture and other abuse by the police. There were allegations of assault by police officers during the year. Disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process. The Complaints Against Police Office (CAPO) investigates allegations of excessive use of force and the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the Chief Executive, monitors and reviews their work.

During the first half of the year, CAPO received 218 allegations of assault by police officers against persons in custody and 130 allegations of assault against persons not in custody, out of a total of 21,562 arrests. Of the 218 allegations of assault by police officers against persons in custody, 107 case investigations were completed and endorsed by the IPCC, and none were substantiated: 79 were withdrawn, 22 were deemed "not pursuable," 4 were judged to be false, 1 was judged "no fault," and 1 was judged "unsubstantiated." The remaining 111 cases were pending as of June 30. Of the 130 allegations of assault against persons not in custody, 62 case investigations were completed and endorsed by the IPCC, and none were substantiated: 45 were withdrawn, 13 were deemed "not pursuable," 1 was judged to be false, and 3 were judged "unsubstantiated." The remaining 68 cases were pending as of June 30. In response to concerns about the police being responsible for investigating their own misconduct, the Government drafted a bill to provide a statutory basis for the IPCC, which would allow it to set up its own secretariat, receive funding to hire its own permanent staff, and initiate investigations.

Prison conditions generally met international standards. Men and women were housed separately, juveniles were housed separately from adults, and pretrial detainees were held separately from convicted prisoners. For the first 6 months of the year, the average occupancy rate for Hong Kong's 24 prisons was 114 percent. Overcrowding was most serious in maximum security prisons, which operated at an average occupancy rate of 136 percent. The Government continued to address the problem of prison overcrowding by remodeling existing buildings to provide space for additional prisoners and redistributing the prison population. In addition, the Immigration Department expected its new Detention Center in Tuen Mun, due to be completed in 2005, to hold 400 additional people and eliminate the need to put immigration offenders in prison or other correctional facilities.

The Government permitted prison visits by human rights observers. Local justices of the peace regularly inspected prisons, and, as a standard procedure, these visits were unannounced.

*d. Arbitrary Arrest or Detention.*—Common law, legal precedent, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention, and the Government generally observed these provisions in practice. Suspects must be charged within 48 hours or released. During the year, the average length of pre conviction incarceration did not exceed 48 days.

The police force is led by a uniformed Police Commissioner who reports to the Secretary for Security—a member of the Chief Executive's Cabinet. The force had 28,695 officers and was divided into 5 departments with both headquarters and re-

gional formations. Corruption was not a significant problem within the force. Police officers are subject to disciplinary review by CAPO and IPCC in cases of alleged misconduct (*see* Section 1.c.).

*e. Denial of Fair Public Trial.*—The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary, underpinned by the Basic Law's provision that Hong Kong's common law tradition be maintained, generally provided citizens with a fair and efficient judicial process. Under the Basic Law, the courts may interpret those provisions of the Basic Law that address matters within the limits of the SAR's high degree of autonomy. The courts also interpret provisions of the Basic Law that touch on PRC central government responsibilities or on the relationship between the central authorities and the SAR, but before making final judgments on these matters, which are unappealable, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the NPC. The Basic Law requires the courts to follow the Standing Committee's interpretation of Basic Law provisions. Judgments previously rendered are not affected. The NPC's mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The Chief Executive, the President of the Legislative Council, and the Chief Justice nominate the Hong Kong members. Human rights and lawyers' organizations have expressed concern that this process, which circumvents the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts' authority. In the controversial 1999 "right of abode" case (concerning the right of certain persons to reside in Hong Kong), the Government, after losing the case in the Court of Final Appeals, sought a reinterpretation of relevant Basic Law provisions from the NPC. There have been no such appeals of court decisions to the NPC since 1999.

The Court of Final Appeal is the SAR's supreme judicial body. An independent commission nominates judges. The Chief Executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The Basic Law provides that, with the exception of the Chief Justice and the Chief Judge of the High Court, who are prohibited from residing outside of Hong Kong, foreigners may serve on the courts. In 2004, approximately 23 percent of judges and judicial officers were expatriates. Judges have security of tenure until retirement age (either 60 or 65, depending on the date of appointment).

Under the Court of Final Appeal is the High Court, composed of the Court of Appeal and the Court of First Instance. Lower judicial bodies include the District Court, which has limited jurisdiction in civil and criminal matters; the magistrates' courts, which exercise jurisdiction over a wide range of criminal offenses; the Coroner's Court; the Juvenile Court; the Lands Tribunal; the Labor Tribunal; the Small Claims Tribunal; and the Obscene Articles Tribunal.

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials are by jury except at the magistrate court level. The judiciary provides citizens with a fair and efficient judicial process.

Under prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that commensurate with his official income or controls monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this practice.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of the courts' reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years, the Government has developed a bilingual legal system. It has increased the number of officers in the Legal Aid Department proficient in spoken Cantonese and written Chinese and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with the English and Chinese texts being equally authentic. All courts and tribunals may operate in either Cantonese or English. Judges, witnesses, the parties themselves, and legal representatives each may decide which language to use at any point in the proceedings.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the Government generally respected these prohibitions in practice. Interception of communications is conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps require authorization from the Chief Executive for

interception operations, but a court issued warrant is not required. The Government did not reveal the number of wiretaps and mail interceptions the Chief Executive authorized.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), works to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner. Some Government departments are exempted to combat social welfare abuse and tax evasion. Violations of the PDPO can be either criminal or civil offenses. Between June 2003 and June 2004, the PCO investigated 1,109 complaints of suspected breaches of the ordinance, completing action on 1,047. The PCO found violations of the PDPO in 26 of these cases, with none resulting in prosecution. The PCO found insufficient evidence to prosecute in 243 of the cases, while the remaining cases were resolved, rejected, or withdrawn after preliminary inquiries.

The PDPO is not applicable to PRC government organs in Hong Kong. At year's end, the Government was still considering whether it should be made applicable to PRC bodies. Under certain exemptions for purposes related to safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime, Hong Kong authorities may be allowed to transfer personal data to a PRC body.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. During the year, allegations of intimidation by pro-Beijing groups and individuals prior to the September elections raised questions about these rights. Most Hong Kong media outlets are owned by businesses with interests on the mainland, making them vulnerable to self-censorship.

In February and March, the PRC media and local pro-PRC newspapers ran a series of articles defining patriotism in Hong Kong. The debate started with an article in the PRC-owned China Daily citing former Chinese leader Deng Xiaoping's statement that "only patriots should govern Hong Kong" and relating this criterion to the political debate over universal suffrage in Hong Kong. The PRC media later published guidelines for patriotic actions, and a local pro-PRC paper printed the names of those in Hong Kong perceived to be "unpatriotic." In the midst of the debate, Jiang Zemin, former president and then Chairman of the Chinese Central Military Commission accused Hong Kong's independent Apple Daily newspaper and two radio hosts of being "hostile forces," according to the local East Week magazine.

In May, two popular radio talk show hosts known for their antigovernment and anti-PRC rhetoric abruptly left their shows due to alleged intimidation. The two asserted that a man claiming to represent senior Beijing officials asked them to stop broadcasting until after the September election. Police questioned the man but made no arrest. A third talk show host received a phone call from a retired mid-level PRC official, which he perceived as a threat to his family. Subsequently, the PRC caller stated publicly that he had no intention of threatening the talk show host. In September, one of the talk show hosts was elected to the Legco, and, in October, another became host of a local television show. At year's end, the government investigations into these allegations continued.

In July, the Independent Commission Against Corruption (ICAC) raided seven newspapers with a warrant to seize documents related to a corruption case. ICAC staff also searched the homes of some journalists. The raided newspapers included pro-PRC, independent, and pro-democracy newspapers. In August, the Court of First Instance ruled ICAC's search warrant was "wrong in fact and in law." On October 11, the Court of Appeal dismissed ICAC's appeal on technical grounds but said that ICAC had acted lawfully. The Hong Kong Journalists' Association, Hong Kong Federation of Journalists, News Executives' Association, and the Newspaper Society all issued statements condemning the raids as violating freedom of the press. The acting head of ICAC said the agency respects the freedom of the press, but that it had to strike a balance between press freedom and the administration of justice.

The Telecommunications Ordinance gives the Government wide ranging powers to ban messages when it "considers that the public interest so requires." In practice, the Government has never invoked this law.

The Basic Law's Article 23 requires the Government to enact legislation prohibiting treason, secession, sedition, subversion against the Central People's Government, theft of state secrets, and links with foreign political organizations that are harmful to national security. In 2003, proposed legislation met with active and widespread public opposition. The Government withdrew the bill and stated publicly that it had no plans to reintroduce the legislation.

Individuals criticized the Government publicly and privately without reprisal, and many persons spoke freely to the media and used the media to voice their views. Political debate was vigorous. Varying viewpoints, including stories and opinions critical of the SAR and PRC Governments and statements by leading Chinese dissidents and pro-independence Taiwan activists, were carried by the mass media, in public forums, and by political groups.

During the year, newspapers published a wide variety of opinions, including some sharply critical of the NPC's decision ruling out universal suffrage in 2007 and 2008. Newspapers also carried opinions on sensitive topics such as Taiwan, Tibet, PRC leadership dynamics, Communist Party corruption, and human rights. There were 16 daily newspapers, all privately owned in name although 4 were supported financially—and guided editorially—by the PRC (Wen Wei Po, Ta Kung Pao, the Hong Kong Commercial Daily, and the China Daily). The non-PRC-owned newspapers, hundreds of periodicals, four commercial television stations (broadcast and cable), and two commercial radio stations operated freely.

The Government-owned Radio Television Hong Kong continued to enjoy the editorial independence granted to it in its framework agreement between the Government and the station's Director of Broadcasting.

International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

There were no restrictions on the use of the Internet.

The Basic Law provides for academic freedom, and the Government generally respected that freedom in practice. There was independent research, a wide range of opinions, and lively debate on campuses. On July 12, the Legco passed a bill requiring publicly funded schools operated by voluntary bodies to set up school management committees including parents and teachers by 2012. The Anglican and Catholic Churches feared that these new rules could dilute their authority to manage the schools they sponsor.

*b. Freedom of Peaceful Assembly and Association.*—The Basic Law provides for freedom of assembly and the Government generally respected this right in practice. The Government routinely issued the required permits for public meetings and demonstrations.

Under the law, demonstration organizers must notify the police of their intention to demonstrate 1 week in advance. The police accept shorter notice if groups can satisfy the Commissioner of Police that earlier notice could not have been given for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must explicitly object within 48 hours. No reply indicates no objection. The Public Order Ordinance, which pre-dates the 1997 handover and which empowers police to object to demonstrations on national security grounds, has never been invoked. If the police object, demonstration organizers may appeal to a statutory appeals board comprising members from different sectors of society. Both the board's proceedings and the police's exercise of power are subject to judicial review.

During the first half of the year, there were about 1,075 public meetings and processions, roughly half of which required notification. The police did not object to any demonstrations in the first half of the year.

On January 1, about 100,000 people rallied in support of universal suffrage and greater democracy with chants of "return power to the people" and "one man, one vote." On July 1, 200,000 to 400,000 people marched through central Hong Kong again in support of universal suffrage and greater democracy. These events were legally sanctioned and peaceful.

In addition to holding assemblies and marches on Hong Kong related issues, groups continued to demonstrate freely on issues sensitive to the central authorities. On June 4, approximately 50,000 to 80,000 people attended a candlelight vigil to commemorate the 15th anniversary of the 1989 massacre in Beijing's Tiananmen Square.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the PRC. In November, the Court of Appeal overturned the 2002 convictions of 16 Falun Gong practitioners who had been fined for obstructing the Central Government Liaison Office. The court upheld convictions against some of the Falun Gong practitioners for obstructing and assaulting policemen during their protest. The ruling affirmed that "fundamental freedoms" of assembly, demonstration, and expression were protected under the Basic Law.

The Basic Law provides for freedom of association, and the Government generally respected this right in practice. Since the 1997 handover, no applications for registration have been denied. During the first half of the year, the Societies Licensing Office of the police registered 974 new organizations.

The Societies Ordinance requires that new societies apply for registration within 1 month of establishment. The Government may refuse registration in the interest of national security, public safety, public order, or the protection of the rights and freedom of others. The Government also may refuse to register a political body that receives support from a foreign political organization or a Taiwan-based political organization. There have been no public reports that the Government has refused registrations under the Societies Ordinance this year.

*c. Freedom of Religion.*—The Basic Law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination, and the Government generally respected these provisions in practice.

Religious groups are not required to register with the Government and are exempt specifically from the Societies Ordinance. Catholics freely and openly recognized the Pope as the head of the Church, and the Vatican maintained a Diocese in the SAR overseen by a local Bishop. According to the Basic Law, the PRC Government has no authority over religious practices in the SAR.

Some groups, such as the Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as “qigong” groups) that do not consider themselves religions, have registered under the Societies Ordinance. In July, a Falun Gong practitioner claimed that the group had submitted 72 applications to rent a government venue for its 2001 and 2002 conferences but was told each time that the venues were already booked. According to the Falun Gong practitioner, the group later discovered that, on the relevant dates, one of the requested venues was empty. Similarly, a private hotel canceled a Falun Gong banquet room booking because of the group’s “terrorist risk.” According to press reports, Falun Gong successfully sued the hotel in small claims court.

During April and May, the Government barred 41 Falun Gong practitioners from entering the SAR for “security reasons.” Most of the practitioners were attempting to attend Falun Gong’s annual conference at a privately owned facility. Approximately 350 practitioners were granted entry to attend the conference of approximately 700 persons.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.*—The Basic Law provides residents freedom of movement within Hong Kong, freedom of emigration, and freedom to enter and leave the territory, and the Government generally respected these rights in practice, with some prominent exceptions. Most residents obtained travel documents freely and easily from the SAR Government. There were limits on travel to the mainland imposed by the PRC Government.

As was the case before the handover, the Government does not recognize the Taiwan passport as valid for visa endorsement purposes.

The law does not provide for, and the Government did not use, forced exile.

The Government continued to deny some prominent overseas dissidents entry or visas to enter Hong Kong. In April, 12 Falun Gong practitioners from Taiwan and Macau were barred from entering Hong Kong for what officials described as “security reasons” (see Section 2.c.). In May, the Government denied a request to allow two 1989 Tiananmen Square student leaders to enter the SAR to participate in a conference focused on the Tiananmen Square massacre. Earlier in the year, other Tiananmen Square student leaders had been allowed to enter to engage in uncontroversial activities.

PRC authorities do not permit some Hong Kong human rights activists and pro-democracy legislators to visit the mainland. During the year, however, there were several prominent exceptions. In April, three pro-democracy Legco members traveled to Shenzhen to meet with the Deputy Chief of NPC Legislative Affairs Commission. In July, a political activist filmmaker was permitted to visit Shanghai, and, in September, his PRC-issued entry and exit permit was renewed for 10 years. In August, PRC officials denied entry to a prominent Democratic Party leader but later said this had been a bureaucratic mistake. And on September 30, nine newly elected lawmakers from the pro-democracy coalition went to Beijing to attend National Day celebrations.

The 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol do not extend to Hong Kong, and the SAR eliminated its temporary protection policy, which was extended only to Vietnamese in 1998. On a case-by-case basis, the Director of Immigration has discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need, but the Immigration Ordinance does not provide foreigners any right to have asylum claims recognized. The Government practice is to refer refugee and asylum claimants to a lawyer or to the office of the U.N. High Commissioner for Refugees (UNHCR). Those granted refugee sta-

tus, as well as those awaiting UNHCR assessment of their status, receive a UNHCR subsistence allowance but are not allowed to seek employment or enroll their children in local schools. The UNHCR worked with potential host country representatives to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those who arrive from the mainland, as promptly as possible. During the first half of the year, 1,683 illegal PRC immigrants were repatriated to the mainland.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Residents' right to change their government is limited by the Basic Law, which provides for the selection of the Chief Executive by an 800-person selection committee (composed of individuals who are either directly elected, indirectly elected, or appointed), the direct election of only 30 of the 60 Legislative Council members, and the inclusion of appointed members to the elected district councils. The approval of the Chief Executive, two-thirds of the legislature, and two thirds of Hong Kong's National People's Congress delegates is required to place an amendment to the Basic Law originating in Hong Kong on the agenda of the PRC's National People's Congress, which has the sole power to amend the Basic Law.

The Government is authorized to exercise a high degree of autonomy and to enjoy executive, legislative, and independent judicial power. It contains an executive branch staffed by a professional and independent civil service, and a two-tiered legislative branch consisting of the Legislative Council and 18 district councils. The Basic Law provides for selection of a Chief Executive in 1997 and 2002 by the Election Committee made up of 800 local residents.

The Basic Law permits amendment of the Chief Executive selection process by a two-thirds majority of the Legislative Council, with the consent of the Chief Executive and the National People's Congress Standing Committee. The Basic Law states that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." Similarly, the Basic Law states that the "ultimate aim is the election of all the members of the Legislative Council by universal suffrage."

In April, the NPC Standing Committee issued a self-initiated interpretation of the Basic Law cutting short local debate and rejecting universal suffrage for Hong Kong in the 2007 and 2008 elections. The NPC also determined that the current 50–50 ratio for directly elected geographic seats and indirectly elected functional constituency seats in Legco must remain indefinitely in place. In addition, the NPC narrowed the circumstances in which Legco members would be permitted to initiate legislation. The NPC decision left room for amendments to the election processes, albeit strictly within the limits dictated by the NPC Standing Committee. During the year, a Task Force on Constitutional Development solicited local views on selecting the Chief Executive and the Legco in 2007 and 2008 in line with the NPC's determination. In December, the Task Force issued a report, which included, among other ideas: Expanding the Election Committee size from 800 to between 1,200 and 1,600 and broadening its representation; broadening the representation and size of the group, currently about 163,500 voters, that selects Election Committee members; and increasing the number of seats in the Legco from 60 to between 70 and 80, while maintaining the balance between geographic and functional constituencies. The Chief Secretary, who heads the Government's civil service, said that the proposals made clear that the people expect the Government to move eventually toward the goal of universal suffrage.

In September, Legislative Council members were elected to 4-year terms; 30 members were elected directly from geographic districts through universal suffrage, and 30 from functional or occupational constituencies. Candidates who considered themselves democracy advocates won 18 of the 30 seats elected on a geographic basis and 25 seats overall. There were 199,539 persons eligible to vote in the functional constituencies.

Prior to the September elections, several newspapers reported that some pro-PRC companies and organizations were demanding that staff use their mobile phone cameras to photograph their ballots. In response to these allegations, which pro-PRC candidates denied, the Electoral Commission banned mobile phone cameras in the polling booths and removed booth curtains so that polling officials could view booth activity. No incidents of ballot photographing were reported.

The Government was criticized for not having enough ballot boxes at the polls on Election Day. Ballot box shortages forced some polling stations to close temporarily and caused long lines and delays. There were accusations that some election officials opened sealed ballot boxes in order to make room for additional ballots. Premature opening of ballot boxes is considered a violation of international election standards.

There were no accusations of ballot tampering connected with the incidents, and it was generally believed that there was no systematic effort to illegally alter the outcome of the election. The Electoral Affairs Commission conducted an investigation and issued a report in December stating that a ballot box design flaw led to the problems but that the integrity of the election was not affected.

The Electoral Affairs Commission received more than 1,600 complaints on Election Day—up from 1,427 complaints during the 2000 election. Approximately 25 percent involved complaints about the nuisance caused by candidates' loudspeakers, advertisements, and telephone canvassing. Election guidelines call for campaign-free zones outside the polling stations, specify how advertisements should be prepared, recommend that advertisements carry the name and address of the publisher, and require all statements to be factually accurate. Approximately 10 percent of the complaints were about voting arrangements, such as long lines and the shortage of ballot boxes. There were six complaints of bribery and one complaint of coercion. The Electoral Affairs Commission promised to investigate thoroughly all complaints. Meanwhile, the ICAC received and is working on 87 complaints regarding the election—up slightly from 2000.

The Basic Law substantially limits the ability of the legislature to influence policy by requiring separate majorities among members elected from geographical and functional constituencies to pass a bill introduced by an individual member. Another Basic Law provision prohibits the Legislative Council from putting forward bills that affect public expenditure, political structure, or government operations. Bills that affect government policy cannot be introduced without the Chief Executive's written consent. The Government has adopted a very broad definition of "government policy" in order to block private member bills, and the President of the Legislative Council has upheld the Government's position.

The Executive Council (Exco) functions as the Chief Executive's cabinet. Exco includes 11 political appointees who run the 11 policy bureaus, and the Chief Secretary, Financial Secretary, and Justice Secretary, who are also political appointees. These 14 members are chosen by the Chief Executive and approved by the PRC Government. The Exco also includes members of two political parties, a labor leader, and two other private citizens, also appointed by the Chief Executive.

District Councils are responsible for advising the Government on matters affecting: (1) the well being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the Chief Executive authority to appoint 102 out of 529 of the District Councilors, and he exercises this power in practice.

Hong Kong sends 36 delegates to the PRC's National People's Congress (NPC). In 2002, Hong Kong's NPC delegates were elected to a 5-year term by an NPC-appointed committee of 955 residents. Politicians and human rights activists criticized the election process as undemocratic and lacking transparency. In September, for the first time in Hong Kong's history, two local NPC delegates won directly elected seats in the Legco. One NPC delegate lost his bid for a directly elected Legco seat.

The Government vigorously and with apparent success combated official corruption through the Prevention of Bribery Ordinance and the Independent Commission Against Corruption.

The law provides for access to government information, and, in practice, such information was provided to both citizens and non-citizens with exceptions that are narrowly defined and could be appealed.

Women hold 11 of the 60 Legislative Council seats (the same number as in the previous Legislative Council) and made up between 17 and 23 percent of membership in the major political parties. The President of the previous Legislative Council was a woman, as are the heads of several government departments. More than one-third of civil servants were women, and 2 of the 15 most senior Government officials were women.

There were no ethnic minorities in the Legislative Council, but there were a number of ethnic minorities in senior civil service positions.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. These organizations had unrestricted contacts with the local community and with groups overseas. Government officials were generally receptive to, and respectful of, their views. Prominent human rights activists critical of the PRC also operated freely and maintained permanent resident status in Hong Kong, but overseas dissidents sometimes had difficulty gaining entry to the SAR.

Under the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights apply to Hong Kong. The PRC Government transmits Hong Kong's reports, mandated under these covenants, without editing, to the U.N. The SAR Government and several domestic NGOs have testified before several U.N. human rights committees, including the U. N. Human Rights Commission in Geneva. The hearings, including the Commission's concerns, have received widespread and balanced press coverage.

The Office of the Ombudsman has wide powers to investigate and report on public grievances stemming from administrative actions of the executive branch and other designated public bodies. The Ombudsman may protect complainants when publishing investigative reports. In addition to responding to public complaints, the Ombudsman also initiates investigations. The Ombudsman has the option of reporting directly to the Chief Executive if organizations refuse to act upon his recommendations, or if the violations are considered serious. The Chief Executive is bound by law to present such reports to the legislature. The Ombudsman (Amendment) Ordinance, passed in 2001, strengthened the independence of the Ombudsman by delinking the office from government systems and processes. It empowers the office to set terms and conditions of appointment for staff and to manage its own financial and administrative matters.

The Ombudsman does not have oversight authority over the police, the Independent Commission Against Corruption, or the Office of the Privacy Commissioner for Personal Data, although it may investigate complaints of noncompliance with the code on access to information by government departments, including the police and the Independent Commission Against Corruption. With regard to election-related complaints, the Ombudsman may investigate only those complaints made against the Registration and Electoral Office, not those made against the Electoral Affairs Commission.

#### *Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The Basic Law provides that all Hong Kong residents are equal before the law. The Bill of Rights Ordinance, which incorporates into law the International Covenant on Civil and Political Rights, entitles residents to the civil and political rights recognized therein "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." The ordinance applies only to the Government, public authorities, and persons acting on their behalf. It does not apply to private persons or entities. Three pieces of anti-discrimination legislation—the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance—make it illegal for any person or entity (public or private) to discriminate on the grounds of sex, marital status, pregnancy, disability, or family status, and prohibits behavior such as sexual harassment, harassment or vilification on the grounds of disability, and discriminatory advertising. The Disability Discrimination Ordinance also protects persons with HIV/AIDS from discrimination, and permits them to take legal action or seek assistance from the Equal Opportunity Commission (EOC) through the formal complaint process.

The EOC was established in 1996 to help eliminate discrimination and to promote equality of opportunity without regard to gender, disability, and family status. In December, the Government appointed the former Privacy Commissioner to a 5-year term as EOC Commissioner.

During the first half of the year, the EOC received 275 complaints, of which 261 required investigation and conciliation. The Commission concluded 381 cases, including cases from previous years. Of these, 168 were discontinued for various reasons, including withdrawal by the complainant, agreement reached before an investigation was completed, and a lack of substance. Of the remaining concluded cases, 114 were successfully conciliated. Legal assistance remains available for unsuccessful complainants.

*Women.*—Local public health officials remain concerned about violence against women, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows a woman to seek a 3 month injunction, extendable to 6 months, against her husband. Domestic violence also may be prosecuted as common assault. The Government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders. During the first half of the year, there were 3,298 cases of domestic violence reported to the Social Welfare Department, which receives reports from the police, social workers, the Health Department, and volunteer organizations.

The Government funded programs such as family life education counseling, a hotline service, temporary housing, legal aid, and child protective services. It also sponsored public education and media programs through the Women's Commission to

promote public awareness and encourages women to seek early professional assistance.

There were 46 cases of rape reported to the police during the first half of the year and 70 in all of 2003. The 2002 Statute Law (Miscellaneous Provisions) Bill criminalizes marital rape. In 2003, the legislature passed an amendment to the Crimes Ordinance expressly clarifying that the term “unlawful sexual intercourse” could be applied both outside and inside the bounds of marriage. During the first half of the year, 492 indecent assault cases were reported to the police.

In April, Amnesty International criticized the Government for failing to take appropriate action prior to the killings of a mother and her two daughters. The police launched an internal investigation after acknowledging that the woman sought help at a police station hours before her husband allegedly killed her. An investigation by the Social Welfare Department determined that the local district government where the killings occurred lacked adequate social services to deal with its expanding population. In November, the Secretary for Health, Welfare and Food announced that more resources would be allocated to tackle the problem of domestic violence.

The number of women seeking help from the crisis center for victims of sexual violence more than tripled from 2001. The center handled 99 cases in the first half of the year. A study released by the center during the year showed that many women were reluctant to come forward, with one in six victims waiting as long as 10 years before reporting an attack.

Prostitution is legal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Hong Kong is a transit and destination point for persons trafficked for the purposes of sexual exploitation (*see* Section 5, Trafficking.).

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. The EOC reported 40 sexual harassment complaints in the first half of the year. In August, the Government agreed to amend the ordinance to extend the definition of sexual harassment in schools in order to prevent sexually hostile environments. The change, proposed by the EOC, would close a loophole that allowed behavior in schools that is banned in the workplace. It covers conduct not specifically directed at a person, such as chanting obscene slogans or displaying posters with sexual content. The changes were proposed in response to allegations of sexual harassment at a Chinese University orientation camp in 2002.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion. A survey released in March found that nearly 80 percent of women workers feel they are the victims of discrimination.

Women entered professional fields, including sciences and engineering, law, teaching, accounting, social sciences, health, and medicine, in growing numbers. As of June, 35.1 percent of professionals employed in these fields were women. About 21 percent of judicial officers and judges were women. In the Legislative Council, women held 11 of the 60 seats. According to a survey released in February, about three-quarters of private companies have women in senior management positions, and women occupied more than a quarter of the senior management posts. Women were still disproportionately represented in the lower echelons of the work force.

The law treats men and women equally in inheritance matters, although women still faced discrimination based on traditional practices, such as in the inheritance of homes in rural areas of the New Territories.

*Children.*—The Government supported children’s rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department provided schooling for children between 6 and 15 years of age and placement services for non-Chinese speaking children. Education is free and compulsory through grade nine. The Government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

The Government provided subsidized, quality medical care for all children who are residents.

In 2003, legislation raised the age of criminal responsibility for children from 7 to 10 years. During the first half of the year, there were 86 youths under the age of 16 who were incarcerated: 19 in prison, 15 in training centers, 25 in detention centers, 25 in rehabilitation centers, and 2 in drug addiction treatment centers.

Statistics on child abuse and exploitation were limited. During the first half of the year, there were 459 child abuse cases reported to the police: 257 involved physical abuse (referring to victims under 14 years of age) and 202 involved sexual abuse (referring to victims under 17 years of age).

In December 2003, the Government enacted the Prevention of Child Pornography Ordinance, which criminalizes the making, production, distribution, publication, advertising, and possession of child pornography. It also prohibits the procurement of children for making pornography, extends the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibits any arrangement or advertising relating to commission of those acts. In May, police used the new law to conduct a sweep of child pornography websites and arrested 18 persons.

The Government provided parent education programs in all 50 of the Department of Health's Maternal and Child Health Centers, which included instruction on child abuse prevention. The Social Welfare Department commissioned research on domestic violence, including child abuse. The police maintained a child abuse investigation unit and a child witness support program. A Child Care Center Law helps prevent unsuitable persons from providing childcare services and facilitates the formation of mutual help childcare groups. There are substantial legal penalties for mistreatment or neglect of minors.

*Trafficking in Persons.*—There is no law prohibiting trafficking in persons. There are various laws and ordinances that allow law enforcement authorities to take action against traffickers. Despite robust efforts by the SAR Government to stop such activities, Hong Kong was a point of transit and destination for persons trafficked for sexual exploitation and forced labor from China and Southeast Asia. It was difficult for the Government to identify trafficking victims from among the larger group of illegal immigrants.

Traffickers have used forged or illegally obtained travel documents to attempt to smuggle persons through the Hong Kong airport. During the first half of the year, authorities intercepted 1,288 forged travel documents and arrested 12 persons for related offenses.

A Hong Kong University study on the trafficking of women for the purposes of prostitution found that from 1990 to 2000, there were 39 cases of women lured to Hong Kong with false promises of legitimate employment who were forced or coerced to work as prostitutes. Large numbers of illegal immigrant women from the mainland voluntarily engaged in prostitution with the reported assistance of organized criminal groups.

Prostitution is legal, but there are laws against some related activities that make prostitution illegal in certain circumstances (*see* Section 5, Women). The authorities combat illegal prostitution by nonresidents through strict immigration controls and by arresting and prosecuting illegal prostitutes and their employers. During the first half of the year, 5,133 nonresident women prostitutes were arrested. Most of those arrested were deported rather than formally charged. The police do not keep statistics on the number of persons arrested who are employers of prostitutes. However, the Crimes Ordinance stipulates that a person who controls another person for purposes of prostitution can, upon conviction and indictment, be imprisoned for 14 years, and a person who knowingly lives wholly or in part on the earnings of prostitution of another can be sentenced to 10 years' imprisonment. During the first half of the year, 41 persons were convicted of these offenses, and, in 2003, 119 people were convicted. The majority of those convicted were sentenced to immediate imprisonment.

During the year, there were no known reports of persons being trafficked into the SAR to work as domestics.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences for up to 14 years for such activities as arranging passage of unauthorized entrants into Hong Kong, assisting unauthorized entrants to remain, using or possessing a forged, false or unlawfully obtained travel document, and aiding and abetting any person to use such a document. The Security Bureau is responsible for combating migrant trafficking and overseeing the police, customs, and immigration departments, which are responsible for enforcing anti-trafficking laws. Law enforcement officials received special training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

The Government provided legal aid to those taking legal action against an employer, and immunity from prosecution for those who assist in the investigation and prosecution of traffickers. The Social Welfare Department and local NGOs also provided an array of social services to victims of trafficking. The Government did not provide funding to foreign or domestic NGOs for services to victims. The Government also tried to prevent trafficking by distributing pamphlets, in a wide range of languages, to workers about their rights.

*Persons With Disabilities.*—Discrimination against physically and mentally disabled persons persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. Also, the Buildings Ordinance was amended in 2003 to update design requirements. However, despite inspections and the occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

The Government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but the last government survey conducted in 2000 estimated that there were approximately 269,500 persons with one or more disabilities, including 225,600 persons with physical disabilities and 52,700 with mental disabilities. According to the survey, of the 269,500 persons with disabilities, 52,500 were employed and 59,700 were considered “economically active,” including small business owners and street vendors. However, a consortium of organizations representing persons with disabilities reported in 2002 that approximately 700,000 residents were disabled, about half of whom were able to work. As of June 30, there were 3,162 persons with disabilities employed as civil servants out of a total civil service work force of 163,101. During the first half of the year, the Labor Department’s Selective Placement Division found jobs for 1,057 of 2,226 disabled job seekers. Approximately 10,400 students out of a school population of 840,000 (1.2 percent) were disabled.

The EOC sponsored a variety of activities to address discrimination against persons with disabilities, including youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and co-sponsoring seminars and research.

*National/Racial/Ethnic Minorities.*—At year’s end, a bill to prohibit racial discrimination in employment, education, provision of goods and services, use and renting of facilities or household properties, consultative and mandatory organizations, lawyers’ apprenticeship practices, and government and public bodies was on the Legco’s agenda for 2004 05.

The Government’s legally non-binding “Code of Practice for Employers,” put into place in 2001 and designed to prevent discrimination, states that race, among other factors, should not be considered when hiring employees. The Government’s Race Relations Unit funded numerous projects promoting racial harmony.

Minorities, who make up approximately 5.1 percent of the population, were well represented in the civil service and many professions. Foreign domestic workers, most of whom are from the Philippines and Indonesia, may be vulnerable to discrimination. An Indonesian Migrant Workers Union was established in 2000 to unite Indonesian domestic helpers throughout Asia to protect members from abuse and exploitation. The organization served the approximately 87,850 Indonesian domestic helpers who worked in the SAR. Similar organizations worked for the interests of Philippine domestic helpers, of whom there were approximately 121,500.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must register under the Trade Unions Ordinance. The basic precondition for registration is a minimum membership of seven persons. The Trade Unions Ordinance does not restrict union membership to a single trade, industry, or occupation and the Government did not discourage or impede the formation of unions. Trade unions were independent of political parties and the Government.

During the first half of the year, 12 new unions were registered, while 3 were deregistered; there were 698 registered trade unions. In 2003, 21.8 percent of the 3,066,800 salaried employees and wage earners belonged to a labor organization.

The Employment Ordinance includes provisions that protect against anti-union discrimination. Violation is a criminal offense with a maximum fine of \$12,800 (HK\$100,000). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The Tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. The Tribunal may award statutory entitlements (for instance, severance pay) and compensation. The maximum amount of compensation is \$19,230 (HK\$150,000). Some labor activists have complained that the Labor Tribunals tended to push conciliation rather than issue orders.

The Basic Law commits the SAR to 41 International Labor Organization (ILO) conventions, and the Government has amended labor legislation and taken administrative measures to comply.

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance permits the cross-industry affiliation of labor union federations and confederations and allows free association with overseas trade unions. Notification of the Labor Department within 1 month of affiliation is required.

*b. The Right to Organize and Bargain Collectively.*—In 1997, the pre-handover Legislative Council passed three laws that greatly expanded the collective bargaining powers of workers, protected them from summary dismissal for union activity, and permitted union activity on company premises and time. Had they not been amended, the new ordinances would have enabled full implementation of ILO Conventions 87, 98, and 154. However, in 1997, after consultation with the Labor Advisory Board, the Provisional Legislature repealed the Employee's Right to Representation, Consultation, and Collective Bargaining Ordinance and the Employment (Amendment) Ordinance, and amended the Trade Union (Amendment) Ordinance. The repeals removed the new legislation's statutory protection against summary dismissal for union activity; the Government asserted that existing law already offered adequate protection against unfair dismissal arising from anti-union discrimination.

The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance removes the legal stipulation of trade unions' right to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the Chief Executive's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In a few trades such as tailoring and carpentry, wage rates were determined collectively in accordance with established trade practices and customs rather than a statutory mechanism, but collective bargaining was not practiced widely. Unions were not powerful enough to force management to engage in collective bargaining. The Government did not engage in collective bargaining with civil servants' unions.

The Workplace Consultation Promotion Unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of nine sectors of the economy included representatives from trade unions, employers, and the Labor Department.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice, most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal.

There were a number of labor stoppages during the year, including a series of strikes by swimming pool lifeguards concerning staff and pay cuts. Chicken wholesalers struck over an avian flu-related ban on imports of mainland origin chicken. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. Although the law does not specifically prohibit forced or compulsory labor by children, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Employment of Children Regulations prohibit employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may work in certain non industrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. During the first half of the year, the Labor Department conducted 57,936 inspections and discovered one violation of the Employment of Children Regulations, resulting in the assessment of \$450 (HK\$3,500) in fines. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to 8 hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit, for persons under 18 years of age, overtime in industrial establishments with employment in dangerous trades.

*e. Acceptable Conditions of Work.*—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage generally provided a decent standard of living for a worker and family. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime.

The minimum wage for foreign domestic workers was approximately \$419 per month (HK\$3,270). The standard workweek was 48 hours, but many domestic work-

ers worked far longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers can be deported if dismissed. During the first half of the year, 48 foreign domestic workers filed suit for maltreatment.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 61,707 inspections of workplaces and issued 983 summonses, resulting in a total of \$1,312,500 (HK\$10,237,900) in fines. Worker safety and health has improved over the years, but serious problems remained, particularly in the construction industry. During the first half of the year, there were 9,820 occupational injuries, of which 3,934 were classified as industrial accidents. There were 10 fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

#### MACAU

Macau, a 13-square-mile enclave on the south China coast, reverted from Portuguese to Chinese administration in 1999. As a Special Administrative Region (SAR) of the People's Republic of China (PRC), Macau enjoys a high degree of autonomy except in defense and foreign affairs, and its citizens have basic freedoms and enjoy legally protected rights. The Basic Law is the SAR's constitution, promulgated by PRC's National People's Congress (NPC) in 1993. The 1987 Sino-Portuguese Joint Declaration and the Basic Law specify that the SAR is to continue to enjoy substantial autonomy and its economic system and way of life are to remain unchanged for the first 50 years under PRC sovereignty. The Government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a preparatory committee composed of 60 SAR and 40 mainland representatives appointed by the NPC. In August, the committee re-elected Edmund Ho to a second term as Chief Executive. The most recent legislative elections were in 2001, when voters elected 10 of the legislature's 27 members in direct elections based on geographical constituencies. Interest groups in functional constituencies elected 10 others, and the Chief Executive appointed the remaining 7 members. There are limits on the types of bills that may be initiated by individual members of the legislature. The judiciary is independent.

The Public Security Police, which was created at the time of the handover through a merger of the various police force branches, has primary responsibility for law enforcement and maintenance of public order. The civilian authorities maintained effective control of the police. The People's Liberation Army maintained a garrison of approximately 800 soldiers in the SAR. According to the Macau Garrison Law, the Chief Executive can call on the garrison to maintain public order, but it has never been used for this purpose. There were no reports that security forces committed human rights abuses.

The market-based economy was fueled by textile and garment exports, infrastructure investment, and construction, along with tourism and gambling. The population was approximately 461,000. The economy grew at an annual rate of 30.5 percent in the first 9 months of the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. These problems included the limited ability of citizens to change their government, limits on the legislature's ability to initiate legislation, and a lack of legal protection for strikes and collective bargaining rights.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

There were no reports of suspicious deaths in custody. The Public Prosecutions Office filed a criminal investigation concerning one of the Judiciary Police officers

involved in the 2002 death of a prisoner in custody. An investigation into the conduct of a second officer was ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these provisions in practice. During the year, there were 21 reports of police brutality, compared with no reports in 2003.

Prison conditions met international standards, and the Government permitted visits by independent human rights observers. As of October, the prison population was 872, almost one-quarter of whom were from the PRC. At year's end, the SAR and the PRC had not reached an agreement on prisoner transfers. Female prisoners were held separately from male prisoners, juveniles were held separately from adults, and pretrial detainees were separated from convicted prisoners.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Civilian authorities, specifically the Secretary for Security, supervised and controlled the police. The Public Security Police was well disciplined. The Commission Against Corruption acted to preclude problems with corruption.

Police must present persons remanded in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within 6 months of an indictment. The estimated average length of pretrial incarceration was 3 to 6 months. Judges often refused bail in cases where sentences could exceed 3 years.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice. According to the Basic Law, the courts have the power of final adjudication in all cases that are within the authority of the SAR. The courts also may rule on matters that are “the responsibility of the Central People's Government or concern the relationship between the central authorities and the [Special Administrative] Region”; however, before making their final judgment (a judgment not subject to appeal), the courts must seek an interpretation of the relevant provisions from the NPC's Standing Committee. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, “shall follow the interpretation of the Standing Committee.” The Standing Committee must consult the NPC's Committee for the Basic Law of the SAR before giving an interpretation of the law. This committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The Chief Executive, the President of the Legislative Assembly, and the President of the Court of Final Appeal nominate the SAR members.

The Basic Law provides for the use of Portuguese, in addition to Chinese, as an official language by executive authorities, the legislature, and the judiciary. The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers and magistrates have hampered development of the legal system. At year's end, there were 105 lawyers in private practice in the SAR, of whom 14 spoke Mandarin and Cantonese and 27 spoke only Cantonese. The Government sponsored a postgraduate training program for magistrates who had received legal training outside of the SAR. The judiciary was relatively inexperienced and lacked locally trained lawyers. The first law school in the SAR opened in the early 1990s.

According to the Basic Law, the Chief Executive appoints judges at all levels, acting on the recommendation of an independent commission, which he appoints. The commission is composed of local judges, lawyers, and “eminent persons.” The Basic Law stipulates that judges must be chosen on the basis of their professional qualifications. Judges may be removed only for criminal acts or an inability to discharge their functions. Except for the Chief Justice, who must be a Chinese citizen with no right of abode elsewhere, judges may be foreigners.

There are four courts: the Primary Court, with general jurisdiction of first instance; the Administrative Court, with jurisdiction of first instance in administrative disputes; the Court of Second Instance; and the Court of Final Appeal.

The law provides for the right to a fair trial, and the judiciary generally enforced this right. By law, trials are open to the public, except when publicity could cause great harm to the dignity of the persons, to public morals, or to the normal development of the trial. A decision to close off a trial must be revoked if those factors cease to exist, and the verdict must always be delivered in public. The Criminal Procedure

Code provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and that witness statements read in court are admissible as evidence." There also are additional restrictions on the granting of bail and suspended sentences in organized crime cases.

The judiciary provides citizens with a fair and efficient judicial process; however, at times, a period of up to a year passed between the filing of a civil case and its scheduled hearing.

A Public Prosecutor General heads the Public Prosecutions Office. It enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that the Public Prosecutions Office's functions must be carried out without interference, and the Government generally respected the law in practice.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. A judge's authorization is required for any official interference in these areas. Any evidence obtained by means of wrongful interference in private life, home, correspondence, or telecommunications without the consent of the concerned person may not be used in court.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. Local law also protects a citizen's right to petition the Government and the legislature.

The print media included eight Chinese-language dailies, three Portuguese-language dailies, one Portuguese-language weekly, and six Chinese-language weeklies. There were three television networks: Two broadcast in Mandarin, and the other included a mix of Portuguese, English, and Cantonese programming. Macau Radio broadcast in both Portuguese and Chinese (Cantonese and Mandarin). Hong Kong and international newspapers were widely available. The dominant newspapers, mainly Chinese-language, supported PRC government positions in their editorial line, while some of the Portuguese-language press published articles critical of mainland policies, such as those regarding Tibet and Falun Gong. The Union for Democracy Development Macau (UDDM), a nongovernmental organization (NGO) headed by pro-democracy legislators, charged that newspapers did not give equal attention to liberal and pro-democracy voices. At least three leading daily newspapers and a leading Hong Kong daily newspaper sold in the SAR provided extensive coverage of pro-democracy activities. The press regularly published articles critical of the Government, with opinion columns often directly criticizing government officials.

Article 23 of the Basic Law obliges the SAR to enact legislation that would forbid any act of treason, secession, sedition, subversion against the PRC Government; theft of state secrets; or links to foreign political organizations harmful to national security. At year's end, the Government had not enacted any such legislation. The Portuguese law dealing with crimes against state security became null and void after the handover, and no new law has replaced it.

There were no government-imposed limits on Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. Under local law, individuals and groups intending to hold peaceful meetings or demonstrations in public places are required to notify the president of the relevant municipal council in writing at least 3 days, but no more than 2 weeks, in advance of the event. No prior authorization is necessary for the event to take place. Local law also provides criminal penalties for government officials who unlawfully impede or attempt to impede the right of assembly and for counter-demonstrators who interfere in meetings or demonstrations.

The law provides for freedom of association, and the Government generally respected this right in practice. The law neither provides for, nor prohibits establishment of, political parties. Under the Societies Ordinance, persons can establish "political organizations." Several such organizations existed, including the pro democracy New Democratic Macau Society, headed by a legislator. Civic associations and candidates' committees may present candidates for geographic and functional constituencies (see Section 3). Article 23 of the Basic Law obliges the SAR to enact laws to prohibit foreign political organizations from establishing ties with domestic political organizations or bodies. At year's end, the Government had not enacted such legislation.

Falun Gong practitioners were allowed to continue their exercises and demonstrations in public parks.

*c. Freedom of Religion.*—The Basic Law provides for freedom of conscience and religious belief as well as freedom to preach and to conduct and participate in religious activities, and the Government generally respected these rights in practice. The Freedom of Religion Ordinance provides for freedom of religion, privacy of religious belief, freedom of religious assembly, freedom to hold religious processions, and freedom of religious education. There is no state religion.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Approximately 100,000 residents held Portuguese European Union passports, and an increasing number held SAR passports that allowed visa-free entry to many countries, including EU member states. Most residents also held special permits that allowed travel to and from the mainland. There was a separate pass for travel to and from Hong Kong.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government granted refugee status or asylum and provided protection against refoulement, the return of persons to a country where they feared prosecution. The Migration Department cooperated with the U.N. High Commissioner for Refugees in handling refugees. As of November, there were no refugee cases.

In 2002, the SAR enacted the Internal Security Legal Framework, which allows the Government to refuse entry or expel any nonresident considered inadmissible or constituting a threat to internal security, or suspected of having a relationship with transnational crime or terrorism. During the year, no person was refused entry based on suspicion of having a connection to terrorism; 131 persons were refused entry based on suspicion of having a relationship with transnational crime; and 4,465 persons were refused entry for internal security reasons, primarily for violations of immigration law.

During the year, 317 illegal migrants and 4,660 overstayers were returned to the mainland.

The Basic Law prohibits forced exile by guaranteeing the right of permanent residents to leave and enter the SAR, and the Government respected the law.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Basic Law restricts citizens' ability to change their government. The Government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a 100-member preparatory committee, composed of 60 SAR and 40 mainland representatives appointed by the NPC.

An election law enacted in April expanded the number of election committee members from 200 to 300, but it did not otherwise move the SAR closer to universal suffrage. A pro-democracy legislator refused a seat on the election committee after his efforts failed to widen further its membership.

In August, Chief Executive Edmund Ho was re-elected to a second 5-year term with 296 of the 300 election committee votes.

The Legislative Assembly, elected in 2001, is composed of 27 members: 10 elected directly from geographical constituencies; 10 elected indirectly by local community interests such as business, labor, professional, welfare, cultural, educational, and sports associations; and 7 appointed by the Chief Executive. Legislative elections are held every 4 years, and the Basic Law stipulates that the number of legislators is to increase gradually in subsequent elections. After 2009, the rules regarding the Assembly's composition may be altered by a two thirds majority of the total membership and with the approval of the Chief Executive, who has veto power. The Basic Law does not provide for universal suffrage or for direct election of either the legislature or the Chief Executive.

There are limits on the types of legislation that legislators may introduce. The Basic Law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the Government. Bills relating to government policies must receive the Chief Executive's written approval before they are submitted.

A 10-member Executive Council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

In 2000, the legislature passed a law reconstituting the pre handover High Commission Against Corruption as the Commission Against Corruption (CAC). The CAC

investigates public-sector corruption and has the power to arrest and detain suspects. From January to October, the CAC received 804 complaints against public officials in a variety of agencies. The CAC opened 68 files, of which 67 were criminal cases and 1 was an administrative grievance. The CAC transferred eight cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the CAC received no complaints from January through October.

The executive branch published online, in both Chinese and Portuguese, an extensive amount of information including laws, regulations, ordinances, government policies and procedures, and biographies of government officials. The Government also issued a daily press release on topics of public concern. However, the information provided by the legislature was less extensive. For example, it did not publish a legislative agenda or a list of pending bills.

Five of the 27 Legislative Assembly members (3 directly elected, 1 indirectly elected, and 1 appointed), including the President of the Assembly, were women. Women held a number of senior positions throughout the Government (*see* Section 5).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic human rights groups functioned without government restriction, investigating and publishing their findings on human rights. Local human rights groups, such as the Macau Association for the Rights of Laborers and the New Democratic Macau Association, continued to operate.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion, ideological belief, educational level, economic status, or social condition, and the Government effectively enforced the law. In addition, many local laws carry specific prohibitions against discrimination. For example, under the law that establishes the general framework for the educational system, access to education is stipulated for all residents regardless of race, religious belief, or political or ideological convictions.

*Women.*—The Government effectively enforced criminal statutes prohibiting domestic violence and prosecuted violators. Domestic violence is punishable by 1 to 15 years in prison. In the case of spousal abuse and violence against minors, the penalty is 2 to 8 years' imprisonment, and 5 to 15 years if the abuse leads to the death of the victim.

The Government provided hospital treatment for victims of abuse, and medical social workers counseled victims and informed them about social welfare services. The Government may provide victims of domestic violence with public housing until their complaints are resolved, but it did not reserve facilities expressly for this purpose.

Private and religious groups sponsored programs for victims of domestic violence, and the Government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and furnishing advice regarding legal actions against the perpetrators. A family counseling service was available to persons who requested such services at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence. From January to October, 13 cases of spousal abuse and 10 cases of family violence were reported to the Social Welfare Institute. The law on rape covers spousal rape. From January to October, there were 13 reported rapes.

Prostitution is legal, but procuring is not. Trafficking in persons also is illegal, and there were cases of trafficking in women for the purposes of prostitution (*see* Section 5, Trafficking).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general.

Equal opportunity legislation applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. There were no cases alleging sexual discrimination during the year.

Women held a number of senior positions in the Government. The Chairperson of the Legislative Assembly, the Secretary for Justice and Administration on the Ex-

ecutive Council, and the Commissioner for Audit were women. In September, 7 women were among 10 newly appointed judges and public prosecutors. Women also have become more active and visible in business. However, wage discrimination occurred in certain sectors of the job market, notably construction.

*Children.*—The Government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens. For example, the Criminal Code provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring that involves minors.

School attendance is compulsory for all children between ages 5 and 15. Basic education was provided in government-run schools and subsidized private schools, and it covered the preprimary year, primary education, and general secondary school education. The Education Department provided assistance to families that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed that only a few children were affected by this exclusion. The Government provided free medical care for all children. Child abuse and exploitation were not widespread problems. From January to October, seven cases of child abuse were reported to the Social Welfare Institute. During the same period, 120 cases of offenses against the physical integrity of minors, including 10 cases of family violence, were reported to the Office for Security Coordination. From January to October, the Government received two reports of rape of minors and five reports of sexual abuse of minors.

*Trafficking in Persons.*—The Law on Organized Crime makes trafficking in persons a crime punishable by 2 to 8 years in prison, and the Government effectively enforced the law. The law increases this penalty by one-third (within minimum and maximum limits) if the victim is under 18 years of age. If the victim is under 14 years of age, the penalty is increased by 5 to 15 years. If the trafficker rapes the victim, the two offenses are treated as different crimes.

Prostitution is not a crime, but living off the proceeds of prostitution is illegal. Prostitutes primarily were from Russia, mainland China, and Vietnam. While most were believed to be witting participants in the commercial sex industry, 17 women complained of being brought to the SAR under false pretenses and 5 complaints of abuse.

There were no government assistance programs in place for victims of trafficking. There were no local NGOs specifically dealing with the problem of trafficking; however, there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

*Persons With Disabilities.*—There were no reports of discrimination against persons with disabilities in employment, education, or provision of state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

The Social Welfare Institute provided financial and rehabilitation assistance to persons with disabilities, and it helped fund 24 rehabilitation facilities and 11 rehabilitation associations. These services included day centers, preschool training and education centers, vocational training and employment centers, and rehabilitation bus service. Other special programs helped persons with physical and mental disabilities gain better access to employment, education, and public facilities. For facilities that received financial support, approximately 80 percent of their income came from the Government. In 2003, the Government provided approximately \$3.3 million (25.4 million patacas) in subsidies to such facilities and programs. During the year, 37 NGOs provided services for persons with disabilities and received regular assistance from the Social Welfare Institute and subsidies from other governmental departments. During the 2003–04 school year, 14 schools had programs for persons with disabilities and provided special education programs for 724 students with disabilities.

The law mandates accessibility for persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings, and pavements. The Government's Social Security fund may grant subsidies for the elimination of architectural barriers to facilitate access by persons with a physical or behavioral disability. Many sidewalks and public buildings have been modified to comply with the law.

*National/Racial/Ethnic Minorities.*—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the Government generally respected the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise approximately 2 percent of the population). Although Portuguese officials no longer dominated the civil service, the government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spo-

ken by approximately 2 percent of the population. The Chinese language has official status and the use of Chinese in the civil service has grown in recent years.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to form and join unions of their choice without previous authorization or excessive requirement, and the Government generally respected this right in practice. The Basic Law stipulates that international labor conventions that applied before the handover are to remain in force and are implemented through the laws of the SAR. The UDDM has expressed concern that local law contains no explicit provisions that bar discrimination against unions. The law also specifically excludes public servants and migrant workers from labor law protections.

Nearly all private sector unions were part of the pro China Federation of Trade Unions (FTU), and they tended to stress the importance of stability and minimum disruption of the work force. The UDDM and some local journalists claimed that the FTU was more interested in providing social and recreational services than in addressing trade union issues such as wages, benefits, and working conditions. At year's end, there were 173 registered independent trade unions, including 3 new unions that registered during the year. All classes of workers have the right to join a union. At year's end, approximately 79 percent of public sector employees were members of a union. There was no data on private sector unionization.

*b. The Right to Organize and Bargain Collectively.*—The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining; however, the Government did not impede or discourage collective bargaining. Market forces determined wages. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than workplace issues. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from the mainland and the Philippines. Pro-PRC unions traditionally have not attempted to engage in collective bargaining.

There is no specific protection in local law from retribution if workers exercise their right to strike. The Government has argued that striking employees are protected from retaliation by labor law provisions that require an employer to have "justified cause" to dismiss an employee, and the Government generally enforced these provisions. Strikes, rallies, and demonstrations are not permitted in the vicinity of the Chief Executive's office, the Legislative Assembly, and other key government buildings. There were no reports of labor protests, strikes, or work stoppages during the year.

Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions are applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. The Labor Department Inspectorate did not conduct inspections specifically aimed at enforcing child labor laws, but it would issue summonses when such violations were discovered in the course of other workplace inspections. No violations of child labor laws were reported during the year.

*e. Acceptable Conditions of Work.*—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there is no mandatory minimum wage. Average wages provided a decent standard of living for a worker and family. There were no publicly administered social security programs, but some large companies provided private welfare and security packages.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every 7 days of work, workers frequently agreed to work

overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers on request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. During the year, the Labor Department inspectorate conducted 1,835 inspections and uncovered 2,761 violations carrying fines worth \$191,000 (1.479 million patacas). There were two work related deaths during the first half of the year. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.

Migrant workers, primarily from the PRC, made up approximately 9 percent of the work force. They often received less than local residents for performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to labor-importing companies for purchasing their jobs. They had no collective bargaining rights and no legal recourse in the case of unfair dismissal.

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## TAIWAN

Taiwan is a multiparty democracy. The 2000 victory of Democratic Progressive Party (DPP) presidential candidate Chen Shui-bian followed more than 50 years of rule by the Kuomintang (KMT) and marked the first transition from one political party to another in Taiwan's history. President Chen was re-elected with 50.1 percent of the popular vote on March 20. The campaign was marred by a shooting incident in which President Chen and his running mate Vice-President Annette Lu were slightly wounded the day before the vote. The opposition protested the result. The elections generally were regarded as free and fair. Under the 1947 Constitution, the president appoints the premier, who heads the Executive Yuan or Cabinet. Constitutional amendments adopted in 1997 provided the Legislative Yuan (LY) with the authority to dismiss the Cabinet with a no-confidence vote. On December 11, a pro-opposition coalition made up of the KMT and the People First Party won 114 seats in the 225-seat LY in free and fair elections. The DPP and the generally pro-government Taiwan Solidarity Union won 101 seats. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, and the Government respected the judiciary's independence in practice.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau (CIB), and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies were under effective civilian control. The police occasionally committed human rights abuses.

Taiwan has an export-oriented, free-market economy. Liberalization of the economy has to some extent diminished the dominant role that state-owned and party-run enterprises previously played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. Services and capital- and technology-intensive industries were the most important sectors. Services account for two-thirds of economic output, manufacturing almost a third, and agriculture less than 2 percent. Major exports included computers, electronic equipment, machinery, and textiles. The 23 million citizens generally enjoyed a high standard of living and an equitable income distribution.

The authorities generally respected the human rights of citizens; however, there were problems in some areas. Instances of police abuse of persons in custody, official corruption, violence and discrimination against women, child prostitution and abuse, and trafficking in women and children occurred.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Code of Criminal Procedure stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, there were credible reports that police occasionally physically abused persons in their custody.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (*see* Section 1.d.). The MOJ claimed that each interrogation is audiotaped or videotaped and that any allegation of mistreatment is investigated. Nonetheless, lawyers and legal scholars noted that abuses most often occurred in local police stations where interrogations were not recorded and when attorneys often were not present. Beginning in September 2003, in addition to audiotaping or videotaping interrogation sessions, the presence of two police officers was required at every session. If the presence of two officers could not be secured, the interrogation report must note this and the reason why. As of October 2003, 695 of 1,912 interrogation rooms were fully equipped with audio recorders and video cameras. The remaining 1,217 interrogation rooms were scheduled to be equipped with audio/video equipment over the next few years. The NPA instructed that all construction planning for police stations include audio/video interrogation rooms and itemized costs for these facilities in their short-, medium-, and long-term budget proposals. Since September 2003, the Criminal Code provides that criminal charges must be based on legally obtained evidence and that confessions, whether by defendants or accomplices, unsupported by other evidence shall not be sufficient to convict defendants; confessions alleged to be illegally obtained must be investigated before proceeding to other evidence.

Law enforcement agencies remained weak in scientific investigative skills; however, the NPA continued efforts to upgrade its crime laboratory technology and train crime scene examiners.

The NPA stated that regulations forbid abuse of suspects and that police who abuse suspects are punished. Detainees who are abused physically have the right to sue the police, and confessions obtained through torture are inadmissible in court proceedings. According to the Government, there were no such cases during the year.

Although the primary responsibility for investigating torture and mistreatment lies with prosecutors, the Control Yuan, a coequal branch of the political system that investigates official misconduct, also investigates such cases. According to the Government, instilling respect for human rights was a part of basic police training, and, in recent years, the Central Police University, the Taiwan Police College, and police departments strengthened human rights and legal education in the student curriculums and personnel training. Human rights groups acknowledged the improvements.

Corporal punishment is forbidden under military law, and the Ministry of National Defense implemented several programs in recent years to address the problem. In 2002, a law was passed establishing committees for the protection and promotion of servicemen's rights and interests. Nonetheless, in November 2003, in the LY opposition legislators raised incidents of military hazing. The Premier said that the Government would investigate these cases and promised more actively to ensure the protection of human rights in the military. An August Control Yuan report stated that the number of servicemen who had died while on duty had decreased from 408 in 1995 to 180 in 2002. Statistics on the specific causes of death were not available.

Prison conditions generally met international standards. Male prisoners were segregated from female prisoners, juveniles from adults, and pretrial detainees from convicted prisoners. However, overcrowding at the 47 prisons and overly long stays at detention centers for illegal aliens remained problems. Recent NPA initiatives reduced the average stay at detention centers for illegal aliens from 78 days in 2001 to 46.5 days in 2003. According to the MOJ, from July 2002 to July 2003 prison overcrowding increased from 2,321 to 5,018 inmates, or from 4.4 to 9.6 percent. Expansion and construction projects to counter overcrowding were underway, and as of June, prisons were 3,834 inmates over capacity or 7.3 percent.

The authorities permitted prison visits by human rights monitors.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the authorities generally observed this prohibition. Police legally may detain without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more, when there is ample reason to believe the person may flee. Police may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect, the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. If the prosecutor rejects the application for a warrant, the police must release the detainee immediately. Indicted persons may be released on bail at judicial discretion.

The NPA of the MOI has administrative jurisdiction for all police units. City mayor and country magistrates appoint city and county police commissioners from among candidates recommended by the NPA. The mayors and magistrates are responsible for maintaining order and assessing the performances of the police commissioners in their jurisdictions. Observers believed that an historical and cultural tradition of corruption hindered police effectiveness. The December 2003 Police Duty Act provides police officers with guidelines for evaluating “probable cause.” Human rights advocates complained that the law does not address all of their concerns, and they remained concerned about police corruption despite the Government’s reforms.

By law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also apply to detention during trial. If a crime is punishable by less than 10 years’ imprisonment, then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During a second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within 3 months of indictment.

The Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respected a detainee’s request to have a lawyer present during the investigation phase. When a detainee requests legal counsel, police must wait at least 4 hours for a lawyer before proceeding with an interrogation. Although the law requires that indigent persons be provided legal counsel during trials, it does not provide for legal counsel during interrogations. However, revisions to the Code of Criminal Procedures, which the NPA began implementing in September 2003, provided additional protection to indigent persons during interrogations. The revised Code requires that confessions from interrogations conducted in the evenings generally not be used as evidence; that allegations that a confession was obtained illegally be investigated before it be used in a trial (*see* Section 1.c.); that, with the exception of urgent circumstances when such equipment is unavailable, interrogations be audiotaped or videotaped; and that when written reports of interrogations are in conflict with evidence in audiotapes and videotapes the contradictory interrogation not be used as evidence. However, some human rights advocates continued to complain that the rules did not provide adequate protection since suspects often did not have legal representation during police interrogation. In addition, informed observers reported that the “public defense counsels” did not appear until the final argument of a trial and that they seldom spent adequate time discussing the case with their clients. In response to this complaint, beginning in February 2003, courts were allowed to appoint private attorneys or public defense counsels to detainees. The courts require, in a first trial, that counsels interview a detainee at least once before each hearing and, in an appeal, whenever the detainee requests an interview.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. Although the Government has made efforts to eliminate corruption and to diminish political influence in recent years, residual problems remained.

The JY has taken several measures to reduce political influence on judges. An independent committee using secret ballots decides judicial appointments and promotions. Judicial decisions no longer are subject to review by presiding judges, except in the case of decisions by “assistant judges.” The judges themselves decide upon distribution of cases. Finally, judges and the President of the JY are prohibited from taking part in political activities. In January 2003, six nongovernmental organizations (NGOs), including academics, human rights activists, and legal experts, founded a 15-member committee to monitor the grand justices nomination process. During the year, the committee continued to monitor the performance of individual grand justices.

The Government’s anti-corruption campaign reinforced the JY’s efforts to eliminate judicial corruption. Although the JY was still coordinating a proposed code of judicial conduct with legal experts and other government agencies; the proposals resulted in revised precepts for evaluation of judicial performance and strengthened reviews of judges’ financial disclosure reports. In addition, a human rights course was part of the JY training program. These factors reduced the incidence of judicial misconduct; however, there continued to be complaints of corruption on the part of individual judges. In August, the MOJ established a special task force to examine

corruption charges against judicial personnel and announced that 10 senior officials were under investigation.

The JY is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 15-member Council of Grand Justices, which interprets the Constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. The Administrative Court also provides judicial review.

The law provides the right of fair public trial, and this generally was respected in practice. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, a single judge interrogates parties and witnesses not a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is 3 or more years' imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial but usually were not present during police interrogations. Although the Government took measures to strengthen the effectiveness of defense representation, some human rights lawyers argued that more improvements were necessary (*see* Section 1.d.). The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. In July, the Council of Grand Justices ruled it was unconstitutional to allow the confessions of accomplices to be used as the only evidence to convict a defendant.

In 2002, criminal procedure legislation made judges impartial adjudicators of lawsuits rather than law enforcers for the Government obligated personally to help gather evidence for prosecutors. The revision, which elevates the status of judges' over that of prosecutors, requires prosecutors to bear the full responsibility for investigations and charges them with the duty of convincing the judge of the guilt of the accused.

On November 4, the High Court rejected an opposition lawsuit contesting the March presidential election and upheld President Chen's victory (*see* Section 3). Chen's lawyer was quoted to say, "we must all believe and respect the independence of the justice system." The defeated candidate vowed to appeal and termed the court's ruling the "darkest day in the history of Taiwan's judiciary."

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution and the Criminal and Civil Codes contain provisions protecting privacy. The Code of Criminal Procedure requires prosecutors to obtain judicial approval of search warrants, except when "incidental to arrest" or when there are concerns that evidence may be destroyed. However, critics claimed that the incidental to arrest provision not only is unconstitutional but also often is interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate that a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A police officer who carries out an illegal search may be sued for illegal entry and sentenced to up to 1 year in prison.

In 2001, the Council of Grand Justices ruled that the Police Administration Law (PAL), which had been used to give police wide discretion in searching persons in public places and stopping vehicles for inspections, did not entitle police to make such searches unless a clear risk to public safety had been established. Noting that such searches could infringe on freedom of movement, privacy, and the right to property, the Council instructed the NPA to revise the PAL in accordance with its ruling immediately. The revision to the PAL was passed by the LY in June 2003, and the Government started implementing it in December 2003. The revised law clearly stipulates the limitation of police authority and allows citizens to demand compensation for illegal practices by the police.

The Telecommunications Protection and Control Law imposes severe penalties for unauthorized wiretapping. The Telecommunications Law and the Code of Criminal Procedure provide that judicial and security authorities may file a written request

to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime, and the MOJ and the police used wiretapping as an investigative tool. According to the MOJ, in the past 2 years the number of approved wiretaps have increased from approximately 10,000 in 2002 to 13,834 in 2003 and to 10,707 during the first 7 months of the year. Officials attributed the increase to investigations into alleged vote-buying cases during local and national elections. The law also regulates wiretapping by the intelligence services.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice and did not restrict academic freedom.

Print media represented the full spectrum of views within society. However, some political influence still persisted with respect to the electronic media, particularly broadcast television. The existence of approximately 100 cable television stations, some of which carry programming openly critical of the various political parties, mitigated the importance of this influence. Moreover, in December 2003, the LY approved legislation that bars the Government, political parties, and political party officials from owning or running media organizations. The Government and the parties are required to divest themselves of stakes in all television and radio broadcast companies within 2 years. Government and party officials who serve as board members or hold managerial positions in media companies were obligated to sever their media ties within 6 months. The legislation also mandates the formation of a National Communications Commission (NCC) to replace the Government Information Office (GIO) in overseeing the operations of the broadcast media. The NCC is expected to begin operations in 2005. By the end of 2003, all government offices and many politicians had complied with the new legislation, and during the year government and party officials no longer held positions in the media. However, opposition officials accused the Government of using its advertising spending to influence media coverage of the news and to promote ruling party candidates in the national elections.

Nevertheless, some scholars and opposition party officials have alleged that the Government exercises too much power and influence through the GIO's authority to regulate programming and the radio and television licensing process. During the year, the GIO continued to implement a broadcasting reorganization plan that will restructure public-owned radio networks and reorganize the distribution of frequencies. The reorganization requires several KMT-controlled broadcasting companies, particularly the Broadcasting Corporation of China (BCC), to return some existing frequencies to the Government for redistribution in the media market. The BCC has the largest number of frequencies in Taiwan and had agreed in 1992 to return 14 frequencies used to block radio broadcasting from mainland China.

Controls over radio stations were more limited than those over television stations and gradually were being liberalized. In a June report to the LY, the Ministry of Transportation and Communications said it had fined more than 300 unlicensed radio stations fines totaling more than \$590,000 (NT\$20 million). In July, the GIO introduced a plan to ease the process for underground stations to register with the government in an effort to legitimize underground stations throughout the island.

There is a vigorous and active free press. Some have asserted that the market is unable to support its large broadcasting and print media industry, and that their financially precarious existence made many media enterprises reliant on government advertising revenue and government-controlled banks loans and hence reluctant to go to far in criticizing the Government. The Government denied charges of media manipulations and asserted that it has minimal direct control over the advertisement market. According to the GIO, the government's advertising budget was approximately \$30 million (NT\$1 billion) during the fiscal year, which accounted for about 4 percent of the \$735–880 million (NT\$25–30 billion) advertising market. In 2002, the Government raided the offices of Next Magazine and confiscated 160,000 copies of an issue containing an article about \$100 million (NT\$3.5 billion) in secret funds established by former President Lee Teng-hui and used as well by the current administration for diplomatic missions and policy initiatives. The Taiwan High Court Prosecutor's Office charged a reporter at the magazine with breaching national security. The case is still pending and has not been brought to trial, but the reporter is actively employed as a journalist by a daily newspaper. In July 2003, the Taiwan High Court sentenced a former journalist who reported the details of a military exercise in 2000 to 18 months in prison and 3 years probation. The accused appealed the decision, and in August, the Taiwan High Court reduced his prison term to 1 year and suspended the sentence for 3 years. The police may seize violent or pornographic material based on the offences against morals and public

order provisions of the Criminal Code and the Child and Adolescent Sexual Prevention Statue. The police must request search warrants from prosecutors to conduct such seizures.

The GIO required that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication and still sought to ban the importation of publications that advocated communism or the establishment of united front organizations, endangered public order or good morals, or violated regulations or laws. Nevertheless, a wide variety of China-origin material was readily accessible to Taiwan readers through the Internet. Beginning in July 2003, the GIO eliminated the requirement that China-origin material be converted to traditional characters before being published in Taiwan. However, cable television systems are still required to send imported material to the GIO for screening and to convert the subtitles to traditional characters before broadcasting.

The quality of news reporting was erratic, and, at times, the media trampled on individuals' right to privacy. The media often taped and aired police interrogations and entered hospital rooms when the patient was unable to prevent this.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the authorities generally respected this right in practice. Permits required for outdoor public meetings were granted routinely. The National Security Law gives the Government the authority to prevent demonstrations advocating communism or the division of the national territory. However, demonstrations advocating independence have taken place without government interference.

Opposition political parties sponsored a series of demonstrations to protest the March presidential election and to demand a recount. On April 1, the Taipei city police rejected a request to hold demonstrations every Sunday from April 3 to May 20 in front of the presidential palace and at another location. The police explained that the applicants had not demonstrated an urgent need to hold such demonstrations in front of the presidential palace and the police were concerned about the security of the site noting difficulties the police had encountered clearing demonstrators from the site on March 27. On April 10, tens of thousands of persons participated in an opposition-sponsored demonstration near the presidential palace. Late in the day, after most of the participants and the principal opposition figures had left the site, the rally turned violent toppling scaffolding and police barricades, stoning a police station, and attacking journalists. Police eventually pushed the demonstration out of the site, detaining an estimated 10 persons. The police announced that 86 police officers, 55 demonstrators, and 17 journalists suffered minor injuries. Opposition politicians alleged excessive police use of force, television coverage for the most part showed demonstrators using violent tactics.

The Constitution provides for freedom of association; and the authorities generally respected this right in practice. The Civic Organization Law requires all civic organizations to register. Registration was granted routinely.

Under the Civic Organization Law, the Constitutional Court holds the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the authorities generally respected this right in practice. Religious organizations may register with the central authorities through their island-wide associations under the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations; however, registration is not mandatory.

Registered organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many chose not to register and operated as the personal property of their leaders. In the past, concern over abuse of tax-free privileges or other financial misdeeds occasionally prompted the authorities to deny registration to new religions whose doctrines were not clear, but there were no reports that the authorities sought to suppress new religions during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The authorities did not restrict freedom of internal travel. Foreign travel by passport holders was common.

Nonresident passport holders usually were issued "overseas Chinese" passports and must seek entry permits for travel to Taiwan. According to the National Security Law, entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for

entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during the year. Holders of non-resident passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1987, the authorities have relaxed substantially strictures against tourism by residents to the Chinese mainland, and such travel was common. Although the LY enacted legislation to remove restrictions that were previously in existence for national security reasons and to permit Chinese from the mainland to visit for business, academic, or tourism purposes, many mainlanders were refused visas because they could not convince an immigration officer that they would not abandon their residence on the mainland to become economic migrants to Taiwan. In March, a new regulation requires mainland Chinese spouses applying for a national identification card to pass a security clearance by a panel of officials (*see* Section 5).

All travelers from the mainland are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council (MAC). Regulations governing visits by mainland tourists, which took effect in 2003 state that mainland tourists are not allowed to change their itineraries after arriving in Taiwan, must travel in a group, stay at designated hotels, and return to their hotel rooms by 10 p.m. In addition, travel agencies responsible for arranging the visits are required to deposit a guarantee of \$29,000 (NT \$1 million), which is confiscated if any of the tourists are involved in any legal problems or are reported missing. There are also restrictions on mainland visitors who come to Taiwan for family and business purposes. They are required to report their location to the police on a regular basis and cannot seek employment in Taiwan. The authorities permit People's Republic of China (PRC) correspondents to be posted to the island for up to 1 month per visit. According to the MAC, four PRC media agencies took advantage of this to cover news in Taiwan. In July, the MAC announced it would allow a fifth mainland Chinese news service to station two of its correspondents in Taiwan. During the first 6 months of the year, 2,166 PRC scholars, 1,079 artists, and 636 journalists visited Taiwan to participate in cross-strait exchanges.

At year's end, a draft asylum law was under review in the Executive Yuan. The draft law excludes persons from the PRC, Hong Kong, and Macau. These persons are subject to the Mainland Relations Act (MRA). While the authorities were reluctant to return to the mainland those who might suffer political persecution, they regularly deported to the mainland, under provisions of the MRA, mainlanders who illegally entered the island for what are assumed to be economic reasons. During the year, two PRC democracy activists entered Taiwan illegally presumably in hopes of seeking asylum in a third country. They have been placed in detention centers for illegal mainland immigrants.

Some detention centers for illegal immigrants continued to be overcrowded, and detainees complained about long stays at the centers while waiting to be repatriated. The NPA continued to improve its facilities and provided human rights training for detention center personnel. The average stay at detention centers for non-PRC illegal aliens was reduced from 78 days in 2001 to 55 days in 2002. During the year, the average stay was 60 days. The Bureau of Entry and Exit faulted mainland Chinese authorities for delays in repatriation. The average stay of PRC illegal aliens was 172 days. In the first 6 months of the year, the authorities arrested 1,181 PRC illegal aliens and deported 851 back to China. The authorities allowed some detained illegal aliens from mainland China to return to the mainland by airplane via Hong Kong at their own expense. In addition, the authorities repatriated other mainland Chinese directly from the island of Matsu or allowed them to fly back to China via a third country, rather than taking them to detention centers in Taiwan.

The Constitution does not provide for forced exile, and it was not practiced.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens have the right to change their government peacefully, and citizens exercised this right in practice. In 2000, for the first time an opposition party candidate was elected President, winning a 39 percent plurality in a 3-person race. In March, President Chen was reelected to a second 4-year term with 50.1 percent of the popular vote in a two-way race. Generally free and fair popular elections for the LY have taken place four times since 1992. Most recently in December, when an opposition coalition of the KMT and the People First Party won 114 seats, the ruling DPP and its partner the Taiwan Solidarity Union won 101 seats, and independents and the Non-Partisan Solidarity Union won 10 seats. Voter turnout was a record low 59 percent; 7 percent below the 2001 LY elections and 21 percent lower than the March 20 presidential election.

The extremely close result of the March presidential election challenged the country's democratic institutions. The opposition coalition attacked the legitimacy of the election based on: Errors and alleged fraud in the counting of votes; the fact that two referendums were conducted simultaneously with the vote; a mobilization of military and police that may have disenfranchised a number of presumably pro-opposition voters; accusations that the President staged the assassination attempt that immediately preceded the vote; and the assumption that the President benefited from a sympathy vote even if he had nothing to do with orchestrating the assassination attempt. Opposition partisans demonstrated against the result with some of the demonstrations involving violence (*see* Section 2.b.), and the opposition challenged the results in the courts. The courts in a series of decisions have upheld the President's reelection, and the courts' decisions generally have been respected, albeit with considerable opposition grumbling.

In November 2003, the LY passed and President Chen signed a Referendum Law, which gives the power to initiate referendums to the LY and to popular initiatives, except for so-called "defensive initiatives" in instances of imminent danger. On March 20, President Chen called such a "defensive referendum" on the basis of the PRC's refusal to renounce the use of force against Taiwan. Neither of two referendum questions won support from a majority of all eligible voters as required under the law to be effective, but both measures did win support from a majority of those who cast ballots. Opposition parties accused the President of abusing the ambiguously worded defensive referendum clause for political purposes, and, as noted, this was one of the issues on which they attacked the legitimacy of the election.

In August, the LY passed a set of constitutional amendments that, if approved by a special session of the National Assembly, will halve the number of LY seats and create single-member districts. The revisions also will eliminate the National Assembly and permit the public to confirm or reject future constitutional revisions passed by the LY.

The Chen administration made significant progress in its efforts to eliminate corruption and vote buying. In 2003, prosecutors indicted a total of 1,276 persons in 640 cases of alleged corruption. Of these, 687 were government officials and 65 were elected officials. Of the 687 government officials, 1 percent were considered senior level, 30 percent mid level, and 59 percent low level. Of the 65 elected officials, 77 percent were members of town councils, 15 percent were city and county council members, and 8 percent were national-level legislators. In the first 7 months of the year, prosecutors indicted 227 government officials on corruption charges. In April, the Taiwan High Court convicted 17 of 44 Kaohsiung City Council members of offering or accepting bribes in December 2002 elections for Council speaker and deputy speaker. Sentences ranged from 6 months to 3 years. In August, the MOJ announced plans to set up a 24-hour telephone hotline for complaints against government officials for corruption.

The law and regulations allow the public to request access to regulations, plans, statistics, contracts, treaties, meeting records, and other unclassified government information.

The Constitution provides for equal rights for women, and their role in the political sphere increased. In March, Vice President Annette Lu was reelected to a second term. In May, Yeh Chu-lan became the first female Deputy Premier. Of 36 cabinet members, 8 are women. Two of 25 Control Yuan members and 3 of 20 Examination Yuan members were women. A number of women also held important political party positions. Two of the 15 members of the DPP Central Standing Committee and 8 of the 34 members of the DPP Central Executive Committee were women. Eight of the 31 members of the KMT Central Standing Committee were women. Forty-seven members of the 225-member LY were women. Moreover, the Constitution and the law stipulates that at least one of every five seats in multimember constituencies must go to a woman even if male candidates receive more votes.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. The proportion of legislative seats allocated to Aborigines was almost twice their approximately 2 percent of the population. An Aborigine served as Chairman of the Council of Aboriginal Affairs.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equality of citizens before the law “irrespective of sex, religion, race, class, or party affiliation.” It also provides for the rights of persons with disabilities and there are no laws that prohibit homosexual activities. While the authorities were committed to protecting these rights, discrimination against some groups continued.

*Women.*—Violence against women, including domestic violence and rape, remained a serious problem. Domestic violence was especially widespread. The authorities funded domestic violence hotlines, which also handled calls for assistance from victims of sexual assault and child abuse. A domestic violence specialist unit was added to police stations to provide expertise on the issue. During the year, Taipei City funded and a women’s NGO staffed help desks at the Shihlin and Taipei South District Courts to assist victims in the judicial process. Because many victims could not distinguish between the domestic violence hotline and the regular emergency help line, in May 2003, the MOI launched a pilot program in Tainan city and county police stations in which persons could register for protection. Having information about each individual’s circumstance and social workers readily available improved police response time. During the year, the pilot program remained confined to Tainan; local officials elsewhere increased their involvement in such cases to ensure that victims got protection and assistance as soon as possible. The Domestic Violence and Protection Control Law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Although some cases were prosecuted, strong social pressure discouraged abused women from reporting incidents to the police to avoid disgracing their families.

Rape also remained a serious problem, and its victims were stigmatized socially. Experts estimated that the number of rapes was 10 times the number reported to the police. The law permits the prosecution of the crime of rape without requiring the victim to press charges. Under the law, rape trials may not be open to the public unless the victim consents. The Code of Criminal Procedure establishes the punishment for rape as not less than 5 years’ imprisonment, and those convicted usually were given sentences of 5 to 10 years in prison. According to the NPA, in the first 6 months of the year, there were 898 cases of rape or sexual assault. During the first 7 months of the year, MOJ statistics reported that 276 persons were indicted for rape or sexual assault and 216 were convicted. Spousal rape is a crime. By regulation, doctors, social workers, police, and prosecutors jointly question victims of sexual abuse to reduce the number of times a victim is questioned.

The law requires all city and county governments to set up domestic violence prevention and control centers. The centers provided victims with protection, shelter, legal counseling, and other services on a 24-hour basis. By the end of 2003, all major cities and counties in Taiwan had set up call centers. During 2003, these centers consulted with 77,004 persons, set up follow-up files on the cases of 27,284 persons, helped obtain 9,753 court protection orders (under the law, a judicial order may be obtained to prohibit violators from approaching victims), and assisted in obtaining emergency shelter for 1,418 persons. During 2003, 1,925 persons were indicted for committing domestic violence, and 1,932, including some persons indicted in earlier years, were convicted for committing domestic violence. By the end of 2002, there were: 39 women’s welfare service centers (23 public, 3 private, and 13 contracted out to NGOs) that had served 487,000 persons, 27 women shelters with a total capacity of 305 persons that had served 1,092 persons, and 7 single-parent family service centers with a total capacity of 283 persons that had served 359 persons. Also in 2002, 101,623 women received assistance from the Government that totaled \$8.25 million (NT\$280,353,370).

Prostitution, including child prostitution, was a problem. In 1999, the LY banned prostitution, and the exempted legally registered brothels and prostitutes have now been phased out. There were reports of a growing trend of young women, often well-educated, entering into part-time prostitution. There also were credible reports of a small number of women being trafficked onto the island for purposes of prostitution (see Section 5, Trafficking) and reports of a larger number of women who entered for purposes of engaging in prostitution.

Sexual harassment was a problem, which the Government actively addressed.

The law prohibits sex discrimination. Many sections of the legal code that discriminated against women have been eliminated. For example, women are no longer required to adopt their husband’s last name after marriage, and a number do not, and the citizenship law now permits transmission of citizenship through either parent.

The Gender Equality in the Workplace Act provides for equal treatment with regard to salaries, promotions, and assignments. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace. Women's advocates noted that women continued to be promoted less frequently and worked for lower pay than their male counterparts and that women were not granted maternity leave or were forced to quit jobs due to marriage, age, or pregnancy. According to the Council on Labor Affairs, salaries for women averaged 85 percent of those for men performing comparable jobs. Most city and county administrations set up committees to deal with complaints of sexual discrimination in the workplace.

Sixty women's organizations formed the National Union of Taiwan Women to promote women's rights.

*Children.*—The Constitution includes provisions to protect children's rights, and the authorities were committed to supporting them. Education for children between 6 and 15 years of age is free and compulsory, and this rule was enforced. According to government statistics the percentage of school-age children attending primary school was 99.94 percent and those attending junior high school 99.86 percent. Children were provided health care under the national health insurance plan.

Child abuse was a significant problem. In 2003, there were 5,465 reported cases of child abuse according to MOI statistics, an increase of almost 20 percent over 2002. The Government and some private organizations have increased public awareness of child abuse and domestic violence, which is likely a major reason for the increase in reported cases. Following the 1999 enactment of the Domestic Violence Control Law, 21 city and county governments established domestic violence protection centers, the goal of which is to protect women, children and senior citizens from violence. Services include a 24-hour hotline, emergency assistance, shelter, medical treatment and examination, counseling for victims, legal assistance, and education and training. Under the law, any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities; child welfare specialists must make such notification to local county or city governments within 24 hours, and the governments must respond with appropriate measures within 24 hours. The local county or city officials must submit a request for an investigation to a supervisory agency within 4 days. Both the MOI's Social Affairs Department and NGO specialists monitored cases to ensure that these requirements were followed. The MOI provided guidance to city and county governments for approximately 4,000 day care facilities in their localities and for children's halfway houses and education centers. Financial subsidies were provided to low-income families with children in day care facilities and to local governments to promote child protection efforts. According to the MOI Child Affairs Bureau, the island's 31 children's settlement and education centers had a total capacity of 2,789 and housed 2,126 children at the end of 2003. A hotline accepted complaints of child abuse and offered counseling. Courts are authorized to appoint guardians for children who have lost their parents or whose parents are deemed unfit.

A juvenile court in Kaohsiung handled criminal cases. The court employed 24 juvenile counselors. There were three juvenile detention centers on the island.

Although no reliable statistics were available, child prostitution was a problem, particularly among aboriginal children (*see* Section 5, Trafficking). Most child prostitutes ranged in age from 12 to 17 years. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their "own free will" and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remained obstacles to enforcement. According to well-informed observers, the practice of aboriginal families selling their children into prostitution no longer existed.

According to some reports, brothel owners used violence, drug addiction, and other forms of coercion to prevent child prostitutes from escaping. The law provides for up to 2 years' incarceration for customers of prostitutes under the age of 18. In 2003, 1,072 persons were indicted, and 1,259 were convicted (including some indicted in previous years) for violation of the law. From January to July, 431 persons were indicated and 791 were convicted. The law also requires the publication of the names of violators in newspapers. In March, the Taipei city government published the names of 116 persons convicted of patronizing child prostitutes in 2003. In 2002, police rescued 598 child prostitutes, including 568 citizens, 27 PRC nationals, and three other foreign nationals, of whom 54 were male and 544 female. During the same period, local governments provided shelter to 1,077 rescued children—503 in emergency shelters, 431 in temporary shelters, and 143 in half-way schools. Accord-

ing to MOI statistics, police found 401 child prostitutes in 2003, and local governments provided 509 rescued children with temporary shelter, and 759 with counseling services. The law prohibits the media from running advertisements involving the sex trade and imposes penalties on citizens arrested abroad for having sex with minors; these laws were enforced in practice

*Trafficking in Persons.*—The Statute for the Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who forces a child below the age of 18 to engage in sex or sells or pawns such a child by other means. Provisions in the Criminal Code can also be used to prosecute traffickers in persons above the age of 18. Trafficking in persons was a problem.

The island remained a significant transit point and, to a lesser extent, a destination for trafficked persons. There were reports of organized crime rings trafficking small numbers of women for the purpose of prostitution. The majority of cases involved women from mainland China, Thailand, Cambodia, Vietnam and Indonesia. Criminal gangs in mainland China reportedly used deceptive measures to recruit and procure young women who were then trafficked to Taiwan-based organized crime gangs who arranged sham marriages to enable them to obtain visas to enter Taiwan and exploited them for purposes of prostitution. Many of the victims were aware that they were to work as prostitutes, but were deceived by the traffickers about what their pay and working and living conditions would be upon arrival. Once in Taiwan, they were kept isolated, their passports were held, and they were threatened with violence if they did not cooperate. Small numbers of young Malaysian women, primarily ethnic Chinese, were trafficked to Taiwan for sexual exploitation. Burmese also were trafficked to Taiwan. The authorities, academic experts, and NGO experts claimed that the number of trafficking victims had decreased significantly in recent years. During the first 7 months of the year, according to the MOJ, 102 persons were indicted and 162 were convicted in trafficking cases.

Taiwan remained a significant transit point for persons from mainland China attempting to travel illegally to the United States and other countries. Some of these illegal migrants became trafficking victims in the destination countries. The law criminalizes alien smuggling.

Police were trained in handling trafficking, prostitution, and cases of domestic violence. The Government worked with NGOs to provide counseling and medical assistance to victims as needed. Foreign victims of trafficking were repatriated as quickly as possible.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities and sets minimum fines for various violations. New public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and, in practice, this requirement was generally met. Violations of the law resulted in fines of \$1,765 to \$8,824 (NT\$60,000 to NT\$300,000). Existing public buildings were to be brought into conformity by 1995; however, as of mid-year, there did not appear to be a substantial effort aimed at refitting older buildings to accommodate persons with disabilities.

According to MOI statistics, as of March, there were 861,631 persons with disabilities. One-third of the total were severely disabled and received shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire persons with disabilities equal to 2 and 1 percent of their work force, respectively. Organizations failing to do so must pay, for each person with disabilities not hired, 50 percent of the basic monthly salary approximately \$227 (NT\$8,000) into the Disabled Welfare Fund, which supports institutions involved in welfare for persons with disabilities. Many organizations complained that it was difficult to find qualified workers with disabilities, and they appeared to prefer to pay the fines. Both the central and local governments established committees for the protection of persons with disabilities.

*Indigenous People.*—The only non-Chinese minority group consists of the aboriginal descendants of Malayo-Polynesians, who were well established on the island when the first Chinese settlers arrived. According to MOI statistics, as of March, there were 449,593 Aborigines, who accounted for about 2 percent of the population. More than 70 percent were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines are protected under law. The National Assembly amended the Constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and to ensure their cultural, educational, and business development. In addition, the authorities instituted social programs to help Aborigines assimilate into the dominant Chinese society. The Government increased the budget of the cabinet-level Council of Aboriginal Affairs from \$164 million (NT\$5.6 billion) in 2003 to \$196 million (NT\$6.6 billion) this year.

During the school year, 264 schools nationwide offered aboriginal-language classes in primary schools. The Ministry of Education encouraged university education for Aborigines and worked to preserve aboriginal culture, history, and language through the establishment of aboriginal studies centers. To compete for government contracts the law requires that a firm with at least 100 employees must include among its employees a minimum of 1 percent of Aborigines and 1 percent of persons with disabilities.

To address a longstanding grievance regarding their inability to own their ancestral land, President Chen signed a partnership document with representatives from all aborigine tribes recognizing their land rights and allowing some form of autonomy. The Council of Aboriginal Affairs, in addition to continuing the investigation and mapping of traditional tribes and their territories, coordinated with other ministries to draft or amend legislation on issues such as development in the Aborigine reservations, zoning, national parks, and hot spring tourism.

According to Council of Aboriginal Affairs statistics, in the 2002–2003 school year, 98.99 percent of aborigine children completed elementary school.

The sale of aborigine children into prostitution by their parents reportedly no longer occurred.

*Other Societal Abuses and Discrimination.*—According to a 2003 survey conducted by the Taiwan Homosexual Human Rights Association, more than 30 percent of homosexuals in Taiwan said they suffered discrimination. Societal discrimination against persons with HIV and AIDS was a problem, and some politicians made derogatory remarks about persons with HIV and AIDS. However, the National Health Insurance provides free screening and treatment, including anti-retroviral therapy for all HIV-infected nationals.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Most workers in Taiwan have been allowed to form unions and to associate for many years. However, domestic employees do not have association rights and all teachers, civil servants, and defense industry workers are excluded from all laws protecting the right to strike and unionize. President Chen, during his re-election campaign this year, pledged to amend the Constitution to give all workers the right to association and collective bargaining.

Until 1995, teachers, civil servants, and defense industry workers had no legal basis to form any type of worker association. In 1995, the JY ruled that the right of association is protected by the Constitution. In June 2002, the LY passed the Civil Servants Association Law, which affords civil servants the right to organize professional associations but does not permit them to organize labor unions or to strike. Under the Teachers' Law, teachers may organize associations to bargain with school administrators but they are not allowed to organize labor unions or to strike. In September 2002, more than 100,000 teachers from around the island gathered in Taipei to protest not being allowed to form unions and to strike. In December 2003, teachers joined together to establish a national teachers' union to enhance teacher rights. In June, the Council of Labor Affairs (CLA) denied a certification request by the teachers' union on the grounds that teachers are precluded from forming unions under the Labor Union Law. The dispute between the CLA and proposed union is under litigation, and amendments to the Teachers Law and the Labor Union Law, which would permit unionization was pending in the LY at year's end. In April, the Kaohsiung Municipal Government decided not to apply the Labor Law to teachers and allowed them to form unions based on the Local Autonomy Law. At year's end, legislation protecting defense workers' right to association had not been proposed.

A number of laws and regulations limit the right of association. While labor unions may draw up their own rules and constitutions, they must submit those rules and constitutions to their county and city governments as well as the CLA national labor federation for review. Labor unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. During the year, there were no reports of political interference in labor union affairs. However, some of the labor union leaders work closely and cooperate with political parties that support them.

Workers other than teachers, civil servants, and defense industry workers are protected by the Labor Law. Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are labor union members. The Labor Union Law requires that labor union leaders be elected regularly by secret ballot, and in recent years, workers have sometimes rejected management-endorsed union slates. However, in practice, employers sometimes dismissed labor union leaders without reasonable cause or laid them off first during

employee cutbacks, and according to the Taiwan Labor Front, the law has no specific penalties for violations.

Labor unions may form confederations, and island-wide labor federations, included the Taiwan Confederation of Trade Unions (previously known as the National Federation of Industrial Unions), the Chinese Labor Unions Federation, and the National Trade Union Confederation.

The percentage of workers who were labor union members did not increase in recent years in the face of a series of factory closure layoffs, the shift from manufacturing to service industries, and the small-scale and poor organization of most unions. As of March, approximately 29 percent of the 10.2 million-person labor force belonged to 4,189 registered labor unions.

In 1971, the People's Republic of China replaced Taiwan in the International Labor Organization (ILO). However, Taiwan's Chinese Federation of Labor attends the ILO annual meetings as an affiliate of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—Except for the categories of workers noted above, the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. The 314 collective agreements in force in March 2003 involved roughly 28 percent of industrial labor unions and covered a relatively small proportion of the total workforce. Employers set wages generally in accordance with market conditions.

The law governing labor disputes recognizes the right of labor unions to strike but imposes restrictions that in practice make legal strikes difficult and seriously weaken collective bargaining. For example, the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year.

Since the lifting of martial law in 1987, there were 36 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. According to CLA data, there were no strikes during the year. Labor unions of state-run enterprises, such as Taiwan Tobacco and Liquor Co., Taiwan Power Company, and Chunghwa Telecom, have successfully used strike-threat, mass leave, and protest to slow down the process of privatization. During the September 2003 Moon Festival Holiday, one of the busiest travel periods of the year, the Taiwan Railway Workers Union attempted a de facto strike by calling a general meeting of all its members to protest the Government's goal of privatizing the Taiwan Railway Administration. This job action was generally ineffective as the trains were kept running, but, in the wake of a threatened Lunar New Year strike during the year, the authorities agreed to postpone privatization of the railways and to absorb all debts of the Taiwan Railway Administration. In November 2003, the LY, in response to a request by trade union leaders, agreed to establish an advisory committee to monitor the privatization of state-run enterprises to ensure a fair, open, and impartial process.

Firms in export processing zones were subject to the same laws regarding treatment of labor unions as other firms and followed normal practices including honoring collective bargaining agreements with their unions.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced and compulsory labor by children; however, there were several cases of forced child prostitution prosecuted by the authorities (see Section 5).

In 1992, 66 women who had been forced to work as "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Government) registered with the Taipei Women's Rescue Foundation (TWRP). In 1999, TWRP helped nine of those still alive to file a lawsuit in the Tokyo District Court seeking compensation of \$81,300 (10 million Japanese Yen) per person and a formal apology from the Japanese Government. In October 2002, the Tokyo District Court ruled against the women. TWRP has filed an appeal in the Tokyo High Court. At present, only seven of the nine women are still alive.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Standards Law (LSL) stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus enforced minimum age laws effectively. The Child Welfare Law, the Juvenile Welfare Law,

and the Child and Juvenile Sexual Transaction Prevention Act protect children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182.

*e. Acceptable Conditions of Work.*—The Labor Standards Law (LSL) addresses rights and obligations of employees and employers, but the law was not well enforced in areas such as overtime work and pay or retirement payments. By the end of 2003, the LSL covered 5.9 million of Taiwan's 7.0 million salaried workers. Those not covered included teachers, doctors, lawyers, civil servants, and domestic workers. The CLA conducted publicity campaigns to increase public awareness of the law and operated telephone hotlines to accept complaints of LSL violations. In June, the LY passed the Labor Pension Act, which requires employers to put 6 percent of monthly wages into individual employee accounts. Employees who covered under the Labor Standards Law will be included in the act. The accounts will be associated with the individual employee, not the employer, and be portable. The act will take effect in July 2005 with a 1-year grace period.

The CLA did not increase the minimum monthly wage, which has remained at \$465 (NT\$15,840) since 1998. While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, the average manufacturing wage was more than double the legal minimum wage, and the average for service industry employees was even higher. Legal working hours are 84 hours per 2-week period. In the public sector, there is a 5-day workweek. According to a CLA survey, 53 percent of private enterprises also have reduced the normal workweek to 5 days. To reduce the impact of the reduction in working hours on businesses, in the LY amended the LSL to allow business to calculate work hours on an 8-week base, so that firms can arrange work hours in such a way as to reduce the amount of overtime work.

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, critics alleged that the CLA did not effectively enforce workplace laws and regulations because it employed too few inspectors. During the year, there were 277 inspectors available for the approximately 280,000 enterprises covered by the Occupational Safety and Health Law. However, by combining health inspections with safety inspections, the number of health and safety inspections increased 21 percent from 71,848 in 2002 to 86,774 in 2003. The CLA maintained that it had strengthened its safety checks at workplaces with a greater risk of worker injury and it offered training programs to help workers protect their rights. Since many enterprises were small, family-owned operations employing relatives unlikely to report violations, actual adherence to the hours, wage, and safety sections of various labor laws was difficult to document but was believed to be minimal in these smaller enterprises.

The CLA has adopted a series of measures to restrict the number of foreign workers in major public construction projects, key manufacturing investment projects, and the manufacturing sector, thus reducing the number of foreign workers by 15,000 workers per year over the past several years. The number of legal foreign workers decreased from 327,000 in 2000 to approximately 300,000 at the end of 2003. By May, however, the number of foreign workers increased to 304,000 largely due to Taiwan's economic recovery and the lifting of a ban from allowing foreign workers to work on major public construction projects. Of the 304,000 foreign workers 102,000 are from Thailand, 86,000 from the Philippines, 70,000 from Vietnam, and 45,000 from Indonesia.

The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, the CLA in 1998, allowed family maids, including foreign family maids, to be exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover, authorities stated that in many cases, illegal foreign workers, many from Thailand and the Philippines, received board and lodging from their employers but no medical coverage, accident insurance, or other benefits enjoyed by citizens. In response to deteriorating economic conditions, the Government adopted a proposal by the Economic Development Advisory Conference allowing room and board expenses for foreign workers to be treated as in-kind payments and deducted from foreign workers' pay. The CLA set the ceiling of these deductions at \$117 (NT\$4,000) per month.

Illegal foreign workers also were vulnerable to employer exploitation in the form of confiscation of passports (making it difficult to change employers), imposition of involuntary deductions from wages, and extension of working hours without overtime pay. There also were reports that foreign workers often paid high agency fees to obtain jobs. In addition, observers reported that conditions in many small- and medium-sized factories that employed illegal foreign labor were dangerous, due to

old and poorly maintained equipment. Observers alleged that legal foreign workers were sometimes similarly exploited. The CLA urged employers not to mistreat foreign workers, and employers were subject to the same penalties for mistreating foreign workers as for mistreating citizen workers. In an effort to reduce broker fees, the CLA revoked permits of agencies charging excessive fees, and local governments inspected agency hiring practices. The CLA also negotiated direct hire agreements with labor-sending countries, and encouraged NGOs to establish nonprofit employment service organizations to assist foreign laborers in locating employment.

In November 2002, the CLA rescinded regulations requiring the deportation of foreign laborers who became pregnant and further amended regulations to allow them to switch to jobs with lighter workloads. The CLA has established 24 offices around the island to provide counseling and other services to foreign workers, and it provided financial assistance to city and county governments to conduct inspections of places where foreign workers were employed. It also attempted to reduce the number of illegal foreign workers.

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## EAST TIMOR

East Timor became a fully independent republic in May 2002, following approximately 2 years under the authority of the U.N. Transitional Administration in East Timor (UNTAET). The country has a parliamentary form of government with its first parliament formed from the 88-member Constituent Assembly chosen in free and fair, U.N.-supervised elections in 2001. The 29-member Cabinet is dominated by the Fretilin Party, which won the majority of assembly seats. Mari Alkatiri, Fretilin's Secretary General, is Prime Minister and Head of Government, and Xanana Gusmao, elected in free and fair elections in 2002, is President and Head of State. UNTAET's mandate ended with independence, but a successor organization, the U.N. Mission of Support in East Timor (UNMISSET), was established. The Constitution provides that "laws and regulations in force continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution." Under this provision, many Indonesian and UNTAET laws and regulations remain in effect. Regulations providing for an independent judiciary generally were respected; however, the judicial system was inefficient and, at times, inconsistent.

UNMISSET maintains responsibility and command of the U.N. Peace Keeping Force (UNPKF) and the U.N. Police Forces (UNPOL). On May 20, UNMISSET ceded authority for maintaining internal security to the national police force (PNTL, or Policia Nacional de Timor-Leste) and external security to the national defense force (F-FDTL, or Falintil-Forca Defesa Timor-Leste). The UNPKF remained as a rapid response force and border patrol. UNPOL operations were limited to a small advisory unit to assist in the development of the PNTL. The PNTL is responsible to the civilian Minister of the Interior. According to the Constitution, F-FDTL is responsible to the Superior Council for Defense and Security, a civilian body headed by the President; however, at year's end, the Superior Council had not been established, and F-FDTL was supervised by the civilian Secretary of State for Defense. Civilian authorities generally maintained effective control of the security forces; however, there were a few instances in which members of the security forces acted independently of government authority. Some members of the PNTL and F-FDTL committed human rights abuses.

The country is extremely poor, with two-thirds to three-fourths of the population of 924,000 persons engaged in subsistence agriculture. Per capita gross domestic product was approximately \$430. The majority of the population had basic shelter and sufficient food supplies. An estimated 70 to 80 percent of the country's infrastructure was severely damaged by the systematic scorched-earth campaign that Indonesian military and militia forces conducted in 1999 as they withdrew. The rural agricultural economy has recovered significantly, but the country remained dependent on imported food. Coffee remained the territory's only significant export. In 2002, the country concluded an interim agreement with Australia to share revenue from a portion of the potentially lucrative Timor Gap oil and gas region. Property ownership disputes and the lack of a comprehensive commercial code hindered investment and related long-term development. Urban unemployment and wage and price inflation remained significant problems. Most observers believed that the country would remain heavily dependent on foreign assistance for the next several years.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were numerous reports of excessive use of force and abuse of authority by police officers. Prolonged pretrial detention was

a problem. The rights to due process and to an expeditious and fair trial often were denied or restricted, largely due to severe shortages of resources and lack of trained personnel in the legal system; there also were reports of abuse of authority by government officials. It was not clear how many refugees or displaced persons wished to return to the country but feared reprisals from militias in West Timor or attacks and harassment by returnees suspected of being former militia members. Domestic violence against women was a problem, and there were instances of rape and sexual abuse. The country lacked the infrastructure to care adequately for persons with mental or physical disabilities. Child labor in the informal sector occurred, and there were reports of trafficking in persons.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

There were no developments in the investigation of the September 2003 killing of fugitive militia leader Francisco Vegas Bili Atu by a member of the PNTL. While the officer claimed the shooting was in self-defense, there were credible reports that excessive force may have been used. There also were no developments in the case of the former militia members arrested after attacking a bus near Aidabaleten in February 2003, in which two persons were killed and several others injured.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the Government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment by police officers. For example, on April 3, a member of a foreign military team on an official training mission suffered a broken nose and severe bruising from a beating by police officers after he allegedly left the scene of a traffic accident. The Professional Standards Unit (PSU) of the PNTL investigated the officers involved and recommended discipline to the PNTL Commissioner. At year's end, the Ministry of the Interior had referred the case to the Office of the Prosecutor General for possible criminal prosecution but had not imposed administrative discipline against the perpetrators, and at least one of the officers involved had been promoted to a position of greater authority. On May 24, several PNTL officers assaulted two men who appeared intoxicated at a cockfight in Dili. The officers sprayed the men with pepper spray and punched and kicked them. The officers reportedly continued to beat the men while they were in police custody. The case was investigated by the PSU, which forwarded a report to the PNTL Commissioner; at year's end, no action had been taken against the officers. On June 18, several members of the Rapid Intervention Unit (UIR) of the PNTL assaulted a security guard at a Dili restaurant. A UIR officer kicked the security guard and beat him with a baton. The victim claimed to have been knocked unconscious. The PSU investigated the case, and a criminal case was pending at year's end, but all officers involved remained on active duty. On September 22, a man driving an overloaded car was stopped by members of the UIR accompanied by the Minister of the Interior. When the man argued with a UIR officer about the legality of the number of persons in his car, the UIR officer beat the man, in the presence of the Minister of the Interior, until the victim began to bleed. The driver reported the incident to the President, who asked the Government to investigate the matter. The Office of Human Rights in the Prime Minister's Office reportedly was investigating the incident.

On July 20, police officers dispersed a nonviolent demonstration in the parking lot of the Palácio do Governo, which holds the offices of the Prime Minister and other senior government officials. When the demonstrators refused a request to move their demonstration across the street, police used tear gas and excessive force to disperse the group. UIR officers beat several protesters, including some who were attempting to flee or who had been placed in police custody. In August, 17 members of the *Comite Popular de Defesa-Republica Democratica de Timor-Leste* (CPD-RDTL), a fringe political movement that sometimes claims to be the true government of the country, were arrested without a warrant in the village of Viqueque. The men initially were taken from Viqueque to Baucau, where they were detained for several days before being taken to Dili. There were allegations that the men were beaten and deprived of food during their detention. After a court in Dili ordered the men released, they were transported to Viqueque. One man died, presumably from exhaustion, while walking from Viqueque to his village.

There were no developments in the July 2003 case in which a police officer reportedly participated in beating and burning with cigarettes a 16-year-old deaf and mute boy who had been accused of petty theft.

Between November 10 and November 28, members of the PNTL beat several CPD-RDTL members in remote areas of Covalima district. Police also fired what they claimed were warning shots, but the CPD-RDTL members claimed the shots were fired at them. These attacks appeared to have been in retaliation for the destruction of a bridge near Suai, allegedly by CPD-RDTL members. Since no complaint was lodged with the PSU, no government agency opened an investigation.

Occasional clashes between members of the PNTL and the F-FDTL remained a problem. In January, a confrontation in Los Palos, in which a number of PNTL officers were temporarily detained by F-FDTL soldiers, led to the creation of an independent commission by the President to investigate the problems faced by F-FDTL and recommend solutions. On December 16, a group of F-FDTL soldiers ransacked a PNTL station where a sergeant in the armed forces had been detained and allegedly mistreated. Another PNTL officer was beaten at his home by two F-FDTL soldiers, allegedly because of his involvement in the case, and there were reports of retaliatory attacks by PNTL members on F-FDTL members. This incident prompted senior government officials to call for a coordinated effort to resolve outstanding issues between the police and the armed forces. At year's end, the only concrete actions that had been taken were a series of high-profile goodwill meetings and a soccer game between the PNTL and the F-FDTL, in which the President served as referee.

There were reports of sexual abuse by police officers during the year. In May, three PNTL officers, including a police subinspector, were credibly accused of raping a 16-year-old girl. The PNTL officers allegedly forced the girl into a police vehicle at gunpoint and took her to a police training compound on the outskirts of Dili, where the rape took place. The officers were suspended from duty and briefly held in prison to await trial; however, by year's end, the officers had been released. At least three other officers, including one who had previously been implicated in the assault on the foreign military team member, were accused of raping the girl on previous occasions. These officers also were released pending further investigation of the incident. The PSU conducted an investigation, and the case was forwarded to the Prosecutor General; however, at year's end, no administrative actions had been taken on this case, and no date was set for trial. On September 11, an off-duty police officer forcibly entered the home of a 12-year-old girl who allegedly had been statutorily raped by the officer's 19-year-old brother. The officer reportedly threatened the girl and her parents with his pistol and baton. After initially claiming the incident was a "family matter," police opened an investigation. At year's end, no administrative action had been taken. The delay or refusal by police to investigate allegations of rape or domestic violence was a common problem (see Section 5).

Prison conditions generally met international standards; however, prison facilities were deteriorating, and there were a few reports of undisciplined behavior by prison guards. At Gleno prison, the deterioration of infrastructure gave rise to safety and security concerns, and there were severe water shortages as well as reports of mistreatment of prisoners.

There were no developments in the criminal case filed against a guard who, in June 2003, reportedly beat and injured an inmate at Baucau prison while other guards watched.

Becora prison, which had a separate cellblock for juveniles, was used to incarcerate juvenile prisoners unless they requested to be incarcerated elsewhere. There were no separate juvenile facilities at the Gleno or Baucau prisons. All female prisoners were held in separate facilities in Gleno and Baucau. There were two full-time social workers to deal with juveniles, women, the elderly, and mentally ill inmates. All prisons operated at or very near capacity throughout the year. There were no reports of severe overcrowding.

The Government permitted prison visits by the International Committee of the Red Cross and independent human rights observers.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, there were a few instances in which these provisions were violated. In a number of cases, persons were arrested and detained but ultimately not charged with crimes. Although this sometimes happened due to misunderstandings or because an investigation exculpated the suspect, the circumstances of other cases suggested that law enforcement officers may have held detainees as a form of punishment. For instance, on November 7, two former PNTL officers, who had recently resigned to accept positions as security guards with an embassy, were arrested and detained for 48 hours by direct order of the Minister of the Interior, allegedly be-

cause they had not properly resigned from PNTL; however, they were accused of no crime, and the penalties prescribed by law for violations of internal police disciplinary regulations do not include detention.

The PNTL remained poorly equipped and undertrained, and there were numerous credible allegations of abuse of authority (*see* Section 1.c.), mishandling of firearms, and corruption. Reports of abuse of authority and unprofessional conduct increased after policing authority was transferred from the U.N. to the PNTL.

The PSU investigated allegations of police misconduct and reported its findings to the PNTL Commissioner. Cases of severe misconduct were referred to a newly established committee chaired by a vice minister of the Ministry of the Interior. At year's end, this committee had a backlog of approximately 75 cases. During the year, some officers were punished for relatively minor misconduct, and, in at least two cases, police officers were convicted and sentenced for assaults committed while on duty; however, by year's end, no action had been taken in a number of cases involving serious misconduct, and some of the alleged perpetrators were promoted to positions of greater authority. There were allegations that personal connections within the police force were a factor in some cases.

The PNTL often were slow to respond, willing to overlook required procedures, or ill-equipped to complete an investigation or arrest. In March, police reportedly claimed they had no vehicle available to investigate the case of a woman who died under suspicious circumstances in Liquica. Victims and suspects often were transported in the same vehicle, due to the limited availability of transportation.

In a few cases, police were influenced by political pressures. In March, a district police commander was suspended after he refused instructions from his superiors to stop a rally in Suai held by an opposition party. In July, a CPD-RDTL member was arrested without a warrant after he and other members of the group hung antigovernment banners and as they reportedly were planning an antigovernment demonstration.

During the year, there was increased concern within society and among international observers regarding the independence of the police. For example, on March 26, the Minister of the Interior reinstated a UIR officer who had been dismissed on March 10 after an investigation by the PSU found him guilty of assaulting a civilian. Newspaper reports quoted the Minister to the effect that perhaps the "foreigner" (the victim) had denigrated or sneered at the police officer or offended him, or that the PNTL officer believed that he had been denigrated. In November, the Minister ordered the arrest and detention of two police officers who had resigned, although there was no apparent legal basis for the detention (*see* Section 1.d.).

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention and also to provide the right to a trial without undue delay. However, because of a shortage of magistrates, many suspects were forced to wait longer than 72 hours for a hearing. This situation was particularly acute in areas that did not have a local magistrate or where authorities lacked means to transport suspects to a hearing. Some prosecutors, in violation of regulations, granted police the authority to detain persons beyond 72 hours.

A 2003 ruling by the Court of Appeals stated that the pretrial detention limit of 6 months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes; however, the 30-day review deadline was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary. The law provides that judges shall perform their duties "independently and impartially" without "improper influence." UNTAET regulations, still in force, include a Prosecution Law that requires public prosecutors to discharge their duties impartially. These provisions generally were respected.

The court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and a national Court of Appeals in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The Prosecutor General is responsible for initiating indictments and prosecutions. The Government had difficulty establishing the justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys. The judiciary's shortage of personnel, as well as bureaucratic and managerial inefficiency, contributed to the inability to provide for expeditious trials (*see* Section 1.d.). The lack of qualified prosecutors and technical staff for the office of the Prosecutor General led to a backlog of more than 3,000 cases by year's end.

The Appeals Court, responsible for adjudicating appeals from the district courts, became fully functional and heard its first cases in July 2003. Until a Supreme Court is established, the Appeals Court remains the country's highest tribunal.

Personnel shortages affected the entire legal system, but it disproportionately affected the operations of the Baucau, Oecussi, and Suai district courts, which operated at irregular intervals. The shortage of trained personnel also led to trials that did not fulfill prescribed legal procedures. For instance, in one case, the prosecutor did not appear for a scheduled hearing, and the judge ordered a court clerk, who also was a law student, to serve in lieu of the prosecutor so that the hearing could go forward. The arrival of four international judges in October was designed in part to clear the district courts' backlog, but at year's end, it was not clear what effect these judges would have.

Most trial judges and prosecutors had been trained only in Indonesian law and received their legal education in the Indonesian language, while most appellate judges and many senior government officials were trained elsewhere and spoke little or no Indonesian. The Court of Appeals operated primarily in Portuguese. The UNTAET regulations, many of which still are in force, were available in English, Portuguese, and Indonesian, as well as in Tetum, the language most widely spoken in the country. Laws enacted by Parliament, intended to supplant gradually the Indonesian laws and UNTAET regulations, were published only in Portuguese, and many litigants, witnesses, and criminal defendants were unable to read the new laws. As of October 1, a decision by the Superior Council of Magistrates required that trials be conducted solely in Portuguese and Tetum.

The Serious Crimes Unit (SCU), established by UNTAET in 2000, is responsible for investigations and indictments concerning genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture that occurred in 1999. By year's end, the SCU had filed 95 indictments against 391 persons. Of these, 290 indictees remained at large in Indonesia with little chance of being returned to stand trial. In 2000, UNTAET established the Special Panels on Serious Crimes within the Dili District Court to try those charged with the mass killings and other gross human rights violations committed in 1999. The two Special Panels, each of which consists of two foreign judges and a local judge, have exclusive and "universal" jurisdiction to adjudicate cases concerning these human rights violations. By year's end, the Special Panels had handed down 76 convictions, 2 acquittals, and 2 indictment dismissals; a total of 9 indictments involving 20 defendants and 1 appeal were pending. Pursuant to U.N. Security Council resolutions, the SCU ceased investigating cases in November. The Special Panels for Serious Crimes were scheduled to cease operations on May 20, 2005. The Ad Hoc Tribunal, based in Indonesia, failed to achieve accountability for crimes against humanity committed in East Timor in 1999. The U.N. has stated its intention to appoint a Commission of Experts to evaluate the Ad Hoc Tribunal and the SCU and recommend the next steps for achieving accountability. In December, the Governments of Indonesia and East Timor agreed to form a bilateral Truth and Friendship Commission to address a broad range of bilateral issues, including accountability. At year's end, the upcoming dissolution of the SCU led to increased public support for an international tribunal or other mechanism to bring to justice those indictees who remained at large in Indonesia.

The SCU worked very closely with the Truth and Reconciliation Commission of East Timor (CAVR, or *Comissao de Acolhimento, Verdade e Reconciliacao de Timor Leste*). While the SCU is mandated to investigate and prosecute crimes against humanity committed in 1999, the CAVR investigated less egregious human rights violations that occurred between April 1974 and October 1999. CAVR also facilitated reconciliation between victims and perpetrators of these violations (*see* Section 4). The CAVR was scheduled to publish its final report and cease operations in July 2005.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy, family, home, and correspondence. For example, in 2003, the Government seized the home of a popular opposition leader on questionable legal grounds and repeatedly has ignored court orders barring any construction on the property until the legal ownership is determined.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were a few instances in which government officials attempted to interfere with the press. An editor of one of the two major local newspapers cited several instances in which senior government officials cautioned the editorial staff against overt criticism of various ministries and the police force. In addition, government officials reportedly instructed the television station to cease broadcasting im-

ages of police assaulting civilians after a July 20 demonstration (*see* Section 1.c.). The journalist who made the film reported that government officials told him that he should not make the film available to others.

There were two daily newspapers, three weeklies, and several newspapers that appeared sporadically. Their editorials frequently criticized the Government and other political entities; however, fear of defamation suits inhibited the willingness of some media outlets to criticize the Government. Libel and defamation are criminal offenses under Indonesian statutes that have remained in force pending enactment of a criminal code, but no prosecutions were brought under these statutes.

The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available throughout the country. The PBS broadcast television was available only in Dili and Baucau. In addition to the PBS radio station, there were 16 community radio stations, including at least 1 in each district. Radio was the most important news medium for most of the country.

There were no legal or administrative restrictions on Internet access.

The Government generally did not restrict academic freedom; however, in April, the Council of Ministers issued a decree law requiring that academic research on Tetum and other indigenous languages be approved by the National Language Institute (INL). It gave the INL the power to refuse to authorize linguistic research that “has no scientific merit” or that “would not be advantageous to the country.” Foreign researchers must obtain authorization from the INL “under penalty of manifest illegality.” There were no reports during the year that this law had been applied to prevent academic research or to punish researchers.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights; however, there were a few cases in which these rights were violated. In March, PNTL officers raided a house in the village of Uatulari where an opposition party was holding a public meeting. Police claimed that the party had not obtained a permit for the meeting; however, under the law, a permit is not necessary for a meeting in a private home. The persons in the meeting were detained at the local police station for several hours before being released.

In December, the Parliament approved a bill that would impose greater restrictions on the freedom of assembly. For example, the law as introduced would have required protesters to remain at least 500 meters away from any government building or foreign embassy. Although Parliament amended the bill to reduce this distance to 100 meters, the bill as passed would also prohibit demonstrations that challenge the constitutional order or “transgress against the respect and consideration due” to the President or a Cabinet member. The “respect and consideration” provision states that it is “without prejudice to the right to criticize.” At year’s end, the President had yet to promulgate or veto the legislation.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. More than 90 percent of the population was Roman Catholic, and there were small Protestant and Muslim minorities. Generally, religious minorities were well integrated in society.

Between November 21 and December 1, a group of Muslims of Malay descent who had occupied a Dili mosque for 3 years were deported to Indonesia. The group had experienced difficulty integrating into society and obtaining citizenship. Ethnic Timorese Muslims have not faced the same difficulties.

During the year, there were some reports that Protestant evangelists and their converts had been threatened and, in some cases, assaulted by members of the communities in which they were proselytizing, and that the legal system was slow to respond to these charges.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The conflicts in 1999 and anti-independence militia activity in 2000 and 2001 resulted in 250,000 East Timorese fleeing their homes and crossing the border into West Timor. By 2003, roughly 225,000 had returned home. During the year, an additional small number of refugees returned from West Timor.

The Constitution provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum; however, there were concerns that

the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravenes the 1951 Convention. These advocates also expressed concern that no written reasons are required when an asylum application is denied.

There were nine applicants for asylum during the year. At year's end, three had been accepted along with three others who had applied in 2003 under the U.N. High Commissioner for Refugees (UNHCR) mandate. After the promulgation of the 2003 Immigration and Asylum Act, the Government assumed responsibility from UNHCR for adjudicating asylum claims. Throughout the year, UNHCR continued to mentor immigration officials to ensure that asylum applications were processed according to treaty guidelines. The Government instituted a process whereby all asylum applications must be approved by the Minister of the Interior. There was concern that this could lead to unnecessary delays.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully through periodic elections. In 2002, Xanana Gusmao was inaugurated as the first President, and, in accordance with the Constitution, the members of the Constituent Assembly were sworn in as the first National Parliament. Mari Alkatiri became the first Prime Minister of the country. The 88-member Assembly, elected in 2001, was charged with writing a constitution, which was completed in 2002 and came into effect upon independence. Some observers criticized the provision under which the Constituent Assembly automatically became the Parliament and a parliamentary election is not required until 5 years after independence.

Corruption in the executive and legislative branch was not considered a significant problem; however, there were credible rumors of petty corruption at the nation's port. In addition, customs and border officials were suspected of facilitating the smuggling of gasoline, tobacco, and alcohol across the border from neighboring Indonesia. In March, a company filed a lawsuit against Australia, Indonesia and other parties, alleging the parties had stolen the company's right to develop oil and gas reserves in the Timor Sea. Included in the suit were accusations that senior executive and legislative officials in East Timor accepted several million dollars in bribes from a rival firm. The suit was ongoing at year's end.

The Constitution stipulates that all legislation, Supreme Court decisions, and decisions made by government bodies must be published in the official gazette. Failure to publish them renders them null and void. Regulations also provide for public access to court proceedings and decisions. In addition, rules governing the national budget and accounts ensure public access. The country's draft petroleum fund law was consistent with internationally acceptable principles of transparency and oversight.

There were 23 women in the 88-seat Assembly. Women held two senior cabinet positions—Minister of State and Minister of Finance and Planning—and three vice minister positions. One of the three judges on the Appeals Court was a woman.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in Parliament and other government positions was uncertain. Both the Prime Minister and the Secretary of State for Defense were members of ethnic minority groups.

During the year, independent election authorities, assisted by UNMISSET advisors, carried out a voter registration, and the list of registered voters was published for public scrutiny in October. Local elections using the new list began in December and were scheduled to be completed by June 2005. Technical difficulties plagued the first day of polling on December 18; however, the national election commission moved quickly to rectify the problems.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Nongovernmental organizations (NGOs) have played an active role in assisting and advising in the development of the country, and numerous NGOs were established over the last 3 years.

According to the controversial 2003 Immigration and Asylum Act, foreigners are prohibited from taking part in political activities. This provision could preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society, and it could also allow the Government to restrict noncitizens from monitoring the criminal or judicial systems. In addition, the law allows the Government to prohibit foreigners from holding conferences and cultural exhibitions if the Government believes that the activities would jeopardize the interests of the country. An exception in the law exempts activities contracted by government institutions, funded by bilateral or multilateral assistance programs, and aimed at training or strengthening democratic institutions that are constitutional and regulated by law or strictly academic in nature. In November 2003, government officials threatened to use the act against the International Republican Institute (IRI), apparently in response to press reports that characterized the results of an IRI-sponsored public opinion poll as unfavorable to the Prime Minister. Members of Parliament told the IRI that the President of Parliament had ordered them to stop attending meetings of the Women's Caucus that were sponsored by the IRI.

On April 27, Parliament promulgated a law establishing the constitutionally mandated Office of the Provedor (Ombudsman) for Human Rights and Justice, although by year's end, the position had not yet been filled. Parliament reconvened in a special session on August 16 to consider the three nominees for the position; however, none of the candidates obtained a majority vote, and the President of Parliament announced that the process for nominations would be reopened. Parliament again attempted to elect a Provedor on October 25. However, neither of the 2 remaining candidates received an absolute majority, due to the absence of 10 members of Parliament. A third election for Provedor was to be scheduled for early 2005.

The CAVR, charged with inquiring into past human rights violations, is headed by 7 national commissioners and 29 regional commissioners in 6 regional offices. The CAVR seeks truth and reconciliation through testimonials by victims and perpetrators of human rights violations. The CAVR held numerous reconciliation meetings in locations throughout the country. In December 2003, the CAVR held a 4-day public hearing on internal political conflict between 1974 and 1976, in which several victims and current government leaders publicly discussed the breakdown of relations among domestic political parties and subsequent violence and related human rights violations during the period between Portugal's decision to decolonize the country in 1974 and Indonesia's intervention in late 1975. In March, the CAVR held its final public hearing, dedicated to the topic of violence against children. Twelve witnesses testified on the effect of the various stages of the armed struggle on the lives of children, both before and during the Indonesian occupation.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

*Women.*—Domestic violence against women was a significant problem and sometimes was exacerbated by the reluctance of authorities to respond aggressively to cases of alleged domestic violence. In some cases, a lack of resources was used to justify official inaction and failure to investigate or prosecute cases involving violence against women.

Failures to investigate or prosecute, as well as long delays, also were common in cases of alleged rape and sexual abuse. For example, the PNTL conducted an investigation in a 2003 case in which a woman allegedly was raped by a member of the F-FDTL. However, at year's end, the case had been delayed and postponed numerous times, and it had not been heard by the district court.

Government regulations prohibit persons from organizing prostitution; however, under Indonesian laws still in force, prostitution itself is not illegal. Nevertheless, women accused of prostitution often were arrested, and some were mistreated while in detention. The Government deported some foreign women for alleged prostitution on the ground that they had violated the terms of their visas.

There were no reports of gender-based employment discrimination during the year; however, women usually deferred to men when job opportunities arose at the village level.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property.

UNTAET created a Gender Affairs Unit that has continued as the Office for the Promotion of Equality within the Prime Minister's office. The unit provided training to women entering public service and attempted to ensure that women had a voice in government and civil society structures.

The East Timorese Women's Forum and East Timorese Women Against Violence offered some assistance to female victims of violence and established a women and children's shelter for victims of domestic violence and incest. Other NGOs supported women through microcredit lending.

*Children.*—The Constitution stipulates that primary education shall be compulsory and free; however, no legislation has been adopted establishing the minimum level of education to be provided, nor has a system been established to provide for free education. According to a U.N. study, approximately 25 percent of primary education age children nationwide were not enrolled in school; the figures for rural areas were substantially worse than those for urban areas. Only 30 percent of children in lower secondary education (ages 13 to 15) were enrolled, with an even greater difference between urban and rural areas. At least 10 percent of children did not begin school. These statistics were fairly consistent for both male and female students.

The low rate of vaccinations against communicable diseases was a serious problem. The U.N. estimated that only 5 percent of children between 12 and 23 months had been fully vaccinated, and 58 percent of children in this age range had not received any vaccinations. Under the U.N.'s Extended Program on Immunization, vaccinations and refrigeration equipment have been supplied to clinics in locations around the country. However, accessibility to these clinics and the lack of understanding of the need for vaccinations remained problems.

*Trafficking in Persons.*—The law prohibits trafficking in women and children, whether for prostitution or for forced labor; however, during the year, there were several reports of women and girls trafficked into the country for prostitution. In most reported trafficking cases, the victims and the traffickers were foreign nationals. While both PNTL and UNPOL conducted raids on brothels and massage parlors in Dili during the year, there were credible reports that some police and customs officials were guilty of collusion with such establishments or with those who trafficked foreign women into the country to work in these establishments. In October 2003, authorities raided a Dili hotel and discovered a foreigner running a brothel with five women who had been recruited in Thailand with promises of employment as masseuses. Once in Dili, they were required to engage in prostitution. The women were not allowed to leave the establishment without permission, and their passports were confiscated by the brothel's owner. In court, the women were issued a deportation order, and at least one woman returned to Thailand. UNMISSET officials and local NGO leaders cited several instances in which foreign women, usually of Chinese, Indonesian, or Thai origin, reported that they had been trafficked to the country and were being held against their will. For example, two Indonesian women interviewed by a local NGO stated that they had been hired by a businessman in Jakarta to work as housekeepers in a Dili hotel. When they arrived in Dili, the man confiscated their passports and confined the women to his house, telling them that they had to work as prostitutes to pay back their travel expenses.

UNMISSET and the Government established a working group to monitor and control trafficking. The Alola Foundation, an NGO headed by First Lady Kirsty Sword Gusmao, provided assistance to female victims of trafficking and advised the Government on trafficking-related issues.

*Persons With Disabilities.*—Although the Constitution protects the rights of persons with disabilities, the Government has not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, difficult access to schools in many districts resulted in many children with disabilities not attending school. Training and vocational initiatives did not give attention to the needs of persons with disabilities. During the year, some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources. On February 8, a man suffering from a mental illness was arrested after he allegedly assaulted two police officers. The man was placed in Becora prison, which did not have facilities for mentally ill prisoners, and he was not provided access to psychiatric care until UNMISSET officials referred the case to the Ministry of Health. In February, police detained a mentally ill man for several days in a police station because there were no mental health facilities to care for him.

*National/Racial/Ethnic Minorities.*—Relations are generally good between the ethnic Timorese majority and members of several small ethnic minority groups; however, there were occasional reports of discrimination against ethnic Chinese (who are less than 1 percent of the population) and ethnic-Malay Muslims. An his-

toric tension between residents of the eastern part of the country, whose cultures and languages are partly of Papuan origin, and the Austronesian inhabitants of the western part of the country had largely subsided by the time of independence, but it was an occasional aggravating factor in personal and political disputes.

*Section 6. Worker Rights*

*a. The Right of Association.*—The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally have been slowed by inexperience and a lack of organizational skills. During the year, the Government established official registration procedures for trade unions and employer organizations.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

*b. The Right to Organize and Bargain Collectively.*—While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Government regulations prohibit forced and compulsory labor, including by children; however, there were reports that in November, PNTL officers in Covalima district forced members of CPD-RDTL to perform labor as a form of punishment.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code largely prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 to 18 can work, and there are even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children worked in the agricultural sector. In practice, enforcement of the Labor Code outside of Dili was limited.

*e. Acceptable Conditions of Work.*—The Labor Code does not stipulate a minimum wage; however, employers generally used and employees expected a wage of \$85 per month as a minimum standard. This amount provided a decent standard of living for a worker and family. The Labor Code provides for a maximum workweek of 40 hours per week and standard benefits such as overtime, minimum standards of worker health and safety, and days off. As required by the Labor Code, the Government nominated members to the National Labor Board and the Labor Relations Board. These boards received several weeks of training and began work early in the year. There are no restrictions on the rights of workers to file complaints and seek redress within these codes or other legislation. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice. The law treats all workers, legal and illegal, the same in terms of wages and working conditions.

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## FIJI

Fiji is a constitutional republic with an elected President, Prime Minister, and Parliament. Ethnicity remained a dominant factor in the country's politics, economy, and society. Following an attempted coup d'etat in 2000 that resulted in the overthrow of the lawfully elected government, free and fair elections were held in 2001, and the political situation improved. A dispute between the ruling party and the opposition over the composition of the Cabinet was settled in November when both sides agreed not to pursue the issue further. The Vice President, a government minister, and the Deputy Speaker of Parliament were sentenced to periods of imprisonment ranging from 1 to 6 years for their participation in a coup attempt in May 2000. The Constitution provides for an independent judiciary; however, the judiciary at times has been subject to political pressure.

National security is monitored and acted upon by the National Security Council (NSC), which is composed of the Prime Minister; the Ministers of Home Affairs, Foreign Affairs, and Attorney General; the Commissioner of Police; and the Commander of the Republic of Fiji Military Forces (RFMF). During the year, the civilian authorities generally maintained effective control of the unarmed civilian police force and

the RFMF. There were occasional complaints of human rights abuses by the police. Most, if not all, were investigated, and individual members of the police have been charged and tried. There were no reports the RFMF committed human rights abuses.

The population of approximately 845,000 is multiracial and multicultural. Indigenous Fijians make up 51 percent; Indo Fijians (descendants of immigrants from the Indian subcontinent) 42 percent; and Asians, Caucasians, and other Pacific Islanders make up the rest. Indo Fijian families dominated the business sector and enjoyed higher average incomes; however, indigenous Fijians were the majority in government ministries and made up the vast majority of members of the armed forces. Sugar and tourism accounted for more than half of foreign exchange earnings. The inefficient sugar industry was hampered by industrial disputes and an outmoded infrastructure; however, tourism grew strongly during the year. Foreign investment, depressed in recent years, showed signs of recovery. Skilled workers and professionals continued to emigrate in large numbers.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. The Constitution establishes an ethnically based electoral system, and government policies on hiring, education, and land tenure provide protection for indigenous Fijian interests. The ethnic divide between the governing indigenous Fijian-based Duavata ni Lewenivanua (SDL) and the Indo-Fijian-based Fiji Labor Party (FLP) remained a recognized obstacle to long-term political stability, and ethnic discrimination remained a serious problem. On several occasions, Members of Parliament (M.P.s) made racist remarks about Indo-Fijians. Evictions of Indo Fijian tenant farmers by indigenous Fijian landowners continued to occur. Occasional police abuse of detainees and suspects occurred. Other human rights problems included restrictions on freedom of assembly, violence and discrimination against women, and some instances of abuse of children. A proposal to replace the country's industry constituted Media Council with a government-controlled organization continued to raise concern.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were some reports of abuses by police. The number of cases of police abuse significantly declined compared to previous years. Reported incidents of beatings and other abuse of apprehended persons and prisoners were investigated and, when appropriate, offending officers were prosecuted and jailed. All such cases appeared to be isolated incidents, not condoned by supervisory officers.

The Police Department's Internal Affairs Unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts, but no cases were reported. In response to public concern regarding police brutality, the Human Rights Commission (HRC) conducted training courses for police field investigators, sergeants, and prison officers.

Prison conditions did not meet international standards. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services, including food and sanitation. Courts released prisoners on bail to minimize their exposure to an environment described as "overcrowded, unsanitary, degrading, and inhumane" by a sitting judge who, in response to prisoner complaints, made a surprise visit to the Suva prison. Human rights organizations have received credible reports of prisoner abuse by guards; however, there were no indications that abuse was officially condoned. Men and women were held separately, juveniles were held separately from adults, and pretrial detainees were separated from convicted prisoners.

During the year, the International Committee for the Red Cross (ICRC) was given access to all prisoners. Family members also were permitted to visit prisoners.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Government continued a program initiated in 2003 to improve the police force and address the problem of corruption. Allegations of corruption, once rampant in the police force, were investigated, and charges and prison sentences have resulted. Some officers were removed from the force.

The law provides that a person may be arrested only if police believe a law has been broken or is about to be broken. Arrested persons must be brought before a court without “undue delay.” This requirement normally was interpreted to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds for their arrest; however, allegations of incommunicado and arbitrary detention continued to occur on occasion.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary at times has been subject to political pressure.

The country’s judicial structure is patterned on the British system. The principal courts are the magistrate courts, the High Court, the Court of Appeal, and the Supreme Court. Eight of nine Supreme Court justices are expatriate judges, who often were used in key cases at lower levels. Except for the Family Court, there are no special courts. Military courts try members of the armed forces. Magistrate courts try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special-interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate courts do not. Many rape and sexual assault cases were heard in the magistrate courts; since magistrates are not authorized to impose sentences longer than 5 years in prison, this resulted in light sentences in most domestic or family law cases. The Legal Aid Commission provided counsel to some indigent defendants, a service supplemented by voluntary services from private attorneys. The right of appeal exists but often was hampered by delays in the process. Bail was granted freely. The courts had a significant backlog of cases, and processing was slowed by, among other things, a shortage of prosecutors. Some defendants faced lengthy pretrial detention.

The law sometimes treated women differently from men. In some instances, there was a presumption of reduced competence and thus reduced responsibility for women. For example, only women can be charged with infanticide; if a man kills an infant, the act is treated as murder, a more serious charge. A female defendant in an infanticide case was presumed to have diminished mental capacity, and sentences were reduced or suspended accordingly.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Government generally respected the privacy of the home. The Ministry of Home Affairs, Immigration, and National Disaster Management, responsible for national defense, security, and law enforcement, used its broad investigative and enforcement powers to maintain selective surveillance and the almost constant employment of police checkpoints at random locations on roads throughout the country.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, although the Public Order Act and other laws prohibit actions that incite racial antagonism, and the Government generally respected these rights in practice.

The Media Council’s Complaints Committee, a private watchdog group of media and academic figures, accepted complaints related to the media and published its findings during the year. Most of the complaints cited inappropriate media activity, including invasions of privacy; there were no complaints regarding government pressure on, or interference with, the media.

In 2003, the Government proposed changes to the Media Council that would replace the current body with a government constituted council. Public reaction was strongly negative. At the end of the year, the Government’s plans remained on hold but had not been withdrawn.

A variety of opinions, including criticism of the Government, were heard in all major media outlets. Political figures and private citizens spoke out regarding the country’s political situation and against the Government. Letters and editorials critical of the Government were published in the three English language dailies. The Government generally did not interfere in the daily operations of the media.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts, all newspapers must be registered with the Government before they can publish. The acts give the Minister of Information sole discretionary power to order a newspaper to publish a “correcting statement” if, in the minister’s view, a false or distorted article was published. A newspaper refusing to publish the minister’s correction can be sued in court and, if found guilty, fined. Individuals in such cases can be fined, imprisoned for 6 months, or

both. These acts authorize the Government to arrest any person who publishes “malicious” material. This would include anything the Government considered false that could create or foster public alarm or result in “detriment” to the public. However, this authority has never been used.

The country’s television news production was owned and operated by Fiji One, one of only two national noncable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; private individuals and interests owned the other 49 percent. The Government owned the Fiji Broadcasting Corporation, which operated four radio stations. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

The Television Act permits the Government to influence programming content. There was no attempt to use the programming authority during the year.

In the past, government holdings in Fiji TV One, the Fiji Post, and the Fiji Sun raised questions regarding the independence of the press. However, these and other media outlets frequently criticized the Government. Muted criticism of the traditional chiefly system has also appeared.

The Fiji News Council worked to improve journalistic standards, safeguard media independence, and resolve complaints from the public. The Fiji Islands Media Association, an affiliate of the Pacific Islands News Association, also provided training opportunities for journalists and implemented a media code of ethics.

The Government did not restrict Internet access.

Academic freedom was generally respected; however, government work permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. Many academics wrote for the media and included disclaimers in their work to preclude contract or work permit problems.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble for political purposes, subject to restrictions in the interest of public order. Although civic organizations frequently were granted permits to assemble, political demonstrations and marches generally were denied permits.

The Constitution provides for freedom of association, and the Government generally respected this provision in practice. Opposition parties operated without government interference and issued public statements freely.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Religious groups were not required to register. The Government did not restrict foreign clergy and missionary activity or other typical religious activities. Religious differences are largely along ethnic lines; most ethnic Fijians are Christians, and most Indo Fijians are Hindu, with a sizable minority of Muslims. The Government protected the rights of all religious groups. The major holidays of Christianity, Hinduism, and Islam were celebrated nationally.

The role of religion was tied closely to existing racial antagonisms and continued to be a political problem. Prominent figures in the Methodist Church and allied political parties continued to advocate the establishment of a Christian state. This position received public support from several M.P.s. The Church has displayed strong nationalist sympathies.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government has broad powers to limit freedom of movement in the interest of national security. Unlike in previous years, access to Nukulau Island, site of a maximum security detention center for persons charged with treason, was granted to family members, the clergy, and ICRC representatives.

The Constitution prohibits forced exile, and the Government did not practice it.

The law includes provisions for providing refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

In practice, the Government provided protection against refoulement, the forced return of persons to a country where they feared persecution. The Government granted refugee status or asylum. However, in the past, the Government has been reluctant to grant temporary protection without assurances that the asylum seeker would be moved to a third country.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The 1997 constitutional amendments reduce some of the ethnically based factors that abridged the right of citizens to change their government. Under the amended Constitution, the Prime Minister and the President may be of any race. The amendments establish a 71 member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The unprecedented open seats are apportioned into districts of approximately equal population. Of the 46 communal seats, 23 are allotted to indigenous Fijians, 19 to Indo Fijians, 3 to "general voters" (for the most part mixed race, Caucasian, and East Asian voters), and 1 to Rotumans (an ethnically distinct Polynesian group). These allotments were generally proportional to the ethnic composition of the country's population. The amendments also establish an alternate voting system for elections to the lower house to replace the first past the post system of the previous constitution. The Senate remains an appointed body with 32 members, of which the President approves 14 members nominated by the Great Council of Chiefs, 9 nominated by the Prime Minister, 8 nominated by the opposition leader, and 1 nominated by the Council of Rotuma. Several persons prominently and publicly involved in the 2000 coup were named to the Senate by the Prime Minister.

On November 26, Prime Minister Laisenia Qarase of the ruling SDL party, and Mahendra Chaudhry, leader of the opposition FLP, agreed not to pursue further the dispute over the composition of the Cabinet. The disagreement began when the Qarase Government excluded Chaudhry's FLP from the new Cabinet after the 2001 elections, although according to the Constitution, the FLP had received enough votes to be offered positions in the Cabinet. Chaudhry took legal action against Qarase; the Supreme Court affirmed the constitutional provision and instructed the Prime Minister to offer cabinet seats to Chaudhry's party. Subsequent negotiations between the two sides regarding cabinet portfolios had proved unsuccessful until the November agreement.

Indo-Fijians, who account for 42 percent of the population, continued to be egregiously underrepresented at all levels in the Government, from the Senate to the lowest ranking police constable or soldier. These inequities are to some extent enshrined in the Constitution, which mandates that 14 of Parliament's 32 Senators be appointed by the Fijian Great Council of Chiefs and 1 by the Rotuma Council. Therefore, the support of only two additional Senators is needed to give indigenous Fijians effective control in the Senate.

There were continued calls for action against persons implicated but not charged in the May 2000 coup attempt, a November 2000 mutiny, and a separate, abortive mutiny conspiracy in December 2000. Several conspirators were tried and sentenced during the year. On August 5, the Vice President, a government minister, and the Deputy Speaker of Parliament were sentenced to periods of imprisonment ranging from 1 to 6 years for their participation in a coup attempt in May 2000. On December 15, a court-martial convicted the final group of military suspects charged in the coup attempt and sentenced them to periods ranging from 3 to 8 years in prison.

Allegations of nonaccountability, corrupt travel, financial mismanagement, and conflicts of interest regarding officials and ministries continued to be raised by the media. Several cases of improper bidding and supply were under investigation in the Ministry of Works and Energy, and officials there and in other ministries were relieved of duty because of allegations of impropriety.

In some ministries, government transparency was virtually nonexistent. The Constitution gives the Auditor General (AG) rights of access to audit all government bodies, whether national or local. However, early in the year the AG complained to Parliament that "verbal and written requests in the past 2 years" for information from ministries and departments of government "have been greatly unsuccessful" and met with resistance by the heads of the units concerned.

The country's 71 seat House of Representatives included 1 appointed and 5 elected female M.P.s, while the 32 member Senate included 2 women. After the 2001 election, four ethnic Fijian women were appointed to the Cabinet (two as ministers and two as assistant ministers). Women also played important roles in the chiefly system and could be chiefs in their own right.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials generally were cooperative and responsive to their views.

The HRC appeared to be impartial and independent, and it continued to receive and investigate requests for assistance, some involving alleged abuses by the military, police, and prison officials. HRC work was hampered by Constitutional Redress Rules, which stipulate that human rights cases must be filed in the High Court within 30 days of a complaint.

There were also several small, foreign based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the Government and these groups.

The ICRC continued to operate an office in the country.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, place of origin, political opinion, color, or creed. It also provides specific affirmative action provisions for those disadvantaged as a result of such discrimination. A compact included in the Constitution specifically provides for affirmative action and "social justice" programs to secure effective equality of access to opportunities, amenities, and services for ethnic Fijians and Rotumans and for all disadvantaged citizens and groups. The Constitution cites the "paramountcy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens. The Government generally enforced these constitutional provisions effectively, although there were problems in some areas.

*Women.*—Domestic abuse, rape, and incest were major problems. Reliable estimates indicated that 10 percent of women had been abused in some way. An active women's rights movement addressed the problem of domestic violence. Police have adopted a "no drop" rule, under which they prosecute cases of domestic violence even when the victim does not wish to press charges. Nonetheless, cases of domestic abuse and incest often were dismissed by courts or received minimal sentences. The traditional practice of reconciliation between the aggrieved parties sometimes was taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest.

The women's rights movement pressed for serious punishment for rape. Sentences varied widely. Women's groups continued to urge that all rape cases be heard in the High Court, where lengthier sentences are available. However, the law accords an accused rapist the right to choose between the High Court and magistrates' courts. Since there have been no effective prosecutions for marital rape, women's activists continued to press for inclusion of marital rape in a new Domestic Violence Bill on which public hearings were held in November by the Attorney General's office.

Prostitution is illegal, although it can be found, particularly in Suva. The law prohibits sex tourism as well as sexual harassment; neither was considered to be a significant problem.

Suva, Ba, Labasa, and Lautoka have women's crisis centers funded by foreign governments. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as child support. The NGO Femlink Pacific distributed information at the grassroots level and encouraged community based dialogue. The Ministry of Women provided a Gender Awareness Program to educate soldiers and police officers about women's concerns.

Under the Constitution, male and female citizens enjoy equal rights in regard to the granting of residence for spouses, and with regard to the registration and racial designation of children for purposes of enrollment on electoral rolls and entitlement to ethnic, communal property rights. The 2003 Family Law established "no fault" divorce.

Women had full rights, in law and practice, of property ownership and inheritance, and a number were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women generally were paid less than men for similar work.

*Children.*—The Government devoted 19 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15. The inability of some families to pay school fees and bus fare limited attendance for some children.

The Government provided free medical care for children at public health centers and hospitals. Government nurses provided free immunizations for children in primary schools.

Societal changes have undermined traditional village and extended family based structures. Outgrowths of these changes have included increased child abuse and a number of homeless youths in urban areas. Some youths found employment in the informal sector. Children worked on the streets, in homes as domestics, and in auto repair shops. Homeless children often were seen on the street working as shoeshine boys or involved in prostitution. Child prostitution, along with prostitution in general, appeared to increase during the year and affected both the ethnic Fijian and Indo Fijian communities.

Children's testimony was largely inadmissible in courts unless corroborated by an adult.

The 2003 Family Law established that illegitimate children have the same rights as legitimate children.

*Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnapping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking in persons to, from, or within the country during the year.

There was an increase during the year in persons arriving in or transiting the country with altered or falsified travel documents. The police believed that an organized Asian criminal network in the country coordinated these and other illegal movements of persons. However, most appeared to be economic migrants rather than victims of trafficking.

Child prostitution also was a problem, affecting both the ethnic Fijian and Indo Fijian communities (*see* Section 5, Children).

The Government did not sponsor or provide assistance to any programs to combat or prevent trafficking in persons.

*Persons With Disabilities.*—The Constitution provides for equality before the law of all persons, including persons with disabilities, and discrimination against the physically disabled in employment, education, and the provision of state services is illegal. However, there was no legislation or mandated provision for accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities.

The Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several voluntary organizations also promoted attention to the needs of persons with disabilities.

Persons with mental disabilities largely were separated from society and normally were supported at home by their families. There were a few special schools for persons with mental disabilities; however, their costs limited access.

*National/Racial/Ethnic Minorities.*—Tension between ethnic Fijians and Indo Fijians has been a longstanding problem. While the Constitution notes that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," it also specifies the "paramountcy of Fijian interests" as a protective principle (*see* Section 3).

Senators appointed by the Prime Minister made numerous racial slurs directed against Indo Fijians. During the year, the SDL Government worked to ensure the political supremacy of ethnic Fijians. The majority of valid complaints to the HRC dealt with racial and ethnic equality problems.

Land tenure remained a highly sensitive problem. Ethnic Fijians communally hold more than 80 percent of arable land, the Government holds another 8 percent, and the remaining is freehold. Ethnic Fijians' traditional beliefs, cultural values, and self identity are tied to the land. Most cash crop farmers were Indo Fijians, leasing land from ethnic Fijian landowners through the Native Land Trust Board. Many Indo Fijians, particularly farmers, believed that the absence of secure land tenure discriminated against them. Many traditional, communal indigenous Fijian landowners, in turn, felt that the rental formulas included in the Agricultural Land Tenure Agreement (ALTA) discriminated against them. Racial tensions and grievances over low rents for agricultural lands resulted in several alleged illegal evictions of Indo Fijians and reoccupations of land by native Fijian landowners. There also were reports of Fijian landowners extorting higher rents from their Indo Fijian tenants. Almost none of these violations were prosecuted.

The Government has pressed strongly for changes in the existing ALTA to accommodate landowner concerns; however, Parliament took no action on the matter during the year.

The minority Chinese community continued to grow dramatically, primarily through illegal immigration. There was a steep rise in illegal activities, including murder, allegedly connected to Chinese organized crime. A special police unit, the

Asian Crime Unit, investigated criminal activity within the ethnic Chinese community.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. However, the law permits restrictions to these rights in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. An estimated 36 percent of the work force was unionized.

All unions must register with, but are not controlled by, the Government. The major central labor body was the Fiji Trades Union Congress (FTUC), which in the past was associated closely with the opposition FLP; other unions operated under its auspices. In recent years, the FTUC has adopted a more independent political stance. The country's other important union grouping was the Fiji Island Council of Trade Unions. While certain unions were ethnically based, both Indo Fijians and ethnic Fijians held leadership roles in the trade union movement.

The Employment Act makes it an offence for an employer to victimize any worker or make it a condition of employment for a worker not to belong to a union. Numerous cases of victimization of workers who expressed an inclination to join a union were reported to the Ministry of Labor. However the ministry did not protect workers effectively from anti-union discrimination, and no employer was prosecuted.

*b. The Right to Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively. Employers are required to recognize a union if more than half of the employees in a workplace have signed membership cards; no ballots are held to determine representation. The Government has the power to order recalcitrant employers to recognize unions, and it has done so. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized; however, although the law encouraged unionization, union organizers' jobs were not protected, resulting in low unionization in, for example, the country's garment factories. Employers reserved the right to fire union organizers, and some workers were afraid to unionize. Wage negotiations generally were conducted at individual companies rather than on an industry wide basis.

Strikes are legal, except in connection with union recognition disputes, and trade unions can conduct secret strike ballots without government supervision. To carry out a legal strike, organizers must give an employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. Most disputes, including those in which strike action was deemed illegal, were settled by referral to a Permanent Arbitrator.

Union officials operated without interference during the year. Organizers were more vulnerable, particularly when operating on company premises, although in theory they have legal protection. Intimidation of workers often made organizing difficult.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating practices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced or compulsory labor, including by children, and there were no confirmed reports that such practices occurred. However, media reports and NGOs alleged that work conditions in some garment factories might include forced or bonded labor and excessive work hours.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The legal system was inadequate to protect the rights of children. The Government has adopted some laws to protect children from exploitation in the workplace, but enforcement was lax. Children under the age of 12 may not be employed in any capacity. Children under age 15 may be employed only outside of school hours in family enterprises and not in the industrial sector. Persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery; however, they must be given specified hours and rest breaks. In practice, the Ministry of Labor had few or no resources to investigate reports of child labor or to charge offending employers. There were only two inspectors at the Ministry of Labor who conducted

regular annual workplace inspections, and there were no investigators to follow up reports of violations. During the year, migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and in prostitution.

The laws and regulations concerning child labor are inadequate, and the infrastructure for implementing them was lacking. There were no adequate enforcement remedies and no comprehensive policy to eliminate the worst forms of child labor.

*e. Acceptable Conditions of Work.*—There was neither a national minimum wage nor a limit on maximum hours for working. Certain sectors had minimum wages set by the Ministry of Labor. Minimum wage levels provided a sparse but adequate standard of living for a worker and family in all sectors other than the garment industry, where no minimum wage applied. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours. Factory housing for garment workers was overcrowded.

There are workplace safety regulations, a Worker's Compensation Act, and an accident compensation plan. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces; however, many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. The law accords employees the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so.

There were a growing number of nonunionized and sometimes illegal immigrant workers (predominantly ethnic Chinese), particularly in the garment sector.

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## INDONESIA

Indonesia is a republic with a presidential system and three branches of government. The President is head of state and serves a 5-year term for a maximum of two terms. On October 20, Susilo Bambang Yudhoyono, the country's first popularly elected president, was inaugurated after defeating incumbent President Megawati Soekarnoputri. The People's Consultative Assembly (MPR), which convenes once a year, has the power to amend the Constitution. Routine legislative affairs, including enacting legislation, are the responsibility of the House of Representatives (DPR). During the year, the Government made further progress in its transition from 3 decades of repressive and authoritarian rule to a more pluralistic and representative democracy. The country held successful legislative elections and free, fair, and peaceful direct presidential elections. Previously, the legislature chose the president. The Government further reduced the formal political role of the police and military, who relinquished their appointed seats in the DPR in October, when the new legislature was sworn in. The Constitution provides for an independent judiciary; however, in practice, the courts remained subject to outside influences, including the executive branch.

The Indonesian Armed Forces (TNI) formally have responsibility for external defense, and the Indonesian National Police for internal security; however, in practice, the division of responsibilities remained unclear. They are known collectively as the security forces. The military played a role in internal security matters, particularly in conflict areas such as Aceh, the Moluccas, Central Sulawesi, and Papua (formerly known as Irian Jaya). There was considerable friction between the police and the TNI, but joint operations were common in conflict areas. A civilian defense minister oversees the military but in practice exercised only limited control over TNI policy and operations. The military and the police continued to wield significant political influence as well as economic power through businesses operated by security force members, their proxies, and foundations. The security forces showed greater willingness to hold accountable human rights violators within their ranks; during the year, hundreds of soldiers were court-martialed, and dozens of police officers were dismissed or otherwise disciplined. However, most such disciplinary actions involved low-level officers and sometimes mid-level officers who committed lesser crimes, such as beatings, and in some cases punishments did not match the crime. Members of the security forces continued to commit numerous serious human rights violations, particularly in areas of separatist conflict.

During the year, the economy, which increasingly was market driven, grew by an estimated 4.8 percent; however, this failed to reduce unemployment or absorb the

estimated 2.5 million new job seekers entering the market every year. The population was approximately 238 million. The poverty rate fell from 27 percent in 1999 to 16 percent in 2002; however, it increased slightly to an estimated 17.5 percent during the year. The estimated per capita income was \$867. Consumer demand was the leading force driving economic growth. At year's end, the northern Sumatra region was struck by an earthquake and a resultant tsunami, which together left some 240,000 persons dead and missing in Aceh and North Sumatra Provinces and caused extensive destruction of infrastructure in Aceh Province.

The Government's human rights record remained poor; although there were improvements in a few areas, serious problems remained. Government agents continued to commit abuses, the most serious of which took place in areas of separatist conflict. Security force members murdered, tortured, raped, beat, and arbitrarily detained civilians and members of separatist movements, especially in Aceh and to a lesser extent in Papua. Some police officers occasionally used excessive and sometimes deadly force in arresting suspects and in attempting to obtain information or a confession. Retired and active duty military officers known to have committed serious human rights violations occupied or were promoted to senior positions in the Government and the TNI. Prison conditions remained harsh. The judicial system was corrupt, which contributed to the failure to provide redress to victims of human rights violations or hold perpetrators accountable. Security force violators sometimes used intimidation and bribery to avoid justice. Land disputes generated numerous human rights abuses. These frequently involved forced evictions, some accomplished with lethal force. As in previous years, the Government jailed some peaceful antigovernment protestors for "insulting the President" or "spreading hatred against the Government." Politicians and tycoons showed greater willingness to take legal action against news organizations whose reporting they found insulting or offensive, and this trend had a chilling effect on some investigative reporting. Members of the security forces and other groups sometimes limited freedom of expression by intimidating or attacking journalists whose articles they found objectionable. The Government restricted the foreign press from traveling to conflict areas in Aceh, Papua, Sulawesi, and Maluku. Authorities occasionally tolerated discrimination against and abuse of religious groups by private actors. The Government at times restricted the activities of nongovernmental organizations (NGOs), particularly in Aceh and Papua. Women were victims of violence and discrimination. Female genital mutilation (FGM) occurred in some parts of the country, although the type practiced was largely symbolic in nature. Child sexual abuse and violence against children remained serious problems. Trafficking in persons was a serious problem. Discrimination against persons with disabilities and mistreatment of indigenous people were problems. The Government allowed new trade unions to form and operate, but it frequently failed to enforce labor standards or address violations of worker rights. Forced child labor remained a serious problem.

Terrorists, civilians, and armed separatist groups also committed serious human rights abuses.

The country made substantial progress in strengthening its democracy. There was a series of three national elections, in which voter turnout was notably high and the transition from defeated incumbent to newly elected President peaceful. The military and the police lost their nonelected seats in Parliament. The Government passed the Domestic Violence Act, which criminalizes domestic violence, and took steps to address trafficking in persons, including prosecuting traffickers and beginning to strengthen antitrafficking laws. The Government issued a decree authorizing the establishment of a 40-member Papuan People's Council. The Government also took serious legal measures to bring terrorists to justice.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces continued to commit unlawful killing of rebels, suspected rebels, and civilians in areas of separatist activity, where most politically motivated extrajudicial killings also occurred. There was evidence that the TNI considered anyone its forces killed in conflict areas to have been an armed rebel. Security forces also committed nonpolitical extrajudicial killings. The Government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses in Aceh.

The TNI tried, jailed, and discharged some soldiers for rape, robbery, and torture; however, no security force members were prosecuted for unlawful killings in Aceh (see Section 1.d.).

In Aceh, military and police personnel committed extrajudicial killings and used excessive force against noncombatants. The Government placed Aceh under martial

law from May 19, 2003, until May 18, when the Government introduced a state of civil emergency. The Government extended the same extraordinary measures introduced during martial law to the civil emergency period, including severe restrictions on civil liberties, and created extraordinary powers for the security forces, which continued to operate with greatly reduced restrictions. During the civil emergency period, the TNI continued to use martial law authority to make arrests, a legal authority normally reserved for the police. The TNI media center in Lhokseumawe, Aceh, reported that the TNI killed 1,883 Free Aceh Movement (GAM) insurgents and arrested at least 1,529 and that 1,137 others surrendered to TNI between May 2003 and November. At year's end, a disastrous tsunami struck the region resulting in a temporary cessation of hostilities declared unilaterally by both the TNI and GAM.

Accurate, independent, and up-to-date information on the number of GAM insurgents and other persons killed in Aceh was difficult to obtain. According to a coalition of NGOs in Aceh, between January and October, at least 57 civilians, 251 GAM members, and 21 security personnel were killed. Martial law administrators limited information, restricted access for foreign journalists, and forbade contact with the GAM. Until the tsunami struck on December 26, the Government effectively prohibited foreign humanitarian aid workers, except for a limited number of U.N. workers, from entering the province. Data from different sources, even within the Government, often were contradictory. NGO sources frequently questioned casualty figures announced by security forces, and they claimed that the number of victims was much higher and that many of those killed were civilians. Security forces and rebels gave conflicting information on victims' identities, which made it difficult to determine the breakdown of civilian, rebel, and security force deaths. The press routinely was under pressure to report only official casualty figures, which may have under-reported both civilian and security force casualties. Police rarely investigated extrajudicial killings and almost never publicized such investigations.

Amnesty International (AI) reported that a farmer from Kuala Simpang sub-district in East Aceh fled the country after two men in his village were killed by the military in a month. According to the farmer, the first person was killed by mistake because he shared the same name as a suspected GAM member, and the second person was captured and killed during a sweep for GAM members. Most killings were of young men suspected of being GAM members; however, there also were reports in the media of unlawful killings of women and children.

The Government made no progress in establishing accountability in a number of extrajudicial killings in Aceh in 2003, including the June 16 killing of Muzakkir Abdullah and the May killing of Muhammad Jamaluddin. There were no known developments in the May 2003 killing by TNI soldiers of 10 men in Cot Rebo village in Aceh. There also was no progress made in establishing accountability for extrajudicial killings in Aceh in 2002, including the June killings of two farmers on Kayee Ciret Mountain and the August killings of three women in the north Aceh village of Kandang.

During the year, GAM members killed many soldiers, police, civil servants, and civilians. In many cases, the victims were killed for allegedly collaborating with the security forces, while in other cases, the motive appeared to be criminal. Although many Acehnese feared and resented the security forces, many also feared and were intimidated by the GAM because of its extortion and criminal activities and the severe hardships that the GAM's long-running insurgency has caused for the Acehnese. On February 5, TNI troops found the bodies of four civilians in the jungle near Peureulak, East Aceh. The four had died of gunshot wounds. The TNI believed they had been GAM hostages. On February 11, GAM rebel Junaidi allegedly shot and killed civilian Cut Musdaifah in Wakheuh village. According to witnesses, two gunmen forced Musdaifah to accompany them and shot her when she attempted to escape. On March 24, GAM rebels allegedly shot and killed local legislature candidate Muhammad Amin. The TNI believed the GAM was targeting civilians who supported the coming elections. Also on March 24, a group of armed men believed to have been GAM rebels shot and killed a paramedic in South Aceh; the TNI believed extortion was the motive for the attack.

The Government reported limited progress in prosecuting those responsible for unlawful killings that might have been carried out by GAM members in previous years, including those of Zaini Sulaiman, Sukardi, Sulaiman Ahmad, Tengku Safwan Idris, and Nashiruddin Daud. A police investigation into the 2001 killing of Dayan Dawood, rector of Banda Aceh's Syiah Kuala University who was shot after offering to mediate between the GAM and the Government, led to the arrest and conviction of Mahyeddin bin M. Adan with a 17-year prison sentence.

There were no known developments in the following cases in 2003 and previous years of unlawful killings that could not be clearly attributed to either the security

forces or GAM rebels: The December 2003 bombing that killed 9 persons at an outdoor concert in Peureulak; the July 2003 killing of former GAM member Cut Aca Budi; the July 2003 killing of schoolteachers Muslim Sulaiman and his wife Darmawati; the May 2003 killing of local legislature member Jamaluddin Hasany; the mass graves discovered in 2003 in Nisam and Permata Districts; the 2002 killings of 6 persons in the town of Lombaro Angan, Aceh Besar District; the 2002 killings of 2 high school girls in the village of Gumpueng Tiro, Pidie regency; and the 2001 massacre of 31 persons at a palm oil plantation in Idi Rayeuk, East Aceh.

On September 7, prominent human rights activist Munir Said Thalib was found dead on a flight from Jakarta to the Netherlands. The Dutch Government announced that an autopsy report indicated the cause of death was arsenic poisoning. The incident was under investigation at year's end.

In Central Sulawesi, political and economic tensions between approximately equal populations of Christians and Muslims continued to cause violence. A total of 22 persons died in communal violence, the same number as in 2003. Unlawful killings included a series of shootings by unidentified gunmen, continuing a trend that began in October 2003. On March 30, unidentified gunmen shot and killed Reverend Freddy Wuisan near Membuke Church in Poso. On May 30, unidentified gunmen shot and killed prosecutor Fery Silalahi, a Christian, in Palu after he and his family left a religious service. Silalahi was the lead prosecutor in the ongoing trial of three accused Bali bombing accomplices. The fact that assailants shot only Silalahi, leaving his wife and children unharmed, gave the impression of an assassination. On July 18, two unidentified assailants shot and killed Reverend Susianti Tinulele in Palu. These incidents remained unsolved at year's end. During the year, 12 suspects were arrested for the October 2003 attack in Beteleme in which at least 14 persons were killed. The Palu District Court found 11 guilty and handed down prison sentences ranging from 3 to 4 years; 1 suspect was acquitted for lack of evidence. Most residents reportedly were satisfied with results of the investigation and trials. There was no progress reported in police investigations of October 2003 attacks on mainly Christian villages, in which 10 persons were killed, or of the November 2003 killings of 2 men in the Poso coastal villages of Kilo Trans, home to ethnic Balinese migrants, and 2 men in the Christian village of Marowo.

In Maluku and North Maluku, unlawful killings increased from 2003 when sectarian violence broke out on April 25 after a commemoration of the anniversary of the separatist Republic of South Maluku (RMS). In the violence that followed, at least 40 persons were killed and approximately 260 were injured. The following weeks were marred by sporadic violence and small bomb explosions that destroyed approximately 356 buildings, including a church and a mosque. By June, the government-brokered peace agreements between the two religious communities were restored.

The Government reported little progress in establishing accountability in the following cases in Poso: The July 2003 explosion of a bomb in a cafe in the village of Sayo, which killed one person and injured five others; the June 2003 shooting of two men in the village of Kapompa; the 2002 bombing of a crowded passenger bus, which killed five persons; and numerous crimes committed in the province by former Laskar Jihad members.

The Government made some progress during the year establishing accountability for violence and human rights abuses in the region in 2003 and previous years. In February, Maluku prosecutors filed indictments against seven persons for the killing of two civilians during the 1999–2002 sectarian conflict in the region.

In Papua Province, the Government continued to conduct operations against rebels of the Free Papua Movement (OPM), and OPM rebels continued their operations against military units. Also in Papua, the TNI and police continued their joint investigation of the 2002 ambush that killed 2 American citizens and 1 Indonesian and injured 12 other persons near a large gold and copper mine near the city of Timika. On June 16, a foreign court indicted OPM guerilla Anthonious Wamang in connection with the killings. At year's end, Wamang remained at large, and the investigation remained open.

The Government made limited progress in establishing accountability for numerous human rights violations committed in Papua in previous years, including those committed in Biak, Abepura, Wasior, and Wamena. During the year, a human rights court in Makassar began proceedings against police implicated in abuses and killings of Papuans in a 2000 incident in Abepura. The National Human Rights Commission (Komnas HAM), created and funded by the Government but not a government agency, completed its report on the 2001 Wasior incident, in which police allegedly killed 12 civilians following an attack on a police post that left 5 policemen dead, and the Wamena incident, in which dozens of residents of the Central Highlands area of Kuyowage allegedly were tortured by unknown parties during a mili-

tary operation that followed the April 2003 break-in at the Wamena armory. The Commission found that soldiers and police had committed gross human rights violations, including murder, evictions, and torture. Komnas HAM categorized these violations as crimes against humanity and, on September 2, submitted its report to the Attorney General's Office (AGO) for possible prosecution (*see* Section 1.c.).

Police frequently used deadly force to apprehend suspects or acted recklessly in pursuit of suspects, and these actions sometimes resulted in the deaths of civilians. In other cases, suspects in police custody died under suspicious circumstances. On July 31, in Poso, police shot and injured Bambang, a wrongly accused suspect in the July murder of Reverend Susianti Tinulele. Police alleged Bambang had tried to escape, but neighbors said he was shot for no reason. On August 29, in Sragen, Central Java, police shot and killed three suspects who they claimed tried to escape from police custody. On August 30, in Pekanbaru, police shot and killed criminal suspects Hermansyah and Ade Candra, allegedly because the two tried to escape when police demanded to know the hiding place of their partners.

During the year, the Government made no significant progress establishing accountability for abuses from 2003, including the fatal burning by police of burglary suspect Arnoldus Adu in Rote, in East Nusa Tenggara Province, the beating death of an East Java resident by police in June, and the alleged suicide of Ihwanuddin, suspected member of the terrorist organization Jemaah Islamiya (JI).

The Government made no significant progress during the year in prosecuting those responsible for the 1998 killing of four students at Trisakti University and nine demonstrators at Semanggi intersection, and the 1999 killing of an additional four demonstrators at Semanggi. Komnas HAM Chairman Abdul Hakim Garuda Nusantara asked the DPR to reverse its 2001 decision not to classify these cases as human rights violations, but at year's end, the DPR had not responded. In June 2003, the court-martial began of an enlisted man, one of three TNI soldiers indicted for reckless killing in connection with the 1999 Semanggi incident. The soldier was accused of shooting and killing student Yap Yun Hap without orders from his superior. Two other defendants, who were officers, were to be tried separately. At year's end, all of the cases were pending in the AGO, awaiting a decision from the DPR.

During the year, bombs exploded in or near the cities of Jakarta, Ambon, Peureulak, and Poso, among others. On January 10, members of Sulawesi-based Laskar Jundullah, an extremist organization, bombed a cafe in Palopo, South Sulawesi, killing four persons. Police arrested at least eight suspects, including alleged mastermind Agung Abdul Hamid, whose trial started on October 28. On September 9, suspected JI members set off a powerful bomb in front of the Australian Embassy in Jakarta, killing 10 persons and injuring more than 150 others. By year's end, the Government had arrested at least 19 persons in connection with the attack, including the suspected mastermind Iwan Darmawan, also known as Rois.

The Government made significant progress in prosecuting those responsible for bombings carried out in previous years. Authorities identified, apprehended, and successfully prosecuted many of those involved in the August 2003 bombing of the J.W. Marriott Hotel in Jakarta, which killed 12 persons, and the 2002 Bali bombings, which killed 202 persons. Those trials were scheduled to start in early 2005. In total, police investigators had arrested more than 130 JI-related suspects since 2002. By year's end, courts in Denpasar, Bali; Palu, Central Sulawesi; Lamongan, East Java; and Jakarta had convicted approximately 80 persons in connection with a series of terror attacks since 2001. Following the 2002 bombings in Makassar, South Sulawesi, the Makassar District Court convicted 18 suspects and acquitted another. In October, police captured Agung Abdul Hamid, the suspected mastermind behind the Makassar bombings and the January 10 South Sulawesi bombing.

Mobs carried out vigilante justice on many occasions, but reliable statistics on its prevalence were not available. Incidents of theft or perceived theft triggered many such incidents. For example, on August 16 in Bogor, West Java, a mob attacked and killed Ilham Kurniawan for stealing a motorcycle. On August 21 in Palembang, South Sumatra, a mob mistook a man named Junaedi for a thief and beat him to death. No official action was taken against those responsible for these killings.

Police and soldiers clashed on a number of occasions during the year. On March 22, more than 100 TNI soldiers from Battalion 143 in South Lampung attacked a police post at Rajabasa bus terminal. The clash stemmed from a personal dispute, and regional military commander Major General Syahrial BP Peliung later apologized to police and promised to take disciplinary action against the soldiers involved. At the end of the year, four privates were under investigation for the incident. On November 25, TNI members killed one police officer and seriously injured three others when they attacked a police post in East Aceh over a dispute involving palm oil business interests. Twenty-five TNI soldiers were arrested for their participation in the attack.

At schools, universities, police training centers, and other institutions, upperclassmen, or superiors sometimes physically mistreated underclassmen or subordinates, continuing a practice that dated back many years. During the year, a number of such incidents resulted in death. On February 23, police in Bandung, West Java, named 12 students of the State Sunan Gunung Djati Islamic Institute as suspects in the death of fellow student Imam Nawawi, who died during an extracurricular activity the previous week. Eight were accused of beating Nawawi to death. Police authorities reportedly took no further action regarding the September 2003 deaths of five recruits in Palu, Central Sulawesi, who were victims of hazing by members of the Police Mobile Brigade (Brimob). In September 2003, in Sumedang, West Java, upperclassmen at the government-run Public Administration Institute (STPDN) allegedly strangled sophomore Wahyu Hidayat. An STPDN student said upperclassmen beat Wahyu to teach him a lesson in loyalty after he failed to appear at a flag-raising ceremony on Independence Day. On April 15, 10 students were convicted and sentenced to 7 to 10 months in jail in connection with the death. Prosecutors had sought up to 5 years in prison for the defendants (*see* Section 1.c.).

*b. Disappearance.*—During the year, dozens of disappearances occurred, most frequently in Aceh Province, and large numbers of persons who disappeared over the past 20 years, mainly in conflict areas, remained unaccounted for. The Government reported little progress in prosecuting those responsible for disappearances that occurred in previous years.

According to a coalition of human rights NGOs, 46 civilians and 4 GAM members were kidnapping victims as of November; the same organization reported 130 civilians and 3 GAM kidnapping victims in 2003.

The security forces were implicated in some disappearances. An eyewitness report to AI claimed a 16-year-old boy working in a rice paddy was shot in the ankle when he tried to run away from a soldier. The boy was subsequently captured, and his whereabouts were unknown at year's end. The Government made no significant progress ascertaining the whereabouts of those who disappeared in 2003, including Mukhlis and Zulfikar, members of the local NGO Link for Community Development, after plainclothes military intelligence officers detained them in the town of Bireuen.

The GAM also abducted persons during the year. Elementary school teachers Muhammad Amin Alwi and Hasballah were forcibly taken by 10 armed men in military uniforms in Nagan Raya regency. The TNI believed the men were members of the GAM, because students reported that the kidnappers used an Acehnese dialect and complained the school had not helped in their struggle since martial law was implemented. In June 2003, in the East Aceh area of Peureulak, journalist Ersas Siregar of Rajawali Citra Televisi, cameraman Fery Santoro, driver Rahmatsyah, and the wives of two TNI officers were taken hostage by the GAM. One of the wives, Cut Soraya, was pregnant. Ersas Siregar was killed in December 2003 during a firefight between GAM and marines. After lengthy negotiations between the GAM and the International Committee of the Red Cross (ICRC), Fery Santoro was released in May along with 150 other civilian hostages, including the two wives of TNI officers. Soraya reported being beaten by her captors and ultimately miscarried.

In Papua, there were no credible reports of disappearance. The Government did not report any progress in prosecuting those responsible for disappearances that occurred in previous years, including those of Martinus Maware, Mathius Rumbrapuk, or Hubertus Wresman.

In Central Sulawesi, Maluku, and North Maluku, there were no credible reports of disappearance during the year. The Government made some progress in prosecuting those responsible for disappearances that occurred in Central Sulawesi in 2002. During the year, 14 soldiers were court-martialed and received punishments ranging from dishonorable discharge to 4 years in prison over abductions and extrajudicial killings committed in the Central Sulawesi regency of Poso in December 2002. The TNI accused 2 lieutenants and 12 privates of kidnapping dozens of civilians in the Toyado area but declined to make their names public. The soldiers allegedly abducted the civilians in December 2002, after one of their commanders was shot in the head during a clash between Christians and Muslims in the Sepe area. Some of the abducted civilians turned up dead, while others remained missing at year's end.

The Government made no additional progress in prosecuting those responsible for the 1996 attack by hundreds of progovernment civilians and soldiers on the Jakarta headquarters of what was then the Indonesian Democratic Party (PDI); 5 persons died and 23 persons disappeared in the attack. The Central Jakarta District Court charged five persons, three of them civilians, with vandalism and assault during the attack: Retired Colonel Budi Purnama, Lieutenant Suharto, Mochammad Tanjung,

Jonathan Marpaung, and Rahimmi Illyas. However, Petrus Kurniawan, a key figure in a group pressing for accountability, called the trial an "orchestration," saying the defendants were field operators, not the leaders behind the attack. During the year, police investigators again submitted to prosecutors six dossiers on the case, but prosecutors returned the case files to the police, saying the files were incomplete. Named in the dossiers were Jakarta Governor Sutiyoso, who in 1996 served as Jakarta's military commander; former State Intelligence Chief Zacky Anwar Makarim; Brigadier General Syamsiar Wangsamihardja; former Jakarta Police Chief Hamami Nata; Central Jakarta police official Abubakar Nataprawira; Colonel Haryanto; and former PDI Chairman Soerjadi.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession; however, law enforcement officials widely ignored such statutes in practice. Security forces continued to employ torture and other forms of abuse. The Government made some efforts to hold members of the security forces responsible for acts of torture. During the year, the use of torture to obtain confessions from suspects was most apparent in Aceh.

Torture was sometimes used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Security forces also allegedly used torture to extort money from villagers. Reliable figures on the number of incidents of torture that occurred during the year were difficult to obtain. Physical torture cases included random beatings and acts involving hair, nails, teeth, and genitals. Heat, suffocation, electricity, and suspension by the feet were also used. Psychological torture cases reportedly included food and sleep deprivation, sexual humiliation, and forced witnessing or participation in acts of torture.

During the year, press restrictions in Aceh Province limited media reports on cases of torture there. However, a coalition of human rights NGOs reported 77 cases of civilians and 7 GAM members tortured, compared with 256 civilians and 16 GAM members tortured in 2003. The NGO Kontras reported that 214 civilians were tortured. In September, Human Rights Watch (HRW) reported widespread abuse of prisoners in Aceh by security forces. HRW reported that 24 of 35 Acehnese prisoners interviewed claimed they had been tortured and forced to confess involvement with the GAM. Examples of torture in the report included electric shocks and beatings with wooden beams and gun butts. The Government announced it would investigate the allegations contained in the HRW report. AI reported that in January, members of Brimob arrested a small shop owner suspected of being a GAM intelligence officer. He was held for 24 hours, during which Brimob members allegedly beat him in the face with the butt of a rifle and broke his nose. He also allegedly was burned by cigarettes on his arms, stomach, and thighs. AI representatives reported seeing dozens of burn marks still visible when they met with him in May. He was released and fled the country after his village paid \$22 (198,000 rupiah) to Brimob.

The Government reported no progress in prosecuting those responsible for acts of torture committed in Aceh in 2002 or 2003, including the beating and burning of civilian Rizki Muhammad.

In November 2003, in the Papuan city of Wamena, suspects Jigibalom and Tenius Murib were arrested for stealing weapons from a military arsenal. The two were ill but were denied proper medical attention. Also in Wamena, unidentified gunmen raided a government armory in April 2003. TNI officials detained for questioning suspect Yapenas Murib, who later died in TNI custody (*see* Section 1.a.). The Government did not investigate his death. Komnas HAM completed an investigation into reports that dozens of residents of the Central Highlands area of Kuyowage were tortured by unknown parties during a military operation that followed the break-in at the Wamena armory. Komnas HAM concluded that military forces tortured villagers and committed other gross human rights violations. The Government did not report any progress in prosecuting those responsible for this or other acts of torture committed in Papua in 2003 or 2002, including the torturing to death of Yanuaris Usi.

In early August, suspected JI member Saifudin Umar, alias Abu Fida, was found seriously injured in an East Java hospital. He claimed to have been secretly arrested and tortured by police. Police admitted arresting Abu Fida on the grounds that he had helped hide two JI fugitives; however, police denied torturing him. The Government made progress arresting and prosecuting those responsible for cases of torture in East Java. On January 19, three police officers were arrested for allegedly torturing two college students in Surabaya. On September 6, the Padang District Court in West Sumatra convicted and handed down 18-month prison sentences to five police officers accused of torturing to death narcotics suspect Faisal.

Rapes occurred in conflict zones (*see* Section 5). Human rights advocates blamed many of the rapes on soldiers and police. Statistics were unavailable, but credible sources provided a number of accounts that involved soldiers and police. KontraS reported that during the year of martial law in Aceh, 47 women and 29 children were victims of violence, including rape. The extent to which rape was a problem in Aceh was hard to assess, due to social stigma, the lack of reporting, and access to the region. The Council of the Central Information for Referendum Aceh (SIRA) reported nine cases of rape by military personnel in Aceh. The NGO Aceh Sehabat confirmed a report that on July 24, three TNI soldiers raped a 16-year-old girl in Kampung Meureu Baro-Indrapuri over a period of several months, leaving her pregnant. Family and friends reportedly knew that the girl was being raped but did nothing to stop it due to fear for their safety.

At schools, universities, police training centers, and other institutions, upperclassmen or superiors sometimes physically mistreated underclassmen or subordinates, a practice that dated back many years. During this period, a number of such incidents resulted in death (*see* Section 1.a.).

The Government failed to make progress in establishing accountability for the 1998 riots, which included acts of torture and other attacks against ethnic Chinese women in Jakarta, Solo, Medan, and other cities. In 2003, an investigative team from Komnas HAM investigated the incident, received the testimony of dozens of witnesses, and identified 20 suspects. However, at the end of the investigation, team leader Solahuddin Wahid declined to name publicly the suspects, some of whom were members of the police and military. The team summoned 86 civilians, mostly witnesses, to testify; all but 5 complied. The team also summoned 48 government, military, and police officials, of whom only 3 complied. Among those who did not comply were former armed forces commander Wiranto, TNI spokesman Major General Sjafrie Sjamsuddin, and the former commander of the Army's Strategic Command Reserve (Kostrad), retired Lieutenant General Prabowo Subianto. Komnas HAM prepared a 1,500 page report on the riots and in September 2003 forwarded the report to the AGO, with the expectation that the AGO would conduct an investigation of its own. However, on March 4, the AGO returned the report to Komnas HAM, reportedly because it lacked testimony from key members of the security forces.

In Aceh Province, following the introduction of martial law in May 2003, more than 603 school buildings, the majority of them elementary schoolhouses, were burned. The Government attributed the arson attacks to the GAM, which has a history of destroying public buildings, including schools, because they were the most visible symbols of government presence and also because security forces often used abandoned government facilities as barracks or village headquarters. The GAM denied these allegations. By the end of the year, the Government had rebuilt 328 of the schools, but several hundred schools reportedly were destroyed by the December 26 tsunami. Human rights groups in Aceh reported that security forces continued the practice of marking houses of families of suspected GAM members with a red "X" or "GAM," thereby stigmatizing the inhabitants and in many cases leading to their ostracization.

No progress was made in the investigation of the alleged intentional revenge burning by Brimob of 80 shops and homes in Keude Seuneddon, North Aceh, in a 2003 incident that occurred immediately after the killing of 2 Brimob officers.

On September 28, approximately 150 members of the Betawi Brotherhood Forum (FBR), a group of criminals who claimed to be native Jakartans, raided a number of nightspots in the Jakarta areas of Cilincing and Muara Baru, saying the businesses were immoral and should close within a week. Police officers reportedly stood by as FBR members terrorized the nightspots. It was the FBR's first major attack since its 2002 attack against members of the Urban Poor Consortium at the Jakarta office of Komnas HAM. On June 27, self-described FBR members also forced the closure of a church in East Jakarta (*see* Section 2.c.). In October, the month of Ramadan, FBR gangs invaded nightclubs and other establishments that they believed were open inappropriately during the holy month. Eight FBR members were arrested for their actions. Several hundred stick-wielding persons from the Islam Defender's Front (FPI) attacked a popular Jakarta nightclub. Some police officials reportedly acquiesced in the attack, but after other high profile leaders criticized the attack, police deployed more than a thousand extra officers to patrol the streets. Four FPI members were arrested.

Conditions at the country's 365 prisons and detention centers were harsh, and overcrowding was widespread. Facilities frequently were two or three times over capacity. Guards regularly mistreated inmates and extorted money from them. Unruly detainees were held in solitary confinement for up to 6 days on a rice-and-water diet. The wealthy or privileged had access to better treatment in prison. In July,

the country's most famous inmate, Hutomo "Tommy Suharto" Mandala Putra, son of former President Suharto and convicted of arranging the killing of a judge, was flown aboard a helicopter to stay in the luxury Kartika Pavillion Suites at the Gatot Subroto Army Hospital for 6 days. Tommy Suharto did not appear for seven court appearances for health reasons. A team of 10 doctors detected a possible tumor behind Suharto's left eye and a stomach ulcer but ultimately declared him able to conduct normal activities.

Prison authorities held female inmates separately from men but in similar conditions. Most children convicted of serious crimes were sent to juvenile prisons. However, until they were convicted, most juveniles were held with adults at detention centers. In theory, prisons held those convicted by courts, while detention centers held those awaiting trial; however, in practice, pretrial detainees at times were held with convicted prisoners.

There were no official restrictions on prison visits by human rights monitors, and prison officials granted varying degrees of access. The ICRC made some visits to prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The Criminal Procedures Code contains provisions against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and authorities routinely violated it. The Code provides prisoners with the right to notify their families promptly, and it specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times, authorities made arrests without warrants. No reliable statistics existed on how many arbitrary arrests and detentions took place during the year.

The President appoints the Indonesian National Police Chief, subject to DPR confirmation. The Police Chief reports to the President but is not a full member of the Cabinet. The Indonesian National Police consist of approximately 250,000 officers deployed to each of the 33 provinces. Despite decentralization, the police have largely maintained their centralized hierarchy, in which local police forces formally reported to the national headquarters rather than to local governments.

During the year, police generally improved their professionalism and effectiveness at fighting crime, and they succeeded in apprehending a large number of suspects in terrorist attacks. Overall professionalism of the police remained low, as did respect for human rights and effectiveness at investigating human rights abuses. Impunity and corruption remained significant problems. The extent of wrongdoing within the nation's police forces was difficult to gauge. Police commonly extracted bribes, from minor payoffs in traffic cases to large bribes in criminal investigations. According to police, 36 members of the national police force were investigated for human rights violations during the year. Punishments varied from demotion to criminal prosecution.

A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pretrial hearings and almost never received compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The Criminal Procedures Code limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days; prosecutors may detain a suspect 30 days initially, with a 20-day extension permitted. Prosecutors may extend police detention periods, and a district court may further extend prosecutors' detention of a suspect. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. In addition, the Criminal Procedures Code allows detention periods to be extended up to an additional 60 days at each level if a defendant faces a possible prison sentence of 9 years or longer, or if the individual is certified to be mentally or physically disturbed. Authorities generally respected these limits in practice.

In areas of separatist conflict, such as Aceh and Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. Kontras reported that in Aceh such detentions occurred frequently because of suspected connections with GAM members. According to HRW, 60 percent of arrests in 2003 were made without a warrant. Additionally, none of the 35 detainees in Aceh that HRW interviewed during the year reported being shown an arrest warrant when they were arrested in 2003. The authorities rarely granted bail. The authorities frequently prevented access to defense counsel during investigations and limited or prevented access to legal assistance from voluntary legal defense organizations. At least one person died in custody during the year.

The 2002 terrorism decree and the March 2003 antiterrorism law allowed the use in court of evidence from wiretaps, video recordings, and other surveillance. The

Government applied this law in the cases of at least five individuals associated with the GAM. They included former negotiators Teuku Kamaruzzaman, Teuku Muhamad Usman, Amni bin Ahmad Marzuki, Sofyan Ibrahim Tiba, and Nasiruddin bin Achmed. In October 2003, the Banda Aceh District Court convicted the five for acts of terrorism and sentenced them to between 12 and 15 years in prison. On June 1, the Supreme Court rejected their appeal.

There were no reports of political detainees during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for judicial independence. In practice, the judiciary became increasingly independent but remained heavily influenced at times by the executive branch. The judiciary also continued to be influenced by military, business interests and politicians. On April 1, as required by law, the Justice Ministry transferred administrative and financial control over the judiciary to the Supreme Court. The new constitutional court demonstrated significant independence and, in some major cases, ruled against the Government. Previously, judges were civil servants employed by the executive branch, which controlled their assignments, pay, and promotion. Low salaries continued to encourage corruption, and judges were subject to pressure from government authorities, which often influenced the outcome of cases. In August, the TNI transferred administrative control of the military courts to the Supreme Court.

Under the Supreme Court is a quadripartite judiciary of general, religious, military, and administrative courts. The law provides for the right of appeal, sequentially, from a district court to a high court to the Supreme Court. The Supreme Court does not consider factual aspects of a case but rather the lower court's application of the law. Parallel to the Supreme Court is the Constitutional Court, which is empowered to review the constitutionality of laws, settle disputes between state institutions, dissolve political parties, resolve electoral disputes, and decide allegations of treason or corruption against the President or Vice President. The judicial branch theoretically is equal to the executive and legislative branches, and it has the power of judicial review of laws passed by the DPR; government regulations; and presidential, ministerial, and gubernatorial decrees. In practice, the judiciary was less influential than the executive and legislative branches, and it often was heavily influenced by the executive branch.

In the country's 2,418 district courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. Judges rarely reversed initial judgments in the appeals process, although they sometimes lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

The law presumes that defendants are innocent until proven guilty. It also permits bail, which was used in practice but rarely in areas of separatist conflict. Court officials sometimes accepted bribes in exchange for granting bail. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. The courts allowed forced confessions, particularly in conflict areas, and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination but generally were required to give testimony before the conclusion of a trial. However, in practice, defendants regularly refused to answer questions.

The Criminal Procedures Code gives defendants the right to an attorney from the time of arrest and at every stage of examination. The law requires counsel to be appointed in cases involving capital punishment or a prison sentence of 15 years or more. In cases involving potential sentences of 5 years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory, indigent defendants may obtain private legal assistance, but in practice, few actually obtained the services of an attorney. In many cases, authorities quietly persuaded defendants not to hire an attorney. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure a fair trial.

Widespread corruption continued throughout the legal system. In October 2003, the World Bank reported that endemic corruption was compromising law and order. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases. Most judges earned \$200 to \$225 (1.8 million to 2.03 million rupiah) per month, while a judge with three decades' experience earned approximately \$660 (5.94 million rupiah) per month. Key individuals in the justice system not only accepted bribes but appeared to turn a blind eye to other government offices suspected of corruption. During the year, the Supreme Audit Agency (BPK) named the AGO as the state institution with the most "irregularities" in its use of state funds. In 2003, BPK repeatedly accused the AGO and police of not following up on cases of

suspected corruption that had been referred to them, stating that, since 2001, the BPK had reported 6,162 cases of suspected corruption to the AGO and police but that only 505 cases—approximately 8 percent—had been investigated by both offices.

In August 2003, the Legal Review journal investigated the buying of verdicts in corporate civil lawsuits at district courts, high courts, and the Supreme Court. Based on information obtained from leaked corporate memos and other sources, the Review published a list that estimated the “price of victory” in a court case from as little as \$8,300 (74.7 million rupiah) at the Bandung District Court to as much as \$600,000 (54 billion rupiah) at the Supreme Court.

Apart from the handful of soldiers who were tried in human rights’ courts, hundreds of low-level and sometimes mid-level soldiers were tried in military court, even for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether or not to prepare a case. Military prosecutors, like military judges, were managed administratively by the TNI but were responsible to the AGO and the Supreme Court for the application of laws. However, under the “one roof system” adopted by the judiciary during the year, administrative control of military and religious courts was scheduled to transfer gradually to the Supreme Court. Trials are conducted before a three-person panel of military judges. Appeals are made to the Military High Court; such appeals may question matters of fact or law. A Military Supreme Court bases its rulings only on the application or interpretation of law. Some civilians complained about the brevity of prison sentences handed down by military courts. TNI legal officials responded that all troops sentenced to terms of 3 months or longer were discharged from the armed forces, regardless of their record or length of service, and claimed this constituted a significant punishment.

Gross human rights violations can be adjudicated by four district courts. The law provides for each court to have five members, including three noncareer human rights judges, who are appointed to 5-year terms. Verdicts can be appealed to the standing high court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

In August 2003, the Ad Hoc Human Rights Tribunal for East Timor concluded its trial phase in Jakarta with the conviction of Major General Adam Damiri of crimes against humanity. Damiri, who remained free on appeal, became the 6th of 18 tribunal defendants convicted in connection with atrocities that occurred during April 1999 and September 1999 in 3 East Timor locations: Liquica, Dili, and Suai. On July 29, the Jakarta High Court overturned the convictions of Damiri, Noer Muis, Hulman Goeltom, and Sudjarwo. This court later acquitted and freed Abilio Jose Soares, who was the only convict to have served prison time. The sentence of Eurico Guterres was reduced on appeal from 10 years to 5 years in prison. He appealed the case to the Supreme Court and, at year’s end, remained free. Subsequently, the AGO appealed to the Supreme Court to review the Jakarta High Court’s decision to overturn the convictions of Noer Muis, Hulman Goeltom, Sudjarwo, and Guterres. The AGO also appealed to the Supreme Court to review the district court’s decision to acquit Tono Suratman. All five cases were under review at year’s end. East Timor’s Serious Crimes Unit indicted a total of 391 individuals for crimes against humanity committed during and after the 1999 referendum; however, 290 of these individuals remained at large with little chance of being returned to East Timor to stand trial. The U.N. stated its intention to send out a Commission of Experts to evaluate the Ad Hoc Tribunal and Serious Crimes Unit and to recommend next steps for achieving accountability. As a possible alternative to a Commission of Experts, the Governments of Indonesia and East Timor agreed in December to form a bilateral Truth and Friendship Commission to address accountability.

In 2003, the ad hoc human rights tribunal for the 1984 Tanjung Priok incident, in which dozens and perhaps hundreds of persons were shot and killed, held its first court sessions in Jakarta. Panels consisting of 5 judges heard the cases of 16 defendants, including retired Major General Pranowo; retired Army Major General Rudolf Adolf Butar-Butar; Army Major General Sriyanto Mutrasan, the commander of Army Special Forces (Kopassus); and other high-ranking active or former military officers. All of the defendants faced charges of crimes against humanity. The tribunal sentenced Butar-Butar to 10 years in prison and found 13 others guilty and sentenced them to 2 or 3 years in jail, far less than the 10-year sentences that prosecutors had requested. At year’s end, all 14 convicted persons remained free as the high court considered their appeals. Some Tanjung Priok victims reported that they had received death threats from soldiers at the courthouse. Some of the defense

teams argued that charges of crimes against humanity were unfairly being applied retroactively to their clients. The tribunal generated considerable domestic interest as the first human rights court to hear a case involving crimes against humanity committed during Suharto's rule.

In March, the Supreme Court confirmed the acquittal of suspected JI leader Abu Bakar Ba'asyir on treason charges and reduced his prison sentence for minor immigration charges from 3 years to 18 months. Ba'asyir's critics were upset that he was not convicted on the primary charge of planning treason and stated that his sentence of 18 months was not adequate for the crime. On April 30, police rearrested Ba'asyir as his jail sentence expired. In October, the South Jakarta District Court began proceedings against him on terrorism charges for allegedly authorizing the 2002 Bali bombing as JI "Emir" and for his alleged role in the conspiracy that led to the August 2003 attack on the Marriott Hotel in Jakarta. Prosecutors also charged him with involvement in a foiled plot to attack national police headquarters in Jakarta as well as his connection to an arms and explosives cache that police seized in 2003 in the Central Java town of Semarang. At year's end, the trial remained underway (*see* Section 2.b.).

In September, the Central Jakarta District Court found Tempo Magazine chief editor Bambang Harymurti guilty of criminal libel and sentenced him to a year in prison. NGOs and journalists complained the 1999 Press Law rather than the Criminal Code should have been applied in the case. The use of the Press Law would have provided plaintiff Tomy Winata the right of reply or imposed a fine on Tempo rather than the threat of a prison sentence. At year's end, Harymurti remained free pending the outcome of his appeal (*see* Section 2.a.).

Many suspected GAM members were denied their right to a fair trial. Defendants rarely had counsel present during interrogations and usually had no counsel during court proceedings. Defendants rarely were able to confront their accuser: The prosecution usually based its cases on testimony given by witnesses to government investigators; neither witnesses nor investigators appeared in court, and only written witness statements were submitted. Prosecutors rarely produced physical evidence, which they claimed was not available because it consisted of military weapons. A lawyer with a legal aid organization told AI that, in nearly 100 cases handled by his organization, only 2 defense witnesses agreed to appear.

On September 7, the DPR passed legislation to establish a "Truth and Reconciliation Commission" to investigate human rights violations before making recommendations to the President to grant amnesty to abusers and rehabilitation to their victims. The legislation would allow the commission to recommend amnesty for a confessed violator in cases where the victim does not consent. Once the commission has resolved a case, it cannot later be filed in human rights court. At year's end, the executive branch had not promulgated the law or established the commission.

On October 12, Supreme Court Chief Justice Bagir Manan inaugurated the first Shari'a (Islamic law) courts in Aceh. Under the new system, 19 district religious courts and 1 court of appeals are scheduled to begin hearing cases. The courts are to hear only cases involving Muslims and use decrees formulated by the Aceh local government rather than the Penal Code but (*see* Section 2.c.). In the most visible initial effect, authorities began enforcing dress codes for Muslim women.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are "urgent and compelling." Security officials occasionally broke into homes and offices. The authorities occasionally spied on individuals and their residences and listened in on telephone calls. There were reports that the Government occasionally infringed upon privacy rights of migrant workers, particularly women, returning from abroad. Corrupt officials sometimes subjected migrants to arbitrary strip searches, stole their valuables, and extracted bribes at special lanes set aside at airports for returning workers.

Land disputes generated charges of unfair evictions and excessive force by the public security officials. The NGO Jakarta Resident Forum estimated that public security officials evicted at least 20,000 persons during the year, compared with 40,000 in 2003. In Sumatra, local communities involved in the pulp and paper industry reportedly continued to experience persistent human rights abuses, including land seizures, by police and corporate security guards. HRW also alleged that companies such as Arara Abadi routinely seized local residents' land for plantations, with little or no compensation.

The National Identity Card (KTP), which all citizens are required to carry, identifies the holder's religion. NGOs charged that the KTPs undermined the country's pluralistic tradition and endangered cardholders who traveled through an area of interreligious conflict. Members of the five religions officially recognized by the Government—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—had little or no trouble obtaining accurate identification cards; however, members of minority religions frequently were denied either a card or one that accurately reflected their faith. Additionally, low-level officials and village heads, responsible for issuing KTPs, often demanded small bribes or made the process inordinately bureaucratic, which made it difficult for disadvantaged groups such as itinerant workers, the poor, and the homeless to obtain KTPs.

In many parts of the country, particularly in Kalimantan and Papua, local residents believed that the government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. During the year, the program moved at least 87,678 households from overpopulated areas to 369 more isolated and less developed areas in 24 different provinces. The Government sent at least 12,329 households to Central Kalimantan, making that province again the top destination. However, transmigration was far less than during the Suharto era.

The Government used its authority, and at times intimidation, to appropriate land for development projects, often without fair compensation. In other cases, state-owned companies were accused of endangering resources upon which citizens' livelihood depended.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and freedom of the press; however, the Government at times restricted these rights in practice. During the year, the Government jailed at least seven peaceful antigovernment protestors convicted of “insulting the President” or “spreading hatred against the Government.” In addition, politicians and powerful businessmen more often filed criminal or civil complaints against journalists whose articles they found insulting or offensive. Also during the year, journalists faced increasing threats or violence.

In September, trials of six student and labor activists for insulting the former President during an April 3 demonstration opened in Makassar, South Sulawesi. The defendants were Rudi Hartono, the chairman of the Makassar National Democratic Student League; Ihsar Yatim; Al Ilyas Akbar, director of the Association of the Indonesian Poor; Muhammad Anshar, chairman of the National Front for United Indonesian Labor Unions; Wahida Baharuddin Upa; and Petrus Pice Jailahi, director of the Makassar Legal Aid Institute. On December 23, another student was arrested for insulting the President when he allegedly burned a photograph of Susilo Bambang Yudhoyono.

In Aceh Province, press freedom was severely curtailed during the year. Martial law and civil emergency administrators restricted access by foreign journalists and diplomats, blocked cellular telephones, and forbade contact with the GAM. Journalists in Aceh experienced serious difficulties operating under martial law and the civil emergency. A government decree required that each news coverage activity “be supported by written permission by the head of Aceh’s Emergency Military Authority”; however, enforcement of the decree was erratic. In practice, only foreign journalists and local journalists reporting for foreign news organizations were required to obtain the permits. There was no direct censorship, but local journalists were intimidated by army spokesmen’s criticism of specific stories, as well as by passionate calls by military commanders for journalists to report “patriotically.” Journalists also were concerned that critical reporting could cause them to lose access to military press briefings. Finally, the uncertain security situation limited access to many areas. The Government lifted restrictions on domestic journalists when it ended martial law in May but maintained restrictions on foreign journalists. As a practical matter, journalists in the province appeared reluctant to exercise their press freedoms fully, due to fear of possible reprisals by the GAM or by government authorities. Although foreign journalists were not formally banned from traveling to the Provinces of Papua, Maluku, and North Maluku or to the towns of Sampit, Poso and Palu, the Government issued an appeal for foreign journalists not to enter those areas in particular and often rejected their requests to do so. According to a Jakarta-based broadcasting station, a radio journalist was beaten by Brimob and TNI personnel after being caught interviewing an individual in a military-designated “black area” (areas in Aceh considered to be a GAM stronghold, including North Aceh, East Aceh, Pidie, and South Aceh Provinces).

Journalists faced violence and intimidation from police, soldiers, government officials, rebels, thugs, students, and ordinary citizens. During the year, the Alliance of Independent Journalists (AJI) recorded at least 17 physical attacks against journalists as well as 8 nonphysical acts that included death threats and lawsuits. For example, on July 13, East Nusa Tenggara journalist Benny Djahang was “poked and throttled” by provincial council member John Oga while attending a plenary session of the East Nusa Tenggara Provincial Council. The attack reportedly was in response to a story Djahang had written the previous week detailing the arrest of Oga and two other councilors.

The Government made little or no progress prosecuting those responsible for violent attacks against journalists in Aceh in 2003, including those against TVRI cameraman Jamaluddin, Waspada newspaper journalist Idrus Jeumpa, and 68H radio journalist Alif Imam Nurlambang.

According to AJI, unlike in 2003, there were no reports of journalists expelled from Aceh.

In March 2003, persons linked to tycoon Tomy Winata entered Tempo Magazine’s headquarters in Jakarta and criticized an article that implied Winata stood to benefit from a fire that destroyed a Jakarta market. They assaulted Tempo journalists, including chief editor Bambang Harymurti, at the headquarters and later at a police station. Tempo lawyers reported the matter to the authorities and sued the assailants, but judges exonerated the group’s leader. Winata’s attorneys responded by initiating four lawsuits (two civil and two criminal), which free press activists asserted were attempts to intimidate the media. On September 14, the Jakarta High Court overturned two district court decisions in civil suits against Tempo, finding in favor of Tempo and dismissing fines levied by the district court against the magazine. However, 2 days later, the Central Jakarta District Court found Tempo guilty of criminal libel and sentenced Bambang Harymurti to a year in prison; the court acquitted Tempo journalists Ahmad Taufik and Teuku Iskandar Ali. Human rights observers called the decision a blow to press freedom in the country and criticized prosecutors’ decision to use the Criminal Code on Libel instead of the 1999 Press Law. At year’s end, Harymurti remained free pending a high court decision on his appeal.

On December 23, the former general manager of the newspaper Radar Jogja was sentenced to 9 months in jail for defamation after he published articles alleging the general manager of a competing newspaper was sexually harassing a member of his staff. The judge in the case refused to tell the press why he applied the Criminal Code on Libel rather than the available 1999 Press Law.

During the year, government officials filed three other criminal cases against journalists under the same Criminal Code on Libel.

During the year, the Government took no legal action against any person responsible for crimes committed against journalists in 2003. However, in 2003, the Central Jakarta District Court ordered Jakarta Governor Sutiyoso to apologize to a reporter intimidated by a city public order officer who tried to prevent him from covering an eviction in 2002. Sutiyoso lost his appeal to a high court and appealed to the Supreme Court. The appeal remained under consideration at year’s end.

Pervasive corruption among journalists and the lack of an enforceable journalistic code of ethics compromised the integrity of some journalists.

During the year, the Government implemented the 2002 Broadcasting Law, which included measures for issuing licenses for additional frequencies and establishing an impartial broadcasting commission.

Despite numerous incidents of violence and intimidation of the press, there were positive developments. Unity among journalists and their commitment to protect their colleagues appeared to have strengthened. Some members of the press also continued aggressive reporting on such issues as corruption, the conflict in Aceh, and environmental degradation. Regional media increasingly prospered. In addition, moderate Islamic publications increased in number and popularity.

The government-supervised Film Censorship Institute continued to censor domestic and imported movies for content that it deemed pornographic or religiously offensive. In August, the institute ordered the local movie “Kiss Me Quick” pulled from cinemas after religious leaders complained that it would encourage young persons to have sex.

By law, Communist teachings cannot be disseminated or developed.

The Government did not restrict Internet use or content.

The law provides for academic freedom, and the Government respected this provision.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in certain areas.

The law generally does not require permits for public social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy requires police notification, and demonstrations require a permit.

During the year, police used excessive force at a number of demonstrations. For example, on May 1 in Makassar, South Sulawesi, police forcibly entered the campus of the Indonesian Muslim University and injured 65 students demonstrating against the arrest of radical Muslim cleric and suspected JI leader Abu Bakar Ba'asyir. Demonstrators reportedly had taken a police officer hostage on the campus and had attacked two others. The violent police response led to the dismissal of the regional police chief and several other senior officers. Police investigated the incident and named 22 police suspects, 8 of whom were convicted for collective violence in public and sentenced to between 7 and 12 months. On February 26, police forcefully broke up a peaceful demonstration by the Bandung Student Executive Body. Dozens of students were injured, 23 of whom were taken to the hospital.

In July, the treason trial of 17 alleged activists of the Maluku Sovereignty Front began over the April separatist rally that sparked renewed violence. In August, the Ambon District Court began the trials of 36 others charged with treason in relation to April and May rallies that ended in violence.

There were reports of counterprotesters violating the right to peaceful assembly in the case of labor disputes.

The Government did not report any progress in prosecuting those responsible for the 2002 forcible dispersal by Jakarta police of participants in a massive rally against the reelection of Governor Sutiyoso. Similarly, no arrests were made in connection with the distribution of food containing cyanide at the same rally. In addition, no arrests were made regarding the 2002 attack in the Central Java city of Semarang on two antipoverty activists by persons who claimed to be members of the ruling PDI P, nor were arrests made in connection with the March 2003 attack on students in East Java by PDI-P members.

The Constitution provides for freedom of association; however, the Government restricted the exercise of this right in areas of separatist conflict. Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, police prohibited the flying of the Papuan Morning Star flag, identified with the armed separatist struggle.

There were reports of restrictions on peaceful assembly in Aceh, where NGOs and activists faced strict restrictions on their activities during martial law and the civil emergency. Organizers of events frequently were required to submit in advance the names of speakers and the text of their speeches for approval, which was frequently denied. This led to caution and self-imposed restrictions by those organizing events. Outside of Banda Aceh, the province remained closed to foreigners. In April, police dispersed a group of university students demonstrating in conjunction with SAMAN (Solidarity for Acehese Students Nusantara) to demand an end to martial law; police arrested a coordinator of the demonstration but later released him. The security forces continued to enforce a prohibition on flying the GAM flag in Aceh. Political rallies and meetings in conjunction with the legislative and presidential elections were allowed and occurred without significant incident.

At year's end, Muhammad Nazar, chairman of SIRA, remained in detention. Nazar was arrested in February 2003 for planning a public rally in Lhokseumawe.

*c. Freedom of Religion.*—The Constitution provides for “all persons the right to worship according to his or her own religion or belief” and states that “the nation is based upon belief in one supreme God.” The Government generally respected the former provision, but only five major faiths—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—received official recognition in the form of representation at the Ministry of Religious Affairs. Other religious groups were able to register with the Government, but only with the Ministry of Home Affairs and only as social organizations. These groups experienced official and social discrimination. The law does not recognize atheism, and in practical terms, it requires all persons to identify themselves with one of the five faiths acknowledged by the Government.

The civil registration system continued to discriminate against members of minority religions. Civil Registry officials refused to register the marriages or the births of children of animists, Confucians, members of the Baha'i faith, and others because they did not belong to one of the five officially recognized faiths. Hindus, despite official recognition of their religion, sometimes had to travel some distance to register marriages or births because local officials could not or would not perform the registration. Persons whose religion was not one of the five officially recognized faiths, as well as persons of Chinese descent, had difficulty obtaining a KTP, which was necessary to register marriages, births, and divorces. Several NGOs and reli-

gious advocacy groups urged the Government to delete the religion category from the KTPs (*see* Section 1.f.).

Men and women of different religions experienced difficulties in marrying and in registering a marriage. The Government refused to register a marriage before a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in a wedding involving a man and woman of different faiths. For this reason, some soon-to-be brides and grooms converted to their partner's religion. Others resorted to traveling overseas to wed.

Foreign missionaries who obtained visas generally were allowed to work without serious restriction.

During the year, the Government took no concrete steps to implement controversial provisions of the Education Law that require schools to provide religious instruction to students in their own faith.

As in previous years, some political parties advocated amending the Constitution to adopt Shari'a on a nationwide basis, but most parliamentarians and the country's largest Muslim social organizations remained opposed to the proposal.

In March 2003, in Aceh Province, the Government began implementation of Shari'a by issuing a presidential decree establishing Islamic law courts. On October 12, Supreme Court Chief Justice Bagir Manan inaugurated the first Shari'a courts in Aceh. Under the new system, 19 district religious courts and 1 court of appeals were scheduled to begin hearing cases. The courts were to hear only cases involving Muslims and not use the Penal Code but rather "qanuns," decrees formulated by local governments. The Lhokseumawe city government established qanuns for that city and began recruiting Islamic law monitors, down to the village level. The qanuns covered issues such as "immoral behavior." For example, extramarital contact between a man and woman would be punishable by public lashings or a fine of up to \$555 (4.9 million rupiah). Other qanuns banned gambling and the production, distribution, or consumption of alcohol. A Muslim found guilty of consuming alcohol would receive 40 lashes. Some in Aceh worried that implementation of Shari'a would provide new powers to already-distrusted law enforcement institutions and provide opportunities to intrude on private religious matters, such as whether an individual attends Friday prayers.

Women's groups helped to draft local regulations to avoid provisions that might restrict women's rights. However, because there were no women in the Aceh Consultative Assembly except secretaries and other lower-ranking service positions, women remained largely marginalized. During the year, jilbab (headscarf) inspections by various groups were frequent. There was a three-step process for women in violation. After issuing two written warnings, authorities referred the matter to a Shari'a court. In Banda Aceh, police took women in improper Islamic dress and detained them for brief periods in the Shari'a enforcement office, where the women were lectured on appropriate attire. Local governments and groups in other areas also undertook campaigns to promote conformance by women with the precepts of Shari'a (*see* Section 5). Some women told reporters that they felt humiliated when detained for dress code violations.

In some municipalities, local leaders applied stricter Islamic practices. For example, in the West Java regency of Cianjur, a local regulation required all Muslim civil servants to wear Islamic clothing every Friday and attend congregational noon prayer. Virtually all women complied with the regulation, and women's groups, including Women's Solidarity (Solidaritas Perempuan), stated that women were afraid not to comply. On January 12, the mayor of the Jakarta suburb Tangerang ordered public employees to wear Islamic clothing on Fridays. In Bulukumba, South Sulawesi, the regent instituted limited Shari'a laws that forbade alcohol and required the wearing of Islamic clothes and obligatory daily Muslim prayers. However, these regulations applied only to Muslims and were not enforced.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours of various types of "entertainment" establishments. For instance, on October 9, the municipal governments of Kendari, Medan, Palembang, and Pekanbaru ordered the closure of all discotheques, massage parlors, karaoke outlets, pubs, and bars during Ramadan. However, authorities said they would allow bars and karaoke outlets in hotels catering to foreign tourists to remain open. The Medan government ordered the closure of such establishments on December 24 and 25 in observance of Christmas. Enforcement of the orders varied.

Political and economic tensions between Christians and Muslims in the eastern provinces of Central Sulawesi, Maluku, and North Maluku continued to cause sectarian violence, resulting in unlawful killings (*see* Section 1.a.).

During the year, more than 10 churches were attacked, compared with 7 churches in 2003. In addition to attacks in the capital cities of Central Sulawesi and Maluku,

there were attacks in the West Java communities of Purwodadi, Margahayu, Tangerang, Bogor, Banten; the Jakarta communities of Ciputat and Pamulang; and the Central Java city of Yogyakarta. Attacks consisted of vandalism, arson, shootings, mob violence, and forced closures. One mosque was destroyed in Maluku during the year.

Due to renewed violence in Ambon in April and May, interreligious tolerance and cooperation between Christians and Muslims in Maluku, North Maluku, and Central Sulawesi remained poor. In the Moluccas, local governments continued to reunite many government offices that since 1999 had separated into Christian and Muslim units.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution allows the Government to prevent persons from entering or leaving the country, and sometimes the Government restricted freedom of movement. The Law on Overcoming Dangerous Situations gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the Government did not use these powers.

The Government continued to restrict freedom of movement through a system of “travel letters,” which were required for travel within Maluku, Aceh, and Papua. Enforcement was inconsistent.

On May 19, then President Megawati issued a decree ending martial law in Aceh and establishing a state of civil emergency, which remained in effect at year’s end. The decree returned overall government authority for the province to the governor, but the Provincial Civil Emergency Administration (PDS), headed by the provincial chief of police, maintained power to issue emergency measures to control travel, trade, transport, and other civilian activities.

The Government instituted new controls on the movement of residents in Aceh by issuing new national identity cards specific to Aceh. These cards required the signatures of the holder’s local military commander, local police chief, and village head. Acehnese who wished to travel or leave the province had to produce these cards at security checkpoints along main highways. Failure to produce the card was cause for arrest. In practice, the cards were easily obtained, and there was no evidence that the policy resulted in restriction of movement. In Aceh, those outside Banda Aceh also had to obtain from police a travel letter that described the purpose and length of trip and also name the persons the traveler would meet. In conflict areas, individuals also were required to report to police to leave villages to fish, tend fields, or leave their village, which significantly hindered their ability to earn a livelihood.

The Government also controlled movements to close avenues of supply to GAM rebels. In the remote Lokop District of East Aceh, home to 30 villages and a heavy rebel presence, TNI units monitored and controlled food shipments moving in and out of villages and limited shipments to TNI-linked suppliers. Soldiers also limited the amount of food each family could purchase, which resulted in malnutrition, according to the Aceh branch of Kontras. In addition, troops reportedly restricted the hours that fishermen could fish and the hours that rice farmers could work in their fields.

In Central Kalimantan, where ethnic violence in 2001 prompted approximately 130,000 ethnic Madurese migrants to leave, mainly to Madura and East Java, at least 45,000 voluntarily returned to Kalimantan. However, in the interim, a number of regency governments, including those of Barito Utara, Barito Selatan, and Kotawaringin Barat, had introduced regulations that prohibited the return of ethnic Madurese unless they could prove they had previously lived in the area and did not have a criminal record. Relations between Madurese and indigenous Dayaks remained poor. The West Kalimantan city of Sambas remained effectively inaccessible to its former Madurese residents.

The Government prevented at least 412 persons from leaving the country during the year. The AGO and the High Prosecutor’s Office prevented most of these departures. Some of those barred from leaving were delinquent taxpayers, while others were involved in legal disputes. There were reports of the Government barring the exit of some foreigners without proper application of the law.

In June, the Government expelled Sidney Jones, country director for the international NGO International Crisis Group (ICG) (see Section 4).

The Constitution prohibits forced exile, and the Government did not use it.

The country continued to make progress reducing the number internally displaced persons (IDPs). The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) estimated that there were 1,478,736 IDPs in the country during the year, compared with 587,000 in 2003. OCHA reported that there were 6,946 IDPs in Aceh

as of June, but this number increased considerably as a result of the December 26 tsunami. According to the Coalition of NGOs for Aceh and Kontras, there were still two refugee camps in Aceh before the tsunami. The Government's military operation in Aceh did not produce a large flow of IDPs outside the borders of the province. Some IDPs lived in emergency shelters, while others stayed with host families or were integrated into local communities. The Government dealt with many aspects of crisis but continued to rely on international organizations and donors to assist with most IDPs' needs. In theory, IDPs had three options: Return to their place of origin, start anew in their current location with the Government's assistance, or resettle through a relocation program. In some cases, including in North Sumatra, governmental assistance amounted to a one-time payment of approximately \$1,000 (9 million rupiah) per family.

In June 2003, on the North Maluku island of Ternate, thousands of IDPs who claimed that the governor had stolen aid earmarked for their return to Halmahera Island clashed with police and soldiers. No injuries were reported. On September 24, the Ambon District Court began hearing the trial of Husni Lessy, head of organizational guidance and social assistance at the Maluku Social Welfare Office. Lessy, who was responsible for the distribution of rice to IDPs from January to September 2002, faced charges of demanding "commissions" before distributing rice. He was accused of demanding more than \$18,888 (170 million rupiah) in kickbacks and costing the State as much as \$555,555 (4.1 billion rupiah) in losses. NGO activists who worked with IDPs reported that, in conflict areas, the Government was doing little or nothing to see that compensation was provided for losses suffered or that justice was done to those responsible. Activists reported that IDPs were vulnerable to trafficking in persons, and others warned that widespread violence could re-ignite at any time in some regions.

Although the law does not include provisions for granting refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. The Government cooperated with the U.N. High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta. At year's end, there were 113 U.N.-recognized refugees and 60 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Afghanistan, or Somalia. Some of the refugees had been accepted by Western resettlement countries but had not yet departed.

The above figures did not include approximately 10,000 former refugees from East Timor who resided in West Timor at year's end. In 2003, the Government and UNHCR stated that the remaining East Timorese in West Timor would no longer be considered refugees. Most of these former refugees resided in makeshift camps in the West Timor regencies of Atambua and Kupang. Many of these individuals did not want to return to their homeland; others wanted to return but apparently felt constrained by those opposed to returning. According to the labor rights group Jakarta Solidarity Center, hundreds of Burmese fishermen, refugees apparently forced to work on Thai fishing boats, either escaped or were abandoned in Tual, a small island in Maluku, where they lived in difficult conditions. Immigration officials forcibly repatriated a number of Burmese fishermen via foreign fishing vessels.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

During the year, the implementation of several constitutional amendments increased the ability of citizens to change their government. The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. They exercised this right in peaceful legislative elections on April 5 and the country's first direct presidential election on July 5, with a second round on September 20, when Susilo Bambang Yudhoyono defeated the incumbent President Megawati. The Constitution provides for general elections every 5 years. During most of the year, the police and armed forces continued to hold 38 appointed seats jointly in the DPR and 10 percent of the seats in provincial and district parliaments; however, in accordance with a 2002 amendment to the Constitution, the security forces lost their appointed DPR seats in October with the inauguration of the new legislature. DPR members automatically are members of the MPR, which until October included regional and government appointed representatives. On October 1, the MPR became a fully elected body consisting of the 550 DPR members (50 seats were added pursuant to a law adopted in 2003) and the 128 members of the House of Regional Representatives (DPD).

Domestic and international observers monitored the legislative and presidential elections, organized by an independent election commission, and considered the elections largely free and fair.

The MPR can amend the Constitution and issue decrees, functions it performed in the first of its "annual sessions," held in 2000. A key demand of the post-1998 reform movement was an overhaul of the 1945 Constitution, which was seen as having fostered the development of past authoritarian regimes. In the First Amendment of the Constitution, the 1999 MPR passed curbs on executive power, including a limit of two 5-year terms for the President and Vice President. In 2000, the MPR adopted the Second Amendment, which contained many important changes, including provisions for protection of human rights, regional autonomy, and further separation of powers. During its 2001 session, the MPR amended the Constitution to provide for direct presidential and vice-presidential elections, a bicameral legislature with a regional representatives chamber, and a Constitutional Court with the power of judicial review of legislation, certain election disputes, and impeachment proceedings. This court was inaugurated in 2003. In 2002, the MPR approved the Fourth Amendment, which requires presidential and vice-presidential candidates to run together on a single ticket. It provides for a second round of direct voting if no candidate receives a majority of votes cast and at least 20 percent of the vote in half of the provinces. The MPR retained authority to amend the Constitution but was no longer empowered to establish broad guidelines of state policy. The constitutional changes also restricted the MPR's authority to impeach the President. The 1999–2002 amendments make the President and the Vice President directly accountable to the electorate.

All adult citizens are eligible to vote except active duty members of the armed forces, convicts serving a sentence of 5 years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Former members of the banned Indonesian Communist Party are allowed to vote, and, following a Constitutional Court ruling during the year, they may now run for office. This ruling marked an important step forward in restoring the basic rights of victims of Suharto's New Order regime.

There was a widespread domestic and international perception that corruption was a part of daily life when dealing with authorities in the executive and legislative branches. The need to tackle corruption was a high-profile issue in the year's election campaign. President Susilo Bambang Yudhoyono bemoaned that corruption was "systemic" to the country, and this was a major focus of his administration's initial 100-day program.

Two versions of a Freedom of Information act were before the DPR for consideration at year's end: One represented a governmental draft, and the other contained NGO input. Despite the absence of such a law, the AJI reported no problems obtaining unclassified public documents from the Government. The exception to this rule was in Aceh, where information could be obtained only from the TNI Media Center.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as President until October, when Susilo Bambang Yudhoyono was inaugurated as President; however, under President Megawati, women accounted for only 2 of the 33 cabinet ministers and 8 of the 45 Supreme Court justices. On October 20, President Yudhoyono appointed women to 4 of his Cabinet's 36 seats. In February 2003, the DPR passed an election law that included a nonbinding call for parties to select women for at least 30 percent of the candidate slots on their party lists. In this year's elections, 61 women were elected to the 550-seat DPR, an increase from 1999, when 44 women held seats in the 500-seat DPR. In the DPD, women comprised 27 of the 128 members.

There were no legal restrictions on the role of minorities in politics. There were 365 members of minorities (defined as persons from outside of Java and neighboring Madura Island) in the 500-seat outgoing DPR. There were no statistics for the 2004–09 DPR. There were 12 members of minorities in President Megawati's 33-member Cabinet. While most of Megawati's cabinet members were Javanese, Sundanese, or Madurese, minority members were of Bugis, Batak, Acehnese, Minang, Flores, Balinese, Banjar, Arab, or Chinese heritage. President Yudhoyono's Cabinet also consisted of a plurality of Javanese, with others being of Sundanese, Bugis, Batak, Acehnese, Papuan, Balinese, Arab, or Chinese heritage.

In Papua, the Government's plan to divide the province into three continued to generate significant opposition from NGOs, religious leaders, community leaders, and the Papuan governor. Legislation called for the creation of the two additional provinces of West Irian Jaya and Central Irian Jaya. However, the subsequent 2001 Law for Special Autonomy in Papua makes clear that partition is possible only with approval of the Papuan People's Council (MRP) and the Papuan legislature. Nevertheless, the Government established the West Irian Jaya Province, although it de-

layed creation of Central Irian Jaya. On November 11, the Constitutional Court annulled the 1999 law partitioning Papua into three provinces but ruled that West Irian Jaya could continue to exist, since it was functioning in accordance with constitutional principles. In December, President Yudhoyono issued a decree authorizing the creation of a 40-member Papuan People's Council. The council would have input into the appointment of the governor and deputy governor of Papua Province, as well as provincial-level legislation affecting indigenous Papuans. The council would consist of one-third religious figures, one-third representatives of tribal organizations, and one-third women's groups. However, the central Government reserved veto power over candidates for the MRP whom it deemed objectionable.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic human rights organizations reported being subject to monitoring, harassment, and interference by the Government; however, they remained active in advocating improvements to the Government's human rights performance. Komnas HAM reported that, since 2000, 14 human rights activists had been killed and that no perpetrators been brought to justice. However, there were no reports of any human rights activists killed during the year. Many NGOs, particularly those in Aceh, accused security forces of obstructing their activities. Unlike in the previous year, there were no reports that organized groups attacked members or offices of NGOs.

In Aceh, NGOs experienced intense government interference. The security forces repeatedly summoned domestic NGO activists for questioning regarding possible links to the GAM, which prompted between 100 and 200 activists to leave the province. The Government effectively prohibited foreign humanitarian aid workers from the province, except for a limited number attached to U.N. agencies. According to AI, once the provincial governor took over as head of the Civil Emergency Authority, he extended existing restrictions on international humanitarian organizations. Access reportedly was especially poor in those regions designated by the military as "black areas." AI believed that some of these areas had not been accessed by independent humanitarian organizations since May 2003.

The Government criticized NGOs that questioned its policies. In June, the former Government expelled Sidney Jones, ICG Country Director. Jones appeared to have been expelled because of the Government's displeasure with her portrayal of its handling of politically sensitive issues (*see* Section 2.d.).

On June 30, the court ruled in favor of Major General Nurdin Zainal, who in 2003 had sued two persons of the NGO Institute for Human Rights Study and Advocacy (ELS-HAM) and four newspaper editors for defamation. The lawsuit stemmed from a press conference ELS-HAM held in the wake of a 2002 ambush near Timika. ELS-HAM appealed the verdict.

There was no progress in the case of six FBR members involved in a 2002 attack against activists of the Urban Poor Consortium at the Jakarta office of Komnas HAM. The six cases remained on appeal to the Jakarta High Court at year's end. The Government reported no progress in prosecuting the perpetrators of the 2002 shooting in Papua of several family members of Johannes Bonay, executive director of ELS-HAM.

The Government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in some conflict areas. Some domestic human rights organizations expressed concern about possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and Komnas HAM. However, in 2003, Komnas HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding Komnas HAM's jurisdiction or authority. For example, in June 2003, a Jakarta court refused to subpoena former and active military officers who had ignored Komnas HAM summonses to face questioning over the 1998 riots, which claimed more than 1,200 lives. By law, severe human rights violations that occurred before 2000 could be investigated only by an ad hoc human rights court, not Komnas HAM. Such a court could be formed only at the suggestion of the DPR, but for the DPR to know enough about an incident to approve the formation of a court, a thorough investigation was necessary. The resulting stalemate continued to block progress toward accountability.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice, the Government failed to defend these rights adequately.

*Women.*—Violence against women remained poorly documented. Nationwide figures were unavailable, but the NGO Mitra Perempuan-affiliated Women's Crisis Centers (WCC) conducted a 13-city survey from April 2003 to March. WCC found 300 cases of violence against women in Jakarta, 33 in Bandung, 14 in Purwokerto, 25 in Surakarta, 53 in Jombang, 14 in Banda Aceh, 22 in Bengkulu, 25 in Bandar Lampung, 10 in Palembang, 7 in Pontianak, 10 in Manado, 30 in Makassar, and 32 in Kupang. The local press reported that violence against women continued to increase. Two types of crisis centers were available for abused women: Government-run centers in hospitals and NGO centers operated in the community. During the year, the Ministry of Women's Empowerment successfully lobbied for the passage of the Domestic Violence Act, presented the antitrafficking bill to the DPR, and supported the election law's target of 30 percent female candidates for legislative office. The Ministry also worked on issues of child protection, including trafficking.

The Domestic Violence Act that passed in the DPR on September 14 criminalizes domestic violence. Physical violence is punishable by imprisonment for up to 15 years or \$5,000 (45 million rupiah). Psychological violence is punishable by imprisonment for up to 3 years or \$1,000 (9 million rupiah). Sexual violence is punishable by imprisonment for up to 20 years. At year's end, there were no prosecutions.

Rape was a problem. It is punishable by 4 to 12 years in jail. Although the Government jailed perpetrators for rape and attempted rape, convicted rapists most commonly were sentenced to the minimum or less. Reliable nationwide statistics were unavailable. The definition of rape is narrow and excludes heinous acts that would commonly be treated as rape in other countries.

Rapes by members of the security forces were most numerous in Aceh. Human rights activists expressed concern that rapes were underreported in the province, partly because of reluctance by victims to do so. SIRA stated that military personnel committed nine rapes in Aceh but that no cases of rape or sexual harassment had been reported to the authorities. During the year, the TNI prosecuted 15 personnel for rape.

It was unclear whether GAM rebels committed rape during the year, although there were numerous reports that GAM members committed rape in previous years.

Over the past several years, many police stations set up a "special crisis room," where female officers received criminal reports from victims of sexual assault and trafficking, and where victims found temporary shelter.

The Guidelines of State Policy, legal statutes adopted by the MPR, state that women have the same rights, obligations, and opportunities as men. However, the guidelines also state that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. Marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

The legal differentiation between a woman and a girl was not clear. The Marriage Law sets the minimum marriageable age at 16 for a woman (and 19 for a man), but the Child Protection Law states that persons under age 18 are children.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country, including West Java. The most recent data available, from a 2002 study in areas where FGM was prevalent, indicated that pain, suffering, and complications were minimal. Two types of persons, midwives and local traditional practitioners, performed the procedure. Researchers said the midwives' procedure involved the tearing, cutting, or piercing of part of the genitals but not the removal of tissue. Most of the local traditional practitioners, on the other hand, said that they customarily removed tissue, but the extent of this removal remained unclear. Similarly, it was unclear whether the removed tissue was from the clitoris, labia minora, or elsewhere. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic. During the year, the Ministry of Health (MOH) and the Ministry of Women's Empowerment became more engaged in the prevention of FGM and its practice by midwives in clinics. The MOH, World Health Organization, and Ford Foundation planned to sponsor efforts in January 2005 to sensitize and share information regarding the status of FGM practices and to mobilize prevention efforts with the religious community, NGO advocates, and medical providers. The MOH worked on, but did not finalize, an official policy statement prohibiting FGM from being practiced in gov-

ernment clinics by health care providers. The MOH included the prevention of FGM as a subject in training curricula for traditional birthing attendants and midwives.

Prostitution is not specifically addressed in the Penal Code. However, the code refers to "crimes against decency/morality," which many interpret to apply to prostitution. Child prostitution is illegal under the Penal Code and the 2002 Child Protection Act. While contrary to societal and religious norms, prostitution was widespread and largely tolerated. Security forces reportedly participated in the running of brothels or protection rackets, which shielded brothels from prosecution. International sex tourism took place, especially on the islands of Batam and Karimun, both near Singapore.

Sexual harassment is against the law. Although it is not explicitly mentioned, sexual harassment is actionable under the Criminal Code. According to a statement during the year by the State Ministry of Women's Empowerment, 90 percent of women and 25 percent of men have been victims of sexual harassment in the work place.

Divorce was open to both men and women. Muslims who sought divorce generally turned to the Islam-based family court system as a faster and cheaper alternative to the national court system. Non-Muslims obtained divorces through the national court system. Due to prejudicial attitudes, women often faced a heavier evidentiary burden than men, especially in the family court system. Although both Islamic and national courts may award alimony, many divorcees received no alimony, since there was no system to enforce such payments. Men and women both keep the separate property they owned before marriage. If there is no prenuptial agreement, joint property is divided equally. The Marriage Law requires a woman who has become divorced to wait a certain period of time before remarrying, while a man can remarry immediately.

The Citizenship Law stipulates that a child's citizenship is derived solely from the father. Children of citizen mothers and foreign fathers are considered foreigners and must have visas to remain in the country until age 18, when they can apply for citizenship. These children are prohibited from attending public schools. In cases when a citizen mother lived abroad with her foreign husband, divorce could involve child custody problems. The children of foreign women married to citizen men also faced difficulties. A foreign woman married to a citizen can obtain citizenship after 1 year, if desired.

During the year, the Government continued to implement Shari'a in Aceh (*see* Section 2.c.). The most visible impact on women's rights appeared to be the enforcement of dress codes.

Women faced considerable discrimination in the workplace, both in terms of obtaining positions and in gaining fair compensation for labor performed. In 2003, the International Labor Organization's (ILO) Jakarta office reported that on average, women's earnings were 68 percent of that of men workers. In 2002, the Government stated that 14 percent of women civil servants were in positions of authority, but only 38 percent of all civil servants were women, which meant that only 5 percent of civil servants in positions of authority were women.

Some activists said that, in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. According to the Government's Central Statistics Bureau, in 2002, the unemployment rate was higher for men than for women. If a husband and wife both worked for a government agency, the couple's head-of-household allowance was given to the husband. There were reports that female university graduates received an average salary that was 25 percent less than that of their male counterparts.

A number of organizations promoted women's rights or otherwise addressed women's issues during the year, including Solidaritas Perempuan, Mitra Perempuan, LBH-Apik, and the International Catholic Migration Commission (ICMC).

*Children.*—The Government stated its commitment to children's rights, education, and welfare, but it devoted insufficient resources to fulfill that commitment. In practice, most schools were not free of charge, and poverty put education out of reach of many children. Child labor and sexual abuse were serious problems. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school. In January 2003, the leader of the National Commission for Child Protection (Komnas PA) identified the most pressing problems related to the country's youth as child labor, child trafficking, child prostitution, street children, children in conflict areas, and undernourished children. The National Child Protection Act addresses economic and sexual exploitation of children as well as adoption,

guardianship, and other problems; however, some provincial governments did not enforce its provisions.

Children were casualties in areas of armed conflict. In Maluku, following the anniversary of the RMS movement in April, an unidentified person shot a 9-year-old child in Ambon. AI reported that in May, TNI used children, wives, and other relatives of GAM members from three different villages as human shields. They were instructed by TNI soldiers to hold bags of rice in front of themselves for shielding and walk through the forest ahead of soldiers searching for GAM members. The operation lasted from May 16 through May 18. According to AI, the TNI also used children to spy, cook, clean, and communicate. Local NGOs reported to AI that the GAM also used children, forcing them to act as informants, participate in arson, collect "taxes," cook, and provide supplies. In addition, the GAM reportedly used teenagers as combatants.

A newly established police child welfare hotline recorded a total of 576 cases of violence against children in East Java in the first 3 months of the year. The increase in reported cases was likely the result of this new, more effective reporting mechanism rather than a reflection of a dramatic increase in actual cases of violence against children. Police received reports of domestic violence, sexual violence, and neglect.

By law, children are required to attend 6 years of elementary school and 3 years of junior high school; however, in practice, the Government did not enforce these requirements. According to 2002 UNICEF data, school enrollment rates were 96 percent for children ages 7 to 12, 79 percent for children ages 13 to 15, and 49 percent for children ages 16 to 18.

Monthly fees for public schools varied from province to province and were based on average incomes. Some parents continued to find it difficult to afford to send their children to school. Including tuition, transportation costs, and school materials, primary and secondary schools could cost a family between \$444 and \$778 (4 million to 7 million rupiah) per year for each student. It was unclear how many children were forced to leave school to help support their families. In some areas of the country, parents and watchdog groups complained that corruption among public servants severely undermined the quality of education. Indonesian Corruption Watch reported that some principals in East Java, West Java, and North Sumatra bribed Education Ministry officials to secure funding for their schools.

During the year, conflicts or the lingering effects of conflicts disrupted the education of some children. For example, during the renewed sectarian conflict in Ambon, Maluku, two Islamic schools were destroyed and several others were temporarily closed due to unsafe conditions. In Aceh Province, more than 603 school buildings were burned following the introduction of martial law in May 2003. The Government rebuilt 328 of these schools during the year; however, several hundred schools were destroyed by the December 26 tsunami.

Many children grew up in poor health conditions. Malnutrition remained a serious problem. The country's infant mortality rate remained high. According to the Indonesia Demographic and Health Survey published in December 2003, there were 35 deaths for every 1,000 live births. There was improvement in under-5 mortality, but a lack of improvement in infant mortality led the Government to increase its focus on newborn healthcare.

The number of street children across the country was unknown. Komnas PA estimated 50,000 nationwide, while a 2002 Family Health International study estimated the number at nearly 71,000. During the year, an NGO estimated the number of street children in the 12 largest cities had decreased slightly.

Substantial numbers of street children were apparent in Jakarta and the Provinces of East Java, West Java, North Sumatra, and South Sulawesi. Surabaya, in East Java, was home to approximately 8,000 street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. In August 2003, the Jakarta city government announced that it would establish a dormitory housing between 600 and 1,000 street children. The city government also agreed to pay for the children's schooling and provide a stipend of approximately \$58 (522,000 rupiah) to the children's parents to help them set up home businesses. The shelter had not been opened by year's end. The Government continued to provide some shelters throughout the country, administered by local NGOs, and paid for the education of some street children. One NGO estimated that 5,000 children lived in these shelters. During the year, the Government designated \$1 million (9 million rupiah) to alleviate the problem of street children in Bandung, West Java, but the program was unsuccessful, reportedly due to corruption.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear; however, an ILO assessment

estimated there were approximately 21,000 child prostitutes on the island of Java. In October 2003, a team of NGO and government health officials visited a prostitution complex in Riau Province and estimated that 30 to 40 percent of the 365 female sex workers there were under 18 years of age. Many teenage girls were forced into or found themselves caught in debt bondage. At times, law enforcement officials treated child sex workers as criminals rather than victims. Women's rights activists and religious groups accused government officials, including police and soldiers, of operating or protecting brothels that employed underage prostitutes. Corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade. According to the Surabaya Social Department, of the 6,703 sex workers in that city and its environs, 30 percent were under the age of 18. There also were reports of sexual exploitation of boys. NGOs reported long-active pedophile rings operating in Bali, and authorities arrested, tried, and convicted at least one man, an Australian, for pedophilia there.

During the year, there were cases in which employment brokers paid parents advances of future salaries to be earned by their daughters. The child was required to repay the employment brokers. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGO observers said many girls were forced into prostitution after failed marriages they had entered into when they were 10 to 14 years of age. There was no obvious violation of the law, because their paperwork identified them as adults due to the fact they were once married.

Child abuse is prohibited by law, but government efforts to combat child abuse generally have been slow and ineffective. NGOs reported that it continued to take excessively long to bring a child rape case to court and that mechanisms for reporting and dealing with child abuse were vague.

Child labor was a problem. In January 2003, the ILO reported that 8 million children under 18 were doing the work of adults (*see* Section 6.d.).

During the year, the Government began implementing a 1997 juvenile justice law that called for the creation of a juvenile court system. In cities where a juvenile court had not been established, ordinary courts adjudicated such cases. On August 13, Supreme Court Chief Justice Bagir Manan inaugurated the country's first juvenile court, located in Bandung, West Java. Komnas PA reported that more courts were starting to involve social workers in children's trials but that financial constraints kept social workers from being available at all such trials.

A number of NGOs promoted children's rights, including Child Advocacy Network, National Commission on Child Protection, Center for Study and Child Protection, and Foundation for Indonesian Child Welfare.

*Trafficking in Persons.*—Trafficking in persons is illegal under the Penal Code and the 2002 Child Protection Act; however, these laws are not comprehensive in their definition of trafficking. During the year, persons were trafficked to, from, and within the country for the purposes of prostitution and forced labor, including instances of debt bondage.

In 2002, a national action plan to counter trafficking of women and children was approved by presidential decree. It identifies specific roles for the Government and civil society at both the national and local levels, and it includes goals for law-making and law enforcement. The Child Protection Act prohibits economic and sexual exploitation of children and also child trafficking. The act specifies severe criminal penalties and jail terms for persons who violate children's rights, including trafficking in persons. During the year, the Government finalized a comprehensive antitrafficking bill, and President Megawati submitted the bill to the DPR in August. The Government, with the help of NGOs, conducted public education efforts on trafficking. In January, North Sulawesi Province enacted the country's first broad province-level antitrafficking in persons law. On September 30, the DPR passed legislation concerning the protection of migrant workers and the law on domestic violence.

The Criminal Code lacks an adequate legal definition of trafficking in persons. The Solidarity Center and the ICMC identified laws that could be applied in cases of trafficking and related offenses. The Penal Code prohibits trade in women and male minors but is silent on female minors. The Child Protection Act provides for prison sentences of 3 to 15 years plus fines for child traffickers. In many cases, police and prosecutors continued to use the Penal Code against traffickers because they lacked familiarity with the relatively new Child Protection Act. However, the number of prosecutions based on the act increased. In the past, judges rarely sentenced traffickers to more than 3 years in prison. However, during the year, judges imposed increasingly heavy sentences on child traffickers, with some convictions re-

sulting in 5- or 6-year jail terms. On September 16, a North Sumatra court sentenced Desi Prisanti Siregar to 13 years in jail for the trafficking of nine young women and girls into the sex trade in Malaysia.

Reliable figures were not available on the number of persons trafficked. A study by the Solidarity Center and ICMC estimated there were between 2.4 and 3.7 million women and children who worked in the vulnerable categories of migrant workers, sex workers, and child domestic workers (*see* Section 5, Children). Within these categories, the estimated total number of children ranged from 254,000 to 422,000. These were not estimates of victims but rather of women and children vulnerable to trafficking.

During the year, the Government, NGOs, and the media reported that women were trafficked to Malaysia, Japan, the Middle East (including Saudi Arabia and Kuwait), Taiwan, Hong Kong, Singapore, and other destinations. Malaysia was the destination for the greatest number of credibly documented cases of female trafficking victims.

During the 12-month period ending in February, police investigated 125 cases of trafficking in women and children, involving 160 traffickers and 85 victims. Police submitted 67 of these cases for prosecution. At least 25 suspects were convicted. During the year, trafficking convictions increased to approximately 35 convictions, according to preliminary data.

In June and July, police arrested six traffickers identified as the Rizal gang, reportedly responsible for selling hundreds of women as prostitutes in Malaysia. A Jakarta court convicted the six gang members in November but sentenced them to only 4 or 5 months in jail.

The Singkawang District of West Kalimantan remained well known as an area from which poor, ethnic Chinese women and teenage girls between the ages of 14 and 20 were recruited as "mail order" brides for men primarily in Taiwan but also in Hong Kong and Singapore. In some cases, the women were trafficked for sex work and slavery-like servitude.

In many cases, traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, including island resorts. After the new recruits arrived and incurred debts to their recruiters, they learned that they had been hired as prostitutes.

Many trafficking victims became vulnerable to trafficking during the process of becoming migrant workers. Many unauthorized recruiting agents operated throughout the country and were involved in trafficking to various degrees, and some government-licensed recruiting agents also were implicated in trafficking. Recruiting agents often charged exorbitant fees leading to debt bondage and recruited persons to work illegally overseas, which increased the workers' vulnerability to trafficking and other abuses.

The basic 3-month course that all police officers received did not include training on countertrafficking in persons. During the year, international agencies continued to provide police with specific training with regard to trafficking. Trafficking falls under the purview of the Criminal Investigation Department (CID). In 2003, the police established a separate antitrafficking unit within CID with operational and coordinating responsibilities. As a result, coordination within the police force and between the police and other interested departments on trafficking in persons improved somewhat during the year.

The national police headquarters issued new instructions to district police chiefs to break up trafficking rings, assist victims, and report cases to national headquarters. However, credible sources noted that individual security force members were involved in setting up and protecting brothels. Traffickers and brothel owners reportedly paid protection money to security force members. Apart from police and soldiers, some government officials were complicit in trafficking, particularly in the production of false documents. The prevalence and ease of obtaining fraudulent national identity cards, which could document children as adults, contributed to the trafficking problem. Within society and the Government, there was continued reluctance to acknowledge that prostitution was a major problem.

Domestic NGOs, with international support, led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included the Consortium for Indonesian Migrant Workers Advocacy, LBH-Apik, Women's Aid and Protection Group, Women's Coalition (Koalisi Perempuan), and Solidaritas Perempuan.

In 2003, the Government cooperated with Australia in investigating a trafficking ring sending Indonesian women into sexual servitude in Australia. Bilateral police cooperation led to the trial of at least one trafficker in Australia and the arrest of

others in Indonesia. The Government also cooperated with Malaysia to investigate trafficking.

The Government at various levels and to varying degrees assisted victims of trafficking, both domestically and abroad. National- and local-level assistance efforts increased compared with previous years but remained small in comparison with the scope of the problem. In general, government assistance was modest and focused on citizens trafficked abroad, while domestic assistance was minimal. Over the year, the Government and community groups established a number of new shelters for trafficking victims, including shelters in Batam, Riau Islands. The police increased the number of police women's desks, units established to help women and children who fall victim to violence including trafficking. The women's desks provided temporary shelter, special police handling, and some level of legal services for victims. The women's desks often cooperated with local NGOs to provide medical and psychological services and longer term shelter. However, distrust of police discouraged some victims from using these desks.

The Government's policy is to "treat persons who are trafficked not as criminals but as victims who need help and protection." During the year, the People's Welfare Coordinating Ministry and the Ministry of Women's Empowerment reinforced this policy in public settings and training programs for police and other officials. However, local government and police practice varied, particularly in the lower ranks of law enforcement agencies. Local governments, exercising greater authority under the country's decentralization program, sometimes enacted laws or regulations that tended to treat trafficked sex workers as criminals, contrary to national policy. In many instances, government officials and police actively protected and assisted victims. In other cases, police treated victims such as trafficked sex workers as criminals, subjected them to detention, and took advantage of their vulnerability to demand bribes and sexual services. The media and lower-level officials, including police, often failed to protect victims' identities and commonly provided victims' names to the public.

The Government encouraged victims to assist in the investigation and prosecution of traffickers. The Government reported that victims frequently were reluctant or refused to provide testimony due to shame and fear of retribution against themselves or their families.

*Persons With Disabilities.*—The law mandates access to buildings for persons with disabilities; however, the Government did not enforce this provision. The Disability Law requires companies that employ more than 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the Government did not enforce the law, and persons with disabilities faced considerable discrimination. The law also mandates accessibility to public facilities for persons with disabilities; however, extremely few buildings and virtually no public transportation facilities provided such accessibility. Recent statistics on the number of persons with disabilities were not available. In 1999, the U.N. estimated the percentage of such persons at 5.4 percent of the population, or approximately 12 million persons; the Government put the number at 3 percent, or approximately 7 million persons. The Government classified persons with disabilities into four categories: Blind, deaf, mentally disabled, and physically disabled. The Constitution requires the Government to provide them with care; however, "care" is not defined, and the provision of education to children with disabilities never was inferred from the requirement.

In urban areas, only a few city buses offered wheelchair access, and many of those have had their hydraulic lifts vandalized, rendering them unusable. In other cases, the space reserved for wheelchairs was occupied by other passengers because the bus conductors could earn more money.

In 2003, the Government stated the country was home to 1.3 million children with disabilities but only 50,000 of them attended school. The true number of such children was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep their children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to the Government, there were 700 schools dedicated to educating children with disabilities; all but 41 of them were run privately. Some young persons with disabilities resorted to begging for a living.

*National/Racial/Ethnic Minorities.*—The Government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. Instances of discrimination and harassment of ethnic Chinese Indonesians declined compared with previous years. On April 14, then President Megawati publicly called on Immigration officials to stop asking ethnic Chinese citi-

zens for a Republic of Indonesia Citizenship Certificate (SBKRI), a document not required of non-Chinese citizens; however, many ethnic Chinese citizens reported they were still frequently asked to show one. An attorney advocate for the rights of ethnic Chinese stated that more than 60 articles of law, regulation, or decree were in effect that discriminated against ethnic Chinese citizens. NGOs such as the Indonesia Anti-Discrimination Movement urged the Government to revoke these articles.

In September 2003, approximately 50 ethnic Chinese families in the West Java city of Tangerang protested in front of the Tangerang Council building over the alleged sale of land traditionally used as a Chinese cemetery. The families complained that the sale of the land for a commercial development prevented them from being able to bury their dead beside loved ones. City councilors agreed to review the case, but there were no developments by year's end.

During the year, some ethnic Chinese citizens complained that the Government had not done enough to prosecute those responsible for the 1998 violence against them and their businesses.

In Papua, TNI authorities estimated the number of OPM guerillas at 620. These guerillas were poorly armed with an estimated 150 weapons ranging from modern M-16s to outdated Mausers. Indigenous Papuans complained that they were under-represented in the civil service of that province; however, due largely to the partial implementation of the Special Autonomy Law and the creation of 14 new regencies in Papua, there was a large increase in the number of government positions for ethnic Papuans.

Unlike in 2003, there were no reports of overt discrimination against Acehnese outside the province. However, some Acehnese reported that they were not comfortable saying they were from Aceh, faced extra scrutiny when trying to leave the country, and resented having a different identity card.

*Indigenous People.*—The Government views all citizens as “indigenous,” with the exception of ethnic Chinese; however, it recognizes the existence of several “isolated communities” and their right to participate fully in political and social life. These communities include such groups as the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. During the year, indigenous people remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The Government failed to stop domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous people's land.

In Sumatra, where there were many lowland tropical forests, corporate interests continued to take over lands traditionally claimed by indigenous communities, who relied on them for rice farming and rubber tapping. HRW and other NGOs reported that the creation of huge plantations to serve the paper and pulp industry threatened the livelihoods of many indigenous people. Some indigenous people unsuccessfully filed land claims with the authorities. In 2003, in the Sumatran subdistrict of Porsea, local citizens and environmental groups, including WALHI, condemned the Government's decision to reopen a pulp company, PT Toba Pulp Lestari (formerly PT Indorayon), which was closed in 2002. The company's pulp mills were blamed for far-reaching environmental degradation, and at least five persons involved in the dispute had been killed in recent years. Komnas HAM noted that both sides in the dispute had committed significant human rights violations.

Unlike in previous years, indigenous peoples in Sulawesi reportedly did not protest development projects in their traditional lands.

In Papua, tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among tribes. Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers claimed that indigenous Papuans treated them with resentment and suspicion.

In Central Kalimantan, relations between indigenous Dayaks and ethnic Madurese transmigrants remained poor in the wake of 2001 interethnic violence. However, at least 45,000 displaced ethnic Madurese returned to Central Kalimantan during the year. Relations between the two groups also remained poor in West Kalimantan, where former residents of Madurese descent were obstructed in their attempts to reclaim their property.

Human rights activists said that the government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous peo-

ple were hostile. Some indigenous groups claimed that they received less government support than transmigrants, and some transmigrants claimed that in some cases they were moved to areas with undesirable land or where the land's ownership was in dispute.

*Other Societal Abuses and Discrimination.*—There was some societal discrimination against persons with HIV/AIDS. Some individuals received prejudicial treatment at medical centers, saw their confidential laboratory results released, or had their identity published in a newspaper. In most if not all such cases, the Government failed to take corrective action. However, the Government encouraged tolerance, took steps to prevent new infections, and drew up plans to subsidize antiretroviral drugs.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 2000 Trade Union Act provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Government records, rather than approves, the formation of a union and provides it with a registration number. Under the law, 86 union federations notified the Ministry of Manpower and Transmigration (the Manpower Ministry) of their existence. In addition, more than 18,000 workplace-level units registered with the Manpower Ministry.

According to an ILO estimate made during the year, the country's total labor force consisted of approximately 100 million workers, 42 percent of whom worked in the agricultural and forestry sector. The Government estimated total trade union membership at 9.7 million workers, just below 10 percent of the total workforce. However, if compared to the country's 23.8 million regular employees (a category that excludes the self-employed, employers, casual workers, and unpaid workers), union membership would reach almost 41 percent.

The law allows the Government to petition the courts to dissolve a union if it conflicts with the state ideology of Pancasila or the Constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the State and are sentenced to at least 5 years in prison. Once a union is dissolved, its leaders and members may not form another union for at least 3 years. There were no reports that the Government dissolved any unions during the year.

In May, a Jakarta court dismissed all charges filed by prosecutors against leaders of the Indonesian Seafarers' Union, thereby upholding their 2001 election. Former Manpower Ministry officials, who led the union during the Suharto era, had convinced prosecutors to argue that the 2001 election was invalid and that former union officials should resume control over the union.

The Labor Union Act prohibits antiunion discrimination by employers and others against union organizers and members, and it provides penalties for violations; however, the Government did not effectively enforce the law in many cases. There were frequent, credible reports of employer retribution against union organizers, including dismissals and violence, that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, although in many cases the Government did not enforce this effectively.

The Indonesia National Workers Struggle Front charged that employers dismissed its officials from at least five companies, allegedly because of their union activities. In March, the Indonesian Prosperity Trade Union Confederation (KSBSI) filed a freedom of association complaint with the ILO regarding PD. Jaya Bersama, a Jakarta company processing birds' nests for Chinese cooking, and its firing of 11 union officials and members allegedly for their union activities. In response, in May the Manpower Ministry conducted a labor inspection that found numerous labor violations, including child labor, but took no corrective action. According to accounts by the Seafarers Union of Burma (SUB), police in Tual, North Maluku, arrested and allegedly beat six Burmese SUB members because of their attempts to organize Burmese fishermen present in the country. Police claimed they acted because of immigration violations, not at the behest of Thai fishing boat captains, as SUB had alleged. The Government deported the six Burmese sailors.

The law recognizes civil servants' freedom of association and right to organize. In 2002, employees of several ministries began to form employee associations, and union organizations began to seek members. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered some resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, the Government often did not protect this right in practice. The law provides for collective bargaining and allows workers' organizations that register with the Government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA.

In 2003, the DPR passed the Manpower Development and Protection Act (Manpower Act), which regulates collective bargaining, the right to strike, and general employment conditions. The act does not apply to SOEs. The ILO provided technical assistance in the development of the law, which generally meets ILO standards. Some unions remained opposed to the law, claiming it contains inadequate severance benefits, insufficient protection against arbitrary terminations, insufficient restrictions against outsourcing, and legalization of child labor under some conditions. The Government continued to issue implementing decrees for the Manpower Act.

In January, the President approved the Industrial Relations Disputes Settlement Act that, together with the 2000 Trade Union Act and the 2003 Manpower Act, constitutes the revised legal basis for industrial relations and worker rights. The Disputes Settlement Act stipulates a new system of tripartite labor courts, replacing the previous tripartite committees. The act also outlines settlement procedures through mediation and arbitration. The ILO provided assistance in the development of the law. The Government had not established the new labor court system by year's end.

According to the Manpower Ministry, in July there were 9,122 CLAs in effect between unions and private companies. Company regulations, allowed for under government regulations, substituted for CLAs in another 36,274 companies, many of which did not have union representation. In addition, in 2003 there were 59 labor agreements in effect between unions and state enterprises and another 65 agreements between nonunionized workers and state enterprises. The Manpower Act requires that employers and workers form bipartite bodies (joint employer/worker committees) in companies with 50 or more workers, a measure to institutionalize bipartite communications and consensus building. However, the number of such bodies did not increase significantly after passage of the act.

All workers, whether or not they are union members, have the legal right to strike, except for public sector workers and those involved in public safety activities. The law allows workers in these latter categories to carry out strikes if they are arranged not to disrupt public interests or endanger public safety. Private sector workers exercised their right to strike, as did those in state enterprises, although the latter group did so with less frequency. The large majority of government-recorded strikes involved nonunion workers. Unions or workers' representatives must provide 7 days' notice to carry out a legal strike. The law calls for mediation by local Manpower Ministry officials but does not require government approval of strikes. In previous years, workers and employers rarely followed dispute settlement procedures, and workers rarely gave formal notice of the intent to strike because Manpower Ministry procedures were slow and had little credibility among workers. The 2003 passage of the Manpower Act did not significantly change this situation.

The underpayment or nonpayment of legally required severance packages precipitated strikes and labor protests. The Solidarity Center documented cases in which foreign employers in the garment and footwear industry, faced with falling orders and plant closures, fled the country to avoid making legally required severance payments.

Labor activists also reported that factory managers in some locations employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions. At times, the police intervened inappropriately and with force in labor matters, usually to protect employers' interests. On September 8, approximately 200 police assaulted striking workers at PT Shamrock Manufacturing Corporation in Medan, a clash that injured several workers and police. The workers had been on strike for 1 month, following the company's dismissal of 14 union officials affiliated with the Medan Independent Workers Union. The company also had employed local thugs to put down the strike, according to media sources. To develop

standards of conduct in labor disputes, the national police participated fully in an ILO worker rights training program initiated during this period.

Pending implementation of the 2004 Disputes Settlement Act and its new labor court system, regional and national labor dispute resolution committees continued to adjudicate charges of antiunion discrimination. The committees' decisions could be appealed to the State Administrative Court. However, due to a history of adverse decisions for labor and the long time necessary to process disputes, sometimes requiring years, many unions believed that these committees were not realistic alternatives for settling disputes. As a result, workers frequently presented their grievances directly to Komnas HAM, the DPR, or NGOs. Administrative decisions in favor of dismissed workers usually took the form of monetary awards but rarely reinstated workers. The law required that employers obtain the approval of the labor dispute resolution committee before firing workers, but employers often ignored the law in practice.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs). However, nongovernmental observers, including the Solidarity Center, described stronger antiunion sentiment and actions by employers in EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

The Government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies, or Perusahaan Jasa Tenaga Kerja Indonesia (PJTKI), and poor enforcement of government regulations often led to debt bondage and extended, unlawful confinement. According to press reports and research by the Solidarity Center, recruiting agencies frequently kept migrant workers in holding centers for months before sending them abroad. While in the holding centers, migrant workers normally did not receive pay, and recruiters often did not allow them to leave the centers. In most instances, workers were forced to pay recruiters for the cost of their forced stay, which resulted in large debts to the recruiters. In what the Solidarity Center and other NGOs described as commonplace, the Jakarta Post newspaper reported in July that guards at a migrant worker holding center caught and beat a prospective worker, Fadijah, who attempted to escape from the center in South Jakarta. Local residents rescued Fadijah and took the guards to a local police station. Tired of waiting for a promised job in Malaysia, Fadijah reported that she tried to return to her home but the PJTKI would not allow her to leave the center until she had paid a debt of \$280 (2.5 million rupiah).

Forced and compulsory labor by children occurred (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children from working in hazardous sectors and the worst forms of child labor, to include mining, skin diving, construction, prostitution, and offshore fishing platforms. However, the Government did not enforce these laws effectively. Law, regulations, and practice acknowledged that some children must work to supplement family incomes. The Manpower Act prohibits the employment of children, defined as persons under 18, with the exception of those 13 to 15 years of age, who may work no more than 3 hours per day and only under a number of other conditions, such as parental consent, no work during school hours, and payment of legal wages. The law does not appear to address exceptions for children ages 16 to 17.

The National Child Protection Act addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade. The law provides severe criminal penalties and jail terms for persons who violate children's rights. During the year, the Government prosecuted a small number of cases under this act.

The Government has a national action plan to eliminate the worst forms of child labor, as well as separate national action plans for combating trafficking and for eliminating the commercial sexual exploitation of children.

Child labor remained a serious problem in the country. An estimated 6 to 8 million children exceeded the legal 3-hour daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal than the formal sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Children worked in industries such as rattan and wood furniture, garment, footwear, food processing, and toy making, and also in small-scale mining operations. Many girls between 14 and 16 years of age worked as live-in domestic servants. The ILO informally estimated that 700,000 children worked as servants. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit bonded labor by children; however, the Government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic service, and other exploitative situations, including a small number on fishing platforms (*see* Section 5).

Enforcement of child labor laws remained largely ineffective. Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations.

*e. Acceptable Conditions of Work.*—Provincial and district authorities, not the central Government, establish minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests.

The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. Most province-level minimum wage rates fell below the Government's own calculation of basic minimum needs. Jakarta offered the highest minimum wage level \$74 (671,550 rupiah) per month, while East Java stipulated the lowest at \$34 (310,000 rupiah) per month. In December, workers in Jakarta protested the Governor's decision to raise the monthly minimum wage by only 6 percent to \$78 (711,843 rupiah), which fell below the government-determined minimum living standard. Employers argued that increasing wage rates, among a number of other factors, made the country's workers less competitive internationally and limited job growth in the industry.

Local manpower (Disnaker) officials are responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies and in the informal sector. In practice, official minimum wage levels applied only in the formal sector, which accounted for 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency JAMSOSTEK; however, at year's end, companies had registered only 23 million workers, according to JAMSOSTEK.

The law establishes a 40-hour workweek, with one 30-minute rest period for every 4 hours of work. Companies often required a 5-and-a-half or 6-day workweek. The law also requires at least 1 day of rest weekly. The daily overtime rate was 1.5 times the normal hourly rate for the first hour and double the hourly rate for additional overtime, with a maximum of 3 hours of overtime per day and no more than 14 hours per week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common, resulting in some strikes and protests. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety. In practice, the country's worker safety record was poor. As revealed in press reports, JAMSOSTEK recorded 105,846 occupational accidents in 2003, an increase from 103,804 in 2002. Local Disnaker officials have responsibility for enforcing health and safety standards.

In larger companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating against those who do report hazardous working conditions; however, the law was not enforced effectively.

## JAPAN

Japan is a parliamentary democracy based on its 1947 Constitution. Sovereignty is vested in the citizenry, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers of state, which is responsible to the Diet, a two house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The most recent national elections were in July. The Liberal Democratic Party (LDP) and the Komeito Party make up the current coalition government headed by Prime Minister Junichiro Koizumi. The judiciary is generally independent.

The Self-Defense Forces are responsible for external security and have limited domestic security responsibilities. The well organized and disciplined police force is effectively under the control of the civilian authorities. However, there continued to be credible reports that police committed some human rights abuses.

In spite of a lengthy economic downturn, the industrialized, free market economy continued to provide the approximately 127,580,000 residents with a high standard of living and high levels of employment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There continued to be credible reports that police and prison officials physically and psychologically abused prisoners and detainees. Violence against women and children, child prostitution, and trafficking in women were problems. Women, the Ainu (the country's indigenous people), the Burakumin (a group whose members historically were treated as outcasts), and alien residents experienced varying degrees of discrimination, some of it severe and longstanding.

According to Ministry of Justice (MOJ) figures, the Legal Affairs Bureau offices and civil liberties volunteers dealt with 359,971 human rights related complaints and 18,786 reports of suspected human rights violations during 2003. Staffing constraints and limited legal powers make this administrative system weak, and many of these cases were ultimately resolved in the courts.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

In 2002, an inmate at Nagoya Prison died after guards, as a disciplinary measure, used leather handcuffs and body belts too tightly cinched (*see* Section 1.c.). In 2001, two Nagoya prison guards reportedly sprayed a high-power water hose at an “unruly” inmate, resulting in his death the following day. In April, one guard was given a suspended 2-year prison sentence; the second guard’s case remains open. In the outcome of his March 2003 trial, the warden was warned to prevent further abuses by his subordinates.

In November 2003, relatives of a deceased prisoner and three former inmates sued the Government for abuses suffered in Nagoya prison between 2001 and 2002. At year’s end, several civil cases against Nagoya prison guards were still pending.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the Penal Code prohibits violence and cruelty toward suspects under criminal investigation; however, reports by several bar associations, human rights groups, and some prisoners indicated that police and prison officials sometimes used physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. The National Police Law permits persons to lodge complaints against the police with national and local public safety commissions. These commissions may direct the police to conduct investigations. However, public confidence in the system remained low, and allegations persisted that the police and the public safety commissions remained lax in investigating charges of police misconduct.

The Constitution and the Criminal Code include safeguards to ensure that no criminal suspect can be compelled to make a self incriminating confession or be convicted or punished in cases where the only evidence against the accused is his own confession. The appellate courts overturned some convictions in recent years on the grounds that they were obtained as a result of coerced confessions. In addition, civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials.

Approximately 90 percent of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt. Confession was regarded as the first step in the rehabilitative process. The Government maintained that the high percentage of confessions, like the high conviction rate, reflected a higher standard of evidence needed to bring about indictment in the judicial system.

During the year, the use of leather restraining body belts was abolished. Softer leather handcuffs without body belts were instituted as substitute restraining devices.

Prison conditions met international standards; however, several facilities were overcrowded, unheated, and medically understaffed.

Prisoners were not allowed to purchase or receive supplementary food. While death records are kept for 10 years, many of them lacked detailed explanations regarding the cause of death. The prison deaths and abuses made public in 2003 have sparked an ongoing review of the prison system (*see* Section 1.a.).

Prisons operated at an average 117 percent capacity. In some institutions, two inmates were placed in cells designed for one inmate, and eight or nine in cells meant for six.

In spite of the MOJ's request in 2001 for installation of heaters in prisons, most facilities remained unheated and without air conditioning. Inmates were not given sufficient clothing and blankets to protect themselves against cold weather, and there continued to be cases of frostbite among the prison population, particularly in Niigata Prefecture.

According to prison officials at Fuchu and Yokohama prisons, medical attention was inadequate. The MOJ's Corrections Bureau likewise acknowledged that correctional facilities lacked medical preparedness. The Government's Project Team on Medical Issues of Correctional Institutions continued to consult with related organizations on such issues as increasing medical staff, upgrading medical conditions during nights and weekends, and strengthening cooperative relationships with medical institutions in the community. In May, the Minister formed a subcommittee to improve prison medical facilities.

According to the Japan Federation of Bar Associations (JFBA), the authorities may read letters sent or received by prisoners. If the content is deemed "inappropriate," the letter may be censored or confiscated. All visits with convicted prisoners were monitored; however, prisoners whose cases were pending were allowed private access to their legal representatives.

The MOJ is not required to inform a condemned inmate's family prior to the person's execution. Human rights organizations reported that lawyers also were not told of an execution until after the fact and that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

The JFBA and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous rules. Prison rules remained confidential. While the Prison Law Enforcement Regulation stipulates that the maximum time prisoners may be held in single cells is 6 months, wardens continued to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days. Prisoners were sometimes forced to kneel motionless in an empty cell for several hours at a time; however, foreigners and the handicapped were allowed to sit on a hard stool, at the discretion of the prison warden.

In December, the Upper House passed both a Crime-Victims law and a revision to the 1908 Prison Law. The Crime-Victims law calls for compensation and counseling for crime victims, upholding victims' rights, and providing victims with criminal investigation information. Aimed at toughening penalties against felons, the Penal Code revision establishes new charges for gang rape, increases maximum prison terms and penalties for life-threatening crimes, and extends the statute of limitations for prosecuting capital offenses from 15 to 25 years.

In February 2003, the Government ratified the Convention on the Transfer of Sentenced Persons, allowing foreign prisoners to petition to serve their sentences in their home country. The Government added the stipulation that prisoners must serve at least one-third of their sentence in Japan before petitions will be considered. Since February 2003, 27 American prisoners have applied for transfers, but only 1 has been returned to the United States; 9 others have either completed their sentences while waiting or withdrew their requests.

Women and juveniles were housed in separate facilities from men; however, male prison guards sometimes guarded women prisoners. During the year, a male prison warden was charged with "violence and cruelty by a special public officer" for engag-

ing in sexual acts with a female inmate awaiting trial. During the year, some women's detention facilities were operating over stated capacity. Pretrial detainees were held separately from convicted prisoners.

While the Government limited access by human rights groups to detention facilities, prison visits were allowed. However, Amnesty International reported that human rights groups were not allowed access to Nagoya prison because of ongoing court cases related to alleged abuses.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate that probable cause exists to detain the accused. Under the law, a suspect may be held in detention at either a regular detention facility or “substitute” (police) detention facility for up to 72 hours. A judge must interview suspects prior to detention. A judge may extend preindictment custody by up to two consecutive 10 day periods based on a prosecutor's application. These extensions were sought and granted routinely. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 28 days.

The National Police Safety Commission oversees the National Police Agency (NPA), which has six internal bureaus: The Secretariat, the Administration Bureau, the Criminal Investigation Bureau, the Traffic Bureau, the Security Bureau, and the Communications Bureau; and regional bureaus in Shikoku, Kyushu, Tohoku, Kanto, Chubu, Kinki, and Chugoku. The Tokyo Metropolitan Police Communications Division and the Hokkaido Prefecture Police Communications Division functioned as local units with more autonomy than the units under regional jurisdictions. In addition, each prefecture has a prefectural police safety commission as well as a prefectural police agency, which was primarily funded by the prefecture's budget. In 2003, there were 14,111 kobans (police boxes) located throughout the country. Corruption and impunity were not problems within either the national or the prefectural police forces.

Under the Criminal Procedure Code, police and prosecutors have the power to control or limit access by legal counsel when deemed necessary for the sake of an investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations provided detainees with limited free counseling. Critics charged that access to counsel was limited both in duration and frequency; however, the Government denied that this was the case. Incommunicado detention could be used for up to 23 days.

Critics charged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The Government countered that cases of persons sent to police detention facilities tended to be those in which the facts were not in dispute. An MOJ regulation permits officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The Law for Expediting Court Procedure became effective in 2003. The average trial period in 2003 was 3.2 months for criminal cases and 8.2 months for civil cases. The length of time before a suspect was brought to trial depended on the nature of the crime, but rarely exceeded 3 months from the date of arrest; the average was 1 to 2 months.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The Cabinet appoints judges for 10-year terms, which can be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70, but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the final court of appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court. The Government generally respected in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials were completed within a reasonable length of time, cases occasionally took several years to work their way through the trial and appeals process.

In July 2003, the Diet passed legislation aimed at reducing the average time required to complete criminal trials and civil trials that include witness examination. Its provisions include hiring substantial numbers of additional court and MOJ personnel, revising bar examinations, establishing new graduate law schools to increase the overall number of legal professionals three-fold by 2010, and requiring that

courts and opposing litigants jointly work to improve trial planning by allowing for earlier evidence collection and disclosure. The advisory panel on judicial reform released the official standards for setting up graduate law schools, and in March, 68 universities (22 public and 46 private) opened new law schools.

The July 2003 law also makes the Supreme Court responsible for accelerating proceedings in lower courts, imposes a 2 year time limit for courts to bring criminal and civil trials to conclusion, and requires the Government to take the legal and financial measures necessary to accomplish these goals.

A defendant is informed of the charges upon arrest and is assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. There was no trial by jury; however, a judicial reform bill passed in May will allow serious criminal cases to be tried by a six-person, randomly selected jury and panel of judges. The law was scheduled to take effect in 2009.

The defendant is presumed innocent. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel; however, the Government contended that the right to consult with attorneys is not absolute and can be restricted if such restriction is compatible with the spirit of the Constitution. Access sometimes was abridged in practice; for example, the law allows prosecutors to control access to counsel before indictment, and there were allegations of coerced confessions (*see* Section 1.d.). Defendants are protected from the retroactive application of laws and have the right of access to incriminating evidence after a formal indictment. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record. A defendant who is dissatisfied with the decision of a trial court of first instance may appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, and no standard licensing or qualification system for certifying court interpreters exists. A trial may proceed even if the accused does not understand what is happening or being said. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and were not translated adequately.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

In April 2003, the Public Security Investigation Agency extended surveillance of the terrorist group Aleph (formerly known as Aum Shinrikyo) because the Government declared the group still posed a danger to society.

In 2002, the Defense Agency confirmed reports that it had violated a law protecting personal information when it compiled lists of citizens seeking official documents. A privacy bill to prevent such actions passed the Diet in May 2003.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In July 2003, the Diet passed legislation prohibiting the solicitation of sex from minors through the Internet (*see* Section 5). The Japan Internet Providers Association and the Telecom Services Association expressed concerns about the definitions of child prohibited sites and about the actions providers are required to take to prevent illegal use of Internet sites.

Academic freedom was not restricted. The Science, Technology, and Education Ministry's authority to order revisions to elementary, middle, and high school textbooks based on national curriculum guidelines remained a source of domestic and international controversy.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Members of the Unification Church alleged that police did not respond to allegations of forced deprogramming of church members. While deprogramming cases decreased during the year, a Unification Church spokesman reported that prosecutors dropped two cases due to insufficient evidence. Although one member reportedly

was kidnapped by her family during the year, the Unification Church did not report the case to police. Concerns remained regarding the tendency of officials to judge deprogramming as a family matter. Unlike in previous years, members of the Jehovah's Witnesses reported that their religious rights were respected by the Government during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect citizenship at the required age.

The law does not permit forced exile, and it was not used.

The law provides for the granting of refugee status or asylum to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee or asylum status. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

In May, the Diet passed a bill abolishing the 60-day application deadline previously required for aliens seeking refugee status. The previous refugee recognition law stipulated that those seeking refugee status had to apply within 60 days upon arriving in Japan or within 60 days of learning that they were likely to be persecuted in their home country. An alien recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits.

Government records indicated that 523,617 persons were detained in 2003 at immigration detention centers. According to media reports, several deportations were carried out in secret. In July, two Kurdish families staged a 72-day protest against their deportation orders in front of the United Nations University in Tokyo.

In recent years, the Government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. A nongovernmental organization (NGO), in a statement to the U.N. Subcommittee on Protection and Promotion of Human Rights, noted that, from 1982 to December 2002, 301 persons were accepted as refugees. The Government considered that most persons seeking asylum in the country did so for economic reasons. In 2003, there were approximately 7,900 refugees and asylum seekers in the country, of whom an estimated 7,700 were Vietnamese and Cambodian refugees. Out of 336 refugee claims submitted in 2003, the Government granted asylum to 10 persons from Burma, Burundi, and Iran and issued long-term residence permits based on humanitarian considerations to 16. As part of its ongoing family-reunification program for close relatives of Indochinese refugees resettled in earlier years, the Government admitted 147 refugees from Vietnam and Cambodia in 2003.

In May, a law was passed granting the Justice Minister authority to issue temporary-stay permits to persons seeking asylum. While this law provides a way for asylum seekers to have legal status in the country during the refugee recognition process, in practice it was quite difficult to obtain such permits.

In January 2003, the Immigration Bureau began to give detailed, written explanations of decisions not to grant refugee status to asylum-seekers and opened an information office at Narita Airport for potential asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a parliamentary democracy governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The LDP and the Komeito Party formed the existing coalition government. Except for a brief hiatus in the 1990s, the LDP has been the dominant party in every government since the mid-1950s. General elections were held in November 2003, and elections for the Upper House were held in July.

According to NPA figures for January through June, there were 43 arrests involving political corruption for such charges as bribery, bid-rigging, and violation of the Political Funds Control Law. This was an increase of 14 cases from the previous year for the same time period.

In recent years, the numbers of women holding public office has slowly increased. As of July, women held 34 of 480 seats in the Lower House of the Diet and 33 seats in the 242-seat Upper House. As of September, there were two women in the Cabinet. As of April, 4 of the country's 47 governors were women.

No figures were available at the national level regarding minority political participation.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without governmental restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views, although the Government restricted access by human rights groups to detention facilities (*see* Section 1.c.).

*Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, creed, gender, social status, or family origin, and the Government generally respected these provisions.

*Women.*—Violence against women, particularly domestic violence, often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or children. Consequently, NPA statistics on violence against women probably understated the magnitude of the problem. According to NPA statistics, there were 12,568 cases of alleged domestic violence and 1,499 restraining orders issued in 2003. Police took action in 41 cases in which court orders were violated. Between April and September, the 120 prefectural consultation centers received 24,818 cases of domestic violence consultations. Of the total 103,986 consultations since fiscal 2002, 99.6 percent were for women.

The law allows district courts to impose 6-month restraining orders on perpetrators of domestic violence and to sentence violators up to 1 year in prison or impose fines of up to \$9,520 (1 million yen). According to Supreme Court figures from January through September, 1,579 applications for restraining orders against abusive spouses were sought, and 1,256 were issued. The orders either banned perpetrators from approaching their victims or ordered them to move away from the home, or both. The law also covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters.

The revision to the Law for the Prevention of Spousal Violence and the Protection of Victims passed in May expanded the definition of spousal violence to include mental, sexual, and physical abuse and increased the length of restraining orders from 2 weeks to 2 months.

NPA statistics reported 2,472 rapes in 2003. Husbands have been prosecuted for spousal rape; usually these cases involved a third party who assisted in the rape. In light of several high-profile gang rapes in 2003 involving college students at Waseda University, the Upper House passed a bill in December making gang rape an offense punishable by a minimum penalty of 4 years in prison. In November, a former student was sentenced to 14 years in prison for raping two women at a party organized by the "Super Free" student group, as well as a third woman in December 2001. All 13 other defendants received jail sentences of up to 10 years. Many local governments responded to the need for confidential assistance for abused women by establishing special women's consultation departments in police and prefectural offices.

Local governments and private rail operators continued to implement measures designed to address the widespread problem of groping and molestation of female commuters. Several railway companies have introduced women-only rail cars on various trains, and the Tokyo Metropolitan Assembly revised its anti-groping ordinance to make first-time offenders subject to imprisonment.

Trafficking in women remained a problem (*see* Section 5, Trafficking). Prostitution is illegal, but it occurred.

The Constitution and the Equal Employment Opportunity (EEO) Law prohibit sexual discrimination; however, sexual harassment in the workplace remained widespread. The National Personnel Authority established workplace rules in an effort to stop harassment in public servants' workplaces. A 1999 revision to the EEO Law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance, other than allowing names of offending companies to be publicized. A number of government entities

have established hotlines and designated ombudsmen to handle complaints of discrimination and sexual harassment.

Women made up 40.5 percent of the labor force, and women between the ages of 15 and 64 had a labor force participation rate of 48.5 percent. Although the Labor Standards and the EEO laws prohibit wage discrimination, in 2003, the average hourly wage for women was only 67.8 percent of the hourly wage for men. There was a significant salary income gap between men and women in 2003, with 64 percent of female employees earning \$28,571 (3 million yen) or less per year, as compared with 18 percent of all male employees, according to Cabinet Office statistics. Much of this disparity resulted from the “two-track” personnel administration system found in most larger companies under which new hires were put either in the managerial track (for those perceived as having executive potential) or the general track (for those engaged in basic office work).

Advocacy groups for women and persons with disabilities continued to press for a government investigation, a formal government apology, and compensation for sterilizations that were carried out between 1949–92.

Several cases filed by women forced to work as “comfort women” (prostitutes) during World War II were finalized during the year. In February, the Tokyo High Court rejected an appeal by 7 Taiwanese former “comfort women,” while in November the Supreme Court dismissed a damage suit filed in 1991 by 35 Korean wartime “comfort women.” In December, the Tokyo High Court dismissed an appeal by 4 Chinese former “comfort women,” and the Supreme Court rejected a suit filed in 1993 by 46 Filipina wartime “comfort women.”

*Children.*—The Government is committed to children’s rights and welfare, and in general the rights of children were protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level (age 14 or ninth grade). Education was available widely to students who met minimum academic standards at the upper secondary level through the age of 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the free upper secondary level exceeded 96 percent.

Public attention was focused increasingly on reports of frequent child abuse in the home. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to 1 of the 182 nationwide local child counseling centers or to a municipal welfare center. In May 2003, the Ministry of Health, Labor, and Welfare reported that 108 children died as a result of child abuse since the enactment of the Child Abuse Prevention Law in 2000. In 2003, there were a record 23,738 cases of child abuse, up almost 2 percent from 2002, according to the Cabinet Office. Approximately 50 percent of the cases involved violence, and 40 percent were cases of parental neglect. Child welfare centers likewise reported a record 26,573 calls in 2003, an increase of 2,800 calls from the previous year. Although the Government offered subsidies to local governments to combat record-high child abuse, only 13 percent accepted the offer. Most of the local governments declining the subsidies stated they could not afford to pay their share of the bill.

Incidents of violence in schools and severe bullying (“ijime”) also continued to be a societal and government concern. According to the Education, Culture, Sports, Science and Technology Ministry, public elementary school children committed a record 1,777 violent acts in the 2003 academic year, an increase of 27 percent from the previous school year, including acts of violence committed both on and off school grounds. In all 35,392 violent acts were committed in public elementary, junior high, and high schools during the 2003 academic year. Overall, cases of bullying rose 5.2 percent.

Student-on-student violence accounted for 50 percent of the violence by students in public schools. In June, a sixth-grader murdered her classmate, and a junior high school student pushed a 5-year-old boy off the fourth floor of an apartment building. The MOJ’s Office of the Ombudsman for Children’s Rights provided counseling services for children 18 years of age and younger who had been victims of bullying. In May, a High Court overturned a 2002 lower court ruling and ordered seven persons to pay a total \$548,600 (57.6 million yen) to parents of a 13-year-old boy killed in a bullying incident in 1993.

Teenage prostitution, dating for money, and child pornography continued to be problems. According to the Cabinet Office’s white paper, there were 722 sex-related crimes associated with dating sites during the year. Easy access to web sites through mobile phones with Internet access made it easier for strangers to set up

encounters with juveniles. In July 2003, the Diet passed a law criminalizing the use of the Internet for child pornography and prostitution (*see* Section 2.a.).

Children under the age of 14 cannot be held criminally responsible for their actions. Under juvenile law, juvenile suspects are tried in family court and have the right of appeal to an appellate court. Family court proceedings are not open to the public, a policy that has been criticized by family members of juvenile crime victims. For the last several years, juvenile crime has shown a trend toward more serious offenses such as murder, robbery, arson, and rape.

The Tokyo prefectural government continued programs to protect the welfare of stateless children, whose births their illegal immigrant mothers had refused to register for fear of forcible repatriation.

*Trafficking in Persons.*—The Constitution prohibits holding persons in bondage, and the Government employed a variety of labor and immigration statutes to carry out limited trafficking-related prosecutions; however, there are no specific laws that prohibit trafficking in persons. In April, the Government created a senior coordinator presiding over an inter-ministerial committee for anti-trafficking efforts. In December, the Government released its Action Plan to combat trafficking in persons. Focusing on prevention, prosecution, and protection of trafficking victims, the Action Plan calls for a review of “entertainer” visas, strengthened immigration control, revision of the Penal Code to make trafficking in persons a crime, and added protection of victims through shelters, counseling, and repatriation assistance.

Trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and Eastern Europe, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. The country was a destination for illegal immigrants from China who were trafficked by organized crime groups and held in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The Government reported that some smugglers used killings and abduction to enforce cooperation.

There was evidence that trafficking took place within the country, as some recruited women subsequently were forced, through the sale of their “contracts,” to work for other employers. Child prostitution was a problem (*see* Section 5, Children).

In May, according to media reports, a sex club boss and a brothel operator became the first persons charged with human trafficking in the country, after forcing two underage Japanese girls to work as prostitutes to repay debts they had incurred at the club.

Although reliable statistics on the number of women trafficked to the country were unavailable, human rights groups reported that up to 200,000 persons, mostly Southeast Asian women, are smuggled annually into the country and forced to work in the sex industry. In 2003, the NPA arrested 41 individuals for trafficking-related offenses, 8 of whom were traffickers. Of these individuals, 36 were convicted, 14 received prison terms, 17 received fines, and 5 received both a fine and prison term. In February 2003, 17 prefecture police offices and the Tokyo Metropolitan police simultaneously raided 24 strip clubs and rescued 68 trafficking victims. The NPA also participated in 16 transnational investigations. During the year, efforts were underway to improve screening of travelers arriving in Japan from key source countries of trafficking and to tighten the issuance of “entertainer” visas, which are often used by traffickers.

The Government does not consider an individual who has willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person’s working conditions. Thus, government figures may understate the problem, as persons who agreed to one kind of work found themselves doing another, or were subject to force, fraud, or coercion.

Traffickers were prosecuted for crimes ranging from violations of employment law to immigration violations. A government-funded study released in 2000 found that nearly two-thirds of foreign women surveyed following arrests for immigration offenses reported that they were working in the sex industry under duress.

Many women who were trafficked into the country, particularly from the Philippines, entered legally on entertainment visas. “Entertainers” are not covered by the Labor Standards Law and have no minimum wage protections.

Brokers in the countries of origin recruited women and “sold” them to intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex en-

tainment businesses are classified as “store form” businesses such as strip clubs, sex shops, hostess bars, and private video rooms, and as “nonstore form” businesses such as escort services and mail order video services, which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in “snack” bars, where they were required to provide sexual services off-premises.

Trafficking victims generally did not realize the extent of their indebtedness, the amount of time it would take them to repay the debts, or the conditions of employment they would be subjected to upon arrival. According to Human Rights Watch, the passports of women trafficked to work in “dating” bars usually were confiscated by their employers, who also demanded repayment for the cost of the woman’s “purchase.” Typically, the women were charged \$28,570 to \$47,620 (3 million to 5 million yen), their living expenses, medical care (when provided by the employer) and other necessities, as well as “fines” for misbehavior added to the original “debt” over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes “resold,” or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing their debt and possibly worsening their working conditions.

Many women trafficked into the sex trade had their movements strictly controlled by their employers and were threatened with reprisals, perhaps through members of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. There were reports that some brokers used drugs to subjugate victims. Many trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

Domestic NGOs and lawyers compiled credible anecdotal evidence suggesting that some individual police officials returned trafficking victims to their employers when these individuals sought police protection. NGOs also reported that police sometimes declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Except for the Tokyo Metropolitan and Kanagawa Prefectural Government, which funded locally based NGOs assisting victims of trafficking, the Government did not assist victims of trafficking other than to house them temporarily in detention centers for illegal immigrants or facilities established under the Anti-prostitution Law, or by referral to shelters run by NGOs. Generally these trafficking victims were deported as illegal aliens. During the year, the Government administratively decided not to treat victims as immediately deportable criminals, allowing the Government to develop its cases against traffickers. Victims without documentation or sufficient funds to return to their country of origin were sometimes detained for long periods. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims.

During the year, government officials met with destination-country officials and participated in a Southeast Asian study tour to research trafficking issues. The Government has instituted tighter entertainer visa issuance and intends to cut the number of such visas issued to women from the Philippines from 80,000 to 8,000 a year. In 2003, the Cabinet Affairs Office conducted a campaign to heighten public awareness of violence against women and trafficking, while the NPA produced a training video on trafficking and distributed it to all police offices to improve their awareness of trafficking. In 2003, the Government disbursed \$3 million (315 million yen) to UNICEF, the International Labor Organization (ILO), the U.N. Development Program, and the Philippine government to alleviate poverty, raise awareness of the dangers of trafficking, and promote alternative economic opportunities for women.

*Persons With Disabilities.*—There were an estimated 3.4 million persons over the age of 18 with physical disabilities and roughly 3 million with mental disabilities. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, persons with disabilities faced limited access to public transportation, “mainstream” public education, and other facilities. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and

tax benefits if they build wider entrances and elevators to accommodate persons with disabilities.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law also loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. In 2003, workers with disabilities employed by private companies comprised on average 1.5 percent of the total number of regular employees, somewhat less than the legally stipulated rate of 1.8 percent. While nearly 70 percent of large corporations (1,000 or more employees) fell short of this goal, several large corporations had special divisions for workers with disabilities, including Omron, Sony, and Honda. For example, 80 percent of Omron's Kyoto factory staff of 82 had disabilities, with the majority having severe disabilities. These employees earn an average of \$29,000 (3 million yen) per year, which is above the minimum wage.

At the end of 2002, all prefectural governments and 91.5 percent of local city governments had developed basic plans for citizens with disabilities. In June, the Disabled Persons Fundamental Law was revised, obligating all municipalities to draw up formal plans for the disabled.

*National/Racial/Ethnic Minorities.*—Burakumin, Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The approximately 3 million Burakumin (descendants of feudal era “outcasts”), although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities.

According to the MOJ, there were nearly 1.85 million legal foreign residents as of 2002. The largest group, at approximately 625,400, was ethnic Koreans, followed by Chinese, Brazilians, and Filipinos. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) were subject to various forms of deeply entrenched societal discrimination. Harassment and threats against pro-North Korean organizations and persons reportedly have increased since the 2002 admission by North Korea that it had kidnapped more than a dozen Japanese citizens. Other foreigners also were subject to discrimination. There was a widespread perception among Japanese citizens that foreigners committed many crimes. According to a government survey released in May, more than 70 percent of citizens worried that an increase in the number of illegally employed foreign workers could undermine public safety and result in human rights abuses against the workers themselves. Nevertheless, more than 80 percent said the country should accept foreign laborers conditionally or unconditionally.

A controversial Immigration Bureau website launched in February allows informants to report the name, address, or workplace of any suspicious foreigners for such reasons as “causing a nuisance in the neighborhood” and “causing anxiety.” In the face of protests from human rights groups, the site was amended in March to remove the preset reasons, but remained operational at year's end.

In 2001, Hokkaido police investigated death threats made against a foreign-born naturalized citizen who had sued a bathhouse for refusing him entrance on the basis of race and the Otaru Municipal Government for failing to take measures to stop discriminatory entrance policies. In November 2002, the Sapporo District Court ordered the bathhouse to pay the plaintiff \$29,000 (3 million yen) for subjecting the plaintiff to racial discrimination. The court rejected the claim against the Otaru Municipal Government, saying that the International Convention on the Elimination of All Forms of Racial Discrimination does not require local governments to institute ordinances to stamp out discrimination. In September, the Sapporo High Court rejected the appeal.

By law, aliens with 5 years of continuous residence are eligible for naturalization and citizenship rights, including the right to vote; however, in practice, most eligible aliens choose not to apply for citizenship, partly due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also required an extensive background check, including inquiries into the applicant's economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society. Alien permanent residents may live abroad for up to 4 or 5 years without losing their right to permanent residence in the country.

In September 2003, the School Education Law was amended to allow graduates of 21 non-Japanese language schools to become automatically eligible to take university entrance examinations. Previously all students of non-Japanese language schools were required to pass a state-run high school equivalency test to qualify for the examinations. The amended law also enabled universities to set their admissions criteria at their own discretion. During 2003, many national universities also admitted graduates of non-Japanese language schools other than the 21 schools included in the School Education Law amendment.

*Indigenous People.*—The Ainu are a people descended from the first inhabitants of the country. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of approximately 0.15 percent of their original land holdings and empowered the Government to manage communal assets.

After a 1997 court ruling, the Diet passed a law that recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the Government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido, failed to address whether they deserved special rights as a distinct ethnic group, and did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal minority. The U.N. Special Rapporteur to the U.N. Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and noted that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights and criticized the Government for not providing funds for non-cultural activities that would improve Ainu living conditions or financial status. The Japan Ainu Association, a nationwide organization of Ainu, lobbied the Government for economic assistance and greater social welfare benefits. Although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased, the Ainu continued to face societal discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers to associate freely in unions. In 2003, approximately 10.5 million workers, 19.6 percent of all employees, belonged to labor unions. Unions were free of government control and influence. The Japanese Trade Union Confederation, which represented 6.8 million workers and was formed in 1989 through the merger of several confederations, was the largest labor organization.

Some public employees, including members of the Self-Defense Forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute with the ILO Committee on the Application of Conventions and Recommendations over the observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and has asked the Government to consider measures it could take to encourage negotiations with public employees. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides unions with the right to organize, bargain, and act collectively. These rights were exercised freely, and collective bargaining was practiced widely. The Constitution provides for the right to strike, and workers exercised this right in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children were not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children. In practice, there were no reports of persons held in bondage or involuntary servitude apart from trafficking victims.

Former Allied prisoners of war and Chinese and Korean workers continued to press claims in Japanese civil courts and in complaints to the ILO for damages and compensation for forced labor during World War II. During the year, the United States Supreme Court rejected appeals from former prisoners of war and others who claimed they were forced to work for private Japanese companies as slave laborers during World War II. In July, overturning a district court's 2002 decision against

Chinese plaintiffs, a high court ordered Nishimatsu Construction Company to pay \$261,900 (27.5 million yen) in compensation to a group of World War II slave laborers. In January 2003, a U.S. federal appeals court dismissed a number of lawsuits by former prisoners of war and civilians who alleged they had been forced to labor for private Japanese firms during World War II.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. By law, children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs.

*e. Acceptable Conditions of Work.*—Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates ranged according to prefecture from \$5.77 (606 yen) to \$6.76 (710 yen) per hour. Minimum wage rates were considered sufficient to provide a worker and family with a decent standard of living.

The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticized the Government for failing to enforce maximum working hour regulations in smaller firms.

Activist groups claimed that employers exploited or discriminated against foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. The Immigration Bureau of the MOJ estimated that, as of January, there were more than 200,000 foreign nationals, primarily from South Korea, the Philippines, China, Thailand, and Malaysia, residing illegally in the country, with the majority of them engaged in manual labor.

The Government tried to reduce the inflow of illegal foreign workers by prosecuting employers of such workers. According to NPA figures, 175 persons were charged with “illegal employment assistance” during the first half of 2002. The Immigration Law provides for penalties against employers of undocumented foreign workers. Maximum fines for illegal employment assistance were raised to \$29,000 (3 million yen) in December. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. The Government continued to study the foreign worker issue, and several citizens’ groups were working with illegal foreign workers to improve their access to information on worker rights.

The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety, principal among which is the Industrial Safety and Health Law. Standards were set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Central Labor Standards Council. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

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## KIRIBATI

Kiribati is a constitutional republic that occupies 33 small islands scattered across 1.4 million square miles of the central Pacific Ocean. The country has a popularly elected president and a legislative assembly of 42 members—40 are elected by universal adult suffrage, the Rabi Island Council in Fiji nominates 1, and the Attorney General is an ex officio member. The most recent parliamentary and presidential elections, held in May and July 2003 respectively, were considered free and fair. Anote Tong of the Boutokan te Koaua Party was elected President and took office in July 2003. The government party and allied independents together held 25 legislative seats. Elected village councils run local governments in consultation with traditional village elders. The judiciary is independent.

The country has no military force. Australia and New Zealand provide defense assistance. A police force of 284 sworn officers and 200 constables, headed by a commissioner who reports directly to the Office of the President, is responsible for internal security. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country has a mixed economy. The Government owned and operated most enterprises; however, there were some privately owned enterprises. The population of

over 90,000 was primarily Micronesian, with a significant component of Polynesian origin. Economic activity consisted primarily of subsistence agriculture and fishing. Remittances from sailors employed on overseas merchant vessels and foreign development assistance also were important sources of revenue. The islands' isolation and meager resources severely limited prospects for economic development. The rate of economic growth in 2003 was approximately 1.4 percent, and the per capita gross domestic product was approximately \$786.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, the Government retained some limits on freedom of the press. In the country's traditional culture, women occupy a subordinate role and have limited job opportunities. Violence against women and child abuse in urban areas were problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions. On some outer islands, village associations occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft.

Prison conditions generally met international standards. There were separate prisons for men and women. Children under age 16 were not incarcerated. There was no separate facility for juvenile offenders age 16 or older. Juveniles age 16 to 17 generally may be detained no longer than 1 month in the adult facility; however, for more serious offenses, such as murder, juveniles over the age of 16 can be held in custody for more than 1 month and can be sentenced to longer terms. Pretrial detainees who did not meet bail were housed with convicted prisoners.

Family members and church representatives were allowed access to prisoners. Diplomats and senior judicial officials visited the prisons, including some unannounced visits, and reported no problems. During the year, there were no reported requests by local human rights groups or nonresident international human rights observers to visit prisons. The Government has not formulated a policy concerning such visits.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Commissioner of Police and Prisons, who reports directly to the Office of the President, heads the police force. There are three superintendents under the commissioner responsible, respectively, for crime and security, prisons, and administrative functions. The police force was reasonably effective in maintaining law and order. Police corruption generally was not a problem, and there were no reported instances where the police acted with impunity.

The law requires that arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate themselves. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Those taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. Detainees were allowed prompt access to legal counsel.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of magistrate courts, a High Court, and a Court of Appeal. The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. The Constitution provides that an accused person be informed of the charges and be provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on English common law and include the presumption of innocence until proven guilty.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and with some limitations, the Government generally respected these rights in practice. Under the Newspaper Registration Act, newspapers are required to register with the Government. On September 15, the Legislative Assembly repealed the 2002 amendments to the act that had given the Government authority to deregister a newspaper if it was found to have published material deemed to be offensive, was likely to encourage or incite crime, or affected the “credibility or reputation of any person.”

The country had three weekly newspapers: one government-owned, one church-owned, and one privately owned. The Government also owned AM and FM radio stations in Tarawa. There was one privately owned FM radio station. Churches published newsletters and other periodicals. High costs limited the availability of foreign print media and Internet access, but there were no government-imposed limitations.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. The Constitution prohibits government restrictions on citizens’ freedom of movement; however, it does not restrict such actions by village councils.

The Constitution provides for the forced expulsion from the country of a convicted person, if “in the interests of” defense, public safety, order, morality, health, or environmental conservation. The Government has not used forced exile. However, on rare occasions, village associations have banished persons from a specific island within the country, usually for a fixed period of time. The legality of this form of punishment has never been challenged.

The Government has not established a system for providing protection to refugees. There were no reports of the forced return of persons to a country where they feared persecution. There were no applications for refugee resettlement or asylum during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. To be elected, a candidate must secure at least half the valid votes cast; if there is no first-round winner, a runoff election is held. The President exercises executive authority and is elected for a 4-year term. The elected Legislative Assembly nominates at least three, and no more than four, presidential candidates from among its members. Under the Constitution, the President is limited to three terms. The most recent parliamentary elections were held in May 2003. Opposition leader Anote Tong of the Boutokan Te Koaua Party was elected President in July 2003. The elections were considered free and fair.

Nepotism, based on tribal, church, and family ties, is prevalent. The Auditor-General (AG) is responsible for oversight of government expenditure; however, in reality the AG lacked sufficient resources, and findings of misappropriations and unaccounted-for funds were generally ignored, or the investigations were inconclusive.

There are no specific rights of citizens or the media to government information.

There were 2 women, including the Vice President, in the 42-member Parliament, and 4 women held permanent secretary positions. No women sat on the High Court. Minority persons have held cabinet positions in the past. The President and several Members of Parliament are of mixed descent.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no restrictions on the formation of local human rights nongovernmental organizations, but none have been formed. There were no restrictions on operations by international human rights groups. During the year, there were no reported allegations of human rights abuses by the Government and no known requests for investigations.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, creed, national origin, or sex, and the Government observed these prohibitions in practice; however, only native I-Kiribati (those with Kiribati ancestry) may own land. Society is fundamentally egalitarian and has no privileged class.

*Women.*—Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. Rape, including spousal rape, is a crime, and the law was enforced when charges were brought to court. However, it is believed that such prosecutions were relatively infrequent for cultural reasons.

Prostitution is not illegal but was not common; procuring sex and managing brothels are illegal. The law does not specifically prohibit sex tourism; however, there were no reports of such activity. Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment; although it sometimes occurred, it generally was not regarded as a major problem.

The Constitution prohibits discrimination based on sex; however, the traditional culture, in which men are dominant, impeded a more active role for women in the economy. Nevertheless, women were slowly finding work in unskilled and semi-skilled occupations. The Government increased its hiring and promotions of women; women filled many government office positions and teaching positions. The Employment Ordinance prohibits night work by women except in seven exempt occupations, including health worker, business manager, and hotel, bar, and restaurant worker; however, there were no reported prosecutions based on this ordinance. Statistics generally were not well collected in the country, and data on the participation of women in the work force and on comparative wages were unavailable. Women have full rights of ownership and inheritance of property as well as full and equal access to education.

*Children.*—Within its limited financial resources, the Government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of 6 and 14 years. In practice, the Government did not enforce primary school attendance. Unofficial estimates indicated that more than 50 percent of all children attended school, and there was no significant gender discrimination. The approximately 40 percent of primary school graduates who pass a national examination qualify for 3 additional years of subsidized junior secondary and 4 years of subsidized senior secondary education; a small fee was charged to other students who wished to matriculate at these levels.

The Government provided free national medical service; however, there were no doctors on the outer islands. The central hospital in Tarawa provided basic medical services but not intensive care facilities. There were no reports of gender bias in the provision of health services.

Chronic alcohol abuse leading to child abuse (physical, neglect, and occasionally sexual) continued to be a problem.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities; however, there were no complaints of discrimination in employment, education, or the provision of other state services for persons with mental or physical disabilities. Accessibility of buildings for persons with disabilities has not been mandated; accommodations for persons with disabilities were basically nonexistent.

The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa. Foreign-based aid workers and the World Health Organization cooperated with the Ministry of Health to conduct outer-island workshops for health workers.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice.

Over 90 percent of the work force was occupied in fishing or subsistence farming, but the small wage sector had a relatively strong and effective trade union movement. An estimated 10 percent of wage-earning workers were union members. In 1982, 7 registered trade unions merged to form the Kiribati Trade Union Congress (KTUC), which had approximately 2,500 members. There were no official public sector trade unions; however, public sector nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer unions. The Government did not control or restrict union activities; however, unions must register with the Government. Collective bargaining is provided for under the Industrial Relations Code. The Government sets wages in the large public sector. However, in a few statutory bodies and government-owned companies, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike. However, strikes are rare; the last one took place in 1980.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred. The prohibition does not mention specifically forced and compulsory labor by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy.

*e. Acceptable Conditions of Work.*—There is no minimum wage. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. Income tended to be pooled within the extended family, and the standard income appeared adequate to provide a decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning work force) worked 36 hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers must provide an adequate supply of clean water for workers and ensure the existence of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job. However, the Government's ability to enforce employment laws was hampered by a lack of qualified personnel. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.

There are no laws specifically to protect foreign workers; however, there were no significant numbers of foreign workers and no reports of mistreatment. Some foreign volunteers and missionaries worked in the schools.

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## DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA <sup>1</sup>

The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong Il, General Secretary of the Korean Work-

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<sup>1</sup>The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to assess fully human rights conditions there. This report is based on information obtained over more than a decade, updated where possible by information drawn from recent interviews, reports, and other docu-

ers' Party (KWP). In 1998, the Supreme People's Assembly reconfirmed Kim as Chairman of the National Defense Commission and designated that position the "highest office of state." Kim's father, the late Kim Il Sung, was declared "eternal president." The titular head of state is Kim Yong Nam, the President of the Presidium of the Supreme People's Assembly. Elections for the 687-member Assembly were held in August 2003. Only the KWP and two small satellite parties participated. The elections were not free. The Kim family remained the object of an intense personality cult, and the regime continued to cling to "juche," an ideology of extreme self-reliance, even though the population was dependent on international aid for survival. The judiciary is not independent.

The country is one of the world's most militarized societies. The Korean People's Army (KPA) continued to overshadow the KWP as Kim Jong Il's chief instrument for making and implementing policy. The KPA is the primary organization responsible for external security. A large military reserve force and several quasi-military organizations, including the Worker-Peasant Red Guards and the People's Security Force, assist it. In addition, an omnipresent internal security apparatus includes the Ministry of Public Security (MPS), the State Security Department, and the KWP. Members of the security forces have committed numerous serious human rights abuses.

The country's traditional highly centralized and tightly controlled economy has broken down under the stress of chronic shortages of food and fuel. Citizens increasingly have sought employment in the informal economy. Most citizens must supplement limited amounts of government-subsidized rations with food purchased in markets. Heavy military spending, estimated at between one-quarter and one-third of gross domestic product, has constrained and skewed economic development. The country has not taken the steps towards transparency that would make it eligible for membership in international financial institutions. Its poor credit rating, stemming from default on its foreign debt, sharply limited the amount of funds it was able to borrow commercially. Despite significant inflows of international assistance over the past decade, harsh economic and political conditions have caused tens of thousands of persons to flee the country. To stabilize the economy, in July 2002, the Government launched an economic reform that raised wages and prices, devalued the currency, and gave managers more decision-making authority. These changes sparked a dramatic rise in inflation and a quickening of commercial activity but failed to re-energize industrial growth. The Government permitted an increase in the number of private vendors to compensate for the contraction of food supplied through the public distribution system. Corruption appears to be a growing problem as economic controls loosen.

The Government's human rights record remained extremely poor, and it continued to commit numerous serious abuses. Citizens did not have the right to change their government. There continued to be reports of extrajudicial killings, disappearances, and arbitrary detention, including of many persons held as political prisoners. Prison conditions were harsh and life-threatening, and torture reportedly was common. Pregnant female prisoners reportedly underwent forced abortions, and in other cases babies reportedly were killed upon birth in prisons. The constitutional provisions for an independent judiciary and fair trials were not implemented in practice. The regime subjected citizens to rigid controls over many aspects of their lives. In April, the Supreme People's Assembly enacted a new Penal Code. According to the new Penal Code, capital punishment applied only to "serious" or "grave" cases of four "anti-state" and "anti-nation" crimes. Citizens were denied freedom of speech, the press, assembly, and association; all forms of cultural and media activities were under the tight control of the KWP. Little outside information reached the general population except that which was approved and disseminated by the Government. The Government restricted freedom of religion, citizens' movement, and worker rights. In April, the U.N. Commission on Human Rights (UNCHR) called for the appointment of Special Rapporteur Vitit Muntarbhorn to examine the human rights conditions in the country, but he was not allowed to visit the country to carry out his mandate. Although the country accepted meetings with European Union (EU) and U.N. officials on human rights issues, the Government maintained that most international human rights norms, particularly individual rights, were illegitimate, alien, and subversive to the goals of the State and Party. There were widespread reports of trafficking in women and girls among refugees and workers crossing the border into China. Only government-controlled labor unions are permitted.

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mentation, including refugee testimony. While limited in detail, this information is nonetheless indicative of the human rights situation in North Korea today.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary and Unlawful Deprivation of Life.*—Defector and refugee reports over several years indicate that the regime has executed political prisoners, opponents of the regime, some repatriated defectors, and others, including military officers suspected of espionage or of plotting against Kim Jong Il. In April, the Government enacted a new Penal Code by decree of the Supreme People's Assembly Presidium. The new code provides the death penalty for only the most "serious" or "grave" cases of four "anti-state" or "anti-nation" crimes. These crimes include active participation in a coup or plotting to overthrow the State; acts of terrorism for an anti-State purpose; treason, which includes defection or handing over state secrets; and, suppressing the People's Movement for national liberation. In the past, prisoners have been sentenced to death for such ill defined "crimes" as "ideological divergence," "opposing socialism," and "counterrevolutionary crimes." In some cases, notably at the height of the famine in the 1990s, executions reportedly were carried out at public meetings attended by workers, students, school children, and before assembled inmates at places of detention. Border guards reportedly had orders to shoot to kill potential defectors. Similarly, according to defectors, prison guards were under orders to shoot to kill those attempting escape from political concentration camps.

Defectors have reported that government officials prohibit live births in prison. Forced abortion and the killing of newborn babies reportedly were standard prison practices (*see* Section 1.c.).

Religious and human rights groups outside the country reported that members of underground churches have been killed because of their religious beliefs and suspected contacts with overseas evangelical groups operating across the Chinese border (*see* Section 2.c.).

Many prisoners reportedly have died from beatings, disease, starvation, or exposure (*see* Section 1.c.).

*b. Disappearance.*—The Government reportedly was responsible for cases of disappearance. Defectors in recent years have claimed that individuals suspected of political crimes often were taken from their homes by state security officials and sent directly, without trial, to camps for political prisoners. There are no practical restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado.

Numerous reports indicated that ordinary citizens are not allowed to mix with foreign nationals, and Amnesty International (AI) has reported that a number of citizens who maintained friendships with foreigners have disappeared.

In the past, the Government has been involved in the kidnapping abroad of South Koreans, Japanese, and other foreign nationals. In 2002, Kim Jong Il acknowledged to Japanese Prime Minister Koizumi the involvement of DPRK "special institutions" in the kidnapping of Japanese citizens between 1977 and 1983 and said that those responsible had been punished. Five surviving victims were allowed to visit Japan in October 2002, and they decided to remain there. Japan also sought an accounting for 10 Japanese said to be dead or never to have entered North Korea and hopes to gain answers regarding 20 other cases of suspected abductions of Japanese nationals. Negotiations between the two countries continued, but have produced few positive results.

Many South Koreans are believed to have been abducted in the 1970s and 1980s. The South Korean Government has compiled a list of 486 South Korean citizens, most of whom were fishermen, detained since the 1950–53 Korean War.

In 2000, Reverend Kim Dong Shik reportedly was kidnapped by North Korean agents in China near the North Korean border. Relatives and human rights activists claimed that Kim was targeted for assisting the defection of North Korean refugees to South Korea. In December, South Korean officials announced that they were questioning a North Korean agent who had confessed to taking part in the abduction.

There were other reports of kidnapping and hostage-taking, apparently intended to intimidate ethnic Koreans living in China and Russia. The Government continued to deny that it had been involved in kidnappings of non-Japanese foreign nationals.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—In its 2001 submission to the U.N. Human Rights Committee, the Government claimed that torture is prohibited by law; however, many sources confirm its practice. According to a report by the U.S. Committee for Human Rights in North Korea (USCHRNK), torture "is routine and severe." Methods of torture included severe beatings; electric shock; prolonged periods of exposure; humiliations such as public nakedness; confinement to small "punishment cells," in which prisoners were unable

to stand upright or lie down, where they could be held for several weeks; being forced to kneel or sit immobilized for long periods; being hung by one's wrists; being forced to stand-up and sit-down to the point of collapse; and, forcing mothers recently repatriated from China, to watch the infanticide of their newly born infants. Defectors reported that many prisoners have died from torture, disease, starvation, exposure, or a combination of these causes.

Over the years, there have been reports from defectors alleging the testing on human subjects of a variety of chemical and biological agents. During the year, media reports included several defector accounts of alleged testing of lethal gas on human subjects, but these reports have not been verified.

Reportedly, North Korean officials prohibited live births in prison and forced abortions were regularly performed, particularly in detention centers holding women repatriated from China. According to defectors who were imprisoned in the 1990s, in cases of live birth, the child was immediately killed. According to reports, the reason given for this policy was to prevent the birth of half-Chinese children. In addition, guards sexually abused female prisoners.

Prison conditions were harsh; starvation and executions were common. "Reeducation through labor" was a common punishment, consisting of forced labor, such as logging, mining, or tending crops under harsh conditions, and reeducation consisting of memorizing speeches by Kim Jong Il and being forced to participate in self-criticism sessions after labor. Visitors to the country observed prisoners being marched in leg irons, metal collars, or shackles. In some places of detention, prisoners were given little or no food and were denied medical care. Sanitation was poor, and prisoners reported they were rarely able to bathe or wash their clothing and had no change of clothing during months of incarceration.

In June 2002, Lee Soon-ok, a woman who spent several years in a prison camp before defecting to the Republic of Korea (South Korea) in 1994, testified before the U.S. Senate that the approximately 1,800 inmates in her camp typically worked 16 to 17 hours a day. Lee witnessed severe beatings and incidents of torture involving forcing water into a victim's stomach with a rubber hose followed by guards jumping on a board placed across the victim's abdomen. Lee also testified that chemical and biological warfare experiments were conducted on inmates by the army. Other defectors reported similar experiences. At Camp 22 in Haengyong, approximately 50,000 prisoners worked under conditions that reportedly resulted in the death of 20 to 25 percent of the prison population annually in the 1990s.

In October 2003, Kim Yong, a former police Lieutenant Colonel, told USCHRNK that, as an inmate in a political prison camp, he had been forced to kneel for long periods with a steel bar placed between his knees and calves, been suspended by his handcuffed wrists, and submerged in waist deep cold water for extended periods.

Other witnesses who testified before the U.S. Congress in 2002 stated that prisoners held on the basis of their religious beliefs generally were treated worse than other inmates (*see* Section 2.c.).

The Government did not permit inspection of prisons by human rights monitors.

*d. Arbitrary Arrest or Detention.*—There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado. Family members and other concerned persons reportedly find it virtually impossible to obtain information on charges against detained persons or the length of their sentences. Judicial review of detentions does not exist in law or in practice.

An estimated 150–200,000 persons were believed to be held in detention camps in remote areas for political reasons. Using commercial satellite imagery to locate the camps and point out their main features, defectors claimed that these camps covered areas as large as 200 square miles. The camps contained mass graves, barracks, work sites, and other prison facilities. The Government denied the existence of political prison camps. In recent years, the Government reportedly reduced the total number of prison camps from approximately 20 to less than 10, but the prison population was consolidated rather than reduced. In 2003, a defector who had been a ranking official in the Ministry of Public Security told USCHRNK that conditions in the camps for political prisoners were extremely harsh and prisoners were not expected to survive. In the camps, prisoners received little food and no medical provisions.

Entire families, including children, have been imprisoned when one member of the family was accused of a crime (*see* Section 1.f.).

*e. Denial of Fair Public Trial.*—The Constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary does not exist. The Constitution mandates that the Central Court is accountable to the Supreme People's Assembly, and the Criminal Code subjects judges to criminal liability for handing down "unjust

judgments.” Furthermore, individual rights are not acknowledged. The Public Security Ministry dispensed with trials in political cases and referred prisoners to the State Security Department for punishment. Little information was available on formal criminal justice procedures and practices, and outside observation of the legal system has been limited to show trials for traffic violations and other minor offenses.

The Constitution contains elaborate procedural protections. It states that cases should be heard in public, except under some circumstances stipulated by law. The Constitution also states that the accused has the right to a defense, and when trials were held, the Government reportedly assigned lawyers. Some reports noted a distinction between those accused of political crimes and common criminals, and stated that the Government afforded trials or lawyers only to the latter. There was no indication that independent, nongovernmental defense lawyers exist. The Government considered critics of the regime to be political criminals.

Past reports have described political offenses as including sitting on newspapers bearing Kim Il Sung’s picture, mentioning Kim Il Sung’s limited formal education, or defacing photographs of the Kims.

Common criminals were occasionally amnestied on the occasion of Kim Il Sung’s or Kim Jong Il’s birthday.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the Government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The Government relied upon a massive, multilevel system of informers to identify critics and potential troublemakers. Whole communities sometimes were subjected to security checks. The possession of “anti-state” material and listening to foreign broadcasts are crimes that could subject the transgressor to harsh punishments, including up to 5 years of labor reeducation. If the transgressor is accused of using the anti-state material in a plot against the Government, the maximum punishment is death.

The Government monitored correspondence and telephone conversations. Telephones essentially are restricted to domestic service, although some international service was available on a very restricted basis. In recent years, the Government established a cellular phone network. In the aftermath of the April train explosion at Ryongchon, it reportedly banned cell phone use by the general population. The telephone system used by foreigners in the country was independent of the broader system. Persons reportedly have been placed under surveillance through their radio sets, and imprisoned and executed for statements made at home that were critical of the regime.

The Constitution provides for the right to petition. However, when anonymous petitions or complaints about state administration were submitted, the State Security Department and Ministry of Public Security sought to identify the authors, who could be subjected to investigation and punishment.

In the late 1950s, the regime began dividing society into three main classes: “core,” “wavering,” and “hostile.” Security ratings were assigned to each individual; according to some estimates, nearly half of the population was designated as either “wavering” or “hostile.” Loyalty ratings determined access to employment, higher education, place of residence, medical facilities, and certain stores. They also affected the severity of punishment in the case of legal infractions. Citizens with relatives who fled to the Republic of Korea at the time of the Korean War still appeared to be classified as part of the “hostile class.” Between 20 and 30 percent of the population is considered potentially hostile. Members of this class still were subject to discrimination, although defectors reported that their treatment had improved greatly in recent years. There is some evidence that the regime has softened these restrictions, for example, by portraying persons with a bad class background who are hard workers favorably in feature films. In addition, the economic reforms have eroded the rigid class restrictions to some extent.

Citizens of all age groups and occupations were subject to intensive political and ideological indoctrination. The cult of personality of Kim Jong Il and his father and the official “*juche*” ideology declined somewhat, but remained an important ideological underpinning of the regime, approaching the level of a state religion. Under Kim Jong Il, the regime has emphasized a “military first” policy, purportedly necessitated by the external threat. Indoctrination is intended to ensure loyalty to the system and leadership, as well as conformity to the State’s ideology and authority. The necessity for the intensification of such indoctrination is repeatedly stressed by the regime. The country attributed the collapse of the Soviet Union to insufficient ideological indoctrination and corrupt foreign influences.

Indoctrination was carried out systematically: Through the mass media, in schools, and through worker and neighborhood associations. Kim Jong Il has stated that ideological education must take precedence over academic education in the nation's schools, and he also called for the intensification of mandatory ideological study and discussion sessions for adult workers. Indoctrination also involved mass marches, rallies, and staged performances, sometimes involving hundreds of thousands of persons.

Collective punishment was practiced. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. In November 2003, an investigator for a human rights nongovernmental organization (NGO) said that punishment could be extended to imprison three generations of a family for life at hard labor. Refugees have also documented this practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, the Government prohibited the exercise of these rights in practice. Articles of the Constitution that require citizens to follow “socialist norms of life” and to obey a “collective spirit” take precedence over individual political and civil liberties.

The Government sought to control virtually all information. The Government carefully managed visits by foreigners, especially foreign journalists. In April, the Government denied journalists access to the scene of a train explosion at Ryongchon station that killed hundreds of persons, although foreign diplomats were granted access. On occasion, when it served its agenda, the Government allowed foreign media to cover certain events. During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and to file reports. In all cases, journalists were strictly monitored. They were not generally allowed to talk to officials or to persons on the street, and cellular or satellite phones were confiscated for the duration of a visitor's stay.

Domestic media censorship was enforced strictly, and no deviation from the official government line was tolerated. During the year, Reporters Without Borders (RWB) reported that a state radio journalist was punished for mistakenly referring to a deputy minister as minister. He reportedly was sent to a “revolutionization” camp for several months. The regime prohibits listening to foreign media broadcasts except by the political elite, and violators are subject to severe punishment. Radios and television sets, unless otherwise altered, received only domestic programming; radios obtained from abroad must be altered to operate in a similar manner. During the year, there was evidence that radios were more accessible than in the past, due primarily to corrupt border guards. Some NGOs have reported that more defectors had listened to foreign broadcasts than in previous years. RWB reported that the authorities designated radio sets as “new enemies of the regime” on June 13, after human rights activists announced their intention to send transistor radios by balloon into the country.

Private telephone lines operated on a system that precluded making and receiving international calls; international phone lines were available only under very restricted circumstances. Some deluxe hotels in Pyongyang offered Internet service for foreign visitors, but for citizens, Internet access was limited to high-ranking officials with a “need to know.” This access was provided via international telephone lines to a provider in China.

The Government severely restricted academic freedom and controlled artistic and academic works. A primary function of plays, movies, operas, children's performances, and books is to buttress the cult of personality surrounding Kim Il Sung and Kim Jong Il.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government did not respect this provision in practice. The Government prohibits any public meetings without authorization.

The Constitution provides for freedom of association; however, the Government did not respect this provision in practice. There are no known organizations other than those created by the Government. Professional associations existed primarily to facilitate government monitoring and control over the organizations' members.

*c. Freedom of Religion.*—The Constitution provides for “freedom of religious belief;” however, in practice the Government severely restricted religious freedom, including organized religious activity except that which is supervised by officially recognized groups linked to the Government. The Constitution also stipulates that religion “should not be used for purposes of dragging in foreign powers or endangering public security.” Genuine religious freedom did not exist.

The cult of personality of Kim Jong Il and his father and the official “juche” ideology remained important ideological underpinnings of the regime, approaching the level of a state religion. Refusal on religious or other grounds to accept the leader as the supreme authority exemplifying the State and society’s needs is regarded as opposition to the national interest and may result in severe punishment.

Several government sponsored religious organizations served as interlocutors with foreign church groups and international aid organizations. Foreigners who met with representatives of these organizations believed that some were genuinely religious, but noted that others appeared to know little about religious dogma, liturgy, or teaching.

The number of religious believers was unknown, but has been estimated by the Government at 10,000 Protestants, 10,000 Buddhists, and 4,000 Catholics. In its July 2002 report to the U.N. Human Rights Committee, the Government reported the existence of 500 “family worship centers.” Some unconfirmed reports indicated that such worship centers were tolerated as long as they do not openly proselytize or have contact with foreign missionaries. In addition, an undetermined number of persons belonged to underground Christian churches that operated in secrecy and without the approval of the Government.

The Chondogyo Young Friends Party, a government-sponsored group based on a traditional Korean religious movement, also remained in existence, with approximately 40,000 practitioners.

Most of the 300 Buddhist temples in the country were regarded as cultural relics, but in some of them religious activity was permitted. Two Protestant churches under lay leadership and a Roman Catholic church (without a resident priest) operated in Pyongyang. Several government-controlled schools for religious education exist, including 3 year religious colleges for training Protestant and Buddhist clergy to serve in the government-sponsored places of worship. A religious studies program also was taught at Kim Il Sung University. In September 2003, construction reportedly was completed on the Pyongyang Theological Academy, a government sponsored graduate institution for pastors and evangelists. The Unification and Russian Orthodox Churches were building churches in Pyongyang.

Many religious figures have visited the country in recent years, including papal representatives and religious delegations from the Republic of Korea, the United States, and other countries. Overseas religious relief organizations have been active in responding to the country’s food crisis; however, they have been denied access to many areas of the country and their movement restricted and closely monitored. Foreigners who visited the country stated that church services contained political content supportive of the regime in addition to religious themes.

Persons engaging in religious proselytizing have been arrested and were subject to harsh penalties, including imprisonment and prolonged detention without charge. The regime appeared to have cracked down on unauthorized religious groups in recent years, particularly those with ties to overseas evangelical groups operating across the border in China. The Government appeared especially concerned that religiously-based South Korean relief and refugee assistance efforts along the northeast border with China were becoming entwined with political goals, including opposition to the regime. Some repatriated defectors who had established contacts with religiously based South Korean groups reportedly have been executed or received other especially harsh treatment due to these contacts.

Religious and human rights groups outside the country continued to provide numerous unconfirmed reports that thousands of members of underground churches have been beaten, arrested, detained in prison camps, tortured, or killed because of their religious beliefs. The regime continued to view religious believers belonging to underground congregations or with ties to evangelical groups in North China as subversive.

However, members of government-recognized religious groups did not appear to suffer discrimination, perhaps because, as some reports claimed, they had been mobilized by the regime. Persons whose parents were believers but who themselves were nonpracticing were able to rise in recent years to at least the mid-levels of the bureaucracy. Such individuals, as a category, suffered broad discrimination in the past.

In testimony given in the early 1990s, witnesses said that prisoners held on the basis of their religious beliefs generally were treated worse, sometimes much worse, than other inmates. One such witness, a former prison guard, testified that those believing in God were regarded as insane, since authorities taught “all religions are opiates.” He recounted an instance in which a woman was kicked repeatedly and left with her injuries unattended for days because a guard overheard her praying for a child who was being beaten.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the “freedom to reside in or travel to any place”; however, the Government did not respect these rights in practice. In the past, the regime has controlled internal travel strictly, requiring a travel pass for any movement outside one’s home village. Numerous reports in recent years suggested that internal travel rules have been relaxed to allow citizens to search for food, conduct local market activities, or engage in enterprise-to-enterprise business activities. However, only members of a very small elite and those with access to remittances from overseas had access to personal vehicles. The Government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country.

The regime only issues exit visas for foreign travel to officials and trusted businessmen, artists, athletes, academics, and religious figures. Short-term exit papers were also available for residents on the Chinese border to enable visits with relatives in bordering regions of China. In addition, others were able to obtain papers to engage in small-scale trade in the immediate bordering Chinese provinces.

The Government routinely uses forced internal resettlement and has relocated many tens of thousands of persons from Pyongyang to the countryside, although not always as punishment for offenses. For example, although disabled veterans are treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, have been sent out of the city into internal exile.

The Government did not allow legal emigration, although officials in border areas reportedly have often taken bribes from or simply let pass persons crossing the border with China without required permits.

Since the mid-1990s, substantial numbers of North Koreans have crossed the border into China and some have proceeded to the Republic of Korea, Hong Kong, Vietnam, Cambodia, and other Asian countries. Many of those who crossed into China during the year returned to North Korea. The Chinese government denied the UNHCR permission to operate along its border with the DPRK and several thousand North Koreans were reportedly detained and forcibly returned to North Korea, where many faced persecution and some of whom may have been executed upon their return.

The Penal Code criminalizes defection and attempted defection, including the attempt to gain entry to a foreign embassy for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of 5 years of “labor correction.” In “serious” cases, defectors or asylum seekers are subject to an indefinite term of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily have been imprisoned under harsh conditions, some have been executed and pregnant women have been forced to have abortions or witness the killing of their infants after birth (*see* Section 1.a.). Some sources say that the harshest treatment is reserved for those who have had extensive contact with Christian missionaries.

Under new regulations that may be aimed at differentiating between defectors and the migrants that illegally leave the country to seek economic opportunity in China, the Penal Code stipulates a sentence of up to 2 years of “labor correction” for the lesser crime of illegally crossing the border. Several NGOs operating in the region confirm that repatriated migrants have been subject to less severe punishments upon their return to North Korea in recent years. In previous years, some migrants have stated that border guards had orders to shoot to kill persons attempting to cross the border into China and that the regime reportedly retaliated against the relatives of some of those who managed to leave the country. However, there is some evidence that suggests that because bribery and corruption was rampant, these orders were not strictly enforced during the year.

AI reported that in September, Chang Gyung Chul and Chang Gyung Soo were sentenced to 10 years’ imprisonment for their unauthorized exit from the country. Their cousin Chang Mi Hwa reportedly was sentenced to 5 years’ imprisonment and was thought to be under house arrest. The three were detained in Shanghai and repatriated to North Korea.

During the year, deportations of North Koreans from China continued. Most observers estimated that since 1994 there have been at least tens of thousands, and perhaps several hundred thousand North Koreans in China. Most crossed the border illegally in small groups to seek food, shelter, and work. Some have settled semi-permanently in Northeastern China, while others travel back and forth across the

border. Since 2000, the Chinese government sporadically has sought out and forcibly repatriated large numbers of these persons, whom Chinese authorities regarded as illegal economic migrants. Deportations appeared to have risen in 2001 and 2002 after North Koreans began seeking onward travel to South Korea through high-profile tactics such as seeking asylum in diplomatic missions. Deportations continued, albeit at what appeared to be a slower pace than in previous years.

During the year, 1,894 North Koreans were able to travel to the Republic of Korea after seeking refuge primarily in South Korean diplomatic missions in China and other countries. Notable incidents included the airlift of 468 North Koreans from an unidentified third country, and, in September, 44 North Koreans scaled the walls of the Canadian Embassy in Beijing in an attempt to seek asylum.

North Koreans in Russia also suffered serious human rights abuses. Many were workers employed under harsh conditions under contracts entered into by the North Korean authorities with Russian firms. Many such North Koreans in Russia had their passports and other identification confiscated by North Korean border guards and faced severe hardship due to their lack of any identification. However, many workers were there voluntarily. Work abroad is highly sought after and most workers are vetted by the party for their ideological health and background.

For several years beginning in the 1990s, the country permitted a few of the thousands of Japanese wives with North Korean husbands to make short trips to visit their families in Japan. Because of the abduction controversy, these visits have been suspended.

Since the June 2000 inter-Korean summit, there have also been several family reunions in the North and the South involving hundreds of persons.

The Government has permitted an increasing number of overseas Koreans to visit relatives in North Korea over the past decade. The pro-North Korean groups arranging these visits charge application fees of several thousand dollars.

Although a member of the U.N., the country did not participate in international refugee forums. The Government had no known policy or provision for refugees or asylees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens do not have the right to change their leadership or government peacefully. The KWP and the KPA, with Kim Jong Il in control, dominate the political system. Very little reliable information is available on intra-regime politics. The legislature, the Supreme People's Assembly (SPA), meets only a few days per year to rubber-stamp resolutions presented to it by the party leadership.

The regime justifies its dictatorship with arguments derived from concepts of collective consciousness and the superiority of the collective over the individual, appeals to nationalism, and citations of the *juche* ideology. The authorities emphasize that the core concept of *juche* is "the ability to act independently without regard to outside interference." Originally described as "a creative application of Marxism-Leninism" in the national context, *juche* is a malleable philosophy reinterpreted from time to time by the regime as its ideological needs changed.

In an effort to give the appearance of democracy, the Government has created several "minority parties." Lacking grassroots organizations, they exist only as rosters of officials with token representation in the SPA. Their primary purpose appeared to be promoting government objectives abroad as touring parliamentarians. Free elections did not exist, and the regime criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Elections to the SPA and to provincial, city, and county assemblies are held irregularly and are not free and fair. Elections were held in 1990, 1998, and in August 2003; the outcomes of all were virtually identical.

Women reportedly made up 20 percent of the membership of the SPA, but only approximately 4 percent of the membership of the Central Committee of the KWP.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no independent domestic organizations to monitor human rights conditions or to comment on violations of such rights, and the Government is unlikely to allow them to be formed. The government's North Korean Human Rights Committee has denied the existence of any human rights violations in the country.

In July 2001, a North Korean delegate reporting to the U.N. Human Rights Committee dismissed reports of human rights violations in the country as the propaganda of "egoistic" and "hostile forces" seeking to undermine the sovereignty of the country.

The Government has ignored requests for visits by international human rights organizations, and none were known to have visited since a 1996 AI visit.

The NGO community and numerous international experts continued to testify to the grave human rights situation in North Korea.

A number of countries that have established relations with the country in recent years have sought to engage it on human rights. In 2001 and 2002, North Korean officials and EU representatives held dialogues on human rights. North Korea emphasized that it had ratified most U.N. human rights instruments. Human rights concerns were further addressed during political consultations during the year. In April 2003, the UNCHR for the first time adopted a resolution on the situation of human rights in the country. The resolution, among other things, expressed "deep concern about reports of systemic, widespread and grave violations of human rights 'and note(d) with regret that the authorities' have not created the necessary conditions to permit the international community to verify these reports.'" In April, the UNCHR called for the appointment of a special rapporteur on human rights in the country, but he was not allowed to visit the country to assess the situation according to his mandate. In September, the United Kingdom sent a delegation to Pyongyang for formal discussions on human rights which achieved little in terms of progress.

Although not involved in monitoring human rights, the World Food Program (WFP) visited 161 of the country's 203 counties during the year to monitor food distribution and survey nutritional needs. The number of WFP monitoring visits has increased substantially since the WFP first established its presence in the country in 1995. However, starting in the fall, the North Korean government refused a larger proportion of requests for monitoring visits than it had in recent years. In addition, the WFP ceased to visit and distribute food to nine counties due to new access restrictions by North Korean authorities. As a result, regular access has been reduced to 152 out of a total 203 counties. The North Korean government has never permitted monitoring visits to certain areas of the country it has deemed "sensitive." The government also has never permitted monitoring visits to be made on a random or short-notice basis, thus limiting their effectiveness in verifying that aid reached intended recipients on a sustained basis. Another monitoring shortcoming is that the Government has not provided the WFP a full list of the institutions (schools, orphanages, hospitals, etc.) that receive the food. The WFP has also not been allowed to bring in native Korean speakers for its staff; however, WFP staff has been permitted to study the Korean language. For the second year, South Korean monitoring teams were allowed to observe briefly the distribution of food provided on a bilateral basis. For every 100,000 tons of food delivered, the Republic of Korea was allowed to send three monitoring teams to visit any of the previously agreed-upon distribution points.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution grants equal rights to all citizens. However, the Government denied its citizens most fundamental human rights in practice, and there was pervasive discrimination on the basis of social status.

*Women.*—The Constitution states "women hold equal social status and rights with men"; however, although women were represented proportionally in the labor force, few women had reached high levels of the Party or the Government. In addition, there are indications that the number of women in the workforce has been declining since the economic reforms were instituted. There is no evidence that this decline is the result of a Government policy; rather, it is probably the consequence of widespread factory closures.

There was no information available on domestic and general societal violence against women; women prisoners reportedly were subject to rape and forced abortions (*see* Section 1.c.).

Working-age women, like men, are required to work. They were thus required to leave preschool age children in the care of elderly relatives or in state nurseries. According to the Constitution, women with large families are to work shorter hours. There were reports of trafficking in women and young girls among North Koreans crossing the border into China (*see* Section 5, Trafficking). During the year, approximately two-thirds of the refugees who found safe haven in South Korea were women.

*Children.*—The State provides compulsory education for all children until the age of 15. However, in the past, some children were denied educational opportunities and subjected to other punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of family members (*see* Section 1.f.). However, there was some evidence that the rigidity of the loyalty classification system has eroded.

Like others in society, children were the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition, foreign visitors and academic sources reported that children from an early age were subjected to several hours a week of mandatory military training and indoctrination at their schools. School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals.

The WFP reported feeding 3.36 million children during the year. A nutrition survey carried out in 2002 by UNICEF and the WFP, in cooperation with the Government, found that in the sample of 6,000 children, 20 percent were underweight and 39 percent were stunted. This was an improvement compared to a 1998 UNICEF/WFP survey. Although UNICEF and WFP did not have unrestricted access in carrying out these surveys, the general conclusion of improvement in the nutritional situation of children is considered valid. A new survey was carried out during the year, but the results had not been released by year's end.

In practice, children did not enjoy any more civil liberties than adults. The U.N. Committee on the Rights of the Child has repeatedly expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the State to ensure that these children had effective access to health, education, and social services, and to facilitate their full integration into society.

Information about societal or familial abuse of children is unavailable. There were reports of trafficking in young girls among persons crossing the border into China (see Section 5, Trafficking).

*Trafficking in Persons.*—There were no known laws specifically addressing the problem of trafficking in persons, and trafficking was a growing problem. There were widespread reports of trafficking in women and young girls into China. Some were sold by their families or by kidnappers as wives or concubines to men in China; others fled on their own volition to escape starvation and deprivation. A network of smugglers reportedly facilitated this trafficking. Many such women, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes.

*Persons With Disabilities.*—Traditional social norms condone discrimination against persons with physical disabilities. Apart from veterans with disabilities, persons with disabilities were almost never seen within the city limits of Pyongyang, and several defectors and other former residents reported that persons with disabilities routinely were relocated to rural areas. Furthermore, some NGO reports claimed that these persons were predominantly sent to the northeastern part of the country. However, recent visitors to Pyongyang have reported seeing persons with disabilities on the streets of the capital. There are no legally mandated provisions for accessibility to buildings or government services for persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association; however, this provision was not respected in practice. There are no known labor organizations other than those created by the Government. The KWP purports to represent the interests of all labor. There is a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions function on the classic “Stalinist model,” with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

The country is not a member of the International Labor Organization, but does have observer status.

*b. The Right to Organize and Bargain Collectively.*—Workers do not have the right to organize or to bargain collectively. Factory and farm workers are organized into councils, which do have an impact on management decisions. Unions do not have the right to strike.

There is one special enterprise zone (SEZ) in the Rajin-Songbon area. The same labor laws that applied in the rest of the country applied in the Rajin-Songbon SEZ, and workers in the SEZ were carefully screened and selected. The Kaesong Industrial Complex (IC) began operating in December eight miles north of the Demilitarized Zone with 15 South Korean companies selected for the pilot phase. While the workers for the Kaesong IC were also screened and selected, special regulations were negotiated between the two Koreas in 2002 and 2003 for the management of the area. The respective Assemblies of both North and South Korea approved the Kaesong Industrial Complex Act. Per this agreement, North Korean workers in the Kaesong IC are guaranteed a monthly minimum wage. All companies will be managed by South Korean staff who have the authority to make all labor management decisions in their company, including who is hired and who is let go.

*c. Prohibition of Forced or Compulsory Labor.*—In its 2000 and 2001 reports to the U.N. Human Rights Committee, the Government claimed that its laws prohibit forced or compulsory labor. However, the Government frequently mobilized the population for construction projects and for mass demonstrations and performances. “Reformatory labor” and “reeducation through labor” were common punishments for political offenses. Forced and compulsory labor, such as logging and tending crops, was common among prisoners.

The Constitution requires that all citizens of working age must work and “strictly observe labor discipline and working hours.” According to the new Penal Code, failure to meet economic plan goals can result in 2 years of “labor correction.”

*d. Prohibition of Child Labor and Minimum Age for ployment.*—According to the Constitution, the State prohibits work by children under the age of 16 years, and the Penal Code criminalizes forced child labor. School children may be assigned to factories or farms for short periods to help meet production goals, and to other work like snow removal on major roads.

*e. Acceptable Conditions of Work.*—No data was available on the minimum wage in state-owned industries. Since the July 2002 economic reforms, wages have become the primary form of compensation, and factory managers have had more latitude to set wages and provide incentives. Workers are expected to use some of their increased income to pay for services that had been provided either free or at highly subsidized rates by the State, such as rent for housing and fees for transportation. While access to education and medical care may technically remain free, educational materials and medicines appear available only for purchase in markets. At the Kaesong Industrial Complex, South Korean companies paid North Korean workers \$57.50 per month, of which \$50 will go directly to the worker and \$7.50 will go to the Government as a social insurance fee.

Class background and family connections may be as important as professional competence in deciding who receives a particular job, and foreign companies that have established joint ventures report that all their employees must be hired from registers screened by the authorities. Unlike the previous Penal Code, the new code does not address persistent tardiness.

The Constitution stipulates an 8-hour workday; however, several sources reported that most laborers worked from 12 to 16 hours daily when factories were operating. Some of this additional time appeared to include mandatory study of the writings of Kim Il Sung and Kim Jong Il. The Constitution provides all citizens with a “right to rest,” including paid leave, holidays, and access to sanitariums and rest homes funded at public expense; however, the state’s willingness and ability to provide these services is unknown. Paid leave was provided on public holidays, but on some holidays some persons were required to participate in mass demonstrations involving extra hours of preparation.

Many worksites were hazardous, and the rate of industrial accidents was high. The Constitution recognizes the state’s responsibility for providing modern and hygienic working conditions. The Penal Code criminalizes the failure to heed “labor safety orders” pertaining to worker safety and workplace conditions only if it results in the loss of lives or other “grave loss.” In addition, workers do not have an enumerated right to remove themselves from hazardous working conditions.

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## REPUBLIC OF KOREA

The Republic of Korea (Korea) is a constitutional democracy governed by a president and a unicameral legislature. Citizens regularly choose their representatives in free and fair multiparty elections. In December 2002, President Roh Moo-hyun was elected to a 5-year term of office. On March 12, the National Assembly impeached the President over campaign irregularities. Following the impeachment vote, in accordance with the Constitution, the Prime Minister assumed the duties of President. In April, in a free and fair election, President Roh’s Uri Party obtained a majority 151 of 299 National Assembly seats. The Constitutional Court reinstated the President shortly after the April election. The judiciary is generally independent.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS), the National Police Administration (NPA), and the Defense Security Command (DSC). The NIS and the DSC are legally barred from involvement in domestic politics, although the NIS is authorized to investigate organizations believed

to support the Government of the Democratic People's Republic of Korea (North Korea). Some members of the police committed occasional human rights abuses.

The country has an estimated per capita income of \$13,000 for its estimated 48.3 million persons. In December, unemployment was 3.6 percent, and the rate of inflation was also 3.6 percent. With an estimated growth rate of 4.5 to 4.7 percent, the economy depended on key exports including electronics, automobiles, chemicals, ships, and steel.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police and prison personnel at times physically and verbally abused detainees, although such abuses have declined in recent years. The National Security Law (NSL) curtailed free speech and press, peaceful assembly and association, and free travel. Domestic violence, rape, and child abuse remained serious problems. Women and minorities continued to face legal and societal discrimination. The country was a country of origin, transit, and destination for trafficking in persons. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada, as well as to other Western countries and Japan. The Government implemented strict laws to curb prostitution and human trafficking and to aid trafficking victims. Many public sector employees did not enjoy the right of association.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

The Presidential Truth Commission on Suspicious Deaths continued to investigate and redress cases of government-sanctioned torture and killing of pro-democracy activists under the military regimes of the past. Since its inception in 2000, the Commission has reviewed 85 cases and confirmed 30 cases of suspicious deaths.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code prohibits mistreatment of suspects, and officials generally observed this prohibition in practice. The Government ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by the authorities of those in custody continued to decline. However, some nongovernmental organizations (NGOs) alleged that police sometimes abused persons in custody. During the year, there were 26 cases of guards allegedly using excessive force. In some of these cases, the guards were accused of using improper restraints on prisoners. The Ministry of Justice stated that these allegations were all investigated and found to be without merit. In recent years, under the National Public Service Law and criminal law, a number of police and security officials accused of abuse or harassment have been punished or disciplined through demotion, pay cuts, and dismissal. During the year, no police officials were charged under criminal law for abuses committed while on duty; however, as of July, police were disciplined pursuant to administrative procedures 632 times.

During the year, there were occasions when demonstrators used violent tactics; however, unlike in previous years there were no reports that police used excessive force.

The Government continued to investigate past abuses. By year's end, the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established to review cases in which political activists may have been tortured, had reviewed 8,182 cases since 2000 and determined that compensation was due in 499 of them.

Prison conditions generally met international standards, and the Government continued to upgrade penal facilities. By year's end, the Government began operating two new facilities to ease overcrowding, implemented new reception systems, and upgraded its information systems. It also implemented a new vocational training program, with special programs for women and persons with disabilities.

A new law outlawed consecutive solitary confinement and reduced the maximum period of solitary confinement from 2 months to 1 month. The new law also abolished the use of leather belts to bind the upper body of prisoners. Nevertheless, the NGO Asian Legal Resource Center (ALRC), in a report to the U.N. Commission on Human Rights, criticized the conditions of detention in disciplinary cells, found the guidelines for determining the period of solitary confinement too ambiguous, and objected to the continued use of long chains and facemasks to discipline prisoners. The ALRC alleged that the padded helmet-style facemasks were used to punish pris-

oners; however, the authorities stated that the masks were used to prevent violent prisoners from harming themselves or others.

Inmates had access to reading materials, telephones, and television broadcasts. Education in computers and foreign languages, occupational training programs, and an Inmate Employment Center helped inmates prepare to resume normal lives. Most prisoners were allowed to receive up to five visitors four to six times per month. Some prisoners were allowed unlimited visits. Model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors and were exempt from mail censorship. Some were eligible for overnight leave. Pregnant inmates received special treatment, including supplementary food, for the full term of their pregnancies and were allowed to live with their babies for up to 18 months. Pregnant inmates also received prenatal care for the full term of their pregnancies. Female inmates were not searched by male prison guards without the prior consent of the prison warden, and a female guard was present during such searches.

Female prisoners were segregated from male prisoners, and juveniles were segregated from adults. Pretrial detainees were separated from convicted prisoners.

The Government permitted visits by independent human rights observers. The National Human Rights Commission monitored prison conditions through a prisoner petition system, in which prisoners could submit suggestions through a petition box in each prison. The Commission also conducted investigations and studies on medical equipment and facilities in prisons, provision of medical services, and conditions in military prisons. Human rights NGOs are allowed to visit prisons by appointment and to submit recommendations to prison authorities. The International Committee of the Red Cross has the right to visit prisons; however, it does not maintain a presence in the country.

*d. Arbitrary Arrest or Detention.*—Laws regarding arrest and detention are vague, and prosecutors had wide latitude. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to 7 years of anyone who “with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an anti-state organization.” The legal standard for what constitutes “endangering the security of the State” is vague. Thus, persons have been arrested for what appeared to be the peaceful expression of views that the Government considered pro-North Korean or anti-state. In September, the Seoul High Court upheld the conviction of Min Gyeong-woo, an executive member of the Pan-Korean Alliance for Reunification, for notifying the Alliance’s North Korean headquarters about the activities of student movements in South Korea, praising the North Korean political system, and possessing “anti-State materials” such as pro-North Korea books and documents. Between January 2003 and July 2003, 43 persons were arrested for violating the NSL, and 9 persons remained in custody as of year’s end. One high-profile case was that of Professor Song Du-yul, a longtime resident of Germany convicted of supporting the North Korean regime. He was sentenced to 7 years’ imprisonment, but was released in July (*see* Section 2.d.).

Because of the vagueness of the NSL and the invocation of classified security threat information regarding the Korean Peninsula, the Government is relieved of the burden of proof that any particular speech or action in fact threatens the nation’s security.

The U.N. Human Rights Committee has termed the NSL “a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights.” In October, the ruling party submitted a bill to the National Assembly that, if passed, would abolish the NSL. However, due to a lack of consensus, National Assembly action on the NSL was postponed until 2005.

The NPA is under the Ministry of Government Administration and Home Affairs. The approximately 93,000 member force has a national headquarters in Seoul, 5 special agencies, including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The NPA was considered well disciplined, and corruption and impunity were not major problems.

The Criminal Code requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after the suspect is apprehended, or, if a court is not located in the same county, within 72 hours. Police may detain sus-

pects who appear voluntarily for questioning for up to 6 hours, but must notify the suspects' families. The police generally respected these requirements.

Authorities normally must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances. Consequently, detained suspects were a relatively small percentage of the total prison population.

The Constitution provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

Typically, on several occasions during the year, the Government grants special pardons or reinstatements of civil rights to persons, including some imprisoned for violations of the NSL or for engaging in violence during labor demonstrations. In May, the Government pardoned 1,489 prisoners.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. Of the nine justices on the Constitutional Court, three are appointed by the President, three are elected by the National Assembly, and three are designated by the chief justice of the Supreme Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The Prosecutor's Office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality in recent years.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the Constitutional Court.

The Constitution provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. Although the Constitution prohibits double jeopardy, the courts have interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime. However, the prosecution can appeal a not guilty verdict or a sentence it considers excessively lenient; thus, a suspect may in fact be tried more than once for the same crime. When a person is detained, the initial trial must be completed within 6 months of arrest. These rights generally were observed. Trials are open to the public, but a judge may restrict attendance if he believed spectators might disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters are tried by the same courts. Although few convictions were overturned, appeals often resulted in reduced sentences. Death sentences are appealed automatically.

It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for exercising the rights of free speech or association, or were detained for committing acts of violence or espionage. Minganhyup, an NGO, estimates that the police arrested, tried, and convicted 189 political prisoners during the year, including 37 for violating the NSL and 55 for violating the Assembly and Demonstration Law.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, some human rights groups were concerned about possible governmental abuse of eavesdropping. According to Privacy International, some human rights groups argued that a considerable amount of illegal wiretapping, shadowing, and surveillance photography still occurred, and they asserted that the lack of an independent body to investigate whether police had employed illegal wiretaps hindered the effectiveness of the anti-wiretap law. The Anti-Wiretap lays out broad conditions under which the Government may monitor telephone calls, mail, and other forms of communication for up to 2 months in criminal investigations and 4 months in national security cases. According to the Ministry of Information and Communication, there were 917 government wiretappings between January and June, an increase of 14.8 percent from the second half of 2003.

The Government continued to require some released prisoners to report regularly to the police under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and the viewing of North Korean sat-

elite telecasts in private homes is legal. The Government also allows the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea. North Korean books were sold openly in a few shops.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. However, under the NSL, the Government may limit the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allowed for restrictions on peaceful dissent. Proposals to annul or substantially revise the NSL were under review in the National Assembly at year's end. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The ruling party introduced a bill that would limit the market share of any one daily newspaper to 30 percent. Under the bill, it would be illegal for the combined market share of any three newspapers to be more than 60 percent. The country's largest circulation newspapers, which would be adversely affected by this legislation, were considered pro-opposition. In addition, the party also plans to restrict the total amount of advertising that a newspaper can carry. The NGO community has expressed concern that the law would be used to control the printed press sector. The Government dropped a series of libel lawsuits filed last year against several newspapers.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage. A member of the Korean Federation of University Student Councils, an illegal group also known as "Hanchongryn," was indicted on charges of producing and distributing pro-North Korean materials.

The Government blocked violent and sexually explicit Web sites, and required site operators to rate their site as harmful or not harmful to youth. In response to a lawsuit by some who alleged the Government's actions infringed on their "right to happiness," the Seoul District Court ruled in October that it is lawful to prohibit the manufacture and distribution of pornography. On January 4, the Government's Youth Protection Committee removed homosexuality from the list of harmful materials to youth. Thus, unlike in the past, homosexual Web sites were not automatically blocked.

In November, the Government blocked access to 31 overseas-based pro-North Korean Web sites that were categorized as harmful to the public by the police and the state intelligence agency. In March, two students were arrested and charged for breaking electoral law by distributing political cartoons online.

Hanchongryn continued to maintain that police informants were posted on university campuses.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice. The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The Law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, demonstrations routinely were approved.

In October 2003, the Constitutional Court found that provisions of the law that made it a crime to hold demonstrations within 100 yards of a foreign mission were unconstitutional. In January, the National Assembly amended the law to try to meet the constitutional strictures. In March, civic organizations organized huge downtown candlelight gatherings to protest the impeachment of the President. Although the NPA stated that the rallies were illegal, the Government permitted the rallies, which were peaceful and included children and older persons.

During the year, demonstrators on several occasions used steel bars to attack police. They also sometimes used trucks to disrupt traffic. The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government currently provides no exemption or alternative civilian service for those who have a religious objection to duty in the armed forces. According to the Justice Ministry, during the year 874 persons, most of whom are Jehovah's Witnesses, were imprisoned (serving sentences or awaiting trial in prison) for refusing

to serve their military duty. They were allowed to conduct their own religious services in prison.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Most citizens could move freely throughout the country; however, police had discretion to restrict the movements of some former prisoners. Foreign travel generally was unrestricted; however, the Government must approve travel to North Korea. To obtain approval, potential visitors must demonstrate that their trip does not have a political purpose and is not undertaken to praise North Korea or criticize the Government. During the year, the Government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. However, travelers to North Korea who did not receive government permission were subject to arrest upon their return. There was one such case during the year.

In the past, the Government forbade some citizens convicted of politically related crimes from returning to the country, and some citizens still faced sanctions if they chose to return. For example, dissident scholar Song Du-yul returned to the country in September 2003 after 37 years of self-imposed exile and was accused of being a member of the Korean Worker's Party (the North Korean Communist Party). In March, the Seoul Central District Court sentenced Song to 7 years in prison. Song, however, was released from jail in July and returned to Germany.

The country is a party to the 1951 Convention on the Status of Refugees and its 1967 Protocol, and the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, the Government did not routinely grant refugee or asylum status. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers. The Government also provided an alternative form of protection, a renewable, short-term permit, to those that met a broader definition of "refugee." According to the UNHCR, the frequent rotation and limited training of immigration officers and a complicated deliberation process that required 2-tiered meetings of 12 governmental and nongovernmental council members prevented timely action. Case determination normally took from 2 to 3 years. In addition, some asylum seekers were not well-counseled on their rights. There were some instances of improper actions, such as consulting the embassy of the origin country for information. Unlike in previous years, asylees were provided with competent and independent interpreters and there were no reported cases of applicants being told that they had no reason to seek asylum.

During the year, the Government continued its longstanding policy of accepting refugees from North Korea. At year's end, 1,894 former North Koreans had resettled in the country, resulting in a total population of 6,304 former North Koreans living in South Korea.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older. Elections are held by secret ballot.

The Constitution provides for the direct election of the president to a single 5-year term; the president may not stand for re-election. Representatives to the National Assembly are elected under a dual system of direct and proportional representation. Voters cast one vote for a candidate from their electoral district and a separate vote for a party; the percentage of votes for each party determines the number of that party's candidates who are elected as proportional representatives. The National Assembly members serve terms of 4 years and are not subject to a term limit. A free and fair National Assembly election was held in April. The Uri Party obtained a majority 152 of 299 National Assembly seats. The opposition Grand National Party won 121 seats.

After an investigation into illegal presidential campaign funds during the 2002 presidential election, the prosecution indicted 40 politicians, including 23 incumbent lawmakers. Most of those indicted retired from politics or were not re-elected in the April National Assembly elections. In October, the Supreme Public Prosecutors Office announced that it had indicted 46 lawmakers on charges of violating election laws during the April elections. At year's end, most of these cases were still pending. However, the court sentenced Choi Don-woong, a conservative opposition politician, to 1 year in jail; presidential confidant Ahn Hee-jeong to 1 year in jail; and

Kim Young-il, also of the opposition, to 2 years of prison. Former lawmaker Lee Sang-soo was sentenced to probation.

President Roh gave prosecutors “free rein” to investigate political parties and politicians for corruption and even encouraged investigations targeting his own party. In addition to the pending election law prosecutions, there were ongoing corruption prosecutions in several executive agencies. For example, nine officials of the Ministry of Information and Communication faced bribery charges, and military prosecutors investigated a general alleged to have illegally intervened in the promotion process. According to the Korea Independent Commission Against Corruption, the overall “cleanness level” of the Government rose to 8.46 out of a possible 10, up from 7.71 in 2003, and 6.43 in 2002. The country has a Freedom of Information Act, which went into effect in 1998.

According to new election laws applied to the April general election, 50 percent of each party’s candidates on the proportional ballot had to be women while 30 percent of each party’s geographical candidates had to be women. As a result, there were 39 women in the 299-seat legislature. At year’s end, 3 of the 19 National Assembly committees were chaired by women. In the Supreme Court, 1 of 14 Justices was a woman, and in the Cabinet, 1 of 19 Ministers was a woman.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Through civil society support programs, the Government spent over \$12.2 million (approximately 12.7 billion won) during the year supporting 565 NGOs.

The National Human Rights Commission continued to monitor and investigate human rights violations. Members of the National Human Rights Commission were not permitted to be present at interrogations, but they were authorized to visit prisons and correctional institutions and to meet with persons who had been arrested and were in custody.

The work of the National Human Rights Commission was augmented and complemented by that of the Presidential Truth Commission on Suspicious Deaths (*see* Section 1.a.) and the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement (*see* Section 1.c).

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and law forbid discrimination on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin color, thought or political opinion, record of any crime for which punishment has been fulfilled, sexual orientation or medical history, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women and persons with disabilities. Ethnic minorities, primarily foreign workers, were very small in number and faced both legal and societal discrimination. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the National Human Rights Commission, an independent government agency established in 2001. Between November 2001 and August, the Commission handled 9,410 cases of alleged human rights violations and 806 cases of discriminatory conduct.

*Women.*—Violence against women remained a problem. The Prevention of Domestic Violence and Victim Protection Act defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to 6 months. Offenders may also be placed on probation or ordered to see court designated counselors. The law also requires police to respond immediately to reports of domestic violence. Between January and September, the Ministry of Justice reported 11,614 cases of domestic violence and prosecuted 1,703 cases.

Rape remained a serious problem. Between January and September, there were 5,206 reported cases of rape and 3,840 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women’s groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women’s rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is 3 years’ imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.

Prostitution is illegal, but widespread. However, the Government began a crackdown on prostitution in September. At year's end, an estimated several hundred thousand women were engaged in some manner in the prostitution industry. A 2003 study found that the country's sex trade had generated up to \$22 billion (approximately 23.3 trillion won) in profits.

The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations—including, for example, relations between teachers and students, citizens and civil servants. Nevertheless, sexual harassment continued to be a problem. In June, a poll found that 18.4 percent of working women experienced sexual harassment.

The Family Law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. However, according to a Ministry of Health and Welfare report, 47.4 percent of marriages end in divorce. The Government has established some shelters for battered women and has increased the number of childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

Women were subordinate to men legally, socially, and economically. Despite the passage of equal employment opportunity legislation, few women worked as company executives, and sexual discrimination in the workplace remained a problem. According to the Korea Women's Development Institute, the average working woman earned 63 percent of what a man made in a comparable job. The Equal Employment Act has been revised to impose tougher penalties on companies found to discriminate against women in hiring and promotions. Under the law, the Presidential Commission on Women's Affairs (the precursor of the existing Ministry of Gender Equality) is granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$4,399 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) perpetuated legal barriers against women, despite a Constitutional Court ruling that such preferential hiring discriminated against women and persons with disabilities and is unconstitutional.

Women had full access to education, and social mores and attitudes were changing gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key party positions, including chairperson of the main opposition party. The military and service academies also continued to expand opportunities for women.

The Government provided an allowance of \$565 (640,000 won) per month to 128 former "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army).

*Children.*—The Government demonstrated its commitment to children's rights and welfare through public education. The Government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. High quality health care was widely available to children.

As public awareness of the problem of child abuse continued to grow, the number of reported cases increased. The most recent figures reflect that from 2001 until 2003, 3,197 children under 12 years of age were victims of violent crimes. The Ministry of Health and Welfare established a central prevention center and 17 branch offices to provide child victims with medical aid and counseling and serve as an education resource for offenders and family members. The Ministry also established a hotline for reports of abuse. In January, the Government revised the Law on Child Welfare to impose additional punishment on habitual offenders. The Seoul metropolitan government also ran a children's counseling center that investigated reports of abuse, counseled families, and cared for runaway children.

The Youth Protection Law provides for prison terms of up to 10 years and a fine of \$8,840 (10 million won) per minor hired for owners of entertainment establishments who hire persons under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. The Juvenile Sexual Protection Act establishes a maximum sentence of 20 years' im-

prisonment for the sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (*see* Section 5, Trafficking). Based on this law, the Commission publicized the names of those who had committed sex offenses against minors. During the year, personal information on 553 sex offenders was available to the public.

The traditional preference for male children continued, although it was less evident among those in their twenties and thirties. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The Government expressed concern about the widening disparity between male and female birth rates and stepped up an education campaign aimed at eradicating gender-preference abortions, which are already prohibited by law.

*Trafficking in Persons.*—The law prohibits trafficking in persons; nevertheless, the country was a country of origin, transit, and destination. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of trafficking as well.

In September, the country implemented two new significant and sweeping laws against prostitution and human trafficking. The laws toughen penalties and provide enhanced services and protections for victims of the sex trade. Police have also launched a public awareness campaign, a victim support hotline, and a reward system for information leading to the arrest of traffickers. The Juvenile Sexual Protection Act imposes lengthy prison terms for persons convicted of sexual crimes against minors (*see* Section 5, Children). The NPA and the MOJ were principally responsible for enforcing these laws. No laws specifically address sex tourism.

The country was a major transit point for alien smugglers, including traffickers of primarily Asian women for the sex trade and domestic servitude. Women from many countries, but primarily from China, were trafficked through the country to the United States and many other parts of the world. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of Chinese citizens to Western countries. In addition to trafficking by air, much transit traffic occurred in the country's territorial waterways by ship.

Women from Russia, other countries of the former Soviet Union, China, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer visas. Once in the country, employers in some instances held victims' passports. The Government has restricted issuance of certain types of entertainer visas. As of September, the number of foreign women holding entertainer visas had decreased by 50 percent since June 2003. Between January and December, police arrested 536 persons for prostitution or trafficking and prosecuted 85. The others were released because there was insufficient evidence or legal basis to prosecute. The MOJ and NPA cooperated with NGOs and foreign embassy officials in investigating and attempting to resolve various trafficking-related issues and disputes. In November, the Ministry of Justice initiated an international anti-trafficking working group to increase information sharing among affected countries. There was no credible evidence that officials were involved in trafficking.

The Government developed a network of shelters and programs to assist victims. As of November, approximately 700 Korean women were housed in 32 shelters and approximately 70 foreign women were in 2 shelters. Victims were also eligible for medical, legal, vocational, and social support services. Many of these services were provided in conjunction with NGOs.

The Government and NGOs were actively involved in an education campaign to inform the public about new anti-prostitution and anti-trafficking laws.

*Persons With Disabilities.*—Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." The Government took measures to increase opportunities and access for persons with disabilities. Although many public facilities remained inadequate, most Seoul sidewalks were designed to alert the sight impaired, intersections had audible cross-signals, and as of June, there were 425 elevators and 1,149 wheelchair lifts in the 513-station subway system.

Firms with over 300 employees are required by law either to hire persons with disabilities or pay a fine. Nevertheless, the hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force. According to the Ministry of Labor, the sum of penalties issued to companies for failing to meet a 2 percent job quota for the disabled rose to \$112.7 million (118.4 billion won) during the year, a 13.9 percent increase from 2003.

During the year, the Ministry of Health and Welfare established a new rehabilitation center with 50 rooms, 126 welfare centers, and 230 apartments and shelters. The Ministry also provided persons with disabilities with reimbursement for medical expenses and spare rehabilitation appliances and mobile phones.

During the year, the Government also provided additional financial benefits to persons with disabilities, mainly through a new allowance and loan system and through cutting tolls on expressways. Additionally, the Government supplied vehicles, upgraded education programs, and sourced certain products and services from companies that hired persons with disabilities. During the year, groups representing persons with disabilities protested the opening of a new bullet train that did not have sufficient accommodations for the disabled.

*National/Racial/Ethnic Minorities.*—The country is racially homogeneous, with no sizable populations of ethnic minorities. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained “foreign,” thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Foreign workers continued to report difficult working conditions. Some complained of excessively aggressive police crackdowns on illegal migrants. Amerasians faced no legal discrimination, but informal discrimination was prevalent.

*Other Societal Abuses and Discrimination.*—Complaints of age discrimination arose during the year when some major employers refused job applications from job seekers that had been looking for work for longer than 1 year. In response, the Korea Employees Federation urged employers to eliminate age-related hiring restrictions.

The country is known to have about 8,000 persons with HIV or AIDS. The AIDS Prevention Act, enacted in 1987, ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The Ministry of Labor reports no cases of sexual orientation or HIV/AIDS discrimination. However, according to a November report by a Seoul National University professor, persons with HIV/AIDS in the country suffer from severe discrimination and social isolation, even losing ties with their own families.

On February 26, Lim Tae-hoon was detained for refusing to perform armed service on the grounds of discrimination against gay, bisexual, and transsexual persons by military officials. He called for an expansion of the alternative civilian service to include gay, bisexual, and transgender conscientious objectors.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers, except public officials, with the right to associate freely. Since 1999, most government employees have been able to form bargaining units and negotiate with management, but have been unable to strike.

Labor law changes authorized the formation of competing unions starting in 2002, but implementation was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which includes representatives of the Government, one of two major labor federations, and management (*see* Section 6.b.). According to the International Confederation of Free Trade Unions (ICFTU), the consequence of a lack of competing unions is that employers can create their own management-controlled unions. All unions are required to notify the authorities when formed or dissolved.

The ratio of organized labor in the entire population of wage earners was approximately 11 percent, or 1.5 million unionists from a total of 14 million workers. The country has two national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 1,600 labor unions.

The Government recognizes a range of labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. Labor federations

not formally recognized by the Labor Ministry have generally operated without government interference.

The FKTU and the KCTU were affiliated with the ICFTU. Most of the FKTU's constituent unions maintained affiliations with global union federations, as did the KCTU Metalworkers Council.

In September, the ICFTU found that parts of the labor law violated freedom of association principles, notably with regard to the absence of union rights for many public servants and the intervention by the state in international trade union affairs.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action, and workers exercised these rights in practice. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement has been used less frequently because employers have taken extra precautions when laying off union members. A Tripartite Commission subcommittee on the protection of civil servants' basic rights exists.

Unions engaged in collective bargaining. Although government employees (except for certain blue collar public officials) are not granted the right to organize and bargain collectively, they have established public official "workplace associations," which may make recommendations, but may not engage in collective bargaining.

Under the Trade Union and Labor Relations Adjustment Act, unions must submit a request for mediation to the Labor Relations Commission before a strike. In most cases, the mediation must be completed within 10 days; in the case of essential services, within 15 days. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Strikes are prohibited for most government officials and for those who produce mainly defense goods. By law, unions in enterprises determined to be of "essential public interest"—including railways, utilities, public health, the Bank of Korea, and telecommunications—can be ordered to submit to government-ordered arbitration. However, in practice the Government rarely imposed arbitration.

Through December 15, there were 457 strikes, with major strikes taking place in the financial, health, transportation, steel, and automobile industries. During this time period, the number of workers involved in strikes increased to 183,959 persons from 131,926 persons last year. However, the number of lost working days fell to 1,160,000 days from 1,271,126 days in 2003. The strikes were generally peaceful.

In November, the Government arrested 112 persons in connection with an illegal strike organized by the Korean Government Employees Union (KGEU). The strike was illegal because the KGEU is not a legally authorized entity, and public workers do not have the right to strike.

There is no independent system of labor courts. Semi-judicial agencies such as the Central and Local Labor Relation Commissions mediate or arbitrate labor disputes based on the Trade Union and Labor Relation Adjustment Act. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." The Labor Relations Commission can decide on remedial measures in cases involving unfair labor practices and can mediate or arbitrate labor disputes in sectors deemed essential to public welfare.

Under the labor laws, persons who assist trade unions or employers in a dispute are required to register with the Ministry of Labor. Those who fail to do so face a large fine or a maximum sentence of 3 years' imprisonment.

The Government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually were given the rights enjoyed by workers in other sectors of the economy; however, foreign companies are exempt from many of these labor standards. Foreign-invested enterprises located in free economic zones are exempt from Articles 54, 57, and 71 of the Labor Standards Act, which mandate monthly leave, paid holidays, and menstruation leave for women; Article 31 of the Honorable Treatment and Support of Persons of Distinguished Services to the State Act, which gives preferential treatment to patriots, veterans, and their families; Article 24 of the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, which obligates companies with over 300 persons to recruit persons with disabilities for at least 2 percent of its workforce; Article 12 of the Employment Promotion for the Aged Act, which encourages companies to reserve 3 percent of their workforce for workers over 55 years of age; and Articles 4 and 12 of the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation,

which restrict large companies from participating in certain business categories. Labor organizations are permitted in EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and it was not known to occur. The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures.

Some foreign workers alleged difficult working conditions and unduly harsh treatment by police during crackdowns on illegal labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. These regulations were enforced through regular inspections and child labor was not considered a problem. A civic group filed a lawsuit during the year that alleged several fast food franchises violated the labor law by not paying minors monthly wages and forcing them to work illegal nightshifts.

*e. Acceptable Conditions of Work.*—The minimum wage is reviewed annually. As of September, the minimum wage was \$2.21 (2,510 won) per hour, \$17.71 (20,080 won) per day, or \$502.25 (567,260 won) per month. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. However, the money an average blue-collar worker took home in overtime and bonuses significantly raised the total compensation package. According to the Ministry of Health and Welfare, 1.4 million persons (2.9 percent of the population) lived below the poverty level. Another 3.2 million persons were classified as living in “potential extreme poverty.”

As of July, the 5-day workweek system was adopted for employees of large conglomerates, publicly-owned companies, banks, and insurance companies with 1,000 registered workers or more, reducing working hours to 40 hours a week. Companies with more than 300 employees are scheduled to adopt the shortened workweek by July 2005, those with over 100 by July 2006, those with over 50 by July 2007 and those with over 20 by July 2008. Labor laws mandate a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Unions claimed that the Government did not enforce adequately the maximum workweek provisions at small companies. The amended Labor Standards Law also provides for a higher wage for overtime. However, the overtime premium is scheduled to be reduced from 150 percent of the base wage to 125 percent concurrent with the reduction in weekly working hours.

Foreign workers, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, often faced difficult working conditions and sometimes complained of unduly aggressive police crackdowns. In July, the Government initiated a crackdown on illegal foreign labor. By December, the Government had expelled approximately 20,000 workers and encouraged approximately 24,000 to leave voluntarily. Some foreign workers also complained that they were forced to pay into the pension system, but were unable to get their money back.

In July, the Government implemented a new work permit system designed to increase protections for foreign workers while easing the labor shortage in manufacturing businesses. Under the new system, permit holders may work in certain industries only and have limited job mobility, but generally enjoy the same rights and privileges, including the right to organize, enjoyed by domestic workers. The Industrial Trainee System, an often-criticized system through which foreign workers may work for 2 years following 1 year of training, is still in place.

Foreign workers working as language teachers continued to complain that the language institutes for whom they work frequently violated employment contracts.

At the beginning of the year, contract and other “nonregular” workers accounted for 49 percent of the workforce. In general, nonregular workers performed the same work as regular workers, but received only 61.3 percent of the wages. Further, most were ineligible for national health and unemployment insurance and other benefits.

The Government announced plans to grant annual salaries in place of hourly pay to 100,000 of the 234,000 nonregular workers in the public sector, and full-time status to 30,000 by year's end. This plan triggered protests from excluded nonregular workers as well as the trade unions.

The Korea Occupational Safety and Health Agency is responsible for implementing industrial accident prevention activities. The Government set health and safety standards, but the accident rate was high by international standards. By the end of June, there were 43,278 casualties related to industrial accidents, including 1,393 fatalities. These figures represent a slight improvement from the same period in 2003, when approximately eight workers died each day. The Government credits prevention activities carried out by the Ministry of Labor, including the imposition of sanctions on work places having a high rate of accidents. According to the Korea Occupational Safety and Health Act, an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident.

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## LAOS

The Lao People's Democratic Republic is an authoritarian, Communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). Although the 1991 Constitution, amended in 2003, outlines a system composed of executive, legislative, and judicial branches, in practice, the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated "leading role." In 2002, the National Assembly reelected the President and Vice President and ratified the President's selection of a prime minister and cabinet. The judiciary was subject to executive influence.

The Ministry of Public Security (MoPS) maintains internal security, but shares the function of state control with the Ministry of Defense's security forces and with party and popular fronts (broad-based organizations controlled by the LPRP). The Ministry of Foreign Affairs, with MoPS support, is responsible for oversight of foreigners. The MoPS includes local police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces are responsible for external security, but also have domestic security responsibilities that include counterterrorism and counterinsurgency activities and control of an extensive system of village militias. The LPRP, and not the Government, exercised direct control of the security forces. This control was generally effective, but individuals and units within the security forces on occasion acted outside the LPRP's authority. Some members of the security forces committed serious human rights abuses.

The country is extremely poor, with an estimated population of 5.7 million. The economy is overwhelmingly agricultural, with 85 percent of the population engaged in subsistence agriculture. The sharp income inequality between participants in the monetary economy and those in the subsistence economy was demonstrated by the fact that the mean annual per capita income was \$330 and the per capita gross domestic product was estimated at \$1,700. The country has emerged as a market economy, but the Government continued to play a key role in economic planning. It officially welcomed foreign investment and was gradually strengthening its legal framework, including laws to protect property and individual rights, but a reluctance to embrace far reaching reforms has slowed the process. The country was heavily dependent on official foreign aid, which accounted for as much as 18 percent of GDP. Many families relied heavily on remittances from family members living or working abroad.

The Government's human rights record remained poor, and it continued to commit serious abuses. Citizens did not have the right to change their government. Members of the security forces abused detainees, especially those suspected of insurgent or anti-government activity. The Government continued to pursue remnant bands of insurgents, resulting in an unknown number of civilian and military casualties. Prisoners were sometimes abused and tortured and prison conditions were harsh and sometimes life threatening. Police used arbitrary arrest, detention, and surveillance. Lengthy pretrial detention and incommunicado detention occurred frequently. The judiciary was subject to executive, legislative, and LPRP influence, was corrupt, and did not ensure citizens due process. The Government infringed on citizens' privacy rights and restricted freedom of speech, the press, assembly, and association. The Government continued to restrict freedom of religion, and police and provincial authorities arrested and detained approximately 30 Christians, although

most of them were released after short periods of detention. At year's end, three members of religious communities were in custody or under arrest for their religious beliefs. In some areas, local authorities continued to pressure ethnic minority Protestant communities to renounce their faith. Christians were expelled from their villages for refusing to renounce their religion. Authorities in some areas refused requests from Christian congregations to build new churches or to reopen closed churches, and refused permission for congregations to hold home worship services. The Government imposed some restrictions on freedom of movement. Societal discrimination against women and minorities persisted, although the Government supported a policy of encouraging greater rights for women, children, persons with disabilities, and minorities. Trafficking in women and children was a problem. The Government restricted some worker rights.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—In August, an ethnic Hmong man died while under incarceration, allegedly as the result of beatings by police (*see* Section 1.c.).

There were no new developments in the 2003 case of the Christian and former policeman in Attapeu Province who was allegedly killed by police.

Since 2002, a series of attacks on buses by suspected insurgents and counterinsurgency operations by the military have resulted in an unknown number of deaths of civilians and military forces. Many of these deaths occurred among the ethnic Hmong insurgents. According to the testimony of two alleged witnesses, on May 19 in the Saisomboun Special Zone, Lao People's Army (LPA) soldiers attacked a group of Hmong gathering food for an insurgent camp. Five youths—four girls and one boy—were killed. One of the alleged witnesses reported that the soldiers raped the girls before killing them. After the attack, the bodies were documented with video footage taken by this witness. The Government at first denied that the incident took place. It later reported to the U.N. Special Rapporteurs that its internal investigation of the incident had determined that it was a "fabrication." The veracity of the incident remained undetermined.

The Government promised insurgents who surrendered to authorities food, medicine, and resettlement assistance. In February and March, between 700 and 800 insurgents and their families surrendered in Xieng Khouang, Vientiane, and Luang Prabang Provinces and the Saisomboun Special Zone. They were resettled in Luang Prabang Province and in a remote area of Xieng Khouang Province. Another small insurgent band surrendered in northern Vientiane Province in late September. Government forces reportedly pursued those insurgent elements that did not surrender, and fighting between insurgents and Government security forces continued through the year. There were reports that insurgent bands in Xieng Khouang, Luang Prabang, and Bolikhamsai Provinces and in the Saisomboun Special Zone suffered numerous casualties. Many of these casualties were reportedly women and children.

A wave of small-scale bombings that began in 2003 continued during the year. Several small explosions in Vientiane and Savannakhet Cities caused some property damage and resulted in some injuries. One death, reportedly of an intending bomber, occurred when a bomb exploded prematurely. A group calling itself the Free Democratic Government Committee of the Lao People claimed responsibility for these explosions, which were apparently designed to attract international attention. Many of the explosions occurred at visible tourist sites and sometimes coincided with major festivals and events, such as the Association of Southeast Asian Nations (ASEAN) Tourism Forum in Vientiane in February and the ASEAN Summit in November.

*b. Disappearance.*—According to sources, police allegedly were involved in the January disappearance of an ethnic Hmong schoolteacher, Cher Wa Yang, in the Saisomboun Special Zone. Witnesses reported seeing him in a remote area in an altercation with police just before his disappearance. His motorcycle was later recovered from a reservoir, but his body was not found. At year's end, Saisomboun officials reported the disappearance was still under investigation.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Penal Code prohibit torture. In practice, members of the police and security forces sometimes subjected prisoners, especially those suspected of associations with the insurgency, to torture and other abuses; however, there were anecdotal reports that abuse has decreased in recent years. Detainees sometimes were subjected to beatings, long-term solitary confinement in completely darkened rooms, and in many cases were detained in leg chains or wooden stocks for

long periods. Former inmates in prisons have reported that chaining and manacled prisoners, degrading treatment, and solitary confinement in small unlit rooms were standard forms of punishment in larger prisons, while smaller provincial or district prisons employed manacles and chains as a means of preventing prisoners from escaping.

Prison conditions vary widely, but in general are harsh and on occasion life threatening. Prisoners in larger, state-run facilities in Vientiane generally fared better than those in provincial prisons, and the Office of the Prosecutor General (OPG) has had some success in bringing about improved conditions in these larger facilities, including better treatment by guards. In all facilities, food rations were minimal, and most prisoners relied on their families for their subsistence. Most larger facilities allowed prisoners to grow supplemental food in small vegetable gardens. Prison wardens set prison visitation policies. Consequently, in some facilities families could make frequent visits, but in others, visits were severely restricted. Credible reports indicated that ethnic minority prisoners and some foreign prisoners, especially Africans, were treated particularly harshly. Incommunicado detention was used as an interrogation device and against perceived problem prisoners; however, there have been fewer reports of its use in recent years.

Although most prisons had some form of clinic, usually with a doctor or nurse on staff, medical facilities were extremely poor, and in practice medical treatment was unavailable. In some facilities prisoners could arrange treatment in outside hospitals if they could pay for the treatment and the expense of a police escort.

In August, police in Vientiane Province reportedly arrested an ethnic Hmong man, Khoua Lee Her, formerly village chief of Ban Houay Yang village in Houaphanh Province, suspected of having harbored villagers involved in armed attacks against LPA soldiers in October 2003. Authorities transferred Her to Houaphanh Province, where in mid-August he died while incarcerated, allegedly as the result of beatings by police.

Prison conditions for women were similar to those for men. Prisons held both male and female prisoners, although they were placed in separate cells.

In some prisons, juveniles were housed with adult prisoners. The Government has proposed constructing a separate juvenile detention center, but international organizations have advocated that the Government establish segregated facilities for juveniles within existing facilities to avoid having juveniles incarcerated far away from their homes.

The Government has provided limited access to some detention facilities to non-governmental organization (NGO) and U.N. personnel monitoring the status of juveniles in the prison system and has given representatives of foreign governments limited access to provincial prisons; however, the Government did not permit independent monitoring of prison conditions, including by foreign individuals or organizations. The International Committee of the Red Cross (ICRC) continued its longstanding efforts to establish an official presence in the country to carry out its mandate of monitoring prison conditions; however, by year's end the Government had not granted the ICRC's request.

*d. Arbitrary Arrest or Detention.*—The Constitution and law prohibit arbitrary arrest and detention; however, in practice, the Government did not respect these provisions, and arbitrary arrest and detention remained problems. Police sometimes used arrest as a means of intimidation or to extract bribes. Police exercised wide latitude in making arrests, relying on exceptions to the requirement for arrest warrants for those persons in the act of committing a crime or for “urgent” cases. Incommunicado detention was a problem; however, it was used less frequently than in the past (see Section 1.c). There is a 1-year statutory limit for detention without trial; the length of detention without a pretrial hearing or formal charges by law also is limited to 1 year. The OPG has reportedly made efforts to ensure all prisoners were brought to trial within the 1-year limit, but these limits often were ignored. The OPG must authorize police to hold a suspect pending investigation. Authorization is given in 3-month increments, and, in theory, after a maximum of 1 year, a suspect must be released if police do not have sufficient evidence to bring charges. Access to family members and a lawyer was not assured. There is a bail system, but its implementation was arbitrary and in practice often amounted to a bribe to prison officials for the prisoner's release. A statute of limitations applies to most crimes. In practice, alleged violations of criminal laws have led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, particularly in cases where prisoners were unable to pay court fines.

During the year, government authorities arrested and detained approximately 30 Christians, compared with approximately 50 Christians arrested the previous year. In January, authorities in Attapeu Province released 11 Christians who had been detained in December 2003 on suspicion of possessing “poisons”; however, their detention appears to have been for their religious activities. In April and May, authorities in Savannakhet Province detained 12 ethnic Brou Christians for religious activities, releasing them on May 28. In July, authorities in northern Vientiane Province arrested four ethnic Khmu Christians, allegedly for their involvement in a scam to buy tractors in which villagers lost several hundred dollars. The four men were released on December 23. In August, police in Luang Namtha Province arrested two ethnic Mien Christians for proselytizing; they were released in November. A Christian pastor in Savannakhet was arrested in October and was still in detention at year’s end. In most cases, religious detainees were released shortly after their arrest, but the detentions often had a negative effect on religious activity of local Christian communities. According to confirmed reports, there was one untried religious detainee at year’s end.

Police continued to arrest without charges any persons suspected of involvement with the insurgency. In August, police in Vientiane Province reportedly arrested an ethnic Hmong man, Khoua Lee Her. Reportedly Khoua Lee Her was suspected of having harbored villagers involved in armed attacks against LPA soldiers in October 2003 (see Section 1.c.). An ethnic Hmong couple arrested in Vientiane Province in mid-2003 on suspicion of involvement with the insurgency was released in March, with no charges filed. In October, authorities released two ethnic Hmong youth from Samkhe prison. The two had been detained in Saisomboun Province in 2001 on suspicion of involvement with the insurgency and held without trial.

Unlike in previous years, there were no reports of police administratively overruling court decisions by detaining exonerated individuals. Local police at times continued to detain persons who had been ordered released by higher authorities.

There were no known instances of the police being reprimanded or punished for such behavior. The OPG has made efforts to encourage police to abide by the law in regard to the detention of suspects, but acknowledged that police continued widely to ignore these provisions.

An unknown number of persons were in detention for suspicion of violations of criminal laws concerning national security, particularly persons suspected of insurgent activities. In the past, security-related laws were sometimes applied to routine criminal actions to justify long periods of incarceration without trial.

*e. Denial of Fair Public Trial.*—The Constitution provides for the independence of the judiciary and the OPG; however, senior government and party officials influenced the courts, although to a lesser degree than in the past. Impunity was a problem, as was corruption. Reportedly, some judges can be bribed. Under the 2003 amendments to the Constitution, the National Assembly Standing Committee appoints judges for life terms; the members of the National Assembly elect the Standing Committee. The Assembly may remove judges from office for “impropriety.” Since 1991, only one judge at the district level has been removed for improper behavior.

Under the amended Constitution, the People’s Courts have four levels: District courts, municipal and provincial courts, the Court of Appeals, and the Supreme People’s Court. During the year, the Supreme Court established a Commercial Court, Family Court, and Juvenile Court. However, only the Commercial Court had begun hearing cases by the end of the year. Decisions of the lower courts are subject to review by the Supreme Court, but decisions by military courts are not subject to the Supreme Court’s review. Both defendants and prosecutors in civilian courts have the right to appeal an adverse verdict. There are instances in which civilians may be tried in the military courts, but this was rare.

The Constitution provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other person. The Constitution requires that the authorities inform persons of their rights. The law states that defendants may have anyone assist them in preparing a written case and accompany them at their trial; however, only the defendant may present oral arguments at a criminal trial. The Lao Bar Association, with a membership of nearly 50 attorneys, operates under the direction of the Ministry of Justice. Its members are private attorneys that court litigants may select for trials. For several reasons, including lack of funds, a shortage of attorneys, and a general perception that attorneys cannot affect court decisions, most defendants did not have attorneys or trained representatives. Under the law defendants enjoy a presumption of innocence; however, in practice, trial judges usually decided a defendant’s guilt or innocence in advance, basing their decisions on the result of police or Prosecutor’s Office reports. Reliance on

these reports created a presumption that the defendant was guilty. Most trials were little more than pro forma examinations of the accused, with a verdict having already been reached. Most criminal trials ended in convictions. Trials that involved some criminal laws relating to national security, state secrets, children under the age of 16, or certain types of family law were closed.

Most of the country's 450 judges had only basic legal training, and many had few or no references upon which to base their decisions. The National Assembly's Legal Affairs Committee occasionally reviewed Supreme Court decisions for "accuracy" and returned cases to the Court or the OPG for review when it felt a decision had been reached improperly.

In June 2003, police in Xieng Khouang Province arrested two foreign journalists, their foreign translator, and their three ethnic Hmong porters on charges of having conspired with ethnic Hmong villagers in the killing of a local militia villager. Two of the three porters remained in prison at year's end despite criticism from human rights groups. A third member of the group escaped from custody.

In addition to the unknown number of short- and long-term political detainees (*see* Section 1.d.), there were eight known political prisoners. Two former Royal Lao Government officials arrested in 1975, Colonel Sing Chanthakoumane and Major Pang Thong Chokbengvoun, were serving life sentences after trials that were not conducted according to international standards. Two former government officials, Latsami Khamphoui and Feng Sakchittaphong, were arrested in 1990 for advocating a multiparty system and criticizing restrictions on political liberties and were not tried until 1992. They were released in early October after 14 years of confinement in a reeducation camp, but authorities continued to detain them under loose house arrest. The two were allowed finally to travel to Vientiane and rejoin their families on December 4, and the Government offered no objection to their departure from the country if they chose to travel abroad. Five persons arrested in October 1999 for attempting to organize a pro-democracy demonstration in Vientiane were tried and given long sentences, later reduced on review by the OPG to 5 to 10 years, for anti-government activities. According to witnesses, one of these five, Khamphouvieng Sisa-at, died in Samkhe prison in late 2001 as a result of punishment by camp guards. The Government has not responded to inquiries from the international community and human rights organizations regarding Khamphouvieng Sisa-at's death.

Other political prisoners may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials; however, the Government was silent on the matter, and there was no reliable independent method to ascertain accurately their total number.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Government limits citizens' privacy rights, and the Government's surveillance network is vast. Security laws allow the Government to monitor individuals' private communications (including e-mail and cell phones) and movements.

The Constitution prohibits unlawful searches and seizures; however, police at times disregarded constitutional requirements to safeguard citizens' privacy, especially in rural areas. By law, police must obtain search authorization from a prosecutor or court; however, in practice, police did not always obtain prior approval. The Penal Code generally protects privacy, including that of mail, telephone, and electronic correspondence; however, the Government often violated these legal protections.

MoPS monitored citizens' activities; in addition, an informal militia in both urban and rural areas, operating under the aegis of the military, had responsibility for maintaining public order and reporting "undesirable elements" to the police. The militia usually was more concerned with petty crime and instances of moral turpitude than with political activism, although in remote rural areas where the insurgency was active, the militia also played a role in providing security against insurgents and robbers. Members of the LPRP's many "front" organizations, including the Lao Women's Union, the Youth Union, and the Lao Front for National Construction (LFNC), serve as watchdogs over the citizenry at all levels of society. MoPS also maintains a network of secret police whose job is to monitor the citizenry in order to prevent acts that threaten the Government.

Although the Government permitted the public sale of leading foreign magazines and newspapers, restrictions on publications mailed from overseas were enforced, albeit loosely (*see* Section 2.a.).

There were six Internet service providers. The Prime Minister's Office has stated that it intended to monitor and control more actively Internet communications by the country's nearly 4,000 subscribers; however, most Internet sites, including those critical of the Government, were accessible to users. More than 40 Internet cafes

in Vientiane and other larger towns catered to foreigners, but were also accessible to citizens.

During the year, the Government continued its program to relocate highland slash-and-burn farmers, most of whom belong to ethnic minority groups, to lowland areas, in keeping with the Government's plan to end opium production by 2005 and slash-and-burn agriculture by 2010. District and provincial officials used persuasion and, in some cases, verbal orders to encourage villages to relocate, especially in the northern provinces. Although the Government's resettlement plan called for compensating farmers for lost land and resettlement assistance, this assistance was not available in many cases, or was insufficient to give relocated farmers the means to adjust to their new homes and new way of life. Moreover, in some areas, farmland allocated to relocated villagers was of poor quality and unsuited for intensive rice farming. The result was that in some districts relocated villagers experienced increased poverty, hunger, malnourishment, susceptibility to disease, and increased mortality rates. The Government relied on assistance from NGOs, bilateral donors, and international organizations to cover the needs of those recently resettled, but such assistance was not available in all areas.

On October 16, district authorities and military in Thathom district of the Saisomboun Special Zone ordered nearly 70 ethnic Khmu Christians in Phiengsavat village to leave the province. The Christians were given only minutes to prepare, forcing them to leave behind nearly all their personal possessions. The group was transported by military truck to neighboring Bolikhamsai Province, where they were left near the district capital of Bolikhan with no provisions. On October 23, military trucks from Bolikhamsai Province transported the group to Sayaboury Province, which the Khmu had left in 2000. Sayaboury officials arranged for the group to resettle in Luang Prabang Province. Although central government sources claimed the group was expelled because they had resettled in Thathom illegally, religious sources noted only Christians were forced to leave, while other recent immigrants were allowed to remain in Phiengsavath.

The Government allowed citizens to marry foreigners, but only with prior approval. Premarital cohabitation was illegal. Although the Government routinely granted permission to marry, the process was lengthy and burdensome and offered officials the opportunity to solicit bribes. Marriages to foreigners without government approval could be annulled, with both parties subject to arrest or fines.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government severely restricted political speech and writing in practice. The Government also prohibited most criticism that it deemed harmful to its reputation. The Penal Code forbids slandering the State, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the State. Citizens who lodged legitimate complaints with government departments generally did not suffer reprisals, but criticism of a more general nature, or targeting the leadership, could lead to censure or arrest.

All domestic print and electronic media are state-owned and controlled. Local news in all media reflected government policy. Television talk shows and opinion articles referred only to differences in administrative approaches. Although domestic television and radio broadcasts were closely controlled, the Government made no effort to interfere with television and radio broadcasts from abroad. In practice, many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts. Citizens had 24-hour access to Cable News Network and the British Broadcasting Corporation, as well as other international stations accessible via satellite and cable television. The Government required registration of receiving satellite dishes and a one-time licensing fee for their use, largely as a revenue-generating scheme, but otherwise made no effort to restrict their use. In addition, a Chinese-owned company provided cable television service to subscribers in Vientiane. This government-registered cable service offered Thai and international news and entertainment programs without restriction from authorities. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists must apply for special visas and generally were accompanied by an official escort. Although such visas normally were granted, persons traveling on journalist visas were restricted in their activities. The authorities did not allow journalists free access to information sources, but some journalists were allowed to travel without an official escort. In cases where an escort was required, journalists must pay a daily fee for their services. The Government established special procedures for journalists covering the 10th ASEAN Summit in November in Vientiane. These procedures did not require journalists to have an escort, but did require them

to register with the Ministry of Foreign Affairs if they wished to report stories other than the ASEAN Summit meeting.

The authorities also prohibited the dissemination of materials deemed to be indecent, to undermine the national culture, or to be politically sensitive. Any person found guilty of importing a publication deemed offensive to the “national culture” faced a fine or imprisonment for up to 1 year. The Prime Minister’s Decree on the Administration and Protection of Religious Practice (Decree 92), promulgated in 2002, permits the publication of religious material with permission from the LFNC. In practice, although several religious groups have sought such permission, no Christian or Baha’i groups received authorization to publish religious material by year’s end (*see* Section 2.c.).

Films and music recordings produced in government studios must be submitted for official censorship; however, foreign films and music were easily available in video and compact disc format. The Ministry of Information and Culture has attempted repeatedly to impose restrictions aimed at limiting the influence of Thai culture in Lao music and entertainment. These restrictions were widely ignored and appeared to have little effect.

The Government controlled all domestic Internet servers and occasionally blocked access to those Internet sites that were deemed pornographic or were critical of government institutions and policies. The Government also sporadically monitored e-mail. Highly restrictive regulations regarding Internet use by citizens significantly curtail freedom of expression. “Disturbing the peace and happiness of the community” and “reporting misleading news” are criminal acts. In 2003, the Prime Minister’s Office consolidated government control over Internet service (*see* Section 1.f.). However, the Government’s ability to enforce such regulations was limited.

The Constitution provides for academic freedom; however, the Government restricted it, although over the past several years, it has relaxed its restrictions in certain areas. Curriculum in schools, including private schools and colleges, is tightly controlled by the Ministry of Education to ensure that no subjects are taught that might raise questions about the political system. Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel and access to information and Penal Code restrictions on publication. As the sole employer of virtually all academic professionals, the Government exercised some control over their ability to travel for research or to obtain study grants; however, the Government, which once limited foreign travel by professors, actively sought such opportunities worldwide and approved virtually all such proposals.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. The Penal Code prohibits participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause “turmoil or social instability.” Such acts are punishable by a prison term from 1 to 5 years. If defendants were tried for crimes against the State, they could face sentences of up to 20 years or possible execution.

The Constitution provides citizens with the right to organize and join associations; however, the Government restricted this right in practice. The Government registered and controlled all associations and prohibited associations that criticized the Government. Political groups other than popular front organizations approved by the LPRP were forbidden. Although the Government restricted many types of formal professional and social associations, informal nonpolitical groups met without hindrance. The Government has quietly allowed the creation of some associations of a business nature; for example, allowing hotel owners and freight forwarders to create their own business associations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the authorities, particularly at the local level, interfered with this right in practice.

In 1999, two members of the Lao Evangelical Church, Nyoht and Thongchanh, were arrested in Oudomsai Province and charged with treason and sedition, although their arrests appear to have been for their proselytizing activities. Nyoht was sentenced to 12 years in prison and Thongchanh to 15 years. Both men remained in prison at the end of the year.

Although the state is secular, the Party and the Government paid close attention to Theravada Buddhism, which was followed by more than 40 percent of the population and was the faith of nearly all of the country’s ethnic Lao population. The Constitution does not recognize a national religion, but the Government’s support for and oversight of temples and other facilities and its promotion of Buddhist practices gave Buddhism an elevated status among the country’s religions.

There are two semi-religious government-recognized holidays—Boun That Luang and the end of Buddhist Lent—that are also major political and cultural celebrations. The Government recognized the popularity and cultural significance of Buddhist festivals, and most senior officials openly attended them.

The Constitution prohibits “all acts of creating division of religion or creating division among the people.” The LPRP and Government interpreted this section as inhibiting religious practice by all persons, including the Buddhist majority and a large population of animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize. The Constitution notes that the State “mobilizes and encourages” Buddhist monks and novices and priests of other religions to participate in activities “beneficial to the nation and the people.”

The authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups, in part because these faiths did not share Theravada Buddhism’s high degree of direction and incorporation into the government structure. Some authorities have in the past criticized Christianity in particular as a Western or imperialist “import.” Local authorities, apparently in some cases with encouragement from some officials in the central Government or Communist Party, singled out Protestant groups as a target of abuse. Protestant churches’ rapid growth since the early 1990s, contact with religious groups abroad, aggressive proselytizing on the part of some members, and independence of central government control all have contributed to Government and Communist Party suspicion of the churches’ activities.

In 2002, the Prime Minister’s Office issued a Decree on the Administration and Protection of Religious Practice. The decree, which has the effect of law, is designed to specify clearly the range of activities permitted religious groups or practitioners. The decree permits minority religious groups to engage in a number of activities that previously had been considered illegal, such as proselytizing and printing religious material; however, it requires religious groups or individuals to obtain permission in advance for these activities, in most cases from the LFNC, the party-controlled organization that oversees religious issues on behalf of the Government. Although the intent of the decree is to clarify the rights and responsibilities of religious groups, many minority religious leaders complained that the decree was too restrictive in practice. The requirement that religious groups obtain permission, sometimes from several different offices, for a broad range of activities greatly limited the freedom of these groups.

Between 250 and 300 Protestant congregations conducted services throughout the country. The LFNC has recognized two Protestant groups: the Lao Evangelical Church (LEC) (the umbrella Protestant church) and the Seventh-day Adventist Church. Nominally all Protestant congregations in the country belong to one of these two organizations, although in practice some congregations operated independently. Both the LEC and the Seventh-day Adventist Church own properties in Vientiane and other cities.

In most parts of the country, members of long-established congregations had few problems in practicing their faith, although long-time congregations in some parts of Savannakhet and Luang Prabang Provinces continued to face restrictions from local authorities. The majority of incidents of harassment of Christian congregations took place in areas where Christianity had only recently spread. The authorities sometimes advised new congregations to join other religious groups with similar historical roots, despite clear differences between the groups’ beliefs. Decree 92 establishes procedures for new denominations to register with the LFNC. However, in March the National Front issued guidance to provincial and district National Front offices indicating that all Protestant groups must operate under the umbrella of the LEC or the Seventh-day Adventist Churches. In spite of this guidance, the authorities allowed several congregations not affiliated with the LEC or Seventh-day Adventists to continue their worship unhindered.

The Government’s tolerance of religion varied by region. The LFNC often sought to intervene with local governments in cases where minority religious practitioners, particularly Christians, had been harassed or mistreated; however, incidents of religious intolerance by local officials continued in some areas. Although authorities in a few urban areas, notably Vientiane City, Savannakhet, and Pakse, were relatively tolerant of Christian religious practice, government authorities in many regions restricted the practice of properly registered religious groups. Officials in some areas of Savannakhet, Attapeu, Vientiane, Bolikhamsai, and Luang Namtha Provinces arrested and detained some religious believers without charges (*see* Section 1.d.). In addition, Christians in some areas of Savannakhet Province were pressured to renounce their faith. Local officials threatened to withhold government identification

cards and household registers and to deny educational benefits to those who did not comply.

The Roman Catholic Church was unable to operate effectively in the highlands and much of the north, and the Catholic Church in the northern part of the country was largely moribund. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo Provinces sporadically held services in members' homes, but there were no priests in the area and pastoral visits from Vientiane were infrequent. However, the Church had an established presence in five of the most populous central and southern provinces, where Catholics were able to worship openly. There were three bishops, one each in Vientiane, Thakhek, and Pakse, as well as a fourth bishop for Luang Prabang who resided in Vientiane and traveled infrequently to his bishopric.

During the year, local authorities arrested or detained approximately 30 Christians, in most cases releasing them within weeks.

The Government generally permitted major religious festivals of established congregations to be held without hindrance. During the year, there were no reports of authorities restricting the celebration of major religious holidays by Christian congregations.

Followers of the Baha'i faith were able to practice their religion without hindrance in Vientiane City, but in Savannakhet and Khammouane Provinces, small groups of Baha'i continued to face restrictions from local authorities. The small Muslim community in Vientiane, made up almost exclusively of foreign nationals, was able to practice its religion without hindrance.

Animists generally experienced no interference from the Government in their religious practices, which varied extensively among the approximately 70 identified ethnic groups and tribes in the country; however, the Government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of infants born with birth defects or of keeping the bodies of deceased relatives in homes.

During the year, officials in Vientiane City closed a house church that had served a small ethnic Khmu community. Officials continued to refuse permission for a Christian congregation in Phone Ngam village, Muang Feuang district, Vientiane Province to reconstruct a church torn down by district officials 2 years earlier. Officials in Savannakhet refused requests by the Christian congregation in Khamsan village that their church building, seized by authorities several years earlier, be returned to them. Elsewhere, authorities continued to deny requests by local congregations to construct permanent church buildings. Authorities in some areas continued to use intimidation or threats of expulsion to force Christians to renounce their religious faith, particularly in parts of Savannakhet, Attapeu, Bolikhamsai, and Luang Prabang Provinces. On October 16, district authorities and military in Thathom district of the Saisomboun Special Zone ordered nearly 70 ethnic Khmu Christians in Phiengsavat village to leave the province (*see* Section 1.f.).

The LFNC directs the Lao Buddhist Fellowship Association. Since 1996, monks studying at the National Pedagogy School were no longer required to study Marxism-Leninism as part of their curriculum, and the integration of Communist ideology into Buddhist instruction has waned greatly in recent years. Some temples have been permitted to receive support from Theravada Buddhist temples abroad, to expand the training of monks, and to focus more on traditional teachings. In addition, many monks traveled abroad, particularly to Thailand, for formal religious training.

Reportedly officials in some areas were suspicious of persons who converted to Christianity, but, during the year, there were no reports of the harassment or arrest of recent converts.

The Government strictly prohibited foreigners from proselytizing, although it permitted foreign NGOs with religious affiliations to work in the country. Foreign persons found distributing religious material may be arrested or deported. In April, four American citizens were expelled from Laos for distributing movie CDs with a Christian religious content. Although Decree 92 on Religious Practice permits proselytizing by religious practitioners as long as they obtain permission for such activities from the LFNC, the National Front has not granted such permission, and persons found evangelizing risked harassment or arrest. In August, officials in Muang Long district of Luang Namtha Province arrested two ethnic Yao Christians for proselytizing among local Yao villages.

The Government permits the printing, import, and distribution of Buddhist religious material, but has made no such concessions to the printing or import of religious material and literature by non-Buddhist faiths. Decree 92 authorizes the printing of religious material, provided permission is obtained from the LFNC, but the LFNC has not granted such permission to Christian congregations. The Govern-

ment required and usually granted permission for formal links with coreligionists in other countries; however, in practice, the distinction between formal and informal links was unclear, and relations with coreligionists generally were established without much difficulty (see Section 2.a).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Migration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted some of them in practice. Citizens who traveled across provincial borders are not required to report to authorities; however, in designated security zones, roadblocks and identity card checks of travelers were conducted occasionally. Citizens who sought to travel abroad were required to apply for an exit visa. The Government usually granted such visas; however, officials at the local level have denied permission to apply for passports and exit visas to some persons seeking to emigrate. Access by foreigners to certain areas, such as the Saisomboun Special Zone, an administrative area operated by the military forces, or remote districts in Xieng Khouang and Bolikhamsai Provinces, where anti-government insurgents continue to operate, was restricted.

The Government did not use forced exile; however, a small group of persons, who fled the country during the change in government in 1975 and were tried in absentia for anti-government activities, did not have the right of return.

Between 1980 and 1999, more than 29,000 citizens who sought refugee status in Thailand, China, and other countries returned to Laos for permanent resettlement under monitoring by the U.N. High Commissioner for Refugees (UNHCR). Other persons who had fled the country after 1975 have returned from abroad to resettle voluntarily, outside the oversight of the UNHCR. In general, returnees have been subject to greater scrutiny by the authorities than other citizens. Nevertheless, many who fled after the change of government in 1975 have visited relatives, some have stayed and gained foreign resident status, and some have reclaimed citizenship successfully. Some refugee returnees carry government-issued identification cards with distinctive markings, ostensibly for use by authorities. Such cards tend to reinforce a pattern of societal discrimination against the returnees.

The Constitution provides for asylum and the protection of stateless persons under the law, but the country is not a signatory to the 1951 Refugee Convention or its 1967 Protocol. In practice, the Government did not provide protection against refoulement, the return of persons to a country where they feared persecution, and did not routinely grant refugee or asylum status.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens do not have the right to change their government. Although the 1991 Constitution, amended in 2003, outlines a system composed of executive, legislative, and judicial branches, the LPRP continued to control governance and the leadership at all levels through its constitutionally designated “leading role.” The Constitution provides for a representative National Assembly, elected every 5 years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage; however, it legitimizes only a single party, the LPRP. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates need not be LPRP members, but, in practice, almost all were. There is a widespread public perception that many officials of the executive branch are corrupt.

The National Assembly chooses a standing committee generally based on the previous standing committee’s recommendation. Upon the committee’s recommendation, the National Assembly elects or removes the President and Vice President. The standing committee also has supervision of administrative and judicial organizations and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections (including approval of candidates). Activities of the standing committee were not fully transparent.

The National Assembly, upon the President’s recommendation, elects the Prime Minister and other Ministers of the Government. The 109-member National Assembly, elected in February 2002 under a system of universal suffrage, approved the LPRP’s selection of the President at its inaugural session in April 2002, and, in the same session, it ratified the President’s selection of a new prime minister and cabinet. The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the Assembly may propose new laws. The Constitution gives the right to submit draft legislation to the National Assembly standing committee and the ruling executive structure.

There are no laws providing for public access to government information, and, in general, the government closely guarded the release of any information pertaining to its internal activities, seeing such secrecy as necessary for “national security.”

There were 22 women in the 109-member National Assembly. Three members of the 53-member LPRP Central Committee were women, 1 of whom was also a member of the 7-member standing committee in the National Assembly. There were no women in the Politburo or the Council of Ministers.

There were 9 Lao Soung (highland dwelling tribes) and 19 Lao Theung (mid-slope dwelling tribes) in the 109-member National Assembly; most members of the Assembly were ethnic Lao, who also dominated the upper echelons of the Party and the Government. Three cabinet ministers were members of ethnic minority groups.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no domestic nongovernmental human rights organizations, and the Government does not have a formal procedure for registration. Any organization wishing to investigate and publicly criticize the Government’s human rights policies would face serious obstacles, if it were permitted to operate at all.

The Government in general does not respond in writing to requests for information on the human rights situation from international human rights organizations; however, the Government has instituted a human rights dialogue with a foreign government and has accepted training in U.N. human rights conventions from several international donors.

The Government maintains contacts with the ICRC; government officials and military officers have received ICRC training on human rights law and the Geneva Conventions. The Government continued to translate international human rights and humanitarian law conventions with ICRC support. During the 1990s, the Government permitted U.N. human rights observers to monitor the treatment of more than 29,000 refugees who returned to the country for resettlement under UNHCR auspices (see Section 2.d.). The UNHCR office in the country closed at the end of 2001, with the Commissioner’s determination that the office’s monitoring role had been completed and former refugees had been successfully reintegrated; however, since the closing of the UNHCR office, the Government has not permitted UNHCR monitors based in Thailand to conduct monitoring visits to the country.

A human rights unit in the Ministry of Foreign Affairs’ Department of International Treaties and Legal Affairs has responsibility for investigating allegations of human rights violations. This unit rarely responded to inquiries regarding individual cases. The Foreign Ministry on occasion responds to inquiries from the U.N. regarding its human rights situation. In August, the Deputy Foreign Minister responded to an inquiry from the U.N. regarding the status and condition of 16 Lao citizens who were extradited from Thailand to stand trial for their part in a politically motivated attack against the Lao customs post at Chong Mek-Vangtao in July 2000.

In the aftermath of the alleged massacre of Hmong villagers in May, the Government refused calls by the international community to conduct a full and transparent investigation. However, the Government did permit limited access by international organizations and NGOs to provide food assistance to former insurgents who had accepted government resettlement offers.

#### *Section 5. Discrimination, Societal Abuses and Trafficking in Persons*

The Constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The Government at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, although the legal mechanism whereby a citizen may bring charges of discrimination against an individual or organization was neither well developed nor widely understood among the general population.

*Women.*—There were reports that domestic violence against women occurred, although it did not appear to be widespread. Spousal abuse is illegal. Rape reportedly was rare. In cases of rape that were tried in court, defendants generally were convicted with penalties ranging from 3 years’ imprisonment to execution. Spousal rape is not illegal.

Trafficking in women and girls for prostitution was a problem (see Section 5, Trafficking). Prostitution is illegal, with penalties ranging from 3 months to 1 year in prison.

Sexual harassment was rarely reported, but the actual extent of sexual harassment was difficult to assess. Although sexual harassment is not illegal, “indecent sexual behavior” toward another person is illegal and punishable by 6 months’ to 3 years’ imprisonment.

The Constitution provides for equal rights for women, and the Lao Women's Union operated nationally to promote the position of women in society. The Family Code prohibits legal discrimination in marriage and inheritance. Discrimination against women was not generalized; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

In recent years, the Government increased support for development programs designed to improve the position of women in society, including in the political system. During the year, the National Assembly passed a new Law on Women, with anti-trafficking provisions as well as provisions protecting women and children from domestic violence. The law defines trafficking and violence against women and children as criminal actions and provides for the protection of victims internally and by international agencies. The law closely follows provisions of the UN Convention on the Elimination of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) to both of which the country is signatory.

*Children.*—Although the Government has made children's education and health care a priority in its economic planning, funding for children's basic health and educational needs was inadequate, and the country had a very high rate of infant and child mortality. Education is free and compulsory through the fifth grade; however, fees for books, uniforms, and equipment, among other factors, precluded children from rural areas and poor urban families from complying. According to government statistics, 80 percent of primary school-age children, 50 percent of junior high school-age children, and 25 percent of high school-age children were enrolled in school; the U.N. Development Program estimated that almost 40 percent of children never attended school at all and only 10 percent entered secondary school. There was a significant difference in the treatment of boys and girls in the educational system: female literacy was 48 percent versus 70 percent for males; however, men and women attended the national university in approximately equal numbers.

The law prohibits violence against children, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare.

Trafficking in girls for prostitution and forced labor was a problem (*see* Section 5, Trafficking). Other forms of child labor generally were confined to family farms and enterprises (*see* Section 6.d.).

*Trafficking in Persons.*—The Penal Code prohibits abduction and trade in persons as well as detaining persons against their will, procuring, and prostitution; however, trafficking in persons, particularly women and children, was a problem. The National Assembly passed a Law on Women during the year, which includes provisions protecting women and children from trafficking and from domestic violence (*see* Section 5, Women). The country was primarily a country of origin for trafficking in persons and, to a much lesser extent, a country of transit. The primary destination country was Thailand. There was almost no effective border control. There was little reliable data available on the scope and severity of the problem until recently, when studies indicated that the scale of economic migration out of the country, mostly by young persons between the ages of 15 and 30, was far greater than previously had been supposed. About 7 percent of the total sample population in three southern provinces migrated, either seasonally or permanently; approximately 45 percent of them were male and 55 percent were female. An unknown number of these migrants were actually trafficked in some sense of the term. The studies suggest that it is not the most impoverished who are likely to migrate. A small number of citizens were trafficked to China and other third countries.

The majority of trafficking victims have been lowland Lao, although small numbers of highland minority women have also been victimized by traffickers. These groups are particularly vulnerable because they do not have the cultural familiarity or linguistic proximity to Thai that Lao-speaking workers can use to protect themselves from exploitative situations. A much smaller number of trafficked foreign nationals transited through Laos, especially Burmese and Vietnamese.

Many labor recruiters in the country were local persons with cross-border experience and were known to the trafficking victims. For the most part, they had no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude, but their services usually ended once their charges reached Thailand, where more organized trafficking operations also operated.

There were few reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities, and some may have profited from them.

To date, the Government has prosecuted five traffickers, according to available information. All were prosecuted under other criminal statutes, since an anti-trafficking law has not yet been enacted. The Government has established an anti-trafficking police unit to investigate human trafficking cases. The police occasionally arrested both citizens and foreigners for having sexual relations outside of marriage, which is prohibited under the law. Sexual relations with foreigners are forbidden under what the government refers to as a "special law."

The Government previously denied that there were cases of child prostitution in the country; however, in recent years it has become more actively involved in countering the worst forms of trafficking and the exploitation of underage persons, chiefly through cooperation with international NGOs working on trafficking problems.

The Ministry of Labor and Social Welfare (MLSW) has a unit devoted to children with special needs, including protection of trafficking victims and prevention of trafficking. The Ministry also maintains a small-scale repatriation assistance center for returned victims of trafficking. However, the unit's effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. The MLSW and the Lao Women's Union have conducted pilot studies on anti-trafficking information campaigns and are now pursuing more active interventions in conjunction with NGOs. Financial constraints limited the contributions the Government could make, but it did offer the services of ministerial personnel and venues to NGOs doing anti-trafficking work.

The Lao Women's Union and the Youth Union, both party-sanctioned organizations, offered educational programs designed to educate girls and young women regarding the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. These organizations were most effective in disseminating information at the grassroots level.

Some victims have been punished for improper documentation or for crossing the border illegally. Despite a new Memorandum of Understanding with Thailand regarding border control and a decree allowing citizens to work abroad, this practice continued, especially in the provinces, where some local authorities have ordered illegal border crossers into reeducation seminars and subjected them to fines. In September, the Ministry of Public Security issued a directive forbidding the use of fines for illegal border crossing. Such fines also would be outlawed under the pending anti-trafficking law. With support from UNICEF, the National Commission for Mothers and Children continued an active program of support for victims.

*Persons With Disabilities.*—With donor assistance, the Government implemented limited programs for persons with disabilities, especially amputees. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the Labor and Social Welfare Ministry has established some regulations regarding building access and some sidewalk ramps in Vientiane. The Lao National Commission for the Disabled has promulgated regulations to protect the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Constitution provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, societal discrimination persisted. Moreover, critics have charged that the Government's resettlement program for ending slash-and-burn agriculture and opium production has adversely affected many ethnic minority groups, particularly in the north. The program requires that resettled persons adopt paddy rice farming and live in large communities, ignoring their traditional livelihoods and community structures. The program has led to an active debate among international observers about whether the benefits of resettlement promoted by the Government—providing access to markets, schools, and medical care for resettles—outweigh the negative impact on traditional cultural practices.

Less than half the population is ethnic Lao, also called "lowland Lao." Most of the remainder, probably around 60 percent, is a mixture of at least 47 distinct upland hill tribes whose members, if born in the country, are citizens. There were also ethnic Vietnamese and Chinese minorities and a small community of South Asian origin, particularly in urbanized areas. The Law on Nationality provides a means for foreigners to acquire citizenship, and each year some foreigners, mostly Vietnamese and Chinese, acquire Lao citizenship. The Government encouraged the preservation of minority cultures and traditions; however, due to their remote location and inaccessibility, minority tribes had little voice in government decisions affecting their lands and the allocation of natural resources.

The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the Government and LPRP, including at least five members of the LPRP Central Committee. However, societal discrimination against the Hmong continued, and some Hmong believe their

ethnic group cannot coexist with the ethnic Lao population. This belief has fanned separatist or irredentist beliefs among some Hmong. In recent years, the Government focused some limited assistance projects in Hmong areas in order to address regional and ethnic disparities in income. The Government also provided for Hmong and Khmu language radio broadcasts.

The increased number of attacks by Hmong insurgents against civilian and military targets, coupled with the outbreak of a localized uprising in Houaphanh Province in August 2003, heightened ethnic tensions and aroused the government leadership's suspicion of Hmong irredentist desires. These heightened security problems also resulted in increased efforts by security forces to eliminate scattered pockets of insurgents living in remote jungle areas. Several foreign journalists visited these groups during the year, highlighting their plight in the international press. These press articles alleged that the groups continued to be pursued by government military forces, in spite of official government denials that it was engaged in any form of military action against its citizens. Recent video evidence and witness testimony of an attack by Lao soldiers against a group of unarmed ethnic Hmong youth has added to the controversy (*see* Section 1.a.).

For several years, the Government has had a vaguely defined policy of giving resettlement assistance and "amnesty" to those insurgents who surrender to authorities. At least partially in response to charges that it was trying to kill all insurgent elements, the Government used family members of insurgents still living in the forest and former insurgents to approach these groups to urge them to surrender to authorities. Throughout the late 1990s and early 2000s, small groups took up this offer and received small amounts of resettlement assistance from the Government, especially in Vientiane, Bolikhamsai, and Xieng Khouang Provinces and in the Saisomboun Special Zone. In some areas, such as in Bolikhamsai, this amnesty program included job training, land, and equipment for farming. However, in some cases, this assistance was less than had been promised. Moreover, because of their past activities, amnestied insurgents continued to be the focus of government suspicion and scrutiny. The Government refused offers from the international community to assist these surrendered insurgents directly, but quietly allowed some aid from the U.N. and other international agencies to reach them as part of larger assistance programs.

The Constitution states that foreigners and stateless persons are protected by "provisions of the laws," but, in practice, they did not enjoy the rights provided for by the Constitution.

*Other Societal Abuses and Discrimination.*—There is no official discrimination against persons based on their sexual orientation. Within lowland Lao society, there is wide and growing tolerance of homosexual practice, although societal discrimination persists.

The Government has actively promoted tolerance of persons with HIV/AIDS. There was no official discrimination against those with HIV/AIDS, but social discrimination existed. The Government conducted awareness campaigns during the year to educate the population and promote understanding toward those with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the law, labor unions may be formed in private enterprises as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. However, most of the FLTU's approximately 77,000 members worked in the public sector.

The Government employed the majority of salaried workers, although this situation was changing as the Government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 85 percent of the work force.

The FLTU was free to engage in contacts with foreign labor organizations, which during the year included contacts with the Association of Southeast Asian Nations Trade Unions and the Asia-Pacific American Labor Alliance. The FLTU was a member of the World Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—There is no right to organize and bargain collectively. The Labor Code stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the Ministry of Labor and Social Welfare. Labor disputes reportedly were infrequent. The Government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the Government's ban on subversive activities or destabilizing demonstrations (*see* Section 2.b.) made a strike unlikely, and none were reported during the year.

The Labor Code stipulates that employers may not fire employees for conducting trade union activities, for lodging complaints against employers about labor law implementation, or for cooperating with officials on labor law implementation and labor disputes, and there were no reports of such cases during the year. Workplace committees were one mechanism used for resolving complaints; however, there was no information on how effective these committees were in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced labor except in time of war or national disaster, during which time the State may conscript laborers. The Code also prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the Labor Code, children under age 15 may not be recruited for employment, except to work for their families, provided the work is not dangerous or difficult. Many children helped their families on farms or in shops, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of underage girls. The Ministries of Public Security and Justice are responsible for enforcing these provisions. Enforcement was ineffective due to a lack of inspectors and other resources.

*e. Acceptable Conditions of Work.*—The daily minimum wage was about \$0.40 (4,000 kip), which was insufficient to provide a decent standard of living for a worker and family. Most civil servants received inadequate pay. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The Labor Code provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities). The Code also provides for at least 1 day of rest per week.

The Labor Code provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for compensating a worker injured or killed on the job, a requirement generally fulfilled by employers in the formal economic sector. The Labor Code also mandates extensive employer responsibility for those disabled while at work. During the year, this law was enforced adequately. Although workplace inspections reportedly have increased over the past several years, the Ministry of Labor and Social Welfare lacked the personnel and budgetary resources to enforce the Labor Code effectively. The Labor Code has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers. Some illegal immigrant Vietnamese children worked selling goods on the streets of Vientiane.

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## MALAYSIA

Malaysia is a federation of 13 states and 3 federal territories with a parliamentary system of government based on periodic multiparty elections. Opposition parties actively contest elections but face significant obstacles in competing with the ruling National Front coalition, which has held power for more than 45 years. March national elections were conducted in a generally transparent manner, but the opposition complained of the ruling coalition's exploitation of the powers of incumbency. Opposition parties won 10 percent of the seats in the Parliament, and an opposition party retained control of one state government. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermined judicial independence and strengthened executive influence over the judiciary. The September decision by the country's highest court to overturn the 2000 sodomy conviction of former Deputy Prime Minister Anwar Ibrahim was widely regarded as an indication of judicial independence.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the control of the Ministry of Internal Security, which was created in April out of the Home Affairs Ministry. Members of the police committed occasional human rights abuses.

The country has a free market economy and a population of approximately 25.1 million. The economy grew at 5.2 percent in 2003 and was estimated to have grown by approximately 6.5 percent during the year. The Government continued expansionary fiscal and monetary policies and took an active role in managing the export-oriented economy. Services and manufacturing accounted for 57 percent and 30.4 percent, respectively, of the gross domestic product. The unemployment rate remained approximately 3.5 percent.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The Government acknowledged that it restricted certain political and civil rights to maintain social harmony and political stability. Police killed a number of persons in the course of apprehending them, and there were deaths in custody as well. Other problems included police abuse of detainees, use of the Internal Security Act (ISA) and other statutes to arrest and detain persons without charge or trial, persistent questions about the impartiality and independence of the judiciary, and restrictions on freedoms of press, association, and assembly. There continued to be some restrictions on religious freedom. Longstanding policies gave preferences to ethnic Malays in many areas. The country was a source and destination for trafficking in women and girls for the purposes of prostitution. Limitations on workers rights and instances of discrimination and exploitation of indigenous groups and migrant workers were problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary and Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, security forces killed persons during the year. Local nongovernmental organizations (NGOs) reported that police killed 7 persons while apprehending them, down from 27 such killings in 2003. Local NGOs reported that 2 persons died in police custody during the year, down from 11 such deaths in 2003.

In 2003, the Human Rights Commission of Malaysia (Suhakam) stated that it was aware of “numerous” complaints of deaths in police custody, police brutality, and negligence. In July, Suhakam reported that in 2003, three police officers were arrested and charged in connection with deaths in custody. In October, the press reported that a police officer was convicted of culpable homicide and sentenced to 6 years in prison in connection with the 2003 killing by other inmates of a detainee in Batu Pahat jail. The Criminal Procedure Code empowers magistrates and public prosecutors to investigate such killings and charge those responsible under the Penal Code, and inquiries were begun in five cases dating from 2003 and 2004; however, no such prosecutions were brought forward during the year. In August, the Government agreed to compensate the family members of six men killed by police in 1998. In 2002, the High Court found the police officers guilty of murderous assault, but did not sentence them to any punishment.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No constitutional provision or law specifically prohibits torture; however, laws that prohibit “committing grievous hurt” encompass torture. According to the Government, every report of abuse of prisoners is investigated; however, the Government routinely did not release information on the results of internal police investigations, and whether those responsible for abuses were punished was not always known. There were press reports of alleged torture or mistreatment by the police. Local NGOs stated that police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. In May, the international NGO Human Rights Watch (HRW) stated that some prisoners were subjected to sexually humiliating questioning and were made to stand semi-naked for long periods. The Government denied these allegations. In July, Suhakam representatives visited the prison where the prisoners were allegedly mistreated and told the press that they found no evidence of such treatment.

In February, a coalition of 44 NGOs and 6 political parties called on the Inspector General of Police (IGP) to address instances of abuse of police powers. In April, the Prime Minister launched a National Integrity Plan directed at reducing corruption, graft, and abuse of power. The Police Commission, which is chaired by Prime Minister Abdullah in his capacity as Internal Security Minister, reported that in 2003, disciplinary actions were initiated against 1,138 police personnel, compared with 1,012 in 2002. Offenses noted in the report included accepting bribes, theft, and rape; punishments included suspension, dismissal, and demotion. The report cited the strict monitoring effort aimed at improving the public image of the police force

as the reason for the increase in the number of personnel sanctioned. In September, the press reported that during the year, plainclothes police regularly investigated police officers who appeared to be living beyond their means.

In 2003, the High Court reversed a Sessions Court's acquittal and convicted a police constable for the 2002 rape of two foreign women who were in custody at the time of the rape (*see* Section 5).

In February, police arrested 17 demonstrators and used water cannons forcibly to disperse dozens of others who were protesting alleged abuse of police powers (*see* Section 2.b.).

Unlike in previous years, there were no confirmed reports that the police aided logging companies' intimidation tactics in appropriating land from indigenous communities in Sarawak.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The immigration law, in effect since 2002, prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a (Islamic) laws, which bind only Muslims, also prescribe caning (*see* Section 1.e.). The caning, which was carried out with a 0.5-inch-thick wooden cane, commonly caused welts and sometimes caused scarring. Males over 50 and women are exempted from caning. According to the provisions of the 2002 Child Act, male children 10 years of age and older may be given up to 10 strokes of a "light cane" (*see* Section 5).

Prison overcrowding was a serious problem. In July, Suhakam reported that overcrowding was a common feature in all prisons it visited. In August, the Government acknowledged that the nation's prisons held 42,284 inmates, 10,000 above designed capacity.

The law provides that young boys and girls may be placed in judicially approved places of detention. Children have the right to remain with their imprisoned mothers until the age of 3 years and can stay beyond that age with approval of the Director General of Prisons. Men and women were detained in separate facilities. Convicted prisoners were segregated from pretrial detainees.

Special security prisoners were detained in a separate detention center (*see* Section 1.d.). In 2003, a number of persons released from detention under the ISA claimed that during the initial stages of their detention they were subjected to intensive interrogation and disoriented by isolation, deliberately interrupted sleep, and abusive treatment by police (*see* Section 1.d.).

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food and medical care, poor sanitation, and abuse by guards in government camps for illegal immigrants. According to reliable reports, this overcrowding and related poor health conditions contributed to the deaths of several detainees. Suhakam, which visited the camps in 2003, found detainees endured hot, uncomfortable, and cramped living conditions. During the year, hundreds of Acehnese and Burmese asylum seekers were detained in camps for illegal immigrants pending deportation to Indonesia and Burma (*see* Section 2.d.). Some individuals convicted of violating the immigration law were subject to caning. In 2003, Suhakam confirmed that they found detainees with fresh scars at Semenyih camp and said that it amounted to cruel and inhuman treatment. In September, the local press reported that 139 illegal immigrant detainees launched a hunger strike at Semenyih detention camp to protest overcrowding, poor sanitary conditions and rotten food.

The Government does not have any agreement with the International Committee of the Red Cross that permits visits to prisoners. NGOs and the media generally were not permitted to monitor prison conditions. However, in June, the Government invited the media to inspect Kamunting prison in response to allegations that ISA detainees there were being abused. Access to illegal alien detention camps was restricted, although officials from the U.N. High Commissioner for Refugees (UNHCR) were given regular access to several camps to identify and interview potential refugees (*see* Section 2.d.). In addition, Suhakam officials visited various camps and prisons at different times during the year.

*d. Arbitrary Arrest or Detention.*—The law permits police to arrest individuals for some offenses without a warrant, and police may hold suspects for 24 hours without charge. A magistrate may extend the period for up to 2 weeks. Although the police generally observed these provisions, Suhakam reported that in 2002 some detainees were held beyond the 2-week limit. Suhakam also noted that police sometimes released suspects and then quickly rearrested them on new but similar charges. In one 2002 case, a detainee was consecutively held in this manner for a total of 77

days. Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations. Judicial decisions generally upheld this practice. In July, the Royal Commission for Police Reform recommended that detention procedures be reviewed to prevent abuse.

Modeled on the British system, the Royal Malaysia Police (PDRM) is under the command of the IGP, who reports to the Minister of Internal Security. The IGP is responsible for organizing and administering the police force. The functions of the police generally are divided into five areas: The enforcement of law and order; the maintenance of national peace and security; the prevention and detection of crimes; the arrest and prosecution of offenders; and the gathering of security intelligence. Consisting of 80,000 officers, the PDRM generally was regarded as well organized and efficient. During the year, there were some allegations of corruption and police abuse of detainees. In 2003, the Prime Minister (who is concurrently Internal Security Minister) announced that a Royal Commission would be set up to review issues within the police force such as police brutality, poor service, and corruption. In a preliminary August report the Commission found that there were indications of corruption at every level and that excessive force was used against detainees. During the year, the PDRM in conjunction with Suhakam organized training courses throughout the country to inform police officers about the importance of human rights. In July, the IGP directed the Commander of the Police Training Center to include human rights awareness training in its training modules.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, and the Dangerous Drugs Act (Special Preventive Measures).

The ISA, enacted in 1960 during an active communist insurgency, empowers the police to hold for up to 60 days any person who acts "in a manner prejudicial to the security of Malaysia." The Internal Security Minister may authorize further detention for periods of up to 2 years. Some of those released before the end of their detention period are subject to "imposed restricted conditions" for the remainder of the originally authorized detention period. These conditions limit freedom of speech, association, and travel outside the country. Since the ISA's inception, over 4,000 persons have been detained under it.

Even when there are no formal charges, the ISA requires that the authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Internal Security Minister, are not public, and often are not shown to the detainee. Local human rights NGOs claimed that the police at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

The 1988 amendments to the ISA circumscribed judicial review of ISA detentions. The Bar Council has asserted that ISA detentions should be subject to full judicial review; however, the courts did not concur with this interpretation and limited their review to procedural issues. Detainees freed by judicial order nearly always were detained again immediately. Following several successful procedural challenges to ISA detentions, in 2003, the Federal Court ruled that the courts should not intervene in matters of national security and public order.

According to the Government, the goal of the ISA is to control internal subversion. In October, the Government stated that there were 101 persons in detention under the ISA, of whom 87 were suspected of involvement in terrorism. Among those detained were members of the opposition Islamic Party (PAS), including Nik Adli, son of the PAS leader.

There were no new reports of the Government using the ISA against political opponents during the year; however, the ISA, and the threat of invoking the ISA, have in the past been used to intimidate and restrict political dissent. For example, in 2001, the Government used the ISA to detain 10 political activists who were leaders of, or closely associated with, the opposition National Justice Party (Keadilan), claiming that they represented a threat to national security. In 2002, the Federal Court ruled that the detentions were unlawful; however, as the Court's rulings focused on the police's initial 60-day detention order and not on the Internal Security Ministry's subsequent 2-year detention, the six remained in prison until 2003, when they were released. Two of those released claimed that their police interrogations were limited to questions about their political beliefs and personal life and not about the alleged offenses for which they initially were detained.

Opposition leaders and human rights organizations continued to call on the Government to repeal the ISA and other legislation that deprived persons of the right to defend themselves in court. In 2003, after nearly a year of reviewing the case, Suhakam publicly urged the Government to release the six Keadilan detainees and

recommended that the ISA be rewritten to ensure that the Government could not use it against political opponents. Suhakam also recommended that ISA detainees have access to legal counsel within 24 hours of detention and to families within 48 hours. The Suhakam 2002 annual report noted that detention without trial constituted a violation of human rights. In its 2003 report, Suhakam said the ISA was used with greater restraint during the year.

The Government stated that the implementation of preventive detention measures to combat terrorism by foreign governments underscored the country's continued need for the ISA. However, in 2003, the Minister of Legal Affairs said that the Government was reviewing the ISA and would incorporate Suhakam's recommendations into its report.

Under the Emergency Ordinance, the Internal Security Minister may issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence."

Provisions of the Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain suspected drug traffickers without trial for up to 39 days before the Internal Security Minister must issue a detention order. Once an order is issued, the detainee is entitled to a hearing before a court, which may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. The police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges. During the first 9 months of the year, the Government detained over 1,589 persons under the act.

The Restricted Residence Act allows the Minister of Internal Security to place criminal suspects under restricted residence in a remote district away from their homes for 2 years. The Ministry is authorized to issue the restricted residence orders without any judicial or administrative hearings. The Government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted. During the year, the press reported the arrests of three organized crime figures allegedly involved in prostitution and human trafficking who were subsequently detained under the Restricted Residence Act. In September, the Deputy Minister of Internal Security told the press that 140 persons had been placed on restriction during the year under this act.

Immigration laws were used to detain illegal immigrants. The detainees were not accorded any administrative or judicial hearing and were released only after their employers proved their legal status. Those who were able to produce legal documents normally were released immediately; those who were unable to prove their legal status often were held for extended periods before deportation. Illegal immigrants were kept in detention camps that were separate from prisons. No codified legal distinction is made between illegal workers, refugees, and trafficking victims (see Sections 1.c. and 2.d.).

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

The Criminal Procedure Code allows the detention of a person, whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to flee.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, over the last 20 years government action, constitutional amendments, legislation restricting judicial review, and other factors limited judicial independence and strengthened executive influence over the judiciary. The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. Defendants have the right to counsel, bail is usually available, and strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves.

High Courts have original jurisdiction over all criminal cases involving serious crimes. Minor civil suits are heard by Sessions Courts. Juvenile Courts try offenders below 18 years of age. The Special Court tries cases involving the King and the Sultans. The Court of Appeal has appellate jurisdiction over High Court and Sessions Court decisions. The Federal Court, the country's highest court, reviews Court of Appeal decisions.

The Government limited judicial independence significantly through a 1988 constitutional amendment that provided that judicial powers would be conferred by Parliament rather than being vested directly in the courts. The amendment also

conferred certain judicial powers on the Attorney General, including the authority to instruct the courts on which cases to hear, the power to choose venues, and the right to discontinue cases. The Attorney General has control and direction of all criminal prosecutions under the Criminal Procedure Code and has assumed responsibility for judicial assignments and transfers. Since 1988, senior judges have been appointed based on the recommendation of the Prime Minister.

In recent years, members of the bar, NGOs, and other observers have expressed serious concern about the general decline of judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. The most widely criticized such case was that of former Deputy Prime Minister Anwar Ibrahim. In 1998, after a peaceful demonstration in which he called for then-Prime Minister Mahathir's resignation, Anwar was detained for alleged corruption and sodomy. In a 1999 trial flawed by political interference, Anwar was convicted of corruption and sentenced to 6 years in prison. Appeals in 2000 and 2002 were denied, and Anwar completed the sentence in 2003 after it was reduced to 4 years for good behavior. In September, the Federal Court, the country's highest, dismissed Anwar's petition to reconsider its 2002 appeal decision, leaving Anwar ineligible to participate in politics until 2008.

In 2000, Anwar was convicted on a separate charge of sodomy and sentenced to 9 years in prison, to be served consecutively with the corruption sentence. In September, the Federal Court ruled that the trial court had misdirected itself, and that Anwar's conviction for sodomy was unjust. The panel vacated the conviction and ordered Anwar released. International observers applauded the decision and credited Prime Minister Abdullah for encouraging greater judicial independence. Amnesty International (AI) hailed the decision as "an historic milestone in the restoration of confidence in the rule of law and respect for human rights in Malaysia."

Defendants are presumed innocent and may appeal court decisions to higher courts. The Courts of Judicature Act limits a defendant's right to appeal in some circumstances. The Government stated that the limits expedited the hearing of cases in the upper courts, but the president of the Bar Council said that the act imposed too many restrictions on appeals.

The Essential (Security Cases) Regulations restrict the right to a fair trial by lowering the standard for accepting self-incriminating statements by defendants as evidence in firearm and certain national security cases. The regulations also allow the authorities to hold an accused for an unspecified time before making formal charges.

Even when the Essential Regulations are not invoked, police sometimes used other tactics to limit the legal protections of defendants. For example, during a trial, police may summon and interrogate witnesses who have previously given testimony that was not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves; however, the use of such charges appeared to be decreasing.

Certain provisions of the Anti-Corruption Act impinge on the presumption of a defendant's innocence. A 1997 amendment to the act requires that an accused prove that he acquired monetary and other assets legally.

Shari'a laws administered by state authorities through Islamic courts bind Muslims, the large majority of whom are ethnic Malays. These laws vary from state to state. In 2002, the Government established a committee to recommend ways to harmonize Shari'a laws throughout the country; any recommendations must be adopted by individual state legislatures. The Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody (*see* Section 2.c.).

Indigenous peoples in Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Additionally, Penghulu (village head) courts may adjudicate minor civil matters, but these were rarely used.

The military has a separate system of courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such practices; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow the police to enter and search without a warrant the homes of persons suspected of threatening national security (*see* Section 1.d.). Police also may confiscate evidence under these acts. Police used this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The Anti-Corruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Internal Security Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years (*see* Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (*see* Section 2.b.).

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions (*see* Section 2.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and freedom of the press; however, some important legal limitations exist, and in practice, the Government restricted freedom of expression, and journalists practiced self-censorship. According to the Government, restrictions on this freedom were imposed to protect national security, public order, and friendly relations with other countries.

The Constitution provides that freedom of speech may be restricted by legislation “in the interest of security (or) public order.” For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice, the Sedition Act, Official Secrets Act (OSA), criminal defamation laws, and some other laws were used to restrict or to intimidate dissenting political speech.

In 2003, the Government amended the election law to make it an offense for a candidate to “promote feelings of ill-will, discontent, or hostility.” Violators could be disqualified from running for office, and during the March national elections, both the Elections Commission Chairman and the Prime Minister warned candidates not to violate the amended law (*see* Section 3). No one was charged under the provision.

In past years, senior government officials ascribed seditious or treasonous motives to critics of government policies, although many persons still criticized the Government publicly. In 2003, government officials warned that political parties that raised sensitive issues and threatened national stability would be charged under the Sedition Act. In 2003, the editor of the opposition paper *Harakah* was fined \$1,300 (5,000 ringgit) for publishing an allegedly seditious article in 1999 regarding the Anwar Ibrahim trial. In 2002, opposition leader Lim Kit Siang and a number of his colleagues were arrested for distributing leaflets that criticized then-Prime Minister Mahathir’s declaration that the country was an Islamic state. During the year, there were no reports of the Government using the Sedition Act to silence critics.

In the past, the Bar Council and other NGOs called for a review of certain provisions of the OSA, accusing the Government of using the act to cover up corruption. In 2000, Ezam Noor, a former aide to Anwar Ibrahim, was charged under the OSA with disclosing secret Anti Corruption Agency reports to the media. In 2002, Ezam was convicted of the charge and sentenced to 2 years in prison, but he was released on bail in 2003, and, in April, the Court of Appeal vacated the lower court’s judgment. The appellate judge strongly criticized the Government’s handling of the case and described the legal provisions used against Ezam as “obnoxious, draconian and oppressive.”

The English and Malay press provided generally uncritical coverage of government officials and policies and usually gave only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflected government positions on domestic and international issues. However, during the year the mainstream press printed interviews with senior opposition leaders that included criticism of government policy. Observers believed this was an indication that the administration of Prime Minister Abdullah had relaxed some press restrictions.

Print journalism was dominated by eight daily newspapers—two each in English and Malay and four in Chinese. One of the parties in the ruling coalition owned or controlled a majority of shares in each of the English and Malay dailies, and two of the Chinese dailies. Politically well-connected tycoons owned the other two Chinese language newspapers. Self-censorship and biased reporting in the print media were not uniform and the English-, Malay-, and Chinese-language press sometimes provided balanced reporting on sensitive issues.

The Printing Presses and Publications Act (PPPA) limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act was amended to make the publication of “malicious news” a punishable offense, to expand the Government’s power to ban or restrict publications, and to prohibit court challenges to suspension or revocation of publication per-

mits. According to the Government, this amendment was made to ensure that “distorted news” was not disseminated to the public. Government power over annual license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. In 2002, the then-Deputy Home Affairs Minister told Parliament that, from the beginning of 2001 until October 2002, 1,345 publications and printing premises were inspected and 2,305 volumes of publications were confiscated under the act. Government officials continued to argue that the act helped to preserve harmony and to promote peaceful coexistence in a multiracial country.

The Government sometimes directly restricted the dissemination of information that it deemed embarrassing or prejudicial to national interests. For example, the Government continued its policy of not allowing public disclosure of air pollution index readings or deaths due to dengue fever. On August 18, the official news agency, Bernama, conveyed an instruction to all media, reportedly from the Prime Minister’s Department, not to report anything related to the outbreak of bird flu. On August 19, the Prime Minister’s Department denied that the instruction had come from it, and the Deputy Minister of Information told reporters that although Bernama had the responsibility to report and express government policy, it did not have the right to instruct other media on how to treat the news.

In 2003, the Kuala Lumpur Magistrate Court sentenced human rights monitor Irene Fernandez to 12 months’ imprisonment for malicious publication of false material. The sentence was suspended pending appeal. The charge under the PPPA stemmed from a 1995 memorandum entitled “Abuse, Torture and Dehumanized Treatment of Migrant Workers at Detention Camps.” The magistrate rejected Fernandez’s interviews as hearsay and noted that Fernandez had made no effort to visit the camps personally (the Government generally does not allow NGOs to visit the camps).

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to organization members. In the past, the PAS newspaper, Harakah, was the target of several ruling party-sponsored libel suits. Harakah was the only major Malay- or English-language print media forum for opposition views, and its circulation rivaled that of mainstream newspapers. Since 2000, under government stricture, Harakah has been limited to publishing only twice monthly instead of twice a week.

Most major newspapers have online editions, which generally fall outside government regulations, as they are not required to have publication permits. In 2003, the ruling party youth movement, United Malays National Organization Youth (UMNO Youth), lodged a complaint against independent Internet news provider Malaysiakini over a letter published on the website that allegedly contained seditious remarks. In response, police raided the daily’s offices, confiscating 15 computers and 4 servers, and shutting down the company’s online service for over 10 hours. While the Government continued to deny Malaysiakini formal press accreditation, its reporters were allowed to cover government functions and ministers’ press conferences.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

In 2003, the Government interfered with the timely release and distribution of several foreign magazines, including the *Far Eastern Economic Review* and *The Economist*. Government officials, including then-Prime Minister Mahathir, continued to accuse the foreign media of harboring ill intentions toward the country and of deliberately misrepresenting the country’s political and economic environment by focusing on negative news. In 2003, the then-Deputy Home Minister said the Government would consider a ban against any foreign magazine that made unfounded allegations against the country and its leaders.

The electronic media was restricted more tightly than the print media. Radio and television stations almost uniformly were supportive of the Government’s news coverage and commentary. News of the opposition was restricted tightly and reported in a biased fashion. In the period before the March elections, opposition representatives said they were unable to have their views heard and represented on the country’s television and radio stations.

During the year, two new television stations joined an already crowded market of three stations and one cable network. The privately owned television stations had close ties to the ruling coalition and were unlikely to provide a forum for the opposition parties. In 2002, the Government did not approve a longstanding license application for a state radio station in opposition controlled Kelantan State. Broadcasting

licenses only permit Malay-language news from 8:00 to 9:00 p.m., except on a Ministry of Information channel. During the year, one of the new stations appealed the terms of its license agreement and began broadcasting the 8:00 p.m. news in English. Their appeal was denied, and the English broadcasts ceased. Internet television faced no such restrictions. In 2001, PAS launched its own Internet television studio, with daily broadcasts.

The Government censored books and films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. Some foreign newspapers and magazines were banned, and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the increased prevalence of the Internet vitiated such restrictions. The Government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. The Government continued to try to block the production, distribution, and sales of unauthorized video compact discs (VCDs) and digital video discs (DVDs), especially those with pornographic or sensitive political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In the past, the Government stated that it did not intend to impose controls on Internet use, but noted that it would punish the "misuse" of information technology under the CMA. During the year, the Government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

The Government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the ruling coalition. Some state governments banned certain Muslim clergymen from delivering sermons. The Religious Affairs Department continued to conduct background checks on all clergymen. The Government also cracked down on the distribution and sale of the opposition party's VCDs and audiocassettes.

The Government places some restrictions on academic freedom, particularly the expression of unapproved political views, and the Government enforced restrictions on teachers and students who expressed dissenting views. In 2002, the Government began to require that all civil servants, university faculty, and students sign a pledge of loyalty to the King and the Government. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students. Although academics sometimes were publicly critical of the Government, there was clear self-censorship among public university academics whose career advancement and funding depended on the Government. In 2001, senior government officials said that teachers who opposed the Government and students who took part in anti-government activities would face disciplinary actions, including dismissal and expulsion. In 2003, a Universiti Teknologi Malaysia lecturer who was pursuing his doctorate had his scholarship revoked after he was found to have been involved in anti-government activity. Also in 2003, seven university students were denied the right to continue their studies after being charged with illegal assembly.

Private institution academics practiced self-censorship as well, fearing that the Government might revoke the licenses of their institutions. The law also imposes limitations on student associations and student and faculty political activity (*see* Section 2.b.).

The Government has long stated that students should be apolitical and used that assertion as a basis for denying parties access to student forums. According to student leaders, students who signed anti-government petitions sometimes were expelled or fined. The Government enforced this policy selectively and did not refrain from spreading government views on political issues among students and teachers.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, in practice, the Government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice, senior police officials and political leaders influenced the grant or denial of some permits. Police granted permits routinely to government and ruling coalition supporters; however, they used a more restrictive policy with government critics. In 2003, opposition activists attending a political forum organized by PAS were arrested for illegal assembly. Similarly, in 2003, an outdoor march in support of rape victims was cancelled after police refused a permit on grounds of "public security." However, in the period before the March elections the Elections Commission announced that public rallies by political parties

would be permitted, subject to appropriate police permits. Although permits often were difficult to obtain due to the short duration (7 days) of the campaign period, police generally allowed many rallies to be held without interference (see Section 3).

During the year, Suhakam released its fourth annual report, which reiterated the Commission's earlier criticism of government imposed restrictions on freedom of assembly. In 2001, Suhakam released a report highlighting the fact that the right of assembly is provided for in the Constitution; it recommended easing police permits for gatherings, setting up a special "speaker's corner," and reviewing laws that restrict the right to free assembly. In April, police arrested 15 persons for taking part in an illegal assembly on the anniversary of the corruption conviction of Anwar Ibrahim. The 13 men and two women were arrested in front of Suhakam's offices in Kuala Lumpur.

The Constitution provides for the right of association; however, the Government placed significant restrictions on this right and certain statutes limit this right. Under the Societies Act, only registered, approved organizations of seven or more persons may function as societies. The Government sometimes refused to register organizations or imposed conditions when allowing a society to register. The Government prohibited the Communist Party and affiliated organizations from registering and has blocked the registration of the Socialist Party of Malaysia since 1999 (see Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the act, a power that it enforced selectively against political opposition groups.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government argued that the act still was necessary.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government placed some restrictions on this right. Sunni Islam is the official religion, and the practice of Islamic beliefs other than Sunni Islam was significantly restricted. Non-Muslims, which include large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. The Government provides financial support to an Islamic religious establishment and also provides more limited funds to non-Islamic religious communities. State authorities impose Islamic religious laws administered through Islamic courts on all ethnic Malays (and other Muslims) in some matters but generally did not interfere with the religious practices of the non-Muslim community. In 2003, then-Prime Minister Mahathir used anti-Semitic language during his address to the summit of the Organization of the Islamic Conference (OIC). Prime Minister Abdullah, who succeeded Mahathir 2 weeks after the OIC speech, subsequently emphasized religious tolerance towards all faiths. During the year, the Government promoted Islam "Hadhari," which emphasized tolerance towards other religions and a moderate, progressive interpretation of Islam.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits.

In practice, Muslims are not permitted to convert to another religion. In several recent rulings, secular courts have ceded jurisdiction to the Islamic courts in matters involving conversion to or from Islam. In 2000, an Islamic court sentenced four persons to 3-year prison terms for not recanting their alleged heretical beliefs and "return(ing) to the true teachings of Islam." The court rejected their argument that they were not subject to Islamic (Shari'a) law because they had ceased to be Muslims. Dismissing their appeal, the Court of Appeal ruled in 2002 that only the Islamic court is qualified to determine whether a Muslim has become an apostate. In July, the Federal Court upheld the Court of Appeal decision and returned the case to the Shari'a court to enforce the sentence.

In April, the Kuala Lumpur High Court held that only the Islamic Court had jurisdiction over a suit by a non-Muslim mother to nullify the conversion of her two children to Islam without her agreement. The father converted to Islam after he became estranged from his wife and allegedly converted his two infant children in order to gain custody over them. The Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS) said the ruling "tramples over the rights of non-Muslim parents." The mother filed an appeal and in July the Court of Appeal granted custody to the mother but prohibited the mother from influencing the children's religious education.

The Government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for building permits sometimes are granted very slowly. In 2003, the Minister of Housing and Local Government announced that building permit approvals would no longer be required for construction of places of worship. However, minority religious groups reported that state governments still sometimes blocked construction using restrictive zoning and construction codes.

Proselytizing of Muslims by members of other religions was strictly prohibited, although proselytizing of non-Muslims faced no obstacles. The Government discouraged but did not ban distribution in peninsular Malaysia of Malay language translations of the Bible, Christian tapes, and other printed materials. The distribution of Malay language Christian materials faced few restrictions in the East Malaysia states of Sabah and Sarawak.

While representatives of non-Muslims do not sit on the immigration committee that approves visa requests from members of the clergy, the MCCCBS is asked for its recommendation.

The Government continued to monitor the activities of the Shi'a minority, and state religious authorities reserved the right to detain members of what they considered Islamic "deviant sects," i.e., groups that do not follow the official Sunni teachings, without trial under the ISA. According to the Government, no individuals were detained under the ISA for religious reasons by year's end.

The Government is concerned that "deviationist" teachings could cause divisions among Muslims. Members of such groups can be arrested and detained, with the consent of the Islamic court, in order to be "rehabilitated" and returned to the "true path of Islam." The Selangor Religious Department detained 66 members of a deviationist group in 2003 and arrested 96 followers of another deviationist sect in April.

The Government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The Government also restricted the content of sermons at mosques. In recent years, both the Government and the opposition Islamic party have attempted to use mosques in the states they control to deliver politically oriented messages. Several states have attempted to ban opponent-affiliated imams from speaking at mosques. Some states also have announced measures including more vigorously enforcing existing restrictions on the content of sermons and replacing mosque leaders and governing committees.

For Muslim children, religious education according to a government-approved curriculum is compulsory. There were no restrictions on home instruction, and private schools may offer a non-Islamic religious curriculum as an option for non-Muslims.

In 2002, the Government implemented a policy that requires all Muslim civil servants to attend Islamic classes taught by government-approved teachers.

In family and religious matters, all Muslims are subject to Shari'a law. According to some women's rights activists, women are subject to discriminatory interpretations of Shari'a law and inconsistent application of the law from state to state.

In the past, state governments in Kelantan and Terengganu have made efforts to restrict Muslim women's dress. However, since the defeat of the opposition Islamic party (PAS) in Terengganu and its near defeat in Kelantan in the March elections, which many observers interpreted as a rejection by voters of the strict form of Islam promoted by PAS, the two state governments have backed away from enforcing dress codes for any women.

Efforts by the PAS-led governments of Terengganu and Kelantan to implement Shari'a criminal law (see Section 5), which would impose Islamic penalties for theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam, have been challenged in Federal Court, and the cases were still pending as of year's end. In 2003, the then-Deputy Prime Minister stated that police could not enforce Islamic criminal law ("hudud") until the Attorney General decided on the matter and that the Criminal Procedure Code was still in effect in Terengganu.

The Government has a comprehensive system of hiring and other preferences for ethnic Malays and members of a few other groups, known collectively as "bumiputras," most of whom are Muslim (see Section 5).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, the Government restricted these rights in some circumstances. The eastern states of Sabah and Sarawak control immigra-

tion and require citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In 2002, the Federal Court ruled that Sabah's exclusive control on immigration was provided for in the Constitution and could not be challenged. In 2003, a prominent local human rights activist was denied entry to Sarawak, allegedly due to her anti-logging positions, and returned to peninsular Malaysia. NGOs claimed that some citizens were blacklisted and not permitted to travel outside of Malaysia as they might "tarnish the reputation" of the country.

The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (*see* Section 1.d.).

Citizens must apply for government permission to travel to Israel.

The country is not a party to the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; and the Government has not established a system for providing protection to refugees. It sometimes granted temporary refuge to asylum seekers. In April, the Prime Minister offered to establish refugee camps in northern Malaysia to house potential refugees escaping violence in southern Thailand.

In 2003, the police arrested over 240 Acehnese asylum seekers outside the UNHCR office in Kuala Lumpur. Following the arrests, then-Prime Minister Mahathir threatened that they would not be allowed to seek political asylum and would be deported; however, many of those arrested subsequently were resettled to other countries. In July, the Government arrested 40 asylum seekers holding UNHCR temporary protection papers. International organizations and a number of human rights NGOs protested. During the year, the Government continued to deport some asylum seekers and refugees but has also allowed certain asylum seekers and persons of concern to remain pending resettlement to other countries. Reportedly the Government had decided to accord some 10,000 Rohingyas (Muslims from Burma) refugee status.

In 2003, Suhakam called on the Government to reconsider caning as a penalty for illegal immigrants alleging that it amounts to cruel and inhumane treatment. The new immigration law, in effect since 2002, provides for 6 months in prison and up to six strokes of the cane for immigration violations. In practice, due to delays in processing travel documents, many illegal immigrants were detained in camps for over a year (*see* Section 1.d.).

The Government does not distinguish between asylum seekers and illegal immigrants, and detained them in the same camps. Detention facilities were overcrowded and lacked medical facilities. Local human rights NGOs alleged that detainees were provided inadequate food and sometimes were abused.

The Constitution provides that no citizen may be banished or excluded from the Federation. However, according to the terms of a 1989 peace agreement, Chin Peng, the 80-year-old former leader of the communist insurgency in the country, lives in exile in Thailand and has been denied permission to return to the country.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections.

In practice, opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since independence in 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. In the March national elections, opposition parties captured 20 of 199 parliamentary seats and 52 out of 453 state seats.

The country has a parliamentary system of government with a bicameral legislature. National elections are required for the lower chamber at least every 5 years and have been held regularly since 1957. Members of the upper chamber, the Senate, are appointed. The Malay-based UMNO party dominates the ruling National Front coalition. Since 1969, the National Front coalition always has maintained at least a two-thirds majority in parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the Prime Minister. In 2003, Mahathir Mohamad, who had been Prime Minister since 1981, retired and relinquished power to his deputy, Abdullah Badawi. In national elections held in March, the ruling coalition captured 90 percent of total parliamentary seats.

The lack of equal access to the media was one of the most serious problems encountered by the opposition in the March national elections (*see* Section 2.a.). Government-owned stations and the country's private television stations had virtually no impartial reporting on the opposition. The mainstream English- and Malay-language newspapers carried biased coverage of domestic politics as well. In addition, opposition parties alleged that they faced difficulties in placing paid advertisements in newspapers.

Opposition leaders claimed that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but was perceived to be under the control of the Government. NGOs were permitted to form independent election watch organizations, but were accorded no special privileges.

There were numerous opposition complaints of irregularities by election officials during the March campaign; however, most observers concluded that they did not substantially alter the results. Complaints included unregistered names, broken computers, and late opening of polling stations, all of which prevented some persons from voting. In the state of Selangor, Election Commission officials extended the polling period by 2 hours in apparent contravention of elections laws. The Election Commission blamed many of the glitches on last-minute increases in the number of polling stations and associated voter rolls, which the Commission alleged threw the process into disarray. Opposition leaders complained that local government officials who served as election officers were not always neutral.

More serious allegations were lodged of voter rolls being inflated by illegally registered "phantom" voters, who reportedly included voters from other districts brought in to vote in tightly contested districts, non-registered voters using fictitious names or the names of dead voters still listed on the voter rolls, and non-citizens illegally registered to vote. The opposition claimed that 70,000 phantom voters in Terengganu were used to swing the vote in favor of the ruling coalition. Opposition parties also complained about their inability to monitor postal votes (absentee ballots) cast by police and military personnel. The Government, citing security concerns, did not allow party agents to monitor postal vote boxes on military and police installations.

Ballots were marked with a serial number that could be matched against a voter's name. While there was no evidence that the Government ever traced individual votes, some opposition leaders alleged that the potential to do so influenced some voters, particularly civil servants.

The Constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. The Government conducted a nationwide electoral redistricting exercise during 2002. In 2003, 25 new parliamentary seats were added primarily in states in which the ruling coalition is strong. The opposition complained that the two states it controlled prior to the March elections did not get any new seats and that the redistricting was undertaken by the Government to weaken the opposition. Observers agreed that the redistricting favored Government candidates for parliamentary seats but believed it had less influence on elections for state seats.

The Elections Commission lifted the ban on political rallies for the March elections; however, to hold a rally, organizers needed to file an application with the police 14 days in advance of the proposed event. With only 17 days between the announcement of the election and polling, and only 7 days of formal campaigning permitted, it was difficult to comply with this requirement. Nonetheless, the opposition held many rallies during the campaign.

In 2003, Parliament amended the election law making it an offense for a candidate to "promote feelings of ill-will, discontent or hostility." The Elections Commission warned that violators would be disqualified. Opposition candidates complained that this law restricted their ability to criticize government policies at public functions.

Under the electoral law, unsuccessful candidates may appeal election results to special election courts in instances of alleged fraud, vote tampering, or other infractions of electoral rules. However, in 2002, Parliament passed an amendment to the electoral law forbidding judicial scrutiny of voter rolls after the Election Commission has certified them.

Over the years, Parliament's function as a deliberative body has deteriorated. Legislation proposed by the Government rarely was amended or rejected. Legislation proposed by the opposition never was given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. In September, a member of Parliament from the opposition Democratic Action Party was suspended without pay for 6 months after failing to apologize to the parliamentary

Speaker for “misleading the House” on the question of whether or not M.P.s had to raise their hands when taking their oaths of office. The 1995 parliament amended its rules to strengthen the power of the Speaker and to curb parliamentary procedures frequently used by the opposition. The amendments empowered the Speaker to ban members he considered unruly for up to 10 days, imposed limits on deputies’ ability to pose supplementary questions and revisit non-germane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited even more severely members’ opportunities to question and debate government policies. In 2001, an amendment to the parliamentary Standing Orders permitted the Speaker to edit written copies of members’ speeches before the speeches were delivered. Nonetheless, Government officials often faced sharp questioning in Parliament, although this was not always reported in detail in the press.

After the 1969 intercommunal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply “rubber stamps” for the Government.

In recent years there has been a widely held perception of widespread corruption and cronyism within the ruling coalition and in government institutions. In his first few months in office Prime Minister Abdullah publicly denounced corruption, canceled a high-profile project tainted by cronyism, called for strengthening of the Anti-Corruption Agency, proposed the creation of a civil service ethics training institute, and pushed government institutions to be more responsive to the public. In February, both the former managing director of a government-owned steel company and the then-federal Minister for Land and Cooperative Development were arrested in separate cases on corruption-related charges. In November, UMNO suspended 16 members for possible vote buying in party elections.

Women faced no legal limits on participation in government and politics, and the Government proposed a “plan of action for the advancement of women” to redress inequalities that did exist. At year’s end, 3 of 33 cabinet ministers were women. Women held 20 of 193 seats in the House of Representatives, and they held 19 of 70 seats in the Senate. In 2003, noting the low percentage of women in the legislature, the Minister of Women, Family and Community Development asserted, “It is a simple fact of life that women operate in a very unequal workplace environment.” In August, the Prime Minister announced that 30 percent of decision-making posts in Government would be allocated to women.

Ethnic minorities were represented in cabinet-level positions in Government, as well as in senior civil service positions. The political dominance of the Malay majority meant, in practice, that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 10 of the 35 cabinet posts and 20 of 38 deputy minister positions. An ethnic Chinese leader of a component party of the ruling coalition was Chief Minister of Penang State.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The Government generally tolerated their activities but often did not respond to their inquiries or press statements. Under Prime Minister Abdullah, there generally was a more cooperative atmosphere toward human rights NGOs. The 16-member commission established to conduct a review of the police included an official of the opposition political party PAS, the president of the national chapter of Transparency International, the president of the Bar Council, and the executive secretary of Women’s Aid Organization. In May, the Prime Minister met with representatives of 30 NGOs involved with human rights, social work, native rights, and environment and stated that he valued their role as “watchdogs of society.” Also in May, the Kuala Lumpur High Court released human rights activist Irene Fernandez’ passport allowing her travel to an overseas conference (Fernandez had been convicted in 2003 on a charge of “publishing false news.”) In June, the police joined with Fernandez’ organization Tenaganita to establish a 24-hour hotline to assist foreign domestic workers who were abused or cheated by their employers.

The Government generally did not encourage international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of those organizations. The Government did not allow AI to set up a branch as an NGO; however, AI incorporated itself as a business and was able to function much like an NGO.

Suhakam has come to be seen by many analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. Suhakam is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case. In July, in its fourth annual human rights report, Suhakam criticized deaths in police custody and detentions without trial, repeated its opposition to government-imposed restrictions on freedom of assembly, reiterated concerns about the ISA, and highlighted the need to develop a national plan of action to counter trafficking in persons.

During the year, Suhakam commissioners traveled throughout the country to educate community leaders, including police officials, on the purposes of the Commission and the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. In 2003, Suhakam released a report on the condition of ISA detainees. The report noted some human rights violations and outlined 18 recommendations aimed at improving conditions. Some observers credited Suhakam with the 2003 release of six opposition activists detained under the ISA.

Analysts acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however tentatively, executive control. In 2003, Suhakam itself noted that a major challenge that remained unresolved was the slow government response to their reports on major issues that touched on fundamental liberties. In 2003, the then-Deputy Prime Minister (now Prime Minister) praised Suhakam for playing a positive and constructive role in the national dialogue on human rights.

#### *Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. In 2001, Parliament unanimously approved a constitutional amendment barring discrimination on the basis of sex; however, discrimination based on some of these factors persisted. For example, government policies gave preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas. Neither the Constitution nor other laws explicitly prohibited discrimination based on physical or mental disabilities, but the Government promoted greater public acceptance and integration of persons with disabilities.

*Women.*—Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. According to the local NGO Women's Aid Organization (WAO), there were over 2,500 cases of domestic violence reported during the year.

The Domestic Violence Act addresses violence against women in the home; however, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that, because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse. In June, WAO said that the lack of co operation among the police, the social welfare department, and the judiciary continued to be a problem.

Although the Government, NGOs, and political parties established shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. The police established a Sexual Investigations Unit at each police headquarters as part of a nationwide effort to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence improved, but women's rights activists claimed that the police needed additional training in handling domestic abuse as well as rape cases. In 2003, the Minister for Women, Family and Community Development urged the Government to place female officers at each police station to deal with victims who are often reluctant to lodge reports with male personnel. In 2003, the Prime Minister directed all district police stations to establish units specially trained to minimize the trauma faced by victims of sex crimes and domestic violence.

Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. However, provisions in state Shari'a laws generally prohibit wives from disobeying the lawful orders of their husbands and present an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, reportedly no man has been convicted under such circumstances. In August, Suhakam and local NGOs called on the Government to amend the Penal Code to include spousal rape as an offense.

Reports of rape were common in the press and among women's rights groups and NGOs. According to the press, 1,462 women were raped in the first 10 months of the year. Many government hospitals have set up crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family and Community Development and a leading women's NGO, only 10 percent of rape cases were reported to the police. In 2003, the Penal Code was amended to increase the punishment for rape to include imprisonment for a term of from 5 to 30 years, caning, and a fine. In May, a man was sentenced to caning and 45 years in prison on three counts of rape. While some rapists received heavy punishments, including caning, women's groups noted that other rapists received inadequate punishments. In 2002, a police constable was acquitted of charges of raping two foreign women who were in police custody. The Sessions Court ruled that the acts had been consensual. Following sharp public criticism of the verdict, the Attorney General's office filed an appeal. In 2003, the High Court overturned the Sessions Court's decision and sentenced the policeman to 15 years in prison.

In the past, some NGOs reported instances of female genital mutilation (FGM) in rural areas, but there have been no reports of such practices in recent years.

Prostitution is illegal and was prosecuted. Statistics were available only for foreigners arrested on immigration charges with suspected involvement in prostitution. In 2003, the number of such persons arrested was 5,584 compared to 4,132 arrested in 2001. Police attributed the increase to more vigorous enforcement efforts.

The country was a source and destination country for trafficking in women for purposes of prostitution (*see* Section 5, Trafficking).

The Government's Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace provides a detailed definition of sexual harassment and attempts to raise public awareness of the problem, but women's groups advocated passage of a law on sexual harassment in lieu of the voluntary code of conduct. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government imposed policies would unduly restrict the management of labor relations. Since the Code's 1999 introduction, the number of reported incidents of sexual harassment has risen.

In August, the Human Resources Ministry said that the Employment Act would be amended to include a provision requiring all companies to appoint an officer from among senior management to handle sexual harassment in the workplace.

Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, was increasing steadily.

Women's rights advocates asserted that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of family laws among the various states. In 2002, the Sultan of Selangor, who is also the senior Islamic figure in the state, acknowledged the bias against women of Shari'a court judges.

Non-Muslim women are subject to civil (secular) law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provisions of the bill to Muslim mothers. Women's groups urged all states to do the same. In 2002, Parliament approved an amendment to the Group Settlement Act that gives wives a joint stake in land awarded to their husbands.

The Government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. Women were represented in growing numbers in professional positions; however, in 2003 the Minister of Women, Family and Community Development noted that, while 46 percent of public sector staff were women, only 15 percent held key posts. The media reported in August that women made up 12 percent of the police force. In the scientific and medical fields, women made up more than half of all university graduates, and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to the national union of bank employees, 65 percent of members were women, but only one out of eight principal banking officials was a woman. In August, the

Prime Minister announced that 30 percent of decision-making posts in Government would be allocated to women.

*Children.*—The Government has demonstrated a commitment to children's rights and welfare and allocated approximately 25 percent of the national budget to education. The Government provides free education for children through 15 years of age. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. Actual attendance at primary school is 96 percent, while secondary school attendance is 82 percent. A variety of programs provided low cost health care for most children.

The Child Act incorporates the principles of the U.N. Convention on the Rights of the Child, prescribing severe punishments for child trafficking, abuse, molestation, neglect, and abandonment. It also mandates the formation of a Children's Court, which the Government stated would better protect the interests of children; however, the court has not yet been established. The act allows caning of male children between the ages of 10 and 18 years, who may receive a maximum of 10 strokes with a "light cane."

The Government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. A 2002 amendment to the Penal Code provides for from 6 to 20 years' imprisonment and caning for individuals convicted of incest. The Ministry for Women, Family and Community Development reported 306 cases of incest in 2002. In September, the local press reported that in a survey of 133 convicted sex predators, 23 percent of the victims of sexual offenses were daughters of the offender. However, under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. Moreover, Shari'a courts sometimes were more lenient with males who were charged with "close proximity." However, in many cases Muslim men were charged and punished for statutory rape under secular law.

Child prostitution existed, but child prostitutes often were treated as delinquents rather than victims. According to police statistics, in 2002, 97 girls under 18 were detained and sent to rehabilitation centers for involvement in immoral activities (*see* Section 5, Trafficking).

Child labor occurred in certain areas of the country (*see* Section 6.d.).

Sabah state had a problem of street children. Estimated to number anywhere from a few score to a few hundred, they were born in the country to illegal immigrant parents who have since been deported. These children lacked citizenship and access to government provided support.

*Trafficking in Persons.*—There is no law that specifically and comprehensively criminalizes trafficking in persons. However, the Child Act prohibits all forms of trafficking of children under 18, and the Penal Code comprehensively addresses trafficking for the purpose of prostitution. The Government also uses other laws, such as the Immigration Act, the Restricted Residence Act, and the ISA to prosecute traffickers.

The country was a source, transit, and destination country for trafficking in women and girls for sexual exploitation. Women and girls from Thailand and the Philippines were trafficked through the country to destinations such as Australia, Canada, Japan, Korea, and the United States. Young women primarily from Indonesia, China, Thailand, and the Philippines were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses. Some foreign women and girls employed as domestic servants were held in conditions that amounted to forced labor (*see* Section 6.e.).

In 2003, the police arrested 5,584 foreign prostitutes. According to the police, members of the Bar Council, and Suhakam, many foreigners found to be involved in prostitution were possible victims. There were allegations of corruption among law enforcement personnel since some trafficking victims were known to pass through two or more ports of entry without travel documents. One NGO alleged that high level business and political officials were involved in trafficking. In 2003, the

police eliminated a human smuggling syndicate including Malaysian Airlines and Malaysian airport officials.

Some Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay and ethnic Indian women worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking.

Trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year, there were a number of reports of foreign women escaping from apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said that they were lured to the country by promises of legitimate employment and were forced into prostitution upon their arrival in the country.

In 2002, the Government amended the Penal Code to include extensive provisions prohibiting buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, withholding clothing, or holding a person's passport) any person with the intention that that person will be used for the purposes of prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning, and a fine, to be determined at the discretion of the sentencing judge. In 2003, police prosecuted 24 cases under a trafficking statute, charged and tried 10 persons and convicted 7. There were 145 trafficking victims involved in these prosecutions. Additionally, in 2003, 49 suspected traffickers were arrested under the Prevention of Crime Ordinance, and 70 cases of suspected trafficking were prosecuted under the Immigration Act. In March, the police arrested two of the country's top criminals alleged to be involved in trafficking and sent them to detention camps for 2 years under the Prevention of Crime Ordinance.

The Government assisted some underage prostitutes and rescued some trafficked women and girls during the year. In 2002, 97 underage prostitutes were sent to rehabilitation centers. The Malaysian Chinese Association (the largest ethnic Chinese political party in the ruling National Front coalition) reported that in 2003, it assisted 73 trafficking victims in escaping from vice syndicates. However, police had no comprehensive policy to protect victims of trafficking. Police often arrested or deported possible trafficking victims for immigration offenses. The police and members of the Bar Council legal aid bureau advised that this was the fastest way to expedite victims' return to their home countries. Trafficking victims who exhibit signs of physical abuse may be sent to a women's shelter instead of being detained by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain. In December, the Ministry of Women, Family and Community Development opened a shelter specifically intended for foreign women who were victims of trafficking.

A number of NGOs with government support provided shelter for trafficking victims and assisted in repatriating them to their home countries. In April, Suhakam hosted a counter-trafficking forum attended by NGOs, police, immigration officials, prosecutors, and representatives from the diplomatic community. In October, a follow-up workshop, involving similar attendees as well as speakers from the International Organization for Migration, outlined a national plan of action to combat human trafficking and provide greater protection to victims.

*Persons With Disabilities.*—The Government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector job openings for persons with disabilities. In 2003, the Prime Minister ordered that all buildings be made disabled-friendly. However, few public facilities were adapted to the needs of persons with disabilities, and the Government has not mandated accessibility to transportation for persons with disabilities. New government buildings were generally outfitted with a full range of facilities for persons with disabilities. In August, the Human Resources Ministry announced a plan to create 3–4,000 jobs annually for the disabled. The budget for the 2005 fiscal year included additional tax benefits for persons with disabilities and their spouses.

In 2001, the Government announced the Code of Practice for the Employment of Persons with Disabilities in the Private Sector as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. Suhakam has recommended legislation to address discriminatory practices and barriers facing persons with disabilities

and has organized dialogues among persons with disabilities, government departments, and NGOs to promote awareness of the rights of persons with disabilities.

Special education schools existed, but were not sufficient to meet the needs of the disabled population. The Government undertook many initiatives to promote public acceptance of persons with disabilities, to make public facilities more accessible to persons with disabilities, and to increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not disabled-friendly, the Government reduced the excise duty for persons with disabilities on locally made cars and motorcycles by 50 percent. The most recent statistics indicated that persons with disabilities made up 7 percent of the population.

*Indigenous People.*—Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice, federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vest considerable authority in the Minister for Rural Development to protect, control, and otherwise decide issues concerning this group. As a result, indigenous people, particularly in peninsular Malaysia, had very little ability to participate in decisions that affected them.

The “Orang Asli,” who numbered approximately 147,000, were the poorest group in the country. According to government statistics, over 80 percent of the Orang Asli lived below the poverty level. In 2002, the Cabinet approved the formation of a national advisory council for the development of Orang Asli. However, only 5 out of 17 council members were Orang Asli. In 2003, the Government announced development projects for the Orang Asli totaling \$26.3 million (100 million ringgit) for the 2004 fiscal year focused on improving the health, pre-school education, infrastructure, and economic activities. Nonetheless, according to a local NGO, the percentage of Orang Asli living below the poverty line increased during the year.

Under the Aboriginal People’s Act, the Orang Asli who had been granted land on a group basis were permitted to live on reserves but did not possess land rights. Observers reported that, over the years, the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve had been rezoned for development. In 2003, Suhakam called on the Government to resolve outstanding disputes involving native customary land of the Orang Asli.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and indigenous groups in the Borneo states. In 2003, the press reported that the Orang Asli of the Air Banum Resettlement Scheme were prevented from fishing and gathering forest produce by government security forces. Also in 2003, Orang Asli in Pahang state were arrested for attempting to block logging trucks from entering their land. The press reported that they were later released on bail, and the logging project was cancelled. In 2002, the High Court ruled in favor of an Orang Asli group, the Temuans, as the rightful owners of land used for the construction of the Kuala Lumpur International Airport and ordered the Selangor state government to give compensation. The state government appealed the decision, and the case was still pending at year’s end.

Indigenous people in Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they consider to be theirs under native customary rights. In 2002, for example, a court refused an injunction to stop two timber companies from conducting logging activities in an area that approximately 200 indigenous people in Miri, Sarawak, claimed was their ancestral land. The indigenous persons appealed the ruling, and a decision was still pending at year’s end.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. In past years, this led to indigenous people being deprived of their traditional lands with little or no legal recourse.

Suhakam reported that the Bakun Dam project in Sarawak encroached upon the native land of the Penans and that this encroachment caused the degradation of the forests around Penan villages and the pollution of their water supply. The Commission also noted that the development of oil palm plantations encroached on traditional lands.

*National/Racial/Ethnic Minorities.*—The Government maintained extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic har-

mony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

*Other Societal Abuses and Discrimination.*—Although there are no laws that prohibit homosexuality per se, laws against sodomy and “carnal intercourse against the order of nature” exist and are enforced. Religious and cultural taboos against homosexuality were widespread. The Government's response to HIV/AIDS was generally non-discriminatory, although much of society continued to stigmatize AIDS sufferers.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law, most workers have the right to engage in trade union activity, but only 8.5 percent of the labor force was represented by the 609 trade unions. Those restricted from joining a union include workers categorized as “confidential” and “managerial and executive,” as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory, foreign workers can join a trade union; however, the Immigration Department placed conditions on foreign workers' permits that effectively barred them from joining a trade union (*see* Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, contrary to International Labor Organization (ILO) guidelines, the act restricts a union to representing workers in a “particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries.” The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association.

Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (*see* Section 2.b.).

Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires that a union be recognized within 21 days of application, it was not uncommon for unions to go unrecognized for 1 to 4 years. During the year, there were 101 applications for trade union recognition under the Industrial Relations Act. According to the Ministry of Human Resources, there were 10 court challenges by private companies to decisions authorizing the formation of unions. In August, the press reported that the employees of Euromedical Industries finally managed to get their union recognized after 29 years of court appeals.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry. The Government believed that enterprise level unions were more appropriate for this sector. According to MTUC officials, 150,000 electronics workers were unable to organize and only 8 in house unions were formed in the electronics industry. Collective bargaining agreements are limited in those companies designated as having “pioneer status.” According to the ILO, the Government has promised to repeal this statute since 1994.

Unions maintained independence both from the Government and political parties, although individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain for local unions.

There are two national labor organizations. The MTUC is a society of trade unions, in both the private and government sectors, registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights, but provides technical support for affiliated members. Government sector unions had opportunities to affiliate with the Congress of Unions of Employees in the Public and Civil Service, a federation of trade unions registered under the Trade Unions Act. Trade unions were also permitted to affiliate with international trade union organizations, such as global union federations and the International Confederation of Free Trade Unions, subject to the approval of the Director General of Trade Unions. Although the law grants public servants the right to organize at the level of ministries and departments, the Government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There were three national joint councils representing management and professional civil servants, technical employees, and non technical workers.

*b. The Right to Organize and Bargain Collectively.*—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics alleged that the Industrial Court was slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources failed. However, others pointed out that the Industrial Court almost always sided with the workers in disputes. In the past, employers reportedly often ignored Industrial Court judgments with impunity. In 2002, the number of Industrial Court chairpersons was increased from 14 to 21 to address the problem of backlogged cases.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The Minister of Human Resources can suspend for up to 6 months any trade union deemed to be used for purposes prejudicial to or incompatible with security or public order.

Although strikes are legal, the right to strike is severely restricted. The law contains a list of “essential services” in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. The Government stated these essential services were considered crucial to the economy and the public interest. The MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to the Ministry of Human Resources statistics, there were 2 strikes and lockouts involving 57 workers in 2003. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The Ministry’s Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. When a strike is legal, these provisions prohibit employer retribution against strikers and leaders. However, some trade unions questioned the effectiveness of the provisions.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies were organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in pioneer industries.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and the Government generally enforced this prohibition. Certain laws allow the use of imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, these laws were not applied and appear to be constitutionally prohibited.

Some of the estimated 260,000 foreign women employed as household workers have been subjected to physical abuse and forced to work under harsh conditions.

The Government prohibits forced and compulsory labor by children, and there were no reports that such practices occurred in the formal sector (some child domestics were working in conditions amounting to forced labor).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Children and Young Persons (Employment) Act prohibits the employment of children younger than the age of 14. The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the agricultural sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor could be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers have largely replaced child labor and that the Government vigorously enforced child labor provisions. In practice, mechanisms for monitoring workplace conditions were inadequate, and the resolution of most abuse cases were often left to private, for profit labor agencies that were themselves often guilty of abuses. Bilateral labor agreements between Indonesia and Malaysia do not provide adequate protections for domestic workers.

*e. Acceptable Conditions of Work.*—There was no minimum wage, as the Government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent living. Wage Councils, which were established by the Wage Council Act of 1947 to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, the Wage Councils had not met for more than 13 years, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. In 2003, the National Union of Plantation Workers (NUPW) and the Malaysian Agriculture Producers Association agreed on a monthly minimum wage for palm oil plantation workers of \$92 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly \$184 (700 ringgit). In 2003, rubber plantation workers were provided with a similar minimum guarantee.

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal immigrants, worked on plantations and in other sectors. According to statistics from the NUPW, foreign workers made up 50 percent of the plantation work force; however, the true number may have been higher since illegal immigrants were not counted. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belonged to the NUPW.

Work related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during the year occurred on plantations.

Foreign workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. In 2002, government investigations into this problem resulted in a number of steps to eliminate the abuse of contract labor. For example, in addition to expanding programs to regularize the status of immigrant workers during the year, the Government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

The Workmen's Compensation Act covers both local and foreign workers, but provides no protection for foreign domestic workers. According to the Government, foreign domestic workers are protected under the Employment Act, particularly as regards wages and contract termination. However, employers sometimes failed to honor the terms of employment and abused their domestic servants. The terms of the contract for Indonesian domestic workers are vague and open to abuse. The contract provides for a monthly salary of \$100 (380 ringgit), but does not specify the number of working hours per day. HRW and local NGOs reported that many Indonesian domestic workers were required to work 14–18 hours a day, seven days a week. The contract for Filipina domestic workers included more comprehensive protections. During the year, the Government was negotiating a new memorandum of understanding with Indonesia to provide better protections for domestic workers, but as of year's end it had not been signed. Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them. In May, the local and international press reported the case of an Indonesian domestic worker who was beaten and abused by her employer. The employer was arrested and charged on four counts of causing grievous hurt, which carry a maximum sentence of 67 years. In August, HRW reported that such cases were common and that the Government failed to protect Indonesian household workers. However, local NGOs advised that workers have the right to take legal action against abusive employers. According to NGOs, the courts generally have sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the labor laws and have no legal recourse in cases of abuse.

The Occupational Safety and Health Act (OSHA) covers all sectors of the economy except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government

representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

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## MARSHALL ISLANDS

The Republic of the Marshall Islands is a self-governing nation under the Compact of Free Association with the United States. The Constitution provides for executive, legislative, and judicial branches. The legislature consists of a 33 member Parliament (Nitijela) and a Council of Chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. In November 2003, the Nitijela was elected in free and fair elections. The President is elected by majority Nitijela vote and appoints his Cabinet from its membership. In January, the Nitijela elected President Kessai Note to a second 4 year term. The judiciary is independent.

The national police under the Ministry of Justice and local police forces are responsible for internal security. Under the Compact of Free Association, the United States is responsible for the country's external defense. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The mixed economy is heavily dependent on transfer payments from the United States under the Compact. Such payments constituted approximately 70 percent of the country's estimated \$100 million gross national product. According to 2002 data, the population of approximately 56,600 was of Micronesian origin and concentrated primarily on the Majuro and Kwajalein Atolls. Coconut oil, copra, and tuna exports, tourism, import and income taxes, an open ship registry, a tuna loining plant, ship chandlery, and fishing licensing fees generated limited revenues. However, in September, the loining plant, a major employer, closed due to financial problems. Economic growth in 2002, the latest figure available, was approximately 4 percent, but annual labor force growth of approximately 7 percent combined with government austerity measures resulted in a decline in real wages over the past several years. The U.S. dollar is the national currency.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in a few areas. Prison conditions did not meet international standards. Violence against women and child abuse continued to be problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids such practices, and there were no reports that government officials employed them.

Prison conditions did not meet international standards. Most prisoners were held in a single large, inadequately lighted dormitory with inadequate nighttime supervision. There was no program to ensure regular access to daily outside activity. Some male juveniles were held together with adults; as juvenile crimes increased in number and seriousness over the past several years, the courts began to try more male juveniles as adults and to order them held with the general prison population. Pretrial detainees were not separated from the general prison population. Female prisoners, including juveniles, were held under house arrest.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

There is a national police force and local police forces. Police officers do not carry firearms, and police generally used the minimum force necessary to detain a suspect. There were no reports of significant police corruption.

Warrants are required for arrests and are issued by the courts. Detainees may request bond immediately upon arrest for minor offenses; most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest.

Families had access to detainees, and detainees have the right to lawyers of their choice. There is a functioning system of bail, and the State provides a lawyer if the defendant is indigent.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving matters of customary law and traditional practice. The Cabinet appoints judges. Few citizens were trained in the law, and the judicial system relied heavily on noncitizen public prosecutors and defense attorneys. Most lower court judges were citizens; the higher courts relied on noncitizen judges, in part to prevent conflicts of interest in the small, highly interrelated society. The Chief Justice of the High Court is a foreign national appointed for a 10-year term. The incumbent succeeded a foreign national judge suspended in 2002 after he was charged with misappropriating government travel funds. At year's end, the case against the suspended judge was in abeyance because of his refusal, on the basis of a medical condition, to return to the country.

During the year, the High Court Chief Justice worked, with foreign assistance, to develop a judicial training program and improvements in trial procedures.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction. However, the Government refused permission for the nongovernmental organization (NGO) Women United Together in the Marshall Islands (WUTMI) to broadcast its outreach programs on the government-owned radio station.

The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For more detailed information, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution and law do not prohibit forced exile; however, the Government did not employ this practice.

Although not a signatory, the Government adheres to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and it cooperated with the U.N. High Commissioner for Refugees in assisting refugees and asylum seekers. The Government has not established a system for providing protection to refugees; however, it has granted asylum in the past.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Executive power is centralized in the President and his Cabinet. Citizens 18 years of age and older elect the Nitijela and mayors by secret ballot every 4 years. Elections for the 33-member Nitijela were held in November 2003; President Kessai Note's United Democratic Party won a majority of the seats. There were no serious allegations of electoral fraud. However, the complex electoral system, which grants voters the option of voting where they have land rights instead of where they reside, requires almost every polling place to provide for voters from many other districts. A significant number of absentee ballots also were cast in the 2003 elections. As a result, several close elections generated formal complaints against election officials for alleged mis-handling of ballots and other problems, including some allegations of favoritism. The courts upheld the decisions of the electoral commission in all of the cases, except for one that was still pending at year's end. Complainants protested the courts' reluctance to overturn the commission; the Attorney General's office noted that disinterested, foreign-national judges heard several of the appeals.

There are no restrictions on the formation of political parties, although many candidates prefer to run independently or loosely aligned with informal coalitions. Political activity by foreigners is prohibited.

According to the general audit report of 2003, performed by an independent accounting firm, government corruption was a problem, including instances of misuse of public funds and irregularities in the collection of certain taxes. The Attorney General's office is responsible for investigating cases of alleged corruption, but only a few cases have been prosecuted. In 2003, the Auditor General and the Finance Minister were replaced and the Finance Ministry reorganized in an effort to increase accountability.

There is no legislation that provides for public access to government information, and the Government routinely denied such access. Although there is no specific statutory basis for denying such information, the Government has taken the position that the burden for overcoming a denial of access rests with the public, and a court filing showing the reason the information is required is often necessary.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was 1 woman in the Nitijela and 8 women in the 12-seat House of Iroij. There were no female judges. Society is matrilineal, and traditional leadership and land ownership powers generally are derived from one's mother's lineage. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands; nonetheless, many observers believed women continued to be a significant social force.

There were several hundred non-ethnic Marshallese who were citizens. Only one, appointed as ambassador to his country of origin, was a member of the national government.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Human rights groups generally operated without government restriction, but few local groups have been formed. The Government was not always responsive to NGOs' concerns. The women's NGO WUTMI worked on women's, children's, and family issues and played a significant role in social issues.

No international human rights organization expressed interest or concern regarding the country or visited the country.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent, and the Government observed these provisions.

*Women.*—Spousal abuse was common. Domestic violence was not condoned, and most assaults occurred while the assailant was under the influence of alcohol. The Government's health office provided counseling for reported spousal and child abuse cases, but many cases apparently went unreported. Rape and assault are criminal offenses, but women involved in domestic violence were reluctant to prosecute spouses in the court system. Women's groups under the WUTMI umbrella continued to publicize women's issues and promote a greater awareness of women's rights. Ac-

ording to a 2003 WUTMI survey, more than 80 percent of Marshallese women had been affected by spousal abuse. Violence against women outside the family occurred, and women in urban centers risked assault if they went out alone after dark.

There is no legal age of consent. The law criminalizes only “forced” rape and does not specifically cite sexual assault, domestic violence, or sexual abuse.

In September, a judge convicted a foreigner of assaulting his girlfriend in public, including kicking her as she was lying on the ground and threatening to kill her, and sentenced him to a year in prison. However, citing mitigating factors, the judge suspended the sentence and substituted 2 days in jail, a \$100 fine, 200 hours of community service, and 3 years’ probation.

In 2003, the Nitijela made prostitution illegal, and in June, a Chinese prostitute was prosecuted successfully under the new law. However, prostitution continued, especially on the Majuro and Kwajalein Atolls. Organized prostitution was run primarily by foreigners and catered mainly to the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the Government assumed that it existed.

There is no law against sex tourism, but none has been reported.

Sexual harassment is not prohibited by law and was not considered a widespread or serious problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system. No instances of unequal pay for equal work or of sex-related job discrimination were reported. Many educated women held prominent positions, particularly in government. However, while female workers were very prevalent in the private sector, many were in low-paying jobs with little prospect for advancement.

*Children.*—The Government showed commitment to children’s welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country’s sharply increasing population.

Education is free, compulsory, and universal. In August, despite government shortcomings in enforcing the existing compulsory education law, the Nitijela passed a law that expanded compulsory education from 6- to 14-year-olds to 4- to 18-year-olds. The plan was to enroll 5-year-olds in kindergarten as a first step; however, the Government lacked the resources to implement the increased mandate. There was no difference between the attendance rates of boys and girls.

It was estimated that up to 20 percent of elementary school-age children did not attend school on a regular basis. In many cases, this was because they lived too far away from a school or their families could not afford the monthly registration fee (which varied by school but averaged approximately \$10) or incidental expenses. Admission to high school is by competitive examination; not all children qualified to attend. The Government’s enrollment report indicated that only two-thirds of those completing eighth grade attended high school. Approximately 50 percent—or one-third of those who started elementary school—eventually graduated.

There were five public high schools in the country: Two in Majuro and one each on Jaluit, Kwajalein, and Wotje.

The Government provided subsidized essential medical services for all citizens, including children.

Child abuse and neglect are criminal offenses; however, public awareness of children’s rights remained low. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. However, there were few reports and few prosecutions. Child abuse and neglect were considered to be on the increase. During the year, three prosecutions begun in 2003 for sexual assaults against minors resulted in convictions. In June, a man was convicted of rape, kidnapping, and assault and battery in the assault of a 4 year old child, and was sentenced to 15 years’ imprisonment. In September, a 15 year old youth was acquitted of rape, but convicted of kidnapping and assault and battery and sentenced to 10 years’ imprisonment in the assault of a 5 year old child. In November, a 15 year old youth was convicted of rape, kidnapping, and assault and battery in the assault of a 9 year old child; he received a 10 year prison term.

*Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no apparent discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services; however, there were no building codes and no legislation mandating access for persons with disabilities.

There were approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrated dangerous behavior, they were imprisoned with the general prison population and visited by a doctor. On occasions when prison officials protested disruptions caused by this practice, other arrangements, such as house arrest, were made.

There were no reports of discrimination against persons with mental disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of free association in general, and the Government interpreted this right as allowing the existence of labor unions, although none have been formed to date. With few major employers, there were few opportunities for workers to unionize, and the country has no history or culture of organized labor.

*b. The Right to Organize and Bargain Collectively.*—There is no legislation concerning collective bargaining or trade union organization. However, there were no legal impediments to the organization of trade unions or to collective bargaining. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the illegal alien population; however, they were unable to uncover specific cases during the year.

The law does not specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, and other small-scale domestic enterprises. There is no law or regulation setting a minimum age for employment of children.

*e. Acceptable Conditions of Work.*—The law establishes a minimum wage of \$2.00 per hour for both government and private sector employees. In 1999, the government approved a lower minimum wage of \$1.50 per hour for employees at the country's tuna loining plant to encourage investment in the plant. That minimum wage remained in effect for plant employees during the year. The national minimum wage did not provide a decent standard of living for a worker and family. However, in the subsistence economy, extended families were expected to help less fortunate members, and there were often several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. Foreign employees and Marshallese trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday, most businesses were closed, and persons generally refrained from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The office periodically convenes board meetings that are open to the public. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions.

The law protects foreign workers in the same manner as citizens.

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## FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia is composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Political legitimacy rests on the popular will expressed by a majority vote through elections in accordance with the Constitution. There are three branches of government: An executive branch led by a president who also serves as head of state; a unicameral legislature, elected from the four constituent states, that

elects the President from among its members; and a judiciary that applies laws and procedures that closely parallel those of the United States. Elections for Congress were held in March 2003; they generally were considered to be free and fair, and resulted in a major change in the government. The incumbent President and Speaker of Congress both were defeated. Senator Joseph J. Urusemal was chosen as President in May 2003. Individual states enjoy significant autonomy and have their own constitutions and governmental systems. Traditional leaders retain considerable influence in some states. The judiciary is independent.

The country has no security forces apart from national police and state public safety officers. Under the Compact of Free Association, the United States is responsible for the country's external defense. The civilian authorities maintained effective control over the security forces. There were a few reports of human rights abuses by the police.

The economy is market based but dominated by the large governmental sector. The population was approximately 107,000 according to the 2000 census, mostly of Micronesian origin. The economy depended heavily on financial assistance from the United States. Fishing, tourism, and subsistence agriculture, the major investment sectors, totaled only 5 percent of economic activity. Estimated real economic growth was 3.3 percent during the year; however, real wages declined an estimated 2.4 percent. The U.S. dollar is the national currency.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in some areas. Traditional customs distinguish among persons on the basis of social status and sex. There was continued evidence of spousal abuse and child neglect, and government efforts to address such problems were constrained by traditional society.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed torture; however, there were occasional reports of physical abuse by police.

Prison conditions generally met international standards; however, during the year, Pohnpei and Chuuk States' underfunded Corrections Divisions failed to provide nutritionally adequate meals to prisoners. During the year, a former inmate in the Chuuk State jail died shortly after his release, allegedly as a result of injuries received when he was beaten by another inmate while in custody.

Each of the four state jails includes a separate cell for female prisoners. Since women rarely were detained, these cells typically were used to separate disruptive male prisoners from the general prison population. There were no designated juvenile detention facilities; however, juvenile crime was rare, and the states typically have decided against incarceration of juveniles. Pretrial detainees usually were housed together with convicted prisoners. All four states used jail cells to house persons with mental illnesses but no criminal background (*see* Section 5).

The question of prison visits by human rights observers did not arise during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Each state has a Department of Public Safety composed of police, corrections, fire, and emergency response functions. The directors of public safety are state cabinet-level positions. The Government has a small national police force reporting to the Department of Justice. Some municipalities also have small police forces. In Chuuk State, political considerations influenced police hiring, leading to an oversized and underqualified force. There were reports of police favoritism toward relatives and occasional reports of physical abuse by the police. Many citizens preferred to rely on customary and traditional remedies to resolve criminal and civil matters.

Laws governing arrests, warrants, access to counsel, and bail are patterned on U.S. law. All defendants have the right to counsel; however, the Public Defender's Office was underfunded, and not all defendants received adequate legal assistance in practice. Bail usually was set at low levels except in cases involving flight risk.

In 2002, when national government officials attempted to serve a search warrant on the mayor of Udot in Chuuk State, they were disarmed and briefly detained by

a crowd of the mayor's supporters, including local police. The mayor and the director of public safety were charged, respectively, with abuse of power and obstruction of justice; the case still was pending at year's end.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The President, with the advice and consent of the legislature, appoints the three justices of the Supreme Court. Each state also has a supreme court, and some municipalities have community courts. Some states have additional courts to deal with land disputes. The formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, although juveniles may have closed hearings. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels.

In August, the then-Speaker of Congress, Jack Fritz, was convicted on charges of misuse of public funds (*see* Section 3). The conviction of Fritz and his confederates was widely viewed as a victory for an independent judiciary.

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy trial. One appeal of a felony conviction in Pohnpei, pending since 2000, ended with the defendant's release in August and his return to the United States.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The national Government and the four states maintained public information offices. There was a biweekly national newspaper, the Kaselehlie Press. Yap also had a privately published weekly newspaper, the Yap Networker. On Kosrae, the first edition of a new newspaper, the Sinlaku Sun Times, appeared in September. Newspapers have published politically sensitive stories.

Each of the four state governments controlled a radio station that broadcast primarily in the local language. Credible sources reported that the Chuuk State government censored politically sensitive domestic news for its public radio station. The station was off the air from late 2003 to October due to technical problems. Religious groups operated private radio stations. The populations of Pohnpei, Chuuk, and Kosrae increasingly had access to live satellite broadcast information from around the world and tape delayed broadcasts of programming by the major U.S. networks.

The Internet played an important role in allowing citizens in the four states, as well as those residing outside the country, an opportunity to share views and opinions. The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

During political campaigns, citizens often questioned candidates at public meetings and social gatherings. Formal associations were not common, but nongovernmental organizations increased in number, including organizations for students and women.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within the country. It does not address foreign travel, emigration, and repatriation, but in practice none of these were restricted.

The Constitution and law do not explicitly prohibit forced exile; however, statutes that prescribe punishments for crimes do not provide for the imposition of exile, and the Government did not employ it.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees; however, there were no reports of the forced return of persons to a country where they feared persecution. The status of three Vietnamese who arrived in Yap by boat in 1998 and were granted temporary entry permits remained unresolved at year's end.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The 14-member Congress is elected by popular vote from each state; the Congress then chooses the President and Vice President from among its 4 at large senators by majority vote. Elections for Congress were held in March 2003. In May 2003, the President and Vice President were selected, and the two at large seats they vacated were filled in a July 2003 by election. In November, an election was held to replace Chuuk Senator Jack Fritz, who resigned his seat following his conviction for misuse of government funds.

The election cycle resulted in a new President and Speaker and a substantial turnover in Congress. The elections were generally free and fair; however, the national Attorney General filed charges against one election worker in Chuuk State who had withheld a ballot from a voter in the March election. The case remained pending at year's end.

State governors, state legislators, and municipal governments are elected by direct popular vote. There are no restrictions on the formation of political groups; however, there have been no significant efforts to form political parties, and none exist. Political support generally was sought from family and allied clan groupings, as well as religious groups.

There was a public perception that government corruption was a problem, particularly in Chuuk State. In January, following the indictments in 2003 of then-Speaker of Congress and longtime legislator from Chuuk Jack Fritz, one other Member of Congress, and two former Members on charges relating to misuse of government funds, delegates from Chuuk introduced a bill to grant amnesty to Members of Congress prosecuted or accused of such offenses retroactive to independence in 1986. The bill's first reading generated strong public opposition, and the bill died in committee. On August 3, a court convicted Fritz on four counts of misuse of government funds. His associates also were convicted. On August 20, Fritz resigned from Congress, reportedly as a condition for receiving a lighter sentence than originally recommended by the prosecution; his conviction constitutionally barred him from future public office. He was sentenced to a fine of \$4,000 and a 1-year suspended prison term. On August 23, the Supreme Court upheld his conviction.

Legislative hearings and deliberations are open to the public. Information from other branches of government also was accessible; however, retrieval sometimes was complicated and delayed by the loss or mishandling of records and by the concern of lower level administrative personnel with verifying that release of the particular information requested was permissible. There were no reported cases of government denial of access to media or interested parties; however, there were only a small number of media outlets, and their reporting resources were limited.

Cultural factors in the male-dominated society limited women's representation in government and politics. Women held mid-level positions at both the federal and state level, and a woman held the federal cabinet-level position of Public Defender.

There was 1 woman in the 23 seat Pohnpei State legislature and no women in the other state legislatures or in the national legislature.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no known requests for investigations of alleged human rights violations during the year; international human rights groups never have raised concerns about the country. Although there were no official restrictions, no local groups concerned themselves exclusively with human rights. There were groups that addressed problems concerning the rights of women and children, and the Government cooperated with these groups.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

Although the Constitution provides explicit protection against discrimination based on race, sex, language, or religion, there was extensive societal discrimination, notably discrimination and violence against women. Government enforcement of these constitutional provisions was weak. 03

*Women.*—Reports of spousal abuse, often severe, continued during the year. Although assault is a crime, there are no specific laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of offenses was rare. In many cases, a victim decides against initiating legal charges because she is pressured by family, fearful of further assault, or convinced that the police will not involve themselves actively in what is seen as a private family problem. Rape is a crime; however, few cases were reported or prosecuted. There were a number of reports of physical and sexual assaults against women outside the family context, according to police and women's groups. Such assaults were perpetrated against both citizens and foreigners. In this traditional society, unmarried women sometimes were considered to have invited such violence by living or traveling alone.

Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individuals, and were addressed by a complex system of familial sanctions. However, with increasing urbanization, and monetization of the economy, greater emphasis has been placed on the nuclear family, and the traditional methods of coping with family discord began breaking down. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is not legal, nor was it a major problem. The law does not prohibit sex tourism specifically, but it was not a problem. The law does not prohibit sexual harassment, which appeared to be pervasive, although seldom reported.

Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education and employment. Women received equal pay for equal work and were well represented in the lower and middle ranks of government. However, there was extensive societal discrimination against women. Nonetheless, women were active and increasingly successful in private business and enterprises. There was an active National Women's Advisory Council that lobbied the Government, and several small nongovernmental groups were interested in women's issues, particularly those associated with spousal and family violence and abuse. The Women's Interest Section of the Department of Health, Education and Social Affairs works to protect and promote women's rights.

*Children.*—The Government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the population, particularly in an environment in which the extended family was breaking down. Health officials and religious leaders started peer support and family care groups to address factors that may contribute to youth suicides.

A compulsory education law requires all children to begin school at age 6; however, not all did so. A shortage of qualified teachers and lack of textbooks hampered progress. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but, on average, 75 percent of children finished 8th grade, 55 percent finished 9th grade, and 35 percent finished high school. Children may leave school when they reach the age of 14 or after completing the 8th grade, whichever comes first.

The Government administered an immunization program throughout the country and provided some vitamin supplements.

*Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons; however, unlike in the previous year, there were no reports that persons were trafficked to, from, or within the country. In 2003, Congress passed legislation to regulate foreign labor recruiters as part of a strategy to control abusive recruitment practices; however, the Government had not promulgated implementing regulations by year's end. The amended Compact of Free Association, which came into effect in December 2003, also mandates such regulations.

*Persons With Disabilities.*—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities, including learning disabilities, were provided with special education, including instruction at home if necessary; however, such classes were dependent on foreign funding. There were no reports of discrimination against persons with disabilities; however, they usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps.

Some persons with mental illnesses, but no criminal background, were kept in jails rather than cared for in hospitals. However, during the year, the authorities began to provide separate rooms in jails for persons suffering from mental illness.

*National/Racial/Ethnic Minorities.*—The country is made up of many ethnic groups with distinct cultural and linguistic backgrounds. The Constitution prohibits noncitizens from purchasing land, and a 2002 law limits the occupations that noncitizens may fill. The national Congress grants citizenship to non Micronesians only in rare cases. There is no permanent residency status. However, for the most part, noncitizens shared fully in the social and cultural life of the country.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the law, citizens have the right to form or join associations, and national government employees by law may form associations to “present their views” to the Government without coercion, discrimination, or reprisals. For a variety of reasons, including the fact that most private-sector employment was in small scale, family-owned businesses and citizens were not accustomed to collective bargaining, there were neither associations nor trade unions.

*b. The Right to Organize and Bargain Collectively.*—No law deals specifically with trade unions or with the right to collective bargaining, and there were no reports of collective bargaining agreements during the year. Individual employers, the largest of which are the national and state governments, set wages. There is no specific right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced or compulsory labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and compulsory labor by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There is no law establishing a minimum age for employment of children. In practice, there was no employment of children for wages; however, children often assisted their families in subsistence farming and in family owned shops.

*e. Acceptable Conditions of Work.*—The four state governments have established minimum wage rates for government workers. Pohnpei has a minimum hourly wage rate of \$2.00 for government and \$1.35 for private sector workers. The other three states have established minimum hourly rates only for government workers: \$1.25 for Chuuk, \$1.49 for Kosrae, and \$0.80 for Yap. The minimum hourly wage for employment with the national Government is \$2.64. These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40 hour workweek is standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability; working conditions varied in practice.

There is no law for either the public or private sector that would permit workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Yap State permitted foreign laborers to work in garment manufacturing enterprises. At the factories, the foreign laborers were paid at a lower rate than citizens, worked longer hours per day, and worked a 6 day week in contrast to the 5 day week for citizens. However, working and living conditions generally were regarded as good. Workers were not subjected to abuse or deported without cause; they have the right to a hearing if facing deportation. Foreign workers have the right to form unions; however, they have not done so.

Working conditions on board some Taiwan- and People’s Republic of China (PRC) owned fishing vessels operating in the country’s waters were very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary. In October, a PRC citizen working on a Taiwan registered ship was partially paralyzed due to spinal cord injuries sustained in a fall.

**MONGOLIA**

Mongolia continued its transition from a highly centralized, Communist-led state to a full-fledged, multiparty, parliamentary democracy, although these gains have not yet been consolidated. The 1992 Constitution established a hybrid presidential-parliamentary system of government. The demarcation of powers between the president and the prime minister has been the subject of several constitutional amendments and court challenges. The president, who is also the commander-in-chief, is elected directly by voters for a 4-year term; the next election was scheduled for May 2005. Parliament (State Great Hural), with the agreement of the president, selects the prime minister, who is nominated by the majority party. On June 27, a new Parliament was elected in national, direct elections, and on August 20, a Prime Minister took office. On October 17, the country held elections for local assemblies. The results divided 76 seats evenly between the incumbent Mongolian People's Revolutionary Party (MPRP) and the Motherland Democracy Coalition (MDC), a coalition of 3 parties. Three independent candidates and a candidate for the Republican Party (one seat) also were elected. The campaign and balloting process were considered marred by violations and irregularities. Re-counts were held in several districts; the court stayed a re-vote in one district and declared invalid a re-vote in another district. Despite widespread dissatisfaction with the conduct of the election, the MPRP and the MDC accepted the results and formed a coalition government. The judiciary is constitutionally independent; however, it was vulnerable to corruption and subject to outside influence.

Security forces are under the jurisdiction of the Ministry of Defense (MOD), the Ministry of Justice and Home Affairs (MOJHA), and the General Intelligence Agency (GIA). Military forces under the MOD are responsible for external security, but civil defense is subordinate to the MOD, giving the MOD a role in internal security. During peacetime, border security forces are under MOJHA control. National police operate under the MOJHA. The GIA, formerly the State Security Agency, is responsible for internal security and foreign intelligence collection and operations; its civilian head has ministerial status and reports directly to the Prime Minister. Downsizing of the military forces continued. The civilian authorities maintained effective control of the security forces. In September, the first noncareer-military Minister of Defense was named, replacing a predecessor who had retired from the military to accept the position. Some members of the security forces committed human rights abuses, including the abduction of a citizen in France.

After several years of stagnation, the economy grew an estimated 6 percent during the year. There also was a very large and growing amount of unreported economy activity. Unemployment and underemployment remained high. The country continued to privatize state-owned entities, and the private sector produced approximately 75 percent of the gross domestic product. The population was 2.4 million with a population growth rate of 1.4 percent, and per capita income was approximately \$480 per year. The country relied heavily on foreign economic assistance. The mainstays of the economy continued to be copper and other mining activity; livestock raising; and food, wool, and hide processing industries. A growing trade and small entrepreneurial sector in the cities provided basic consumer goods. Lack of transportation and other infrastructure, legal and regulatory deficiencies, corruption, bureaucratic obstacles, and the small domestic market discouraged foreign investment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Members of the police at times beat prisoners and detainees. Pretrial detention conditions continued to be poor, although there were some marginal improvements during the year. There were no deaths reported in detention centers, but a number of prisoners died of disease in prison. Arbitrary arrest and lengthy detention were problems, as was corruption. Government enforcement of compliance with moral strictures and tax laws may have intimidated the media and resulted in self censorship by the press. The Minister of Justice and other officials used criminal libel suits to harass journalists and politicians who published views critical of the Government. Harassment by some officials of religious groups seeking registration persisted. Domestic violence against women was a serious problem; however, efforts to assist victims continued to increase during the year. Child abuse and child labor also were problems. Nongovernmental organizations (NGOs) reported that 7 female citizens were trafficked to Poland during the year; NGOs also reported 148 documented cases of child prostitution in 2003.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. The 1998 killing of the Minister of Infrastructure, which was suspected of being politically motivated, remained under investigation at year's end. The inability to solve this case continued to be a major problem for the Government.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, while reports of such actions diminished, police (especially in rural areas) occasionally beat prisoners and detainees, and the use of unnecessary force in the arrest process was common. During the year, the Prison Administration completed installation of television monitoring systems in all 22 central prisons, which contributed to a significant decline in the number of prisoners and detainees beaten by guards. The Supreme Court ordered the reinvestigation of the case of five persons who allegedly were tortured in 2000 and 2001 while in pretrial detention. Questions were raised concerning evidence presented at the trial and the absence of legal counsel for the defendants during the early months of their detention. At year's end, the results of the investigation were pending.

In general, pretrial detention and prison facilities were poor, providing insufficient food, heat, and medical care, thereby threatening the health and life of inmates. Overcrowding declined in prisons and detention centers. For example, the number of prisoners in the central detention facility in Ulaanbaatar, which in the past housed 800 to 1,000 inmates, was reduced to 461. During the year, 325 prison staff members, including 159 guards, 46 social workers, and 80 medical staff, received human rights training. The MOJHA's Department for the Enforcement of Court Decisions monitored conditions in prisons and detention facilities, but new laws and procedures were not publicized widely, especially in the countryside, and citizens were not always aware of their rights with respect to detention and arrest.

Many inmates entered prison infected with tuberculosis or contracted it in prison. The Government's tuberculosis hospital provided treatment for a large number of prisoners and better isolated infected persons from the general prison population. The number of inmates who died of the disease continued to decline significantly.

All female prisoners were held separately in one central prison in Ulaanbaatar. In detention centers throughout the country, women also were held separately from men. Convicted juveniles were housed separately from adults. At year's end, there were 105 children in a separate facility for juvenile prisoners in Ulaanbaatar; the facility was designated as a training center. Outside of Ulaanbaatar, juveniles between the ages of 14 and 18 who were charged with crimes were kept in the same detention centers as adults, unsegregated from the adult population.

Improvements in detention and prison conditions outside of the capital were minimal. However, families had better access to inmates, alleviating some of the difficulty in obtaining food and clothing. At least two domestic and six foreign NGOs worked to improve conditions in prisons and detention centers by distributing clothing, food, and books, and by providing English-language instruction and vocational training in computers and trades.

The Government permitted prison visits by human rights monitors, foreign diplomats, and journalists. Amnesty International, the U.N. Development Program's (UNDP) human rights monitor, diplomatic representatives, local journalists, and other observers have visited detention centers as well as prisons.

*d. Arbitrary Arrest or Detention.*—The Constitution provides that no person shall be searched, arrested, detained, or deprived of liberty except by law, and these protections have been incorporated into the Criminal Code; however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention procedures, was limited. Police may arrest persons suspected of a crime and hold them for up to 72 hours before a decision is made to prosecute or release them. Under the Criminal Code, a court order must be requested to continue holding a suspect after 24 hours have elapsed. If the requested order is not granted within 72 hours, the suspect must be released. Prosecutors do not have authority to issue warrants. A detainee has the right to a defense attorney during this period and during all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the Government must appoint an attorney. However, in practice, many detainees were not made aware of this right and did not assert it. There was a shortage of state attorneys, and the low quality of attorney training and the bureaucratic obsta-

cles faced by attorneys and defendants were chronic problems. Detainees may be released on bail with the agreement of the prosecutor. The maximum pretrial detention (with a court order) is 24 months; an additional 6 months are allowed for particularly serious crimes such as murder. According to administrative regulation, if a person is wrongly charged with a crime, the Government must restore the person's rights and reputation and compensate him, but this regulation very rarely was followed in practice.

In August 2003, GIA officers abducted a citizen from France and returned him for questioning in connection with the 1998 assassination of former Minister of Infrastructure Zorig. The officers acted without the knowledge, consent, or cooperation of the French Government or law enforcement authorities, or of the authorities of Belgium and Germany, which they transited when they brought the person back. The Government claimed that the person was returned pursuant to a court order to serve the remaining time on a fraud conviction. The court order appeared to have been issued after the abduction took place. At year's end, the person was in prison serving the remainder of his 11 year sentence for fraud.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, corruption and outside influence were problems.

The judiciary consists of local courts, provincial courts, and the Supreme Court. The 11-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. Local courts primarily hear routine criminal and civil cases; provincial courts hear more serious cases, such as murder, rape, and grand larceny, and also serve as the appeals court for lower court decisions. The Constitutional Court, separate from the criminal court system, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the MOJHA, nominates candidates for vacancies on the courts; the President has the power to approve or refuse such nominations. The council also is charged with protecting the rights of judges and providing for the independence of the judiciary.

According to law, all accused persons have the right to due process, legal defense, and a public trial. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. The Constitution provides that defendants are innocent until proven guilty; however, in practice, this provision was rarely observed in the courts. Defendants may question witnesses and appeal decisions.

There were no reports of political prisoners. Each September, the Government publicly pays respect to the memory of victims of the political repression from 1922 through the 1960s. Since 1991, of approximately 36,000 persons who were repressed, 28,606 have been absolved of accusations leveled against them. The Government has provided approximately 550 apartments and "gers" (a traditional nomadic dwelling) to surviving victims or the victims' spouses. In addition, the State Rehabilitation Commission has provided compensation to other family members of victims in the form of cash grants of \$500 and \$1,000 (500,000 and 1 million tugrik). Since 1991, 16,077 persons have received more than \$14.6 million (14.8 billion tugrik) in compensation. The program, originally scheduled to end in 2000, was extended to February 2006.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The head of the GIA, with the knowledge and consent of the Prime Minister, may direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the Prosecutor's Office and are authorized for 2 weeks at a time.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not respect academic freedom.

A variety of newspapers and other publications represented major political party viewpoints as well as independent views. The media law bans censorship of public information and future legislation that would limit the freedom to publish and broadcast. This law also bars state ownership or financing of the media or media organizations. Nonetheless, the state continued to own the vast majority of radio and television stations and frequency licenses. The law took effect without agreement on regulations and procedures for the privatization of assets, and its implementation has been difficult and controversial. Lack of transparency and of a truly independent licensing authority has inhibited the ability of domestic and foreign

broadcast companies to compete fairly with politically connected business interests and senior party officials for broadcast frequencies.

The Government monitored all media for compliance with antiviolence, antipornography, antialcohol, and tax laws. In April, a journalist was ordered to be detained for 3 months in solitary confinement after being charged with libeling a Member of Parliament. A court ordered her release after 23 days in detention. Credible reports indicated that police briefly detained 30 journalists for questioning following a political commentator's dissemination of a column critical of the Minister of Justice. While there was no direct government censorship, the press alleged indirect censorship in the form of government harassment such as frequent libel lawsuits and tax audits. The law places the burden of proof on the defendant in libel and slander cases. As a result, some media practiced self-censorship. Nonetheless, independent media outlets at times were strongly critical of the Government. The Minister of Justice and other officials used criminal libel suits to harass political opponents and journalists who expressed or published views critical of the Government. Due to transportation difficulties, uneven postal service, and fluctuations in the amount of newsprint available, access to a full range of publications was restricted in outlying regions.

While the print media was relatively open and free, the electronic media—television and radio—continued to be monopolized by government and business entities or individuals associated with the former MPRP government. Despite the law prohibiting the Government from owning mass media, the MPRP while in government continued to monopolize Mongol TV and Radio, the only stations capable of broadcasting nationwide. In October, the new “Consensus Government” stated that it would convert Mongol TV and Radio into a public broadcasting entity.

An estimated 70 percent of households had television sets, and there were seven television stations, including a local station controlled by the Ulaanbaatar mayor's office. During the year, two of the private television stations and the station controlled by the Ulaanbaatar mayor's office were granted licenses to broadcast nationwide. Ulaanbaatar residents received broadcasts from other countries in Asia, Europe, and North America by commercial satellite and cable television systems.

State-owned radio was the major source of news in the countryside. Local entities reported difficulties in acquiring licenses for local radio stations. For example, the MPRP-appointed governor of Gobi-Altai Province refused to approve applications for radio licenses from local entities associated with opposition political parties. The MPRP-appointed governor of Dornod Province refused to issue a broadcast license to the Democratic Party. However, one independent radio station broadcast widely, and there were an increasing number of small local FM stations. The Voice of America and the British Broadcasting Company broadcast in English only, over FM radio frequencies leased from private media interests. The media presented both opposition and government views.

Access to the Internet was available, and the Government did not interfere with its use.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the law limits proselytizing, and some groups that sought to register faced bureaucratic harassment.

The Constitution explicitly recognizes the separation of church and state. However, although there is no official state religion, traditionalists believe that Buddhism is the “natural religion” of the country. The Government contributed to the restoration of several Buddhist sites that are important religious, historical, and cultural centers; it did not otherwise subsidize Buddhism.

Religious groups are required to register with the MOJHA. However, the registration process was decentralized with several layers of bureaucracy, and officials sometimes demanded bribes in exchange for authorization. Local assemblies have the authority to approve applications at the local level. In general, it appeared that difficulties in registering primarily were the consequence of actions by local officials and attempts to extort financial assistance for projects not publicly funded. During the year, 10 new Christian churches registered in Ulaanbaatar. Some of these churches had been active and seeking registration since 1994.

Under the law, the Government may supervise and limit the number of places of worship and clergy for organized religions; however, there were no reports that the Government did so during the year.

The law does not prohibit proselytizing, but it forbids the use of incentives, pressure, or “deceptive methods” to introduce religion. In addition, a Ministry of Edu-

cation directive bans mixing foreign language or other training with religious instruction. The edict was enforced, particularly in the capital area.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. However, due to continued harsh winter weather and drought conditions, an increased number of persons sought shelter in the capital, and the authorities continued to use bureaucratic obstacles, such as increasing fees for residency applications, to prevent new arrivals from qualifying for residency and social benefits in the capital.

The Constitution prohibits forced exile, and the Government did not use it.

The country is not a party to the 1951 U.N. Convention Regarding the Status of Refugees or its 1967 Protocol, and it has no laws for granting refugee status. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but it did not routinely grant refugee or asylum status. The Government continued talks with U.N. High Commissioner for Refugees (UNHCR) representatives on refugee and asylum issues.

Small groups of North Koreans continued to enter the country from China. The Government's concerns about potentially growing numbers of North Korean migrants increased opposition to accession to the 1951 Convention.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. However, in recent years, authorities have denied entry to some persons claiming refugee status, having determined that these persons were "economic immigrants" and not refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, the campaign and balloting process in the June national election were widely considered marred by violations and irregularities. The Constitution limits the President to two 4-year terms. Presidential, parliamentary, and local elections are held separately, also for 4-year terms.

On June 27, in a national election widely regarded as flawed, 76 percent of the eligible voters cast votes for the 76-seat national Parliament. Nine parties (three in coalition) contested the election. The results split 72 seats evenly between the former ruling MPRP and the MDC, a coalition composed of the Democratic Party, Mongolian Democratic New Socialist Party, and the Civic Will Party. Three independents and a Republican Party candidate also were elected.

The campaign and balloting processes were marred by violations and inconsistencies. President Bagabandi, the major political forces, and domestic as well as foreign observers complained of numerous irregularities and violations committed by political parties, individual candidates, and members of the appointed district election committees. Domestic NGOs and observers documented widespread illegal use of state property and civil service workers, primarily by the MPRP, for campaign activities. Approximately 10 percent of the population moved from one district or precinct to another during the final 2 weeks of the campaign to exploit so-called "transfer voter" provisions in the law. These provisions resulted in many disputes and, in at least one precinct, had the effect of disenfranchising resident voters. Observers also reported abuses related to control of mobile ballot boxes, police intimidation, fraudulent ballots, multiple voting, ejection of political party and foreign observers from polling stations, and ballot-box stuffing. Both the MPRP and the MDC called for re counts in many districts. The MPRP formally challenged and requested re-votes in two districts. The MDC took the cases to the new administrative court, which stayed the re-vote in one district and ruled invalid the re-vote in another district. At year's end, candidates continued to pursue their challenges through appeals in the courts.

Protracted inter- and intra-party negotiations produced a "Grand Coalition" or "Consensus" Government, in which the MPRP and MDC divided parliamentary standing committee and cabinet positions. The Speaker of the Parliament (and second in the chain of command after the President) and the Prime Minister (third in the chain of command) were from different parties, as were the ministers and vice ministers of the 13 ministries. Several new parliamentary standing committees and ministries, as well as a new deputy prime minister position, were created to accommodate the need for balance between the political forces. In addition, the parties agreed to exchange the positions of Speaker and Prime Minister after 2 years, when

the MDC would nominate the Speaker and the MPRP would nominate the Prime Minister.

The Constitution provides that the Prime Minister, in consultation with the President, shall submit executive branch proposals to Parliament. Members of Parliament may serve as cabinet ministers.

There were 18 registered political parties; 5 were represented in Parliament.

Corruption was perceived to be a growing problem. Government and parliamentary decisionmaking was not sufficiently transparent, and open public legislative hearings were rare. The State Secrets Law inhibits freedom of information and government transparency and accountability. There were public calls not only to amend the law but also to implement the equivalent of a "freedom of information act."

There were no legal impediments to the participation of women or minorities in government and politics. There were 5 female members in the 76-member Parliament, including a vice speaker. There was one female minister and one female vice-minister. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policy-making.

There were three members of the ethnic Kazakh minority group serving in Parliament.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

With UNDP assistance, a local representative in each provincial assembly monitored human rights conditions, among other duties.

The National Commission on Human Rights (NCHR) consists of three senior civil servants nominated by the President, the Supreme Court, and the Parliament for terms of 6 years. The NCHR was responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The NCHR reported directly to Parliament. In its 2003 report, as in its 2001 and 2002 reports, the NCHR criticized the Government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws. The reports also faulted Parliament and the courts for failure to protect human rights fully.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status," and that "men and women shall be equal in political, economic, social, cultural fields, and family." The Government generally enforced these provisions in practice. There was no official discrimination against those with HIV/AIDS; however, some social discrimination existed.

*Women.*—Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. There is no law specifically prohibiting spousal rape. Rape, including spousal rape, also was a problem. During the year, the number of reported cases increased nearly 5 percent.

In May, Parliament passed a law against domestic violence to become effective January 1, 2005. The law states that "Domestic violence shall mean any intentional act or failure to act by a person with respect to another person that infringes upon the latter's human rights, freedom, or any act that causes threat or contains a threat to cause harm." The law covers family members and also cohabitants not registered as married in the state registry, as well as persons who are in the custody of a family due to adoption, being nursed, or over whom a family member has guardian status. The law empowers central and local authorities to implement national policy to combat and prevent domestic violence, fund such activities from the national budget, and enlist the support and cooperation of NGOs in their efforts. The law requires police to accept and file complaints, visit the site of incidents, interrogate the offender and witnesses, explain the law, impose administrative criminal penalties, bring victims to refuge, and transfer custody of relatives if necessary. Police may also detain an offender temporarily, send drunken offenders to "sobering houses," and inform social workers and advise relevant authorities on restrictions to place on an offender. The law outlines the role of social welfare organizations and NGOs and confidentiality provisions for victims. The law provides for the following sanctions on offenders: expulsion from home or separate accommodations, prohibi-

tions on the use of jointly owned property, prohibitions on meeting victims, prohibitions on access to minors, compulsory training aimed at behavior modification, and compulsory treatment for alcoholism.

There were no reliable statistics regarding the extent of domestic abuse, but qualified observers believed that it affected as much as one-third of the female population. Approximately 98.5 percent of those who committed violent crimes in the home were men, and women typically were the victims. In recent years, domestic abuse appeared to become more violent; different statistical sources stated that between 10 and 24 percent of murders occurred in the home. During the year, murders of women were 18 percent of all murder cases. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, the perception remained that domestic abuse was either a family issue or not a problem. In recent years, economic and societal changes have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of family abuse cases were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Women were hesitant to prosecute cases of domestic abuse because of likely long-term detention of spouses and the resulting loss of household income.

Prostitution is illegal. The national police documented 148 cases of underage prostitution in 2003.

There were reports that some female and teenage citizens worked in the sex trade in Asia and Eastern Europe; an unknown number of them may have been trafficked (see Section 5, Trafficking).

There are no laws against sexual harassment.

The Family Law details rights and responsibilities regarding alimony and parents' rights, and it is intended to bring about timely dispute settlement and ameliorate the causes of some domestic violence. The National Center Against Violence operated branches in two districts of Ulaanbataar and eight provinces. One shelter for victims of domestic abuse existed in the country, largely funded by foreign charitable organizations.

The law stipulates the obligations regarding divorce, custody, and alimony for the parent caring for children. It provides for more speedy resolution of divorce cases when the relevant agencies have determined that domestic violence is involved.

The Constitution provides men and women with equal rights in all areas. By law, women are to receive equal pay for equal work and have equal access to education. Women represented approximately half of the work force, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the Government effectively enforced these provisions. Many women occupied midlevel positions in government and the professions, and many were involved in the creation and management of new trading and manufacturing businesses.

There was no separate government agency to oversee women's rights; however, there was a national council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor had a Division for Women and Youth Issues. There were approximately 40 women's rights groups that concerned themselves with issues such as maternal and child health, domestic violence, and equal opportunity.

*Children.*—Increased stress on the family structure and throughout society has had adverse effects on many children, and the Government has been unable to keep pace with the educational, health, and social needs of this most rapidly growing segment of its population, although it is committed to children's rights and welfare in principle. The Government provided children with free and, by law, compulsory public education through the age of 16; however, family economic needs and state budgetary difficulties made it difficult for some children to attend school. In practice, female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home, and schools generally were located far from homes (see Section 6.d.). In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

Although the society has a long tradition of communal raising of children, societal and familial changes have orphaned many children. The Government was more willing than in the past to admit the extent of the problem, but it lacked the resources to improve the welfare of children who have become victims. NGOs continued to as-

sist orphaned and abandoned children. The Government did not publish statistics on street children; however, the 2002 census identified approximately 1,300 homeless youths between 7 and 18 years of age. Of those, 840 lived in shelters provided by 21 children's centers sponsored by international NGOs. Groups working in the field disagreed on the number of street children, but they estimated that there were as many as 3,000. Female street children, who accounted for one third of all street children, sometimes faced sexual abuse. The Government established the National Committee for Children to address this and other child welfare problems. The Government supported two government-funded but privately owned and administered shelters, one for children from birth to age 3 and the other for children from 3 to 16 years of age. While these facilities received some government funding, it was inadequate, and foreign aid helped sustain the orphanages.

There was growing awareness that child abuse, often associated with parental alcoholism, was a problem. In conjunction with efforts to counter violence against women, NGOs have begun to address the problem.

*Trafficking in Persons.*—The law specifically prohibits trafficking in women and children; however, there was evidence that female and teenage citizens working in the sex trade in Asia and Eastern Europe may have been the victims of trafficking rings. The country was both a source and transit point for trafficking.

In 2003, the national police documented 148 cases of underage prostitution. Also in 2003, police investigated 7 cases involving 19 suspects accused of trafficking 60 women to Hong Kong, Macau, and South Korea. During the year, NGOs reported that seven women were trafficked to Poland from the country. Authorities detained and subsequently denied entry to two foreign nationals (one British and one South Korean) for alleged trafficking of women.

Although most officials and NGOs found it difficult to estimate the extent of the trafficking, increasing attention was focused on the problem. In May, the former Ministry of Infrastructure, which had oversight responsibility for the tourist industry, worked with UNICEF and tourist companies to develop a voluntary code of conduct to protect minors from sexual exploitation in the travel and tourist industry.

The primary targets of trafficking schemes were middle-class girls and young women, ranging in age from 14 to approximately 28, who were lured abroad by offers to study or work. It was not difficult to traffic persons across the country's borders. Some NGO experts believed that members of the police sometimes were involved in trafficking young women and helping facilitate their movement across borders.

*Persons With Disabilities.*—The labor law prohibits discrimination in employment and education against persons with disabilities, and it requires the Government to provide benefits according to the nature and severity of the disability, which the Government did. The Law on Social Protection of the Disabled charges provincial governors and the Ulaanbaatar governor with the responsibility to work with provincial councils and the Ulaanbaatar city council to develop and implement measures to protect persons with disabilities. However, NGOs claimed that the Government did little to implement such measures, and in practice, most persons with disabilities could not find jobs. The law requires companies employing more than 50 persons to hire at least 3 persons with disabilities, and the Government provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. Persons injured in industrial accidents have the right to reemployment when ready to resume work, and the Government offered free retraining at a central technical school. There were several specialized schools for youths with disabilities, but these students also were free to attend regular schools. There is no law mandating access to buildings for persons with disabilities, which made it difficult for these persons to participate fully in public life. Persons with disabilities have demonstrated for higher government subsidies. Government pensions for persons with disabilities were approximately \$40 (40,000 tugrik) per month. Approximately 30 NGOs participated in activities assisting the approximately 40,000 persons with disabilities in the country.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution entitles all workers to form or join unions and professional organizations of their choosing, and the Government respected this right in practice. Union officials estimated that union membership remained constant at approximately 400,000, which represented less than half of the workforce. Workers who were self-employed or worked at small firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

In 2003, the leadership of the Association of Free Trades Unions merged with the Mongolian Trade Unions Confederation, in effect leaving only one trade union confederation in the country.

*b. The Right to Organize and Bargain Collectively.*—The law regulates relations between employers, employees, trade unions, and the Government. The Government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation. The law provides for the right to strike, and workers exercised this right in practice. If an employer fails to comply with a recommendation, employees may exercise their right to strike. The law protects workers' right to participate in trade union activities without discrimination.

Persons employed in essential services, which the Government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law specifically prohibits forced or compulsory labor, including by children; however, enforcement was irregular.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law in general prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, was the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, scavenging coal from abandoned mines, and herding animals. Increasing alcoholism and parental abandonment made it necessary for many children to have an income to support themselves, their siblings, and sometimes their parents. Estimates placed the number of children in the labor force as high as 58,000.

In addition, due to economic pressures, fewer children, especially teenage boys in the countryside, stayed in school until age 18 (*see* Section 5). Children most often herded family livestock, but reports of children working in factories or coalmines continued.

The Government prohibits forced and compulsory labor by children and generally attempted to enforce this prohibition. However, forced labor by children occurred.

*e. Acceptable Conditions of Work.*—The legal minimum wage established for the year was under \$30 (30,000 tugrik) per month. This minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Social Welfare and Labor, was insufficient to provide a decent standard of living for a worker and family. Virtually all civil servants earned more than this amount, and many in private businesses earned considerably more. Some employees received housing benefits.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. By law, overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime. For those 16 and 17 years of age, the workweek is 36 hours, and overtime work is not allowed. These laws generally were enforced in practice.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. Enforcement of occupational health and safety standards was inadequate. The labor monitoring unit employed only 73 inspectors to inspect a growing number of enterprises throughout the country. According to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs. There were a small number of foreign workers in the country who generally enjoyed the same protections as citizens.

## NAURU

The Republic of Nauru adopted a unicameral form of parliamentary democracy upon gaining independence in 1968. The Parliament, elected at least triennially, consists of 18 members from 14 constituencies. The Parliament elects the President, who is both chief of state and head of government, from among its members. The most recent parliamentary elections, held in November, were free and fair. The presidency has changed 14 times in the past 3 years; in June, Parliament reelected Ludwig Scotty with a clear majority. The judiciary is independent.

The country has no armed forces, although it has a small police force, with fewer than 100 members. The civilian authorities maintained effective control of the police force. There were no reports that security forces committed human rights abuses.

The country's population was approximately 12,000. The economy previously was based almost entirely on the mining of dwindling phosphate deposits. The government-owned Nauru Phosphate Corporation (NPC) controlled the mining industry and placed a large percentage of its earnings in long-term investments meant to provide national revenue after the phosphate reserves are exhausted. However, financial mismanagement and corruption led to severe and chronic shortages of basic goods and utilities as well as some domestic unrest. The closure of most mining operations in recent years has left the country dependent upon foreign aid and receipts from hosting asylum-seeker detention centers funded and managed by the Government of Australia. In February, in response to international money laundering concerns, the Government closed its offshore banking operations, suspended its investor passport program, and updated its banking laws and financial sector legislation.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Human rights advocates continued to express concerns about poor living conditions and alleged arbitrary detention of asylum seekers held in the country, under an agreement with the Government of Australia, since 2001. In September, Australia closed one of the two asylum seeker centers in Nauru.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

The Government attempted to meet international prison standards within its limited financial means and in accordance with local living standards; however, prison conditions were basic, and food and sanitation were limited. There were separate accommodations for pretrial detainees and convicted prisoners, for men and women, and for adults and juveniles.

The country hosted a refugee processing and detention center, funded by the Government of Australia, that held 58 asylum seekers at year's end (*see* Sec. 1.d. and 2.d.). Most of the detainees were citizens of Afghanistan and Pakistan, with a small number from other South Asian countries, intercepted at sea en route to Australia in 2001, and who sought resettlement in Australia or other developed countries. Australian human rights organizations expressed concern about conditions at the detention center, including problems with the water quality and power supply. Water quality and power supply problems were common in the country as a whole. Since 2001, Amnesty International and other Australia-based human rights groups have protested that journalists, human rights activists, doctors, lawyers, and clergy members have been denied visas to visit asylum seekers held in the detention centers. A series of hunger strikes by detainees appear to have been resolved through negotiation and agreements by Australian authorities to review detainees' records and claims.

There were no local human rights groups, and the question of visits to local prisons by human rights observers was not raised. Prison visits by church groups and family members were permitted.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police may hold a person for no more than 24 hours without a hearing before a magistrate.

There were no reported cases of corruption in the police force.

Since 2002, the Australia-based Catholic Commission for Justice, Development, and Peace has asserted that the detention of asylum seekers in the country was not being handled in accordance with the country's Constitution, since these individuals had been detained by Australia without first being brought before a recognized court for a hearing. In August, the Australian court ruled that the detention of the asylum seekers was legal.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The Supreme Court is the highest court addressing constitutional issues; it is presided over by the Chief Justice. The Appellate Court, composed of two judges, hears appeals of Supreme Court decisions on other matters. Parliament cannot overturn court decisions. Under the Appeals Act, cases may be reviewed by the High Court of Australia on Criminal and Civil Actions, but this rarely was done. A Resident Magistrate, who is also the Registrar of the Supreme Court, presides over the District Court and the Family Court as Chairman of a three-member panel. The Constitution further provides for two quasi-courts, the Public Service Appeal Board and the Police Appeal Board. The Chief Justice presides over both as chairman, with two members for each board.

Defendants may have legal counsel, and a representative for the defense is appointed, when required, "in the interest of justice." Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases—usually by choice, but sometimes under communal pressure. Contract workers from Kiribati and Tuvalu working in the mining sector did not have recourse to effective communal assistance and were disadvantaged in complaints against citizens. There were only three trained lawyers in the country, and many persons were represented in court by "pleaders," trained paralegals certified by the Government.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

The country had no regular print media. Occasional publications included the Government Bulletin. In addition, The Visionary, a newsletter published sporadically by the opposition party Naoero Amo, provided an independent and critical view of the Government. The Visionary was particularly vocal regarding the country's economic crises during the year. The country's sole radio station was owned and operated by the Government; it broadcast Radio Australia and British Broadcasting Corporation news reports. Local television included government-owned Nauru TV, as well as a privately owned sports network.

The Government was the sole Internet service provider in the country, but it did not monitor or censor content.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government restricted this right in some cases. In recent years, the Government has prevented Mormons and members of Jehovah's Witnesses from practicing their religion freely on some occasions, and members of these religions were subjected to arbitrary licensing and immigration requirements.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

By regulation, foreign workers were required to apply to their employers for permission to leave the country during the period of their contracts; however, the scaling down of most mining operations in the early part of the year mooted the regulation. A few hundred expatriate workers left the country during the year, but ap-

proximately 6,000 have elected to remain, many of whom continued to work, hoping to collect months of back pay owed them.

Neither the Constitution nor law prohibits forced exile; however, the Government did not use it.

The Government has not formulated a formal policy regarding refugees, asylees, or temporary protection. However, the Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. The country has accommodated asylum seekers as a processing center for Australia and other countries. These asylum seekers were held in facilities funded by the Government of Australia, with day-to-day supervision provided by officials of the International Office on Migration and local authorities. Most of the asylum seekers were from South Asia and claimed to be fleeing political persecution. Throughout the year, some asylum seekers were resettled, primarily in Australia and New Zealand. At year's end, 58 asylum seekers remained in detention in the country (*see* Sections 1.c. and 1.d.).

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Government also can be changed by a petition from the Members of Parliament. Although the country's politics are based more on clan than party membership, persons with diverse points of view have been elected to Parliament.

Parliament elects the President. There have been six changes in government since January 2003. Following general elections in November, Ludwig Scotty was re-elected President by Parliament, after a dissolution and new election gave his reform supporters a clear majority.

In parliamentary elections, voting by secret ballot is compulsory for all citizens over the age of 20. Multiple candidates stood for all parliamentary seats in each election.

Once one of the richest countries in the world when measured on a per capita basis, the country has been reduced to defaulting on obligations because of government mismanagement and corruption by former officials and hired administrators at all levels. The country does not have legislation regulating the conduct of senior officials; therefore, corruption cannot be investigated without specific parliamentary actions, which has not been yet undertaken.

There are no legal impediments to participation in politics by women. However, the dominance of traditional clans in national politics limited participation by women, and there were no women in the 18-seat Parliament or in the Cabinet. During the year, participation by women in party-based politics increased, and women held many senior civil service positions, including Permanent Secretary and Cabinet Secretary-level jobs.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no restrictions on establishing local groups that concern themselves specifically with human rights, but no groups have been formed. The Australia-based Catholic Commission for Justice, Development, and Peace repeated concerns about alleged arbitrary detention of asylum seekers, asserting that detainees were not being held in accordance with the country's Constitution (*see* Section 1.d.).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, sex, disability, language, or social status, and the Government observed these provisions.

*Women.*—The Government did not track incidents of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse, often aggravated by alcohol use, occurred. Families normally sought to reconcile such problems informally, and, if necessary, communally. The judiciary and the Government treated major incidents and unresolved family disputes seriously.

Spousal rape is not a crime, but police investigate and file charges if allegations of rape are made against a spouse. Prostitution is illegal and was not widespread. Sexual harassment is a crime and was not a serious problem.

The law grants women the same freedoms and protections as men. The Government officially provides equal opportunities in education and employment, and women are free to own property and pursue private interests. However, in practice, societal pressures limited opportunities for women to exercise these rights fully.

There was a Women's Affairs Office to promote professional opportunities for women.

*Children.*—The Government devoted adequate resources for education and health care for children. Education is compulsory until age 16. Child abuse statistics were not compiled, but alcohol abuse sometimes led to child neglect or abuse. There were no reported cases of child abuse or child prostitution during the year.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking; however, there were no reports of persons trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no reported discrimination in employment, education, access to health care, or in the provision of state services to persons with disabilities. However, no legislation mandates services for persons with disabilities or access to public buildings. Persons who applied to the Health Department could obtain government assistance in building access ramps to homes and workplaces.

There are no formal mechanisms to protect persons with mental disabilities; however, the Government at times provided essential services to families of such persons.

*National/Racial/Ethnic Minorities.*—Workers from other Pacific Islands experienced some discrimination. Foreign workers were provided free housing; however, the shelters were often poorly maintained and overcrowded. In the past, some foreign workers alleged that the police rarely acted on their complaints against citizens.

#### *Section 6. Worker Rights*

*a. Right of Association.*—The Constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, nor does it have any formal trade unions. Past efforts to form unions were discouraged officially. The transient nature of the mostly foreign work force also hampered efforts to organize the labor force.

*b. Right to Organize and Bargain Collectively.*—Although there were no legal impediments, collective bargaining did not take place. The private sector employed only approximately 1 percent of salaried workers. For government workers, public service regulations determine salaries, working hours, vacation periods, and other employment matters.

The right to strike is not protected, prohibited, or limited by law.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids forced or compulsory labor, including by children, and the Government effectively enforced these prohibitions.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets age 17 as the minimum age of employment. The only two large employers, the Government and the NPC, honored this rule. Some children under the age of 17 worked in small, family-owned businesses.

*e. Acceptable Conditions of Work.*—Minimum wage rates for office workers and manual laborers provided an adequate, if modest, standard of living for a worker and family. However, due to the Government's near-permanent lack of funds during the year, public service salaries often went unpaid, frequently for months at a time. Most families lived in simple but adequate housing, and almost every family owned some sort of motor vehicle. The Government set the minimum yearly wage administratively for the public sector. Since 1992, that rate has been \$6,562 (\$A9,056) for those 21 years of age or older. The rate is progressively lower for those under 21 years of age. Employers determined wages for foreign contract workers based on market conditions and the consumer price index. Usually foreign workers and their families received free housing, utilities, medical treatment, and often a food allowance. Some noncitizen contract workers complained about conditions in company living compounds.

By regulation, the workweek in both the public and private sectors was 36 hours for office workers and 40 hours for manual laborers. Neither law nor regulations stipulate a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The Government sets health and safety standards. The NPC had an active safety program that included an emphasis on worker education and the use of safety equipment such as helmets, safety shoes, and dust respirators. The NPC had a safety officer specifically responsible for improving safety standards and compliance throughout the company.

## NEW ZEALAND

New Zealand is a parliamentary democracy, with executive authority vested in a 20-member Cabinet led by the Prime Minister. Queen Elizabeth II is Chief of State and is represented by the Governor General. The 120-member Parliament is elected in a mixed-member, proportional representation system, with 7 seats reserved for members of the native Maori population. Citizens periodically choose their representatives in free and fair multiparty elections. The most recent elections were held in 2002. The Labor Party won 52 parliamentary seats and formed a minority coalition government with the Progressive Coalition Party and support from the centrist United Future Party. A parliamentary election was scheduled for 2005. The judiciary is independent.

The Minister of Police oversees the national police. The civilian authorities maintained effective control of the security forces. A few members of the police committed isolated human rights abuses.

The country has a market-based, mixed economy. As of June, the population was approximately 4.1 million. Gross domestic product grew 4.4 percent during the fiscal year that ended June 30. Wages grew at 2.3 percent over the fiscal year and inflation at 2.4 percent. An appreciating exchange rate hurt the trade sector; however, rising world commodity prices contributed to strong growth in export volumes. Government social programs offered substantial benefits to disadvantaged persons.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The Government generally respected the human rights of citizens living in its territories of Tokelau, Niue, and the Cook Islands.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In August, police shot and killed a man who had attacked his wife and police officers with a knife. This was the first fatal killing of a suspect in more than 4 years. In December, a homicide investigation found that the shooting was justified and reasonable. A Police Complaints Authority investigation was ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

During the year, there were some complaints that individual members of the police committed abuses. The Independent Police Complaints Authority handled complaints of police abuse, ranging from use of abusive language to allegations of complicity in deaths.

In June, Parliament passed a new Corrections Act, whose provisions were scheduled to come into force in mid-2005. The objectives of the act were to eliminate private management of prisons, establish individual management plans for prisoners, and make prisoners' minimum entitlements more consistent with U.N. standards.

Prison conditions generally met international standards, and the Government permitted visits by human rights observers. Prison overcrowding was a problem during the year. In response, the Government used double bunking at prisons, reopened a previously closed unit at Tongariro Prison, converted male units for use by female inmates, and used police and court cells. In November, the Government approved funding for additional construction on existing prison sites that would add 213 beds to the country's prison capacity over the next 2 years. As of June 30, the male inmate population was 6,177, and total prison bed capacity was 6,173; the female inmate population was 378, and the total bed capacity was 380.

Maori made up 15 percent of the general population but were 49.5 percent of the prison population as of November. The Government sought to reduce Maori recidivism through special programs to integrate Maori cultural values into the rehabilitation program (see Section 5).

In the 12-month period ending June 30, there were 3 serious assaults on staff by inmates and 30 assaults of inmates on other inmates. During the same period, there were 15 recorded deaths in custody, including 8 assumed suicides and 1 assumed homicide.

In December, the Government released the result of an investigation begun in 2003 by the State Services Commission into the use of excessive force by the Canterbury Prison Emergency Response Unit, also known as the "goon squad." The report

found that failings of management in the Corrections Department allowed the unit to develop an inappropriate militaristic culture. The Corrections Department disciplined most individuals involved with the unit, and the Government declared that it would review institutional changes to avoid similar incidents. The Government has appealed civil suits brought by affected prisoners that awarded compensatory damages. The appeals were ongoing at year's end.

In October 2003, nine inmates of Auckland's Paremoremo Prison Behavioral Management Regime (BMR) brought a case against the Department of Corrections, alleging that the practices employed by the BMR, a special unit that isolates prisoners who pose a risk to staff or other inmates, constituted torture. In September, the Wellington High Court awarded compensation of \$91,000 (\$NZ130,000) to five of the claimants. The case was being appealed at year's end.

Male and female inmates normally were housed separately. Pretrial detainees were housed separately from convicted prisoners to the extent possible.

Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. CYFS operated 90 beds for juveniles serving residential orders and detainees; an additional 6 CYF beds were available for juveniles sentenced to imprisonment for indictable offenses by an adult court.

In June, a provision expired that had allowed juveniles age 15 or older accused of serious offenses to be remanded into an adult penal institution. In the 15-month period over which the provision was in effect, young persons spent 1,014 nights in police cells rather than in youth justice residences.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The chief executive of the Department of Corrections may order a 14-day extension to detention in a police jail; further extensions must be authorized by a Visiting Justice.

The Police Commissioner, appointed by the Governor General, is the chief executive of the police force and reports to the Minister of Police. A Board of Commissioners, consisting of the Commissioner and two Deputy Commissioners, is responsible for high-level leadership and makes decisions on police strategy, governance, and performance management. The police are organized into 12 districts. There are three operational branches: General Duties, Criminal Investigation, and Traffic Safety. Allegations of corruption or impunity are referred to the Independent Police Complaints Authority, which can refer cases directly to Parliament. The police generally did not have problems with corruption and impunity.

Police may arrest a suspect without a warrant if they have reasonable cause. Police also may request a warrant from a District Court judge. Police may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises, or if they have found the person committing an offense and are in pursuit. Police must inform arrested persons immediately of their legal rights and the grounds of their arrest.

After a suspect has been arrested and charged, police have the power to release the person on bail until the first court appearance. That bail comes to an end at the first court appearance and is distinct from court bail. Court bail is granted unless there is good reason to believe that the suspect will flee or is likely to be a danger to the community. Police bail is not normally granted for more serious offences such as serious assault or burglary. Attorneys and families were granted prompt access to detainees.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice. On July 1, the Supreme Court replaced the Privy Council in London as the country's highest court of appeal. The Supreme Court is composed of the Chief Justice and four other judges appointed by the Governor General. Below the new Supreme Court is the Court of Appeal; it hears appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The High Court also hears appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with the 66 district courts. Special courts include the Employment Court, family courts, youth courts, the Maori Land Court, the Maori Appellate Court, and the Environment Court. The country's military forces have their own court system, with a Courts Martial and a Courts Martial Appeals Court. The law provides for the right to a fair trial and affords defendants the rights found in other common-law jurisdictions. An independent judiciary generally enforced these rights.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

In August and September, headstones of Jewish graves were destroyed or desecrated in and around Wellington and Wanganui. In one of the incidents in the Wellington area, a Jewish prayer house was burned down. The Government condemned these actions, and an investigation was ongoing at year's end. In late September, racist letters, some containing pork, were mailed to members of Wellington's Somali community and other Muslims. The heads of the city's Muslim and Jewish communities were quick to proclaim their belief that both the anti-Semitic and anti-Muslim attacks were the work of someone outside their communities who wished to incite racial tension between the two groups. In October, a person was charged with sending the letters. The government-funded Human Rights Commission actively promoted tolerance and antibias on the issue.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

There is no statutory authority for imposing a sentence of exile, and the Government did not practice forced exile. The Bill of Rights provides every citizen the right to enter the country.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provided protection to certain individuals who fall outside of the definition of the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. Under its refugee quota, the Government resettles up to 750 UNHCR-approved refugees per year. In the 12-month period that ended July 30, the Government approved 247 persons.

During the year, Amnesty International and other human rights groups expressed concern about the continued detention of Ahmed Zaoui, a former member of the Algerian Parliament who traveled to the country from Malaysia in 2002 on a false passport and requested asylum. In August 2003, the Refugee Status Appeals Authority (RSAA) concluded that Zaoui met the definition of a refugee. However, the Security Intelligence Service had issued a Security Risk Certificate in March 2003 declaring that Zaoui was a threat to national security, a claim the RSAA disputed. Following 10 months in solitary confinement, Zaoui was transferred to Auckland Central Remand Prison, where he remained in detention until November, when the Supreme Court judged that he was eligible for bail. In December, Zaoui was released on bail while the Inspector-General of Intelligence and Security evaluated Zaoui's risk status, a process that was expected to take 6 to 12 months.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentarians are elected under a mixed-member, proportional representation system. In the most recent general elections, held in 2002, the Labor Party won 52 of 120 parliamentary seats and formed a minority government with the Progressive Coalition Party (2 seats) and support from the centrist United Future Party (8 seats); Helen Clark remained Prime Minister. The Labor Party also had a cooperation agreement with the Green Party (9 seats).

Three other political parties were represented in Parliament: The National Party (27 seats), New Zealand First (13 seats), and the ACT party (8 seats). In June, Labor Member of Parliament Tariana Turia resigned, cofounded the Maori Party, and won her seat back in a July by-election.

The 1982 Official Information Act and the 1987 Local Government Official Information and Meetings Act Government provide for public access to government information, to be provided within 20 working days of a request. Information must be made available unless a good reason, such as concern for national security, exists for not doing so. The requestor must be provided with an estimate of any fees before the information is provided.

Women participated fully in political life. There were 34 women in the 120-seat Parliament. There were 6 women (including the Prime Minister) on the Executive Council, which comprises 25 ministers (19 within the Cabinet and 6 outside the Cabinet). The Cabinet included five women. The Prime Minister, the Attorney General, and the Chief Justice of the Supreme Court were women; the Governor General, who represents the Queen, also was a woman. There were 2 women in the 25-seat Parliament of the dependent territory of the Cook Islands and 2 women in the 20 seat Parliament of the dependent territory of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every 5 years, based on the number of persons of Maori ancestry who register to vote on the Maori electoral roll.

There were 20 Maori in Parliament, including the 7 reserved seats, 3 members of Pacific Island origin, and 1 member each of East and South Asian heritage. The Cabinet included at least five members with Maori ancestry.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Human Rights Commission (HRC), a U.N.-accredited national human rights institution, investigated complaints of human rights violations and unlawful discrimination and acted as a conciliator. The HRC, which presents an annual report to Parliament, is funded by the Government but acts independently.

In September, the HRC issued a comprehensive report that assessed the country's compliance with international and domestic standards in a range of areas. The report found that while human rights standards generally were high, children and young persons were most at risk for human rights abuse.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, sex, religion, disability, and national or ethnic origin, and the Government actively enforced it.

*Women.*—Violence against women affected all socioeconomic groups. According to a National Survey of Crime Victims conducted in 2001 and released in 2003, an estimated 32 percent of Maori, 17 percent of persons of European ancestry, and 12 percent of Pacific Islanders reported violent abuse by a heterosexual partner at least once in their lifetime; these figures included both men and women. One in four of the women included in the survey reported experiencing violent behavior from a partner at least once. In the year ending June 30, there were 2,228 convictions involving assault by a male on a female. Of these convictions, 52 percent involved Maori men, 30 percent men of European ancestry, and 12 percent Pacific Islanders. Although Maori women and children constituted less than 10 percent of the population, approximately half the women and children who used the National Council of Independent Women's Refuges were Maori.

The Government continued its "Te Rito" program, a national strategy to address all forms and degrees of domestic violence. The Government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

The law penalizes spousal rape. During the year, the Government prosecuted and convicted a small number of persons for spousal rape or unlawful sexual connection with a spouse. Rape crisis groups existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders.

It is illegal to perform female genital mutilation (FGM) or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to 7 years in prison. The Government funded a national FGM education program. There were no FGM cases reported during the year.

The 2003 Prostitution Reform Act legalized prostitution. The legislation sets a minimum age of 18 to work in the sex industry, gives prostitutes the same workplace protections as other industries, and provides for a licensing regime for brothels. The law also eliminates a client's defense of claiming ignorance that a sex worker was less than 18, and it extends culpability to any person who receives financial gain from an act involving an underage sex worker. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. During the year, there were no reports of abuse or of the involuntary detention of women involved in prostitution. There were reports that some foreign commercial sex workers had their passports withheld by employers until bonds were repaid (*see* Section 5, Trafficking, and Section 6.c.). The law prohibits sexual harassment. The HRC offered sexual harassment prevention training. The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a Minister of Women's Affairs in the Cabinet. While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that a gender earnings gap persisted in practice. In 2003, the Ministry of Women's Affairs undertook a pay equity project with the Department of Labor, and in April it provided recommendations to the Government. As a result, the Government began the development of audit and gender-neutral job evaluation tools, created processes for remedial settlements of pay equity claims, and set up a unit dedicated to this issue within the Department of Labor.

*Children.*—The law provides specific safeguards for children's rights and protection. The Government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. The Government provides 12 weeks of government-funded, paid parental leave to care for children born after July 2002. The office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

The law provides for compulsory, free, and universal education through age 16, and the Government effectively enforced the law. The Government provided free health care to all children under age 5. Child abuse continued to be of concern to the Government. According to a September 2003 UNICEF report, from 1994 to 1998, there were 1.2 deaths from physical abuse per 100,000 children. From July 2001 to June 2002, 6,892 children were assessed as abused or neglected. This resulted in a child abuse rate of 6.9 children for every 1,000 children under 17, a slight increase from the July 2000-June 2001 statistic of 6.7 children per 1,000. During the same period, there were approximately 2,026 reported cases of physical abuse, 1,262 cases of sexual abuse, and 2,121 cases of severe emotional abuse of children. Ten Maori children per 1,000 were reported abused or neglected, compared with 6 per 1,000 for non-Maori children. The Government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse. During the 7-month period ending June 30, there were 13,953 applications to Family Court under the Guardianship Act and 4,778 applications under the Domestic Violence Act. There were 193 convictions involving assaults on children in the year ending June 30. Commercial sexual exploitation of children remained a problem (*see* Section 5, Trafficking).

The Department of Internal Affairs' Censorship Compliance Unit actively policed Internet child sex abuse images and prosecuted offenders. The Government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to or from the country. No new cases of internationally trafficked persons have been brought to the attention of the authorities since 2001. There was no national plan or coordinated government response to deal with the problem of trafficking. The Government has signed the relevant international instruments dealing with trafficking and has adopted tough domestic legislation to criminalize trafficking with penalties of up to 20 years in prison and fines of up to \$321,337 (\$NZ 500,000). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison.

Trafficking in children to work in the sex industry was a problem. The Government worked with nongovernmental organizations (NGOs) to combat trafficking in children. The Government had a National Plan of Action against the Commercial Exploitation of Children developed in concert with NGOs. The Prostitution Reform Act made it illegal to have sex with an individual under 18 years of age. Assistance programs for victims of debt bondage were implemented through the HRC, the Mayor of Auckland, the police, the Immigration Service, and NGOs, including ECPAT NZ, the Prostitutes Collective, and the Shakti Migrant Services Trust's Women's Refuge. Other initiatives included distribution of pamphlets about the

unacceptability of commercial sexual exploitation of children and peer counseling programs.

The country's main urban areas were the primary destination for trafficked persons. The HRC worked effectively with the Government and NGOs to ensure that trafficked individuals were treated as victims rather than criminals.

Shakti Migrant Services Trust, an antitrafficking NGO, provided reports of prostitution and abuse resulting from the immigration of Indian women for arranged marriages. The Trust reported that some of these women were forced to work long hours, treated as virtual slaves, and in some cases forced into prostitution. The Government provided funding for health services for trafficked persons, for the HRC to coordinate antitrafficking activities, and for the New Zealand Prostitutes Collective to provide peer counseling and assistance to trafficked persons. The major urban areas had support networks for trafficked individuals, including mechanisms to provide safehouses and repatriation.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The Government is prohibited from discrimination on the basis of disability, mental or physical, unless such discrimination can be “demonstrably justified.” The HRC reported that during the year, it received more complaints of discrimination based on disability than for any other type of discrimination. In September, the HRC issued a report that concluded persons with disabilities were more likely to experience human rights abuses than the general population. During the year, both the HRC and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts.

*National/Racial/Ethnic Minorities.*—Pacific Islanders, who made up 6.5 percent of the population, experienced societal discrimination and accounted for approximately 10 percent of prison inmates. The Department of Corrections continued its strategy to reduce the crime rate among Pacific Islanders through the use of culturally based techniques. Asians, who made up less than 5 percent of the population, also reported discrimination.

*Indigenous People.*—Approximately 15 percent of the population claimed at least one ancestor from the country's indigenous Maori or Moriori minorities. The law prohibits discrimination against the indigenous population; however, there was a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households. In February, the Government created the position of Coordinating Minister for Race Relations. The Minister was tasked with reviewing all government policies and programs to ensure that they were directed at persons in need, without racial bias. The review was ongoing at year's end.

Maori inmates continued to constitute half the prison population. The Government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders.

Government policy recognized a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal established in 1975 continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

On November 19, legislation was enacted that regulates ownership of the foreshore (the land between high and low tide) and the seabed. The legislation was the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims. Concerns over the impact of proposed legislation on Maori customary rights resulted in the resignation of Labor M.P. Tariana Turia, who then helped to found the Maori Party (*see* Section 3).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join organizations of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. The principal labor organization was the Council of Trade Unions, a federation that included unions representing various trades and locations. Nearly all unionized workers were members of the council. A few small, independent labor unions also existed. As of March 1, unions represented approximately 22 percent of all wage earners.

Labor organization was rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19,000), most workers in the public

sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation. The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Sworn police officers (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively. Disputes that cannot be settled by negotiation between the Police Association and management are subject to compulsory, final-offer arbitration.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and contract collectively, and workers exercised this right in practice.

The Employment Relations Act (ERA) governs industrial relations and promotes collective bargaining. In 2003, the Government conducted a technical review of ERA legislation, prompted by the ratification by the Parliament of ILO Convention 98 on the right to organize and bargain collectively. In October, a revised ERA became law that included the extension of employee collective bargaining rights, an expansion of the definition of good faith, and new problem solving processes. The changes became effective December 1. There are no provisions of law allowing lesser labor protections in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. Inspection and legal penalties ensured respect for provisions against forced labor. There were no reports of the involuntary detention of women involved in prostitution; however, there were reports that some foreign commercial sex workers had their passports held by employers until bonds were repaid.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 in manufacturing, mining, and forestry. Children under the age of 16 may not work between the hours of 10 p.m. and 6 a.m. By law, children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

There were reports of children involved in the commercial sex industry (*see* Section 5).

*e. Acceptable Conditions of Work.*—A 40-hour workweek is traditional. There are legal limits regarding hours worked. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. The minimum wage was approximately \$5.46 (\$NZ8.50). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. There was a separate youth minimum wage of approximately \$4.37 (\$NZ6.80) for younger workers (ages 16 to 17). A majority of the work force earned more than the minimum wage. Extensive laws and regulations govern health and safety issues. Under these rules, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others.

Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.

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## PALAU

Palau is an independent nation in free association with the United States. The Constitution provides for executive, judicial, and legislative branches and free and fair elections. The President, the Vice President, and members of the legislature, the Olbil Era Kelulau, are elected for 4 year terms. In free and fair elections held on November 2, President Tommy E. Remengesau, Jr. was reelected, and Camsek Chin was elected Vice President. The country is organized politically into 16 states. The

Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the President on traditional laws and customs. The judiciary is independent.

The Ministry of Justice oversees the national police force. The country also has a Marine Law Enforcement Division that patrols its borders. Under the Compact of Free Association, the United States is responsible for the country's external defense. The civilian authorities maintained effective control over the security forces. There were no reports that members of the security forces committed human rights abuses.

The small, market based, mixed economy was sustained largely by transfer payments from the United States. The population was approximately 19,980 according to a 2002 estimate. The Government employed approximately 30 percent of the work force. The rate of economic growth was 2.3 percent in 2002, the latest figure available. The consumer price index rose approximately 1 percent during the year. Wages and benefits generally kept pace with inflation. Traditional subsistence agriculture and fishing diminished as persons continued to move to urban areas in search of employment. An increasing number of Chinese farmers operated vegetable farms that competed with indigenous farmers. The U.S. dollar is the national currency.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Traditional customs sustain a value system that discriminates between persons on the basis of social status and sex. Domestic violence and child neglect continued to be problems. Societal discrimination and some abuse against certain foreign workers, who accounted for nearly 28 percent of the population and 69 percent of the paid work force, also were serious problems. There were reports of persons being trafficked to the country from the People's Republic of China (PRC), the Philippines, and Taiwan.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. However, during the year, the country's sole prison continued to suffer from overcrowding resulting from increased convictions and mandatory sentences for firearms and drug related offenses. The prison had separate quarters for men, women, juveniles, and pretrial detainees.

Members of the Palau Red Cross Society, which is affiliated with the International Federation of Red Cross and Red Crescent Societies, have visited the prison. Government health and sanitation officials also inspected the prison regularly.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Bureau of Public Safety within the Ministry of Justice is the country's primary law enforcement agency, and performs both police and emergency response functions. It has a force of approximately 145 officers. Law enforcement personnel received training both locally and in other countries. The police generally were considered effective. Since 2000, the overall crime rate has fallen, and investigations, prosecutions, and convictions for drug offenses have increased. Police corruption and impunity were not major problems. An internal affairs officer within the bureau investigates reports of police misconduct. There also is a special prosecutor within the Ministry of Justice, with authority to investigate reports of misconduct by government employees.

Warrants for arrests are prepared by the Office of the Attorney General and signed by a judge. Detainees had prompt access to family members and lawyers. If a detainee could not afford a lawyer, the Public Defender or a court appointed lawyer was available. There was a functioning system of bail.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of the Supreme Court, the National Court, and the Court of Common Pleas. The President appoints judges to the Supreme Court and National Court from a list submitted by the Judicial Nominating Commission. Appointments are for life.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Government has an independent special prosecutor and an independent public defender system.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction.

The Government did not limit Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government required religious organizations to obtain charters as nonprofit organizations from the Office of the Attorney General. This process was not protracted, and the Government did not deny any groups charters during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not use it.

The law does not provide for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. The issue of cooperation with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees never has arisen.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Constitution provides for executive and legislative branches. The legislature, the Olbiil Era Kelulau, consists of 2 houses: The 9 member Senate and the 16 member House of Delegates. Legislators are elected by popular vote every 4 years. The President and Vice President also are elected every 4 years, and there is no limit on the number of their terms, except that the President may serve only two consecutive terms. Although there have been political parties in the past, there were none during the year. On November 2, President Tommy E. Remengesau, Jr. was reelected, and Camsek Chin was elected Vice President.

Government corruption was a problem, which the Government took some steps to address. The Special Prosecutor has the authority to investigate allegations of corrupt practices. In October, an employee of the Koror State Government was charged with cashing for his personal use \$30,000 in checks intended for the state government. The case was still pending at year's end. In 2003, the Special Prosecutor charged many legislators (7 senators and all 16 delegates) with misuse of government funds. The legislators agreed to pay restitution, including civil penalties. In 2003, a state governor served 6 months in jail for misuse of state funds.

In July 2003, the Chairman of the Palau State Public Land Authority, a paramount chief, was convicted of assaulting a foreign national legal advisor with a baseball bat and sentenced to 3 years' imprisonment, with 2 years suspended. The attorney had criticized the chief's conduct as Land Authority Chairman. In June, the President granted a conditional pardon to the chief that commuted the remaining prison sentence and removed the conviction from the public record, although he let stand other conditions of the original sentence, including damages awarded to the victim. The President stated that he considered the views of traditional and po-

litical leaders in deciding to grant the pardon. At year's end, the chief remained Chairman of the Land Authority.

The Constitution provides for the right of citizens to examine government documents and observe official deliberations of any government agency, and the Government generally respected this provision in practice.

There are no legal impediments to women's participation in government and politics. Women constituted 14 percent of state government legislators, down from 16 percent at the end of 2003. There were no women in the Olbil Era Kelulau, and no women served as state governors during the year. No women were elected to office in the November elections. One of the three associate justices of the Supreme Court was a woman. There were 2 members of minorities in the 16-member House of Delegates.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restraint, investigating and publishing their findings on human rights issues. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of sex, race, place of origin, language, religion or belief, social status, or clan affiliation, and the Government generally observed these provisions.

*Women.*—There were many incidents of violence against women, primarily domestic abuse. Alcohol and illegal drug abuse increasingly contributed to this problem. According to the Office of the Attorney General, the Government's Public Health Office, and women's groups, only a few such cases are reported to the authorities. Although assault is a criminal offense, women were reluctant to prosecute their spouses.

The law prohibits rape, including spousal rape, and such crimes were not common.

Prostitution is illegal; however, it was a problem. There were reports of women being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes (*see* Section 5, Trafficking). There were no prosecutions for prostitution during the year.

Sex tourism is illegal, and it was not a problem. Sexual harassment is illegal and did not appear to be a major problem.

No information was available on the disposition of two cases alleging sexual harassment that were brought in 2003.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. Women serve by presidential appointment as bureau directors for human resources and clinical services. There were no reported instances of unequal pay for equal work or sex related job discrimination.

Since 1993, local women's groups have organized an annual women's conference that focuses on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the President, Vice President, ministers, and traditional chiefs, have participated in the conference to discuss these issues. The 11th Annual Women's Conference held in April continued its focus on previously discussed issues and problems.

*Children.*—The Government provided a well funded system of public education and medical care for children. There was no difference in the treatment of girls and boys in educational opportunities, or in the availability of scholarships to attend postsecondary education abroad. Education was mandatory from ages 6 to 17; it was free and universal. Of the 94 percent of school age children who attended school, 97 percent finished elementary school, and 78 percent completed high school. Girls and boys received equal treatment in health care services.

Although there have been a few instances of child abuse, cases have been prosecuted successfully by the Office of the Attorney General. Children's rights generally were respected, although there were reports of instances of child neglect, which was a byproduct of the breakdown of the extended family. Commercial sexual exploitation of children was neither accepted within society nor practiced.

The Annual Women's Conference held in April included discussion of children's issues, such as education and the problem of drug abuse among youth (*see* Section 5, Women).

*Trafficking in Persons.*—Neither the Constitution nor the law specifically prohibits trafficking in persons; however, there are laws against slavery, fraud, and prostitution. There were reports of women and some men being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes, as domestics in private homes, and on construction sites (see Section 6.c.).

The Divisions of Immigration and Labor are involved in combating trafficking; however, the Government lacked the resources and expertise to address the problem in practice. There was no formalized assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. There were no NGOs that specifically addressed trafficking.

*Persons With Disabilities.*—The National Code includes a Disabled Persons' Anti Discrimination Act and a Programs and Services for Handicapped Children Act, and the Government enforced the provisions of these acts. There was no discrimination reported against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Most government and business buildings had such access. The public schools have established special education programs to address problems encountered by persons with disabilities.

*National/Racial/Ethnic Minorities.*—The law prohibits noncitizens from purchasing land or obtaining citizenship. The rapid increase over the past several years in foreign workers, who, according to 2002 figures, constituted nearly 28 percent of the population and 69 percent of the work force, was viewed negatively by a majority of citizens. Foreign residents were subjected to some forms of discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Foreign residents made credible complaints that crimes against noncitizens were not pursued or prosecuted by authorities with the same vigor as crimes against citizens.

Certain foreign nationals experienced generalized discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination. While precise data was lacking, there continued to be anecdotal reports of the abuse of foreign workers by employers (see Section 6.e.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

*b. The Right to Organize and Bargain Collectively.*—There is no law concerning trade union organization, including collective bargaining, although there are no legal impediments to either. Wages in the cash economy were determined by market factors.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits slavery or involuntary servitude except to punish crime. The law does not prohibit specifically forced or compulsory labor by children; however, there were no reports that such practices occurred.

Instances were reported of foreign workers, particularly domestic helpers and unskilled laborers, who were forced to accept jobs different from those for which they were recruited. The freedom of foreign workers to leave employment situations not to their liking may be hindered by verbal threats or the withholding of passports and return tickets to the country in which they were recruited.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Constitution states that the Government shall protect children from exploitation. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and other small scale family enterprises. By regulation, no foreigner under the age of 21 may be admitted into the country for employment purposes, and the Government enforced this regulation effectively.

*e. Acceptable Conditions of Work.*—The law sets the minimum wage at \$2.50 per hour. Foreign workers are not included under the minimum wage law. It generally was assumed that legislators specifically exempted foreign contract workers from

the minimum wage law to ensure a continued supply of low cost labor in industries that the legislators often control. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers for commercial firms (usually foreigners) were paid only \$1.50 to \$2.00 per hour. However, foreign workers usually were provided, in addition to their wages, basic accommodations and food at no or nominal cost. Although these wages were low, the country continued to attract large numbers of foreign workers from the Philippines and the PRC. There were more than 4,980 foreign nationals with work permits in the country; of these, 59 percent were from the Philippines, 9 percent from the PRC, and 7 percent from Southeast Asia.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The Division may inspect the conditions of the workplace and employer provided housing on the specific complaint of the employees, but actual enforcement was sporadic. Working conditions varied in practice. No law specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions.

Reports of mistreatment of foreign workers by their employers continued during the year. The foreign workers most likely to be abused were those who worked under contracts as domestic helpers, farmers, waitresses, beauticians, hostesses in karaoke bars and massage parlors, construction workers, and other semiskilled workers, the majority of whom were from the Philippines, the PRC, and Taiwan. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, substandard food and housing, and, at times, physical abuse. In a number of instances, local authorities took corrective action when alerted by social service and religious organizations to which foreign workers had turned for assistance. Nonetheless, foreign workers often were reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

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## PAPUA NEW GUINEA

Papua New Guinea has a federal parliamentary system based on universal adult suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. The most recent general elections were held in June 2002; there were localized instances of voter intimidation, violence, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the election. The judiciary is independent, but was hampered by inefficiency.

The Government has constitutional authority over the Defense Force, the Royal Papua New Guinea Constabulary, and the National Intelligence Organization. The constabulary maintains internal security, assisted from time to time by the Defense Force, including during elections. The Defense Force is responsible for external security. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Members of the constabulary committed a number of serious human rights abuses.

The economy is market based and relied heavily on agriculture and commodity exports. The population was approximately 5.5 million according to a 2001 United Nations Development Program (UNDP) estimate, and there are more than 800 distinct indigenous languages and tribes. Cyclical commodity prices, frequent changes of government complicating long-term economic planning, and lack of political will during a number of years to implement sound economic policies resulted in persistent macroeconomic stagnation. Crime, especially in urban areas, was a critical problem. Approximately 85 percent of the population resided in isolated rural villages and engaged in subsistence and smallholder agriculture. Real gross domestic product has shown negligible growth over the past 5 years. Per capita income has steadily declined in recent years and was estimated at \$740 in 2003. However, the economy improved during the year, due primarily to rising commodity prices and improved control over government spending, and wages and benefits generally kept pace with inflation. In October, a volcano erupted on Manam Island, destroying crops and causing villagers in the vicinity to flee their homes. During the year, the

country received approximately \$260 million in development assistance from Australia, its largest trade partner and aid provider.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police committed arbitrary or unlawful killings, used excessive force when arresting and interrogating suspects, and engaged in excessively punitive and violent raids. The Government on occasion investigated allegations of abuse and prosecuted those believed responsible. Prison conditions in several areas continued to be poor. Court understaffing reduced court hearings and increased pretrial detention periods. Police infringed on citizens' privacy rights. In the past, the Government limited freedom of assembly in the form of marches or demonstrations; there reportedly were no applications for permits for marches or demonstrations during the year. Extensive violence and discrimination against women were problems, and child abuse appeared to be a growing problem. Discrimination against persons with disabilities persisted, and violence among tribes in both urban and rural areas remained a serious problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The police killed several persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. There were no reported deaths in custody during the year.

All police shootings are investigated by the police department's internal affairs office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

In the past few years, due to the availability of modern weapons, there have been an increasing number of deaths resulting from violent tribal conflicts (*see* Section 5).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and other cruel or degrading treatment or punishment; however, individual members of the police frequently beat suspects during arrests, interrogations, and in pretrial detention. In March, Wewak police physically assaulted a group of village elders when the elders entered the police station to serve a court summons. In May, two police officers from Kundiawa were charged with raping a 17-year-old girl. In June, a 13-year-old rape victim from Manus Island alleged that the police officer investigating her case sexually assaulted her. In December, two police officers were charged with raping a female detainee in the Mendi station lockup in November. Although abuses such as citizens being permitted to beat suspects reportedly did not occur during the year, no action was taken against offenders from previous years.

In April, a small group of soldiers used Molotov cocktails to destroy several homes and businesses in a Port Moresby suburb in response to an ethnically charged altercation with local residents.

Prison conditions were poor. According to the Minister for Correctional Services, at year's end, there were more than 3,300 detainees, of whom approximately 90 percent were male. During most of the year, 15 of the country's 17 jails were operational. The prison system suffered from serious underfunding. During most of the year, prisons closed because of life-threatening conditions remained closed; in October, Bomana prison reopened after undergoing expansion and renovations funded by Australia. During the year, the jail in Hawi, which had closed in 2002 due to lack of funding, also reopened after renovation. Some prisons in urban areas were seriously overcrowded. In rural areas, infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (*see* Section 1.d.).

Male and female inmates were housed separately. There were no separate facilities for juvenile offenders; however, in some prisons, juveniles were provided with separate sleeping quarters. Pretrial detainees were not separated from convicted prisoners.

Prisoners were often confined in crowded conditions in police stations. Prison guards' living conditions were as poor as those of the prisoners. Prison escapes were common, even from high security installations. In November, over 30 prisoners escaped from the police lockup in Buka.

The Government permitted prison visits by human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The country has a national police force, the Royal Papua New Guinea Constabulary, headed by a commissioner who reports to the Minister for Internal Security. A new commissioner was appointed in 2002 and replaced much of the police leadership in an effort to address corruption and inefficiency; however, corruption and impunity remained problems. During the year, some police officials were suspended for involvement in corruption or other criminal activity. Police effectiveness was impeded both by a serious lack of resources and by clan rivalries; within the constabulary, clan members often attempted to thwart remedial or disciplinary actions against fellow members of their clan. In September, the Minister for Internal Security published a highly critical report on the administration and operation of the police force. Among other problems, the report cited widespread police corruption and abuses, inadequate resources, poor discipline, and lack of accountability. The report also recommended a plan of action for reforming the institution. The report's publication coincided with the launch of the Australian-sponsored Enhanced Cooperation Program, under which over 200 Australian Federal Police officers were sent to work alongside the constabulary to improve police practices.

Under the law, to make an arrest, police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, although this was rare in practice. Police, prosecutors, or citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest. During the year, there were reported instances of politicians directing or bribing police officials to arrest or intimidate individuals seen as political enemies or as possible whistle-blowers on corruption or misuse or theft of public assets.

Under the law, only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review. Access to counsel by detainees was not a problem during the year. Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for long periods of time. Pretrial detention is subject to strict judicial review through continuing pretrial consultations; however, the slow pace of police investigations and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and travel funds, delaying both the trial process and the rendering of decisions. Some detainees have been held in jail for more than 2 years because of the shortage of judges.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district courts established at the provincial level. There also are village courts headed by lay persons (generally local chiefs, known as "big-men"), who judge minor offenses under both customary and statutory law.

The legal system is based on English common law. The Constitution provides for due process, including a public trial, and the court system generally enforced these provisions. Defendants have the right to an attorney. The Public Solicitor's office provides legal counsel for those accused of "serious offenses" who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of 2 years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays both in the process of trials and in the rendering of decisions (*see* Section 1.d.). During the year, development aid was provided for some training and education of the judiciary.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such action; however, there were instances of abuse. Police raids and searches of the homes or settlements of suspected criminals or other wrongdoers often were marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. The combined circulation of the two daily English-language newspapers was less than 60,000. A weekly newspaper in Melanesian Pidgin (the national “lingua franca”) also was published. All newspapers expressed independent coverage, included a variety of editorial viewpoints, and reported on controversial issues such as alleged abuses by police, cases of alleged corruption by government officials, and political opposition views. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage. In November, immigration officials at the international airport seized the passport of an Australian journalist conducting research on police brutality and illegal logging operations and prevented her from leaving the country. The passport was returned after 2 days. Also in November, police allegedly seized the camera of a photographer for *The National* newspaper when he tried to photograph an altercation between police and a shop owner in Port Moresby.

The sole domestic television broadcaster, EMTV, was purchased by a private Fijian company in December; reception was limited to the capital and provincial centers. The two local cable companies were independent. The government-owned National Broadcasting Corporation operated two radio networks whose effectiveness was limited by inadequate funding and deteriorating equipment. Based in Port Moresby, a privately owned radio network, NAU-FM, was expanding to other areas of the country. There were a small number of local radio stations in cities other than Port Moresby.

Internet access was privately operated and becoming common in cities; the Government did not restrict it.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government often has limited this right in practice. Public demonstrations require police approval and 14 days’ notice. Police, asserting a fear of violence from unruly spectators, rarely gave approval. Police reportedly received no requests for such approval during the year.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register with the government. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Department of Education set aside 1 hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and parents chose the class their children would attend. Children whose parents did not wish them to attend the classes were excused.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The Constitution prohibits forced exile, and the Government did not use it.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted enabling legislation and has not established a system for providing protection to refugees. In practice, the Government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or 1967 Protocol.

During the year, the Government provided protection for several hundred persons who fled the Indonesian province of Papua (formerly Irian Jaya). Several hundred more lived in informal, unrecognized camps adjacent to the border with Indonesia. A reservation to the 1951 Convention regarding the issuance of travel documents restricted the travel of some persons from the Indonesian province of Papua living in a refugee camp in the western part of the country. However, during the year, approximately 120 persons from Indonesian Papua were moved from a refugee camp at Vanimo to a new settlement in the isolated East Awin region of Western Province. The U.N. High Commissioner for Refugees organized the resettlement, with cooperation from the Government. There were no known forced returns of Papuans to Indonesia.

During the year, the sole detainee at the detention camp on Manus Island was released and left the country for Australia. The camp, administered by the International Organization for Migration with Australian funding, had held asylum seekers interdicted at sea by Australia.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election. Because of the large number of candidates, some Members of Parliament (M.P.s) have won election with less than 10 percent of the total votes cast.

The most recent general election was held in June 2002. Of the 109 seats in Parliament, 77 changed hands. Prime Minister Michael Somare formed a coalition government following the election. Fraud, voter intimidation, theft of ballot boxes, and violence, including rape and murder, marred the election in some parts of the country, and the polls were declared failed in six electoral districts in the Southern Highlands. New elections in those districts, financed by Australia and accompanied by very little violence, were held successfully in April 2003.

The law provides that a losing candidate may dispute an election result by filing a petition with the National Court. Such petitions may question actions of the winning candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but time consuming and expensive both to initiate and to defend. Following the 2002 election, 83 such petitions were filed against winning candidates. A number of the petitions were successful, and new elections were held in those cases.

In August 2001, the Government signed a peace agreement with Bougainville rebels, and progress toward the establishment of an autonomous Bougainville government has been made. The Bougainville autonomous interim authority was established as a governing body pending approval of a new constitution and the holding of elections. In December, a new provisional constitution was approved, and elections are scheduled for 2005. The U.N. Observer Mission in Bougainville, scheduled to close at year's end, was extended for 6 months.

The weapons-surrender program mandated in the 2001 Bougainville peace agreement and carried out under U.N. supervision was declared successful and formally concluded in 2003, but the collection of weapons continued during the year.

Corruption at all levels of government was widely perceived to be a serious problem, primarily because clan-related obligations continued to undermine allegiance to constituents or to the country as a whole. According to press reports, in February, the National Capital District city manager fired the chief auditor for the National Capital District Commission (NCDC) after the auditor conducted an investigation that uncovered bribery and other misappropriation of NCDC funds by NCDC staff and others. At year's end, the auditor had not been reinstated.

In November, an M.P. and former minister of public works was convicted of failing to account for approximately \$535,000 (1.7 million kina) in public funds during his 1992–1997 tenure as minister; he was acquitted on 31 other misconduct charges on grounds of insufficient evidence. In December, he was removed from office.

During the year, there were media reports of alleged illegal payments by private companies to the Attorney General for settling, out of court, financial claims by the companies against the Government. In September, the Attorney General was charged with two counts of improperly authorizing out-of-court settlements and was suspended from office; he allegedly assaulted a government official who attempted to serve him with documents concerning the suspension. He denied the charges and stated his intention to file defamation suits against those involved in making the charges against him. Later the same month, he was reinstated in office after winning a temporary injunction from the National Court. As of year's end, he remained in office, but his government employment contract, due to expire in early January 2005, had not been renewed.

No law provides for public access to government information. The Government published frequent public notices in national newspapers and occasional reports on specific issues facing the Government; however, it generally was not responsive to individual requests, including media requests, for access to government information.

One woman was elected to the 109-seat Parliament in the 2002 elections, compared with 2 in the previous Parliament. She was named the Minister for Welfare and Social Development, the only Cabinet position held by a woman. There were no female Supreme Court justices or provincial governors.

There were five members of minorities (non-Melanesians) in the Parliament. Of these five M.P.s, two were in the Cabinet and two were provincial governors.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no official barriers to the formation of human rights groups. The Government cooperated with human rights nongovernmental organizations (NGOs), both domestic and international, but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group, concentrated on human rights and the environment during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination. Geographic diversity prevents any one tribe or clan from dominating the country. Successive governments, based on loose coalitions, have consistently avoided favoring any group. Skirmishes and conflicts tended to be based on disputes between clans over issues such as boundaries, land ownership, and injuries and insults suffered by one clan at the hands of another; they were not ethnically based.

*Women.*—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges and prosecutions were rare. Traditional village mores, which served as deterrents, were weakening and were largely absent when youths moved from their village to a larger town or to the capital. Although rape is punishable by imprisonment and sentences were imposed on convicted assailants, few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat. In December, the Madang provincial governor was charged with raping a 17-year-old high school student during the National Governors' Conference in September. The case had not gone to trial by year's end.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was still customary, an increasing number of women were charged with the murder of another of their husband's wives. According to one report, 65 percent of women in prison were there for attacking or killing another woman.

In August, the head of the National Council of Women called for stronger criminal penalties for perpetrators of violent acts against women.

The Constitution and laws have provisions for extensive rights for women dealing with family, marriage, and property issues. Some women have achieved senior positions in business, the professions, and the civil service. However, traditional discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Village courts tended to impose jail terms on women found guilty of adultery, while penalizing men lightly or not at all. Circuit riding National Court justices frequently annulled such village court sentences. By law, a district court must endorse orders for imprisonment before the sentence is imposed. Polygyny and the custom in many of the country's tribal cultures of paying a bride price tended to reinforce the view that women were property. In addition to the purchase of women as brides, women also sometimes were given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women their constitutional rights.

According to statistics published in the UNDP's 1999 country report on human development, women were gaining rapidly in literacy and education. Adult literacy rose to 73 percent; 65 percent of women were literate, compared with 86 percent of men. However, there were approximately 15 percent fewer girls in primary schools than boys. According to Ministry of Health statistics, the maternal mortality rate was 370 deaths per every 100,000 live births during the period 1985–1997.

Prostitution is illegal; however, the laws were not enforced and the practice was widespread. There were no reports of sex tourism during the year. Sexual harassment is not illegal, and it was a widespread problem. There is an Office of Women's Affairs in the Office of Church and Family Services of the Ministry of Provincial Affairs; however, due to funding constraints, it was not active during the year, and it had little effect on the Government's policy toward women.

*Children.*—Independent observers generally agreed that the Government did not dedicate significant resources to protecting the rights and welfare of children. Religious and secular NGOs operated programs to protect and develop youth and chil-

dren. In the past, children were well cared for within the family and under traditional clan and village controls; however, preliminary, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood.

According to a report prepared by the Government and UNICEF, sexual abuse of children was believed to be frequent. There were some cases of commercial sexual exploitation of children in urban areas. Many villages were geographically isolated, and malnutrition and infant mortality rates were very high. Nearly 70 of every 1,000 children born did not survive their first year. Primary education was not free, compulsory, or universal; substantial fees were charged. In 1999, the Asian Development Bank reported a primary school enrollment rate of 91 percent for boys and 78 percent for girls; many children did not progress further. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas. Many children did not have effective medical care.

*Trafficking in Persons.*—Although the Constitution does not prohibit trafficking in persons, there was no evidence that persons were trafficked to, from, or within the country. However, over the last 5 years, the Government investigated allegations of corruption among officials dealing with passport issuance and immigration. These allegations centered on the organized circumvention of immigration controls; often this involved the issuance outside of regulations of residence and work permits for Chinese or South Asian nationals migrating to the country. Nevertheless, there was concern that the country may be used as a route for trafficking in persons to Australia.

*Persons With Disabilities.*—Through the National Board for the Disabled, the Government provided funds to a number of NGOs that provided services to persons with disabilities. The Government did not provide programs or services directly. Apart from the traditional clan and family system, services and health care for persons with disabilities did not exist in several provinces. There was no legislation mandating accessibility to buildings. Persons with disabilities faced discrimination in education, training, and employment. Most persons with disabilities did not find training or work outside the family structure. The Government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities.

*National/Racial/Ethnic Minorities.*—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. In the last few years, the number of deaths resulting from such conflicts has risen due to the availability of modern weapons.

*Other Societal Abuses and Discrimination.*—The AIDS/HIV Management and Protection Act, which came into effect during the year, makes it illegal to impede the access of any person to goods or services for protection against HIV infection, including relevant medical care and information; prohibits the termination of employees because of AIDS/HIV status; gives the Ombudsman and the courts authority to deal with unlawful discrimination against persons with AIDS/HIV; and provides for criminal penalties for intentional transmission of the HIV virus. There were no reports of government discrimination against persons with AIDS/HIV; however, there was a strong societal stigma attached to AIDS/HIV infection, and there were reports that companies have separated HIV positive employees after learning of their condition. In July, a woman from Ketarobo village reportedly was beaten and burned by fellow villagers because she had AIDS, and died after being taken to a hospital in a nearby town.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form and join labor unions, subject to registration by the Department of Industrial Relations. The Government did not use registration to control unions; however, an unregistered union has no legal standing with the Department of Labor and Employment or before the courts and thus cannot operate effectively. About half of the 250,000 wage earners in the formal economy were organized and were members of approximately 50 trade unions. Most of the unions representing private-sector workers were associated with the Trade Unions Congress. The Public Employees Association represented an estimated 23,000 persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits anti-union discrimination by employers against union leaders, members, and organizers; however, it was

enforced selectively. Unions were independent of the Government and of political parties.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to engage in collective bargaining and to join industrial organizations, and workers exercised these rights in practice. Under the law, the Government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The International Labor Organization criticized this law. The Department of Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations.

The Constitution provides for the right to strike, and there were no government efforts to hinder either public- or private-sector unions from exercising this right. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies. These strikes were brief and ineffective.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and all forms of forced or compulsory labor, including that performed by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Employment Act establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture.

*e. Acceptable Conditions of Work.*—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. Although it is above the national per capita income, the adult minimum wage of \$6.55 (22.96 kina) per week, unchanged since 1992, did not provide a decent standard of living for a worker and family who lived solely on the cash economy. During the year, as has been the case annually for nearly a decade, the Minimum Wage Board recommended a large increase in the minimum wage; however, the Government disagreed, and no increase was implemented.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. Although the Department of Labor and Employment and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax. Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Employment. The law requires that work sites be inspected on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations.

The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.

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## PHILIPPINES

The Philippines is a democratic republic with an elected president, an elected bicameral legislature, and a fractious, but functioning multiparty system. Although the executive traditionally sets the political agenda, the legislature plays an active role in policy formation. On May 10, approximately 74 percent of registered Filipinos voted in national elections for president and both houses of Congress, and for provincial- and local-level officials. President Gloria Macapagal Arroyo won the presidential election, and her allies took the most seats in Congress. The election was marred by violence, and there were many charges of vote buying. Slow counting of votes also led to serious allegations of electoral fraud and disenfranchisement. The

Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency.

The President is Commander-in-Chief of the Armed Forces of the Philippines (AFP). The Department of National Defense directs the AFP, and the Department of Interior and Local Government has authority over the civilian Philippine National Police (PNP). The AFP, which has primary responsibility for counterinsurgency operations, also has duties in traditional law enforcement efforts, including the pursuit of kidnappers, whose actions remained a chronic criminal problem. Local civilian militias help provide security in certain conflict areas. The civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces, including police, soldiers, and local civilian militias, committed human rights abuses. Since the 1986 overthrow of the Marcos regime, some elements of the armed forces have undertaken extra-constitutional actions, including coup attempts. There continued to be occasional rumors of coup plotting.

The country has a market-based, mixed economy. The service sector accounted for approximately 47 percent of gross domestic product, the industrial sector 33 percent, and agriculture 20 percent. However, agriculture accounted for approximately 37 percent of total employment. Overseas worker remittances, estimated at more than \$7.6 billion per year, and tourism were important sources of foreign exchange. The population is estimated at 84 million, with an annual growth rate of 2.36 percent. According to the most recent Family Income and Expenditure Survey, the richest 30 percent of families earned 66.3 percent of national income, while the poorest 30 percent received approximately 8 percent. Approximately 40 percent of the population lived beneath the poverty threshold of \$255 per year. Poverty was more severe in rural areas, with an estimated 49 percent of the rural population unable to meet basic needs. Environmental problems include rapid deforestation, damage to coral reefs and fish stocks, and significant water and air pollution.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Some elements of the security services were responsible for arbitrary, unlawful, and, in some cases, extrajudicial killings; disappearances; torture; and arbitrary arrest and detention. The physical abuse of suspects and detainees remained a problem, as did police, prosecutorial, and judicial corruption. As in past years, the constitutionally mandated Commission on Human Rights (CHR) described the PNP as the worst abuser of human rights. Police and local government leaders at times appeared to sanction extrajudicial killings and vigilantism as expedient means of fighting crime and terrorism. Prison conditions were harsh. Judges and prosecutors remained poorly paid, overburdened, and susceptible to corruption and the influence of the powerful; they often failed to provide due process and equal justice. Long delays in trials were common. The Supreme Court undertook efforts to ensure speedier trials and to sanction judicial malfeasance, and is in the midst of a 5-year program to increase judicial branch efficiency and raise public confidence in the judiciary. Despite efforts by reformist leaders in all three branches of the Government to strengthen the rule of law and the protection of human rights, a pervasive weakness in the rule of law contributed to a widely held belief that official justice is beyond reach. Some local military and police forces harassed human rights activists. Violence against women and abuse of children continued to be problems. Societal discrimination against Muslims persisted. The law provides for worker rights, but its implementation and enforcement were not always effective. Child labor continued to be a problem. The use of underage workers in domestic service persisted. Child prostitution continued to be a problem, as did trafficking in women and children.

A long-standing, nationwide Communist insurgency continued to operate in various regions of the country; its military arm, the terrorist New People's Army (NPA), committed numerous human rights violations, including political assassinations, kidnappings, and torture. The small, terrorist Abu Sayyaf Group (ASG) committed some kidnappings and killings of hostages and local residents. The NPA and ASG continued to use children both as soldiers and as noncombatants.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Police forces and anti-government insurgents committed a number of arbitrary and unlawful killings. The CHR investigated 130 complaints of killings between January and September, down from 201 complaints for the same period in 2003. The CHR included killings by anti-government insurgents in its investigations, though the majority of the cases involved the security forces and local officials. The nongovernment organization (NGO) Task

Force Detainees of the Philippines (TFDP) documented six instances of summary executions of civilians by government forces and insurgents through June, the same number of cases as last year; however, the number of victims—eight, is two more than for the same period in 2003.

In combating criminal organizations, security forces sometimes resorted to the summary execution of suspects, or “salvaging.” Police and military spokesmen at times explained these killings as the unavoidable result of a shoot-out with suspects or escapees. Statements by various local government officials have condoned extrajudicial killings as an acceptable means to fight crime. The CHR suspected PNP members in a majority of the human rights violations involving deaths that it investigated through June.

On November 16, security forces fired into a crowd of striking workers at a sugar plantation in Tarlac Province, killing an estimated 12 persons and wounding more than 100. Two children were asphyxiated by tear gas used as a crowd-control measure. The Government condemned the killings, and the PNP removed the regional and provincial police chiefs. At year’s end, investigations of the incident were underway.

Summary killings by vigilante groups continued to rise in Davao City, Mindanao, where the mayor was alleged to be linked to the vigilantes. Most of the victims were suspected of involvement in illegal drug trade or other criminal activities. According to TFDP, 67 suspected criminals were killed in Davao between January and August, though it is unclear how many of these deaths may be the result of common crime, as opposed to vigilante-style slayings. No witnesses have come forth to testify in any of these killings.

On August 24, two gunmen on motorcycles shot and killed a well known human rights activist, Jacinto “Rashid” Manahan, on a street in Davao. National media decried the killing, which many news sources ascribed to the vigilantes alleged to be responsible for other killings in Davao during the year.

After waiting for over 2 years for family members to claim the remains of 49 slain persons, authorities in Zamboanga, Mindanao, decided to bury these victims of various execution-style killings. Residents said that no one would come forward to talk to the authorities about the remains for fear of reprisal from police, soldiers, or vigilante groups all suspected by the local citizens to have been involved in these murders.

The April 2003 Mindoro Oriental case of abduction and killing of two members of a team of human rights advocates, allegedly by AFP soldiers, resulted in no charges. A joint investigation by the National Bureau of Investigation (NBI) and Department of Justice (DOJ) resulted in no charges against the head of the army unit assigned to maintain peace and order in the region, Colonel Jovito S. Palparan, Jr. Palparan subsequently was promoted to brigadier general, although the CHR, which has non binding authority to clear on military promotions, withdrew its clearance on his promotion.

In February, three human rights workers were allegedly killed by the military in Mindoro Oriental. Also in February, another similar killing was reported in Mindoro Occidental.

In recent years, there have been deaths as a result of military hazing (*see* Section 1.c.). On June 16, a PNP cadet died allegedly from maltreatment while on training. His family requested an investigation by the NBI, but, by year’s end, no investigation had been launched.

Government forces killed a number of civilians during domestic conflicts with the Moro Islamic Liberation Front (MILF) and the terrorist groups ASG and NPA (*see* Section 1.g.).

Journalists were also targets for murder. During the year, 10 journalists were killed in work-related slayings according to the Criminal Investigation and Detection Group Task Force “Newsmen.” No one was convicted in these cases during the year, nor in the more than 50 other journalist killings since 1988 (*see* Section 2.a.).

On June 7, at least 10 armed men shot and killed the police chief of Angat, Bulacan, in an ambush. The NPA claimed responsibility for the attack, stating that its assassins had killed the police chief because of his “anti-revolutionary operations” and for leading several operations against the NPA and monitoring the movement of rebels in Angat.

According to the PNP, there were 192 incidents of election related violence between January 1 and May 26, resulting in 121 deaths and 208 injuries, fewer violent instances than the last election year, 2001, but more casualties, including a higher number of candidates who were victims. The pre-election period was more violent than election day or the post-election period. In general, violent activity took place in connection with local level contests, and stemmed from long standing rivalries. Observers noted more violence in Mindanao than the rest of the country, rang-

ing from pre-election intimidation to killings on election day. While the NPA was often mentioned as a security threat during the campaign period, there were few reports of NPA-related violence.

Judges continued to be assaulted and killed in the line of duty. During the year, three judges were murdered. Two of the cases remained under investigation, and criminal charges were filed in the third case. A feud between two indigenous tribes appeared to be the motive in the latter case. As of September, there were nine outstanding cases of the killing of judges pending—five still under investigation and four already filed in court.

There were no developments in the 2002 bombing case in Datu Piang, Mindanao.

In August, as a confidence-building measure to facilitate possible government-MILF peace talks, the Government dropped criminal charges against 185 MILF leaders and members for the 2003 Davao airport and seaport bombings. The Government continued to hold in jail five MILF members whom it believed were directly involved in the bombing.

The terrorist ASG continued to kidnap and torture civilians and (*see* Section 1.b.). Unlike last year, there were no reports of beheadings of civilians.

Communist insurgents, mainly from the NPA, killed political figures, military and police officers, and civilians, including suspected military and police informers and foreign tourists. Peace negotiations between the Government and the political arm of the Communist Party, the National Democratic Front (NDF), made no significant progress.

*b. Disappearance.*—Government forces were believed to be responsible for disappearances. The domestic NGO Families of Victims of Involuntary Disappearances (FIND) reported 18 disappearances between January 1 and September 8, 3 fewer than in the full year of 2003. FIND suspected government security forces in each of these cases. As of September 8, 8 of the victims had been found alive in detention, while 10 remained missing.

The courts and police failed to address adequately complaints of victims' families concerning past disappearances in which government security forces were suspected. Disappearance itself is not a crime under the law; evidence of a kidnapping or killing is required in order for charges to be filed. FIND and Amnesty International's (AI) Manila office continued to support the efforts of victims' families to press charges; however, in most cases, evidence and documentation were unavailable. Convictions were rare, and FIND reported that only 14 cases were pending in court at year's end. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity that continued to undermine public confidence in the justice system.

In July, authorities arrested Ibno Alih Ordonez, a suspected commander of the terrorist ASG, on charges of kidnapping dozens of people, some of whom were tortured to death. The Government had offered a \$17,900 (P1 million) bounty for his capture.

On August 18, 10 armed men reportedly abducted 3 members of the left-wing political party, Bayan Muna, in Manila. Bystanders reportedly were informed that the incident was related to an operation against suspected bank robbers. The local police station had no record of arrested persons. As of September 8, efforts to locate the missing victims had been unsuccessful. FIND believes the Intelligence Service of the Armed Forces of the Philippines (ISAFP) was responsible for the incident.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police routinely abused and sometimes tortured suspects and detainees. The CHR provides the police with mandatory human rights training, including primers on the rights of suspects, and higher level PNP officials appeared receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate.

The TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. Less common forms included the placing of plastic bags over heads to deprive detainees of air. The TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

Within the AFP, the CHR observed greater sensitivity to the need to prevent human rights violations. CHR is required to certify that any officer being considered for promotion does not have a history of human rights violations (*see* Section 4); however, a negative CHR finding does not preclude promotion. The CHR also vets PNP officers at the senior superintendent level (equivalent to full colonel). Neverthe-

less, abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP beat ASG suspects.

According to the TFDP, members of the AFP held a 50-year-old resident of Parang, Maguindanao, naked in a secluded room where they beat, applied electric shock, and threatened to maim and kill him while attempting to extract a confession of involvement in the January 4 bombing there.

From January to June, the TFDP reported 8 cases of torture, involving 21 victims, down from 11 cases for the same period last year.

On November 16, police fired into a crowd of striking sugar plantation workers, killing an estimated 12 and wounding more than 100 (*see* Section 1.a.).

Prisons frequently lacked basic infrastructure, and conditions were harsh. Provincial jails and prisons were overcrowded, had limited exercise and sanitary facilities, and provided prisoners with an inadequate diet. The Government reported that jails in the metropolitan Manila area were operating at 323 percent of capacity. The intensified campaign against illegal drugs caused a significant upsurge in the inmate population, and only 3.5 percent of detainees were able to post bail. Administrators budgeted a daily subsistence allowance of about \$0.63 (P35) per prisoner. Prison inmates often depended on their families for food because of the insufficient subsistence allowance and the need to bribe guards to receive food rations.

As a result of the overcrowding, some inmates took turns sleeping, and others slept on their feet. The slow judicial process exacerbated the problem. Some prison wardens reportedly allowed wives or children to move in with inmates or stay in the prison compound because they could help feed the prisoners. Lack of potable water and poor ventilation continued to cause health problems in jails.

According to Department of Interior and Local Government records, there were an estimated 57,824 inmates in overcrowded detention centers nationwide.

According to regulation, male and female inmates are to be held in separate facilities, and, in national prisons, overseen by guards of the same sex; however, there have been anecdotal reports that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children, in some instances, they were held in facilities not fully segregated from adult male inmates. In Bureau of Immigration (BI) detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TFDP reported that beatings by prison guards and other inmates were common but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Favored inmates reportedly enjoyed access to outside contacts, enabling them to have access to prostitutes and drugs.

There were reports that guards abused prisoners. In 2001, AI reported that women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (*see* Section 5). Some detainees at BI detention centers reportedly gained release by making cash payments to guards.

Through December 15, the PNP recorded a total of 35 successful prison escapes encompassing 115 prisoners. Of the escapees, 54 remained at large, while 61 were recaptured. Police blamed the escapes on lenient security and the poor quality of detention facilities.

International monitoring groups, including the ICRC, were allowed free access to jails and prisons.

*d. Arbitrary Arrest or Detention.*—The Constitution requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police arrested and detained citizens arbitrarily. From January through July, the TFDP documented 38 cases of illegal arrest and detention involving 310 victims.

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, depending on the seriousness of the crime. Due to the slow judicial process, lengthy pretrial detention remained a problem (*see* Section 1.e.).

The 113,000-member PNP has deep-rooted institutional deficiencies. The National Police Directorate for Investigation and Detective Management reported that 69 err-

ing policemen were dismissed from service from January through October. Of the 1,343 administrative cases filed against PNP officers and personnel, 638 were resolved, 352 were still under preliminary investigation, and 353 underwent summary hearings.

On July 5, five men belonging to the 80th Infantry Battalion of the Philippine Army but dressed in civilian clothing arrested a community organizer in Montalban, Rizal Province. Four days later, a Quick Response Team mission headed by FIND located him at the Montalban Police Station. The arrestee, who had never been charged with a crime, was released after the response team arrived.

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners; estimates usually ranged from a few to over 200. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists have not been convicted (*see* Section 1.e.).

The NPA, as well as some Islamic insurgent groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for “crimes against the people” (*see* Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes venality undermined the commitment of some government employees to ensure due process and equal justice. The result was impunity for some wealthy and influential offenders and widespread skepticism that the judicial process would produce fair outcomes.

Judges continued to be assaulted and killed in the line of duty (*see* Section 1.a.).

The national court system consists of four levels: Local and regional trial courts; a national Court of Appeals divided into 17 divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The “Sandiganbayan,” the Government’s anticorruption court, hears criminal cases brought against senior officials. A Shari’a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

The Constitution provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, although poverty often inhibited a defendant’s access to effective legal representation. Skilled defense lawyers staffed the Public Attorney’s Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the Constitution, cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. However, these time limits are not mandatory, and, in effect, there are no time limits for trials.

The judicial system was unable to ensure expeditious trials for detained persons. The average trial takes about 2 years. Progress is impeded due to lengthy delays between hearings and the fact that trials are not heard all at once, but in short sessions over time and as witnesses become available. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Of the total 2,130 trial court judgeships (including Shari’a courts), 688 or 32 percent were vacant, slightly lower than last year’s 717 vacancies or 34 percent. Courts in Mindanao and other poorer provinces had higher vacancy rates than the national average. Shari’a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari’a Bar and the Integrated Bar.

Although Shari’a courts do not have criminal jurisdiction, the MILF asserted that its Islamic law courts do. The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for “crimes against the people.” The NPA executed some of these “defendants.”

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system did not ensure the rights of defendants to due process and legal representation. At times, defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or trial. By law, the Supreme Court reviews all death sentences. The President lifted a 3-year moratorium on the application of the death sentence in July 2003; however, no executions have been carried out.

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners; estimates usually ranged from a few to over 200. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists have not been convicted. Some face murder, kidnapping, and other serious charges, while others were charged with lesser offenses such as possession of drugs or firearms. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes and to continue to detain them after their sentences expired. Often it was difficult to distinguish between persons possibly incarcerated for political reasons and those for common crimes. The Government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners. As a goodwill gesture to the Communist Party of the Philippines and the NDF, the Government released 10 persons whom NGOs claimed were political prisoners in May, in addition to three female prisoners released earlier. The Government has publicly committed itself to releasing more prisoners on this list. Through July, the Office of the President returned to the Board of Pardons and Parole 58 requests for presidential action, with instructions to restudy the cases. Of these, 31 were granted partial or full pardon.

The Government permitted access to alleged political prisoners by international humanitarian organizations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides that a judge may issue search warrants on a finding of probable cause; however, while the Government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The Government generally respected the privacy of its citizens; however, leaders of Communist organizations complained of what they described as a pattern of surveillance on their activities.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year, although to a lesser extent than in previous years. A few pockets of urban informal settlers were forcibly relocated temporarily while resettlement projects were being developed and implemented in Metro Manila. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited.

Although the Government itself did not use forced conscription, there were reports of forced conscription in southern Mindanao into local indigenous peoples' paramilitary units with links to the AFP. The AFP denied these allegations. Reports of abuses by vigilante groups in southern Mindanao continued throughout the year. Some suspected that local government officials or members of the armed forces supported the vigilante groups.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Some citizens groups complained that the AFP, in confronting the terrorist ASG, the NPA, and the separatist MILF, illegally detained citizens, torched houses, displaced residents, and shelled villages suspected of being ASG strongholds. The AFP defended its actions (*see* Sections 1.a., 1.d., and 2.d.).

In February, the CHR conducted forensic examinations of persons killed in reported exchanges of gunfire in the Western Police District in Metro Manila. The examinations indicated that some of these persons had been shot in the back. Based on these findings, the CHR concluded that police in the Western District had committed extrajudicial killings.

In March, NPA fighters ambushed PNP officers; the PNP unit allegedly returned fire without regard to three civilians who were caught in the crossfire. The three were killed during the incident.

In November, an interagency human rights organization fact-finding team concluded that AFP soldiers had executed two teenage boys in Catarman, Northern Samar. The Army claimed that the boys had been caught in crossfire.

In April, two minors were shot and injured when the National Anti-Kidnapping Task Force mistook them for rebels. The two girls were passengers in a car driven by another teenager that turned back from a police checkpoint rather than try to pass through.

According to the Department of Social Welfare and Development (DSWD), some persons displaced from conflict areas in Mindanao were able to rehabilitate and reconstruct their homes with aid from DSWD and local governments. Others, whose communities were destroyed by the armed conflict, were resettled.

The ASG kidnapped and tortured civilians during the year. There were reports that the ASG killed citizens whom it suspected of being government informants. Clashes between the AFP and ASG occurred throughout the year, mostly in the Zamboanga peninsula and Sulu archipelago.

During the year, the NPA killed political activists, mayors, other civilians, and military and police personnel. The NPA also harassed businesses and burned buses to enforce the collection of "revolutionary taxes." The AFP reported that the NPA killed 91 civilians and attacked 26 private companies from January through August. The NPA continued actively to recruit minors both as combatants and noncombatants (see Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Several television and radio stations were owned by the State, having been sequestered following the fall of the Marcos regime in 1986. Most print and electronic media were privately owned. The independent media were active and expressed a wide variety of views without restriction. Broadcast and print media were free-wheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level political officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Journalists continued to be the victims of summary killings. In the first 8 months of the year, eight journalists were killed, the highest figure in 20 years. Murder charges have been filed in four of the cases, while the rest remained under investigation. According to a special task force formed by the President this year, of the 24 murder cases involving journalists brought since 1984, only 2 resulted in convictions, 4 were dismissed, while 18 remained pending. The National Union of Journalists accused the police and the Government of failing adequately to investigate these killings and of subjecting journalists to harassment and surveillance.

On July 31, three unidentified gunmen shot and killed Ilocos Norte radio commentator, Roger Mariano. Prior to his killing, Mariano had exposed alleged fraud at the local electric cooperative and criticized illegal gambling operations. The case remained under investigation, with no arrests made.

On August 5, in Batangas, a lone gunman shot and killed a newspaper writer who had discussed the murder and rape cases of a local "barangay" (neighborhood) chairman in his column. On September 2, police arrested the chairman on murder charges. The chairman's nephew, who was the suspected gunman, remained at large.

On August 13, only 1 day after the slaying of a Laguna journalist, Mindanao-based radio commentator, Edward Balida, was shot at a public market while parking his motorcycle. Balida was a vocal supporter of the Government's anti-drug campaign.

On September 13, a former policeman in Western Mindanao, a suspect in the 2002 killing of journalist Edgar Demalerio, surrendered to authorities after 2 weeks of negotiations. On his daily radio program, Demalerio had repeatedly criticized local police officers for their failure to curb the illegal drug trade, gambling, and killings in Pagadian City and Zamboanga.

By year's end, there had been no convictions in any of the cases of journalists killed in the last 3 years.

The Government did not restrict Internet use.

School administrators reportedly warned several student journalists against publishing critical commentaries and articles, and students on some campuses complained of military surveillance. The Government did not otherwise interfere with academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Although the law requires that groups request a permit to hold a rally, the Government at times followed an unwritten policy of allowing rallies to occur without requiring the filing of a request.

On November 16, police fired into a crowd of striking sugar plantation workers, killing an estimated 12 and wounding more than 100 (see Section 1.a.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Although Christianity, par-

ticularly Roman Catholicism, was the predominant religion, there is no state religion, and under the Constitution church and State are separate.

Muslims were the largest minority religious group in the country. There was widespread debate over the exact size of the Muslim population, as some officials and observers claimed that security concerns in western Mindanao prevented census takers from conducting accurate counts outside urban areas. Estimates ranged from 3.9 million to 7 million, or 5 to 9 percent of the population. Muslims resided principally in Mindanao and nearby islands, but there were Muslim communities throughout the country.

Historically, Muslims have been marginalized by the Christian majority. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms in boarding houses or being hired for retail work if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive dress when applying for housing or jobs.

The Government's campaign against the terrorist ASG has led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded on cultural differences, not religious beliefs or practices. There also were reports of Muslim discrimination against Christians in areas where Muslims were the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions (see Section 3). Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. Poverty levels in the Autonomous Region in Muslim Mindanao (ARMM) were roughly twice as high as the national average, with per capita income of \$274 (P15,344) per year.

The teaching of religious classes in public schools was permitted with the written consent of parents, provided that there was no cost to the Government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim girls to wear their head coverings ("hijab") and not requiring them to wear shorts during physical education classes.

The Commission on Higher Education, a government agency that oversees public and private higher education in the Philippines, offered study grants for some former Muslim separatists who could not afford to study in college due to financial constraints. The program aimed to contribute to peace and order by upgrading the education of these individuals.

In August, the Department of Education and a team of Muslim educators approved a new curriculum for public elementary schools in the ARMM and privately run madrassas. The curriculum was designed to integrate the madrassas into the mainstream educational system by teaching English, Filipino, and other mainstream subjects, in addition to courses in Arabic, "Bangsamoro" (a term describing the various Philippine Muslim groups) history, and Islamic studies. The Department of Education estimated that approximately 100,000 students attended madrassas nationwide.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Travel abroad was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they face personal risk (see Section 5).

In July, the Government banned all Filipinos from traveling to Iraq to work as contractors. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. More than 8.67 million citizens worked overseas and remitted money home. Such remittances amounted to approximately 9.2 percent of the gross national product.

Forced exile is illegal, and the Government did not use it.

Continuing clashes between the AFP and the MILF, NPA, and ASG have displaced thousands of persons within the country. In June, the Government began building a shelter in Palimbang to help some 700 families, who have been displaced

by fighting between AFP and MILF guerrillas in the area. Other agencies, including the U.N. Development Program, the Mindanao Emergency Relief Network, and the Red Cross, provided food and other essential items such as medicine, blankets, mosquito nets, and soap to the 3,000 evacuees.

The country is a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, there is no comprehensive legislation that provides for granting refugee status or asylum. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Refugee Unit in the Department of Justice determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 Convention. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and with other humanitarian organizations in assisting refugees. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it to approximately 2,000 persons during the year.

The Government continued to allow approximately 2,000 former asylum seekers from Vietnam to remain in the country although all had been found not to be refugees under the UNHCR-administered Comprehensive Plan of Action in the 1990s. There was popular support, particularly from the Roman Catholic Church, for allowing permanent residency for those unsuccessful asylum seekers who did not wish to repatriate and were ineligible for resettlement in other countries. The Government has neither forced the repatriation of this group nor granted them permanent asylum.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that largely were free and fair and held on the basis of universal suffrage.

On May 10, national elections were held for president, senators, representatives, provincial governors, and local government officials. Turnout for the election was high—with approximately 74 percent of eligible voters participating; however, voting was marred by numerous irregularities. From April to July, a consortium of three international NGOs (National Democratic Institute, International Republican Institute, and the International Foundation for Election Systems) performed an election monitoring survey in the country. They concluded that an antiquated voting system, system error, and improper management of registration databases disenfranchised thousands of voters. Widespread reports indicated that local politicians and their supporters continued to engage in vote buying and that conditions were inadequate to ensure that balloting was secret. Observers also received reports of NPA activists imposing “Permission to Campaign” fees on local candidates.

Multiple political parties were able to present candidates for office, raise funds, and mobilize voters. However, parties tended to be personality-driven, dynastic and family influences were strong, and issues generally were less important. Campaign financing, anti-dynasty, and other political party laws and provisions often were not observed.

Election-related violence remained a serious problem (*see* Section 1.a.).

The May election marked the first time that overseas Filipinos were able to vote. Of the 354,000 registered overseas voters, 230,000 or 65 percent actually voted in 577 precincts worldwide. This represented a small portion of the estimated 8.67 million Filipino overseas workers. The low rate of registration was attributed to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the country to reside within 3 years.

In compliance with the registration residence requirement, the Commission on Elections did not allow first time voters among squatters in urban poor communities to register for the elections unless they could prove that they were bona fide residents of their locale. NGOs estimated that this deprived one million squatters of the right to vote. Among those who did register in squatter communities vote buying was common, and many residents accepted bribes to vote in a certain way or to act as “flying voters,” voting in several precincts.

A justifiable public perception of corruption in the executive and legislative branches remained high.

The Constitution provides for a right to information on matters of public concern, and the Supreme Court has affirmed this provision. However, an NGO noted that denial of such information occurred when the information related to an anomaly or

irregularity in government transactions. Moreover, much government information was not available electronically and was difficult to retrieve.

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the President, held positions of leadership and authority. There were 4 women in the 24-seat Senate and 35 women in the 236-seat House of Representatives. There were 5 women in the 23-member Cabinet and 5 female associate justices in the 15-member Supreme Court.

Along with many other citizens, Muslims, in particular, argued that the method of electing senators from a nationwide list favored established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, and many Muslims and members of other groups underrepresented in the national legislature favored such an amendment. There were no Muslim cabinet members and no Muslim senators. There were 10 Muslim members in the 236-seat House of Representatives, including some elected from Christian majority districts.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials, including those of the CHR, were responsive to NGO views. Many domestic NGOs were critical of the Government's human rights record; these NGOs also criticized previous governments' human rights records. While acknowledging that respect for human rights has improved under President Macapagal-Arroyo, many NGOs criticized the Government for being overzealous in its efforts to defeat the various insurgencies in the country. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring insurgents.

Some NGOs have expressed concern over what they perceived as hostile government rhetoric toward human rights activists. NGOs also have expressed concerns over statements by various local government officials that condoned extrajudicial killings as an acceptable means to fight crime. A well known human rights activist, Jacinto "Rashid" Manahan, was the victim of an apparent extrajudicial killing in Davao in August (see Section 1.a.).

Member organizations of the Philippine Alliance of Human Rights Advocates, a leading NGO network, monitored human rights problems and sought redress through their contacts with government agencies, the Congress, and the CHR. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place.

The CHR was created in 1987 pursuant to the 1987 Constitution. It replaced the Presidential Committee on Human Rights. The CHR is an independent agency mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the Government's compliance with international human rights treaty obligations. The CHR has non binding authority to clear on military promotions. The Commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately one-third of the country's 42,000 barangays had Human Rights Action Centers, which coordinated with CHR regional offices; however, the CHR's regional and subregional offices remained understaffed and underfunded. The CHR was allocated \$3.75 million (P210 million) for the year, up 7 percent from 2003.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

*Women.*—Violence against women, both in and out of the home, remained a serious problem. The law does not specifically address the problem of domestic violence; complaints are filed under the charge of "physical injury." The Government did not disaggregate statistics to indicate the number of physical injury cases that result from domestic violence. During the year, the National Commission on the Role of Filipino Women compiled and published the following statistics: The PNP reported 2,381 cases of wife battering and physical injuries to women in the first 6 months of the year. This number appeared to underreport significantly the level of violence against women in the country. A survey done in 2003 by the NGO, Social Weather Station, resulted in the following admissions by male respondents: 12 percent admitted having physically harmed women (39 percent of these respondents indicated vio-

lence against their wife, 15 percent against their girlfriend, and 4 percent against their partner). The same survey queried women on why they didn't report violence. The reasons most cited were: Embarrassment; not knowing how or to whom to report; belief that nothing would be done; and believing it was too small of a thing.

The PNP and the Department of Social Welfare and Development (DSWD) both maintained women's help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Many PNP stations included female officers.

Rape continued to be a serious problem. According to the latest statistics from the Center for Women's Resources, from January to September 2003, there were 3,913 rape cases. Police statistics showed a decline in rape cases during the period from January to October from 1,159 in 2003 to 868. There were reports of rape and sexual abuse of women in police or protective custody. These often involved women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

The law provides for the death penalty in cases of rape. Although spousal rape and abuse also are illegal, enforcement was ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibited some victims, particularly relatives of the accused, from pressing charges.

Prostitution is illegal, but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution (*see* Section 5, Trafficking). Penalties for prostitution are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. Officials believed that this helped only a small percentage of victims. Some local officials condoned a climate of impunity for those who exploited prostitutes. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism was a serious problem. Trafficking in women and children for sexual exploitation and forced labor were problems. A 2003 anti-trafficking law outlawed a number of activities specifically related to trafficking and provided stiff penalties for convicted offenders (*see* Section 5, Trafficking).

Sexual harassment in the workplace was thought to be widespread yet under-reported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on 3- to 5-month contracts and were reluctant to report sexual harassment for fear their contracts would not be renewed.

The law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries. The Government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower income couples simply separated informally without severing their marital ties. The Family Code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of 7 are placed in the care of the mother unless there is a court order to the contrary. Children over the age of 7 normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Women continued to face some discrimination in employment, despite the fact that more women than men entered secondary and higher education. Unemployment rates for women were consistently higher than for men. In August, the Asian Development Bank released a gender assessment report that highlighted unemployment of women and poor family planning as major contributors to poverty in the country.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the President, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

*Children.*—The Government devoted considerable resources to the education, welfare, and development of children. The Department of Education had the largest budget of any cabinet department. Nevertheless, children faced serious problems.

Elementary and secondary education is free, but the quality of education remained poor due in part to inadequate resources. During the year, according to Department of Education figures, the annual per pupil expenditure for basic education was \$108 (P6,021). Congress cited fiscal constraints in explanation. The Department of Education reported that it needs \$2.22 billion (P124.7 billion), but reportedly was

allotted \$1.95 billion (P109.5 billion) (12.7 percent of the national budget) for the year. The Department of Education estimated that 25 percent of students drop out between grades one and three, and 33 percent between grades one and six. Nearly 60 percent of children who start school do not complete grade 10. The situation is even worse for indigenous children (*see* Section 5, Indigenous People).

According to government reports, 68.3 percent of children are well nourished, and 64 percent were fully immunized. The child mortality rate was 48 out of 1,000 children under age 5. In 2000, an NGO estimated that 30 to 40 percent of preschool children in the five-province Autonomous Region in Muslim Mindanao suffered from malnutrition. Most of the malnourished children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi Provinces. According to the latest UNICEF data, at the end of 2001, nationwide 30.6 percent of children under age 5 were moderately or severely underweight.

Child abuse remained a problem. DSWD offices served 7,847 victims of child abuse from January to September, 71 percent of them were girls. Some 53 percent of the girls were victims of sexual abuse, up from 44 percent last year, while the majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued to be reported in the press, and the Government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes. In July, the University of the Philippines Center for Integrative and Development Studies began an appraisal of child pornography in the country. Two years ago, a series of articles in the newspaper *People's Journal* identified the country as a leading producer of child pornographic materials, particularly on the Internet.

Child prostitution continued to be a serious problem (*see* Section 5, Trafficking).

Children were targeted for recruitment as combatants and noncombatants by the NPA and ASG. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. An official from the Office of the Presidential Advisor on the Peace Process estimated that children made up as much as 19 percent of the NPA's fighting force. The Council for Welfare of Children, in a July report, estimated that children constituted some 13–18 percent of the armed rebel combatants. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors.

The ASG also recruited teenagers to fight and participate in criminal activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP said that some Islamic schools in Mindanao served as fronts to indoctrinate children and that the ASG used children as couriers and spies.

According to UNICEF and International Labor Organization (ILO) studies, approximately 2 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (*see* Section 6.d.).

The Government estimated that there were at least 22,000 street children nationwide, although some NGOs believed the number to be much higher. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned and engaged in scavenging or begging.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, the procedural safeguards were often ignored in practice. Many child suspects were detained for extended periods without access to social workers and lawyers and were vulnerable to torture and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

A number of NGOs actively promoted children's rights.

*Trafficking in Persons.*—Trafficking in persons is prohibited under a comprehensive anti trafficking law passed in 2003, which defines several activities related to trafficking as illegal and imposes stiff penalties—up to life imprisonment—for convicted offenders. Nonetheless, trafficking remained a problem in the country. The first trial under the new Trafficking Law began in January and was still underway at year's end. Several other cases were pending, but trials had not yet begun.

Although the Government investigated several trafficking-related cases under the old laws, its efforts were hampered by resource constraints. In August, four prosecutors were assigned to focus on trafficking cases and to complete preliminary investigations within 60 days. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration, and the PNP's Criminal Investiga-

tion and Detection Group. The Government cooperated with international investigations of trafficking. Some high profile cases involved syndicates that trafficked women to neighboring countries. Several cases involving women trafficked to Malaysia resulted in notable arrests in August and September.

The country was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. Reliable estimates on the number of individuals trafficked were not available. The most serious problem appeared to be the trafficking of women across international borders to destinations in Asia (especially Japan), Europe, the Middle East, and North America for purposes of sexual exploitation. Organized criminal gangs typically trafficked persons from China through the country to other destinations, although occasionally the country was the final destination.

Both adults and children were trafficked domestically from poor, rural areas in the southern and central parts of the country to major urban centers, especially metro Manila and other cities on Luzon. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the severe poverty and violence of their home areas. The Visayan Islands were also a source of trafficking. Women were far more at risk to be victims of trafficking than men, and girls were more at risk than boys.

NGOs estimated that approximately 60,000 children were involved in the commercial sex industry. Most of these children were girls, and nearly all had dropped out of school. These children come from very poor families with unemployed or irregularly employed parents.

The Virilanie Foundation, a local child protection NGO, estimated that there were at least 20,000 child prostitutes in the country, most in the Metro Manila area. It offered housing, training, and counseling services to child prostitutes. An ILO program, with the goal of removing 1,200 children from the commercial sex industry, was underway.

Traffickers targeted persons seeking overseas employment. Most recruits were females ages 15 to 22 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns. The primary method used to approach victims was the promise of a respectable and lucrative job.

There was anecdotal evidence that some lower level officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise facilitated trafficking.

Victims faced health risks, such as sexually transmitted or other infectious diseases, and were vulnerable to beatings, sexual abuse, and humiliation.

The Government devoted significant resources to assist and protect victims. The concept of a trafficked person as a victim rather than a perpetrator was particularly strong. The Government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services.

The DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential care. Additional protective services included hotlines for reporting cases and the operation of 24 hour halfway houses in 13 regions of the country to respond to victims. Although the Government provided some funding to domestic and foreign NGOs for services to victims, religious groups, multinational donor agencies, and private foundations typically funded most of the budgets for these NGOs.

The Government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. However, the Government lacked the resources to pursue these cases effectively.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking. The Government supported programs to prevent trafficking, such as the promotion of women's participation in economic decision-making and efforts to keep children in school. The Government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

*Persons With Disabilities.*—The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments and for “the rehabilitation, self development, and self-reliance of disabled persons

and their integration into the mainstream of society.” The Department of Labor and Employment’s (DOLE) Bureau of Local Employment (BLE) maintained registers of persons with disabilities indicating their skills and abilities. BLE monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of persons with disabilities in the country ranged from 1 million to 3.5 million. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It was estimated that most persons with disabilities were less than 65 years of age and lived at home with their families. Assisted living centers were understaffed and underfunded.

Advocates for persons with disabilities contended that equal access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities have been halting. Only one of Manila’s light rail lines was wheelchair-accessible, and many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A limited number of sidewalks had wheelchair ramps, but garbage cans and street vendors often blocked access. Many of the sidewalk wheelchair ramps were crumbling or too steep. The situation was worse in many smaller cities and towns.

*Indigenous People.*—Indigenous people live throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They account for approximately 16 percent of the national population. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of basic services, health, and education.

A report by the Department of Education revealed that indigenous children were falling behind in the quality of education. By one estimate, only 424 of Baguio City’s 4,424 elementary graduates met the minimum standards for moving to the next level. An official of the Tebtebba Foundation suggested that indigenous children frequently skipped school as a way to avoid the racial discrimination they faced in the classroom.

Because they inhabit mountainous areas also favored by guerrillas, indigenous people suffered disproportionately from armed conflict. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people.

The 1997 Indigenous Peoples’ Rights Act, which was intended to implement constitutional provisions to protect indigenous people, established a National Commission on Indigenous People, which was staffed by tribal members empowered to award certificates of title to lands claimed by indigenous persons in the country. It awarded such “ancestral domain lands” on the basis of communal rather than individual ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands. The law also assigns indigenous groups the responsibility to preserve forest, watershed, and biodiversity areas in their domains from inappropriate development. Although the Government has been slow to implement the legislation, primarily because of strong opposition from mining and agribusiness interests, some limited progress has been made.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and laws provide for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the Government. Unions have the right to form or join federations or other labor groups.

As of September, there were 149 registered labor federations and more than 15,553 private sector unions, compared with 19,928 reported in 2003. The 1.6 million union members represented approximately 4.3 percent of the total workforce of 36.5 million. The number of firms using contractual labor, primarily large employers, continued to grow.

As of September, the Bureau of Labor Relations reported 1,434 public sector unions, compared with 1,358 in 2003. Total public sector union membership was nearly 273,385 up from 247,853 in 2003.

Allegations of intimidation and discrimination in connection with union activities are grounds for review as possible unfair labor practices before the quasi-judicial National Labor Relations Commission (NLRC). However, unions maintained that

widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Unions have the right to affiliate with international trade union confederations and trade secretariats. Two of the largest trade union federations, the Trade Union Congress of the Philippines and the Federation of Free Workers, were affiliated with the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labor, respectively.

The ICFTU alleged that a new union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions—10—before a federation can be formed. The ICFTU currently has two complaints pending before the ILO regarding these requirements.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and bargain collectively. The Labor Code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Between 5–10 percent of the work force was organized. Collective bargaining was freely practiced. The number of workers covered by collective bargaining agreements rose to 270,721 or about 16 percent of union members. There are no special laws or exemptions from regular labor laws in export processing zones.

Subject to certain procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law, the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must be exhausted. The Secretary of Labor and Employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the Secretary decides that the industry involved in the strike is vital to national security. For the first 8 months of the year, DOLE reported that there were 33 strikes, 32 percent more than the previous year). Between January and May there had been 11 strikes involving some 2,400 workers.

The Labor Code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to 3 years; however, according to the DOLE, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contract employees to avoid the payment of required benefits were common practices, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common, and there were reports that some workers were fired after merely speaking with union organizers. Some companies reportedly offered cash to employees who agreed to identify union organizers and required employees to work overtime in order to disrupt union meetings. Labor groups alleged that companies in the SEZs have used frivolous lawsuits as a means of harassing union leaders.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. Despite objections from the DOLE, local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. In organizing efforts, union successes in the SEZs have been few and marginal. Some mainstream unions avoided a major unionizing effort in the lower wage SEZ industries, such as the garment industry. They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who worked on short-term contracts in the zones' many electronics and garment factories.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, including forced and compulsory labor by children; however, despite the Government's efforts, there were some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see Sections 5, and 6.d.). The legal minimum age for employment as a domestic worker is 15; however, an estimated 3.7 million children 17 years of age or younger, including many under 15, were so employed, compared with 4 million children reported in last year's survey. A more stringent legal regime and a government pro-

gram in cooperation with a foreign government may account for part of this decline. Some recruiters reportedly brought girls between the ages of 13 and 17 to work in Manila or Cebu under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work. The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see Sections 5, and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor but forbids the employment of persons under 18 years of age in hazardous or dangerous work. However, child labor remained a problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas—some as bonded laborers (see Section 6.c.). The most recent government survey reported approximately 3.7 million working children, approximately 2.4 million of whom were exposed to hazardous working environments, such as quarries and mines, docksides, and fishing boats.

Most child labor occurred in the informal economy, often in family settings, and the Government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the Government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the Government made attempts to devote more resources to child labor programs, resources remained inadequate.

The Government and NGOs implemented programs to prevent the engagement of children in exploitative child labor. DOLE worked with domestic NGOs to educate communities on child labor and provided counseling and other activities for children. DOLE and the Department of Education worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The Government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. DOLE continued its efforts to rescue exploited child workers, rescuing 146 minors in 58 different operations between January and September. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

*e. Acceptable Conditions of Work.*—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages. In January and February, a round of wage increases was implemented in most regions of the country. The highest rates were in the National Capital Region (NCR) and the lowest in rural regions. The minimum daily wage for NCR nonagricultural workers was \$5.36 (P300). Although this represents an increase of 20 pesos over last year, it still did not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$2.64 (P138). The regional wage board orders covered all private sector workers except domestic servants and other persons employed in the personal service of another person. Boards outside the NCR exempted some employers because of factors such as establishment size, industry sector, involvement with exports, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Unions have filed complaints about the minimum wage exemption policies.

In practice, violation of minimum wage standards was common, and large numbers of workers received less than the minimum wage set for their area. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. Inspections of Metro Manila commercial firms by DOLE in August revealed 52 percent were out of compliance with the prevailing minimum wage rate in the region. They acknowledged that the shortage of inspectors made the law difficult to enforce. In addition to fines, the Government also made use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law, the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The Government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates 1 day of

rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE conducted only sporadic inspections to enforce limits on workweek hours. The Labor Inspectorate was not considered effective.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few positions allocated for inspectors nationwide, local authorities often must carry out enforcement. DOLE officials acknowledged that the number of inspectors was not adequate for the number of work sites to be inspected. DOLE launched a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The Government and several NGOs worked to protect the rights of the country's 8.67 million overseas citizens, most of whom are temporary or contract workers. The Government placed financial sanctions and criminal charges on domestic recruiting agencies found guilty of unfair labor practices. Although the POEA registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The Government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.

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## SAMOA

Samoa is a parliamentary democracy that incorporates certain traditional practices into its governmental system. The Constitution provides for a head of state; a unicameral legislature elected by universal suffrage and, in practice, composed primarily of the heads of extended families, or "matai"; the protection of land rights and traditional titles; and other fundamental rights and freedoms. In 2001, the Human Rights Protection Party (HRPP) won reelection to its sixth consecutive term as the governing party. The election was marred by charges of bribery. In 2001, as a result of election challenges filed by losing candidates, the Supreme Court ordered four by elections; the HRPP won all four. Executive authority is vested in the Head of State with the Government administered by the Cabinet, which consists of the Prime Minister and 12 ministers chosen by him. All laws passed by the Legislative Assembly need the approval of the Head of State, Malietoa Tanumafili II, who holds the position for life. The Legislative Assembly is to elect his successors for 5 year terms. The judiciary is independent.

The civilian authorities maintained effective control over the small national police force, but it had little effect beyond Apia, the capital city. The country has no defense force. There were no confirmed reports that security forces committed human rights abuses. Enforcement of rules and security within individual villages is vested in the "fono" (Council of Matai), which settles most internal disputes. Judgments by the fono usually involve fines or, more rarely, banishment from the village.

The economy is market based. The population was approximately 199,000 as of December 2003, according to the Government Statistics Department. More than 60 percent of the workforce was engaged primarily in agriculture. The country was heavily dependent on foreign aid and on remittances sent to family members by the more than 100,000 citizens living abroad. The Government reported a 3.5 percent increase in gross domestic product (GDP) in 2003, with a per capita GDP of approximately \$1,850. Wages and benefits did not keep pace with inflation, which was nearly 13 percent for the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The law and the courts addressed some of these problems. Political discrimination against women and non matai was a problem. Societal pressures and customary law may interfere with the ability to conduct fair trials. Those who do not conform to accepted societal values may face pressure, threats, violence, and banishment. However, in April 2003, the Supreme Court overturned a lower court ruling and found that a village fono had acted illegally when it banished some residents for their religious activities. The ruling affirmed that

both statutory and customary laws are subject to the individual rights provided for in the Constitution. Violence against women and children was a problem.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, in July, police officer Tupou AINU'u was charged with murder in the death of a man in police custody. In September, the charge was reduced to manslaughter. The officer allegedly arrested the victim for disorderly conduct and took him to the Apia police station, where the victim continued to be disorderly. According to the officer, he attempted to subdue the victim, and in the ensuing altercation, the victim fell backward and struck his head on the wall and floor, rendering him unconscious. The victim was transported to a hospital, but was pronounced dead on arrival. AINU'u pleaded not guilty and was suspended pending the outcome of his trial, scheduled for February 2005.

There were no further developments in the 2002 case of parliamentary by election candidate Taliaoa Taamilosaga and three other persons, whose deaths in a fire were ruled homicides. Due to a lack of evidence, no one was charged in the case, although the police file remained open at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally appeared to meet international standards, although they were fairly basic with respect to food and sanitation. Prison policy permitted inmates with medical conditions to retain their respective medications and to take them as prescribed; however, during the year, a diabetic paraplegic prisoner died after he was locked in an isolation cell as punishment for suspected marijuana use and reportedly did not have access to his medication. The case was referred to the Police Commissioner for investigation. According to the Commissioner, the prisoner had his medications at the time of his death and a postmortem examination found that the prisoner's death was not related to his medications.

Within the country's sole prison, men and women were housed separately, juveniles were held separately from adults, and pretrial detainees were separated from convicted prisoners.

There were no known requests by independent human rights observers to visit the prison; however, the Government indicated that it would permit such visits. The Government also permitted visits by family members and church representatives.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The country's police, prison guards, and firefighters all belong to a consolidated national service. A commissioner appointed to a fixed 3 year term of office heads this service. He is assisted by four assistant commissioners and reports to the Minister of Police. Corruption and impunity were not significant problems among the police; however, a lack of resources limited police effectiveness.

The law provides for issuance by the Supreme Court of an arrest warrant based on sufficient evidence, and the Government generally adhered to this provision in practice. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they are released. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the Government provides a lawyer. There was a functioning system of bail.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of the District Court, the Lands and Titles Court, the Supreme Court, and the Court of Appeals. The Court of Appeals is the highest court. It has appellate jurisdiction only and can review the rulings of any other court. It is composed of a panel of retired New Zealand judges and sits once a year for several weeks.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The accused must be charged within 24 hours. A trial judge examines evidence and makes a determination as to whether there are grounds to proceed. Trials are public, and defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own be-

half. Defendants and their attorneys have access to government held evidence, and defendants have the right to appeal a verdict.

However, many civil and criminal matters were handled by village fono, which varied considerably both in their decisionmaking style and in the number of matai involved in the decisions. The 1990 Village Fono Act gives legal recognition to the decisions of the fono and provides for limited appeal to the Lands and Titles Court and to the Supreme Court. In 2000, the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association. More recent court decisions reinforced this principle (*see* Section 2.c.).

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law provides substantive and procedural safeguards against invasion of the home or seizure of property, including a requirement for search warrants, which are issued by the judicial branch. However, there was little or no privacy in villages. While village officials by law must have permission from a judge to enter a resident's home without the resident's consent, there can be substantial societal pressure on the resident to grant such permission.

In accordance with traditional law, village fono may impose a punishment of banishment (*see* Section 2.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. The law requires journalists to reveal their sources in the event of a defamation suit against them; however, there has been no court case invoking this law.

Three English language newspapers and a number of Samoan language newspapers were published regularly. In January, the Safotu village fono reportedly imposed a fine (consisting of several food items) on a journalist for the Samoa International newspaper for publishing a story deemed damaging to the village.

The Government operated one of the country's two television stations. There were five private radio stations, and a satellite cable system was available in parts of Apia. In addition, approximately one third of the population was within the broadcast area of the television station in American Samoa.

The Government did not restrict Internet use.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. In 2000, the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association (*see* Sections 1.e. and 2.c.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution acknowledges "an Independent State based on Christian principles and Samoan custom and traditions." Although Christianity is favored constitutionally, there is no official or state denomination.

The Constitution grants each person the right to change religion or belief and to worship or teach religion alone or with others; however, in practice, the matai often choose the religious denomination of the extended family. In past years, despite the constitutional protection, village fono in the name of maintaining social harmony within the village sometimes banished or punished families that did not adhere to the prevailing religious belief in the village. However, civil courts take precedence over village fono in matters involving the exercise of constitutional rights, and courts have ordered families readmitted to their villages. During the year, there were no new cases of individuals being banished by villages due to their practicing religion differently from that practiced by the village majority. However, in February, the Lands and Titles Court ordered the Salamumu village fono to readmit 3 families, consisting of approximately 80 persons, who were banned from the village in 1998 for organizing Bible study classes with the intention of establishing a new church there. In February, the families returned to Salamumu and, at year's end, were living there without incident. The court's order was the latest in a series of judicial decisions in recent years that affirmed that all laws, whether statutory or customary, are subject to the individual rights provided for in the Constitution.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government gen-

erally respected them in practice; however, villages are governed by traditional law, and village fono have the authority, which they regularly employed, to ban citizens from village activities or to banish them from the village—one of the harshest forms of punishment in this collective society—for failing to conform to village laws or to obey fono rulings. In some cases, civil courts have overruled banishment orders (see Sections 1.e. and 2.c.).

The law prohibits exile, and the Government did not use it.

The Government actively supported emigration as a “safety valve” for the pressures of a growing population, especially for potentially rebellious youths, and because it generated income through remittances.

The country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has not enacted enabling legislation or established a system for providing protection to refugees. Nevertheless, the authorities have indicated that they would conform to international norms if such cases should arise. The Government was prepared to cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees; however, the need did not arise during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens have the right to change their government through direct multiparty elections held on the basis of universal suffrage; however, women’s right to serve in elected office is restricted by the fact that few of them are family heads (matai). While the Constitution gives all citizens above the age of 21 the right to vote and run for office, by social custom candidates for 47 of the 49 seats in the Legislative Assembly are drawn from the approximately 25,000 matai. The Constitution reserves the remaining 2 seats for “at large” voters (primarily citizens who are not of full Samoan ethnic heritage and lack strong ties to one of the 47 village based electoral districts). Matai are selected by family agreement; there is no age qualification. Although women sometimes are selected, 95 percent of matai are men. Matai control local government through the village fono, which are open to them alone.

The HRPP has dominated the political process, winning six consecutive elections since 1982. Although candidates were free to propose themselves for electoral office, in practice, they usually required the approval of the senior matai of the villages within their electoral district.

In the March 2001 elections, the HRPP won 23 seats and declared victory 2 weeks later when 5 opposition party members switched to the HRPP. The elections were marred by charges of bribery, and 10 losing candidates initially filed election challenges. In August 2001, the Attorney General intervened to foreclose further challenges and thereby prevented as many as 40 additional challenges from being filed. In September 2001, following a series of trials, the Supreme Court ordered four by elections. The HRPP won all four.

Retaliation was directed against witnesses who testified in the bribery cases. In March 2001, the Afega village fono banished 10 persons and their families for giving evidence in such a case; however, in June 2001, the Supreme Court overturned the village fono order, and the persons returned to their village. Some candidates who ran against the wishes of their village fono were banished. For example, in January 2001, Aeau Peniamina Leavai, former Speaker of Parliament, and his family were banned from entering his village of Falealupo, reportedly because he ran for Parliament against the wishes of the village fono. In 2002, the authorities determined that the deaths in a fire of four persons, including a candidate in a parliamentary by election who had refused to withdraw in favor of the village leadership’s preferred candidate, were homicides (see Section 1.a.).

On March 20 and November 26 respectively, by elections were held to fill seats left vacant by the deaths of two Members of Parliament; HRPP candidates won both seats. At year’s end, the HRPP held 32 of the Parliament’s 49 seats.

There were no prohibitions on the formation of opposition parties, and there were several such parties.

Government corruption did not appear to be a major problem, although there were some instances of corrupt practices such as bribery and misuse of public funds. During the year, charges were brought against several current and former Ministry of Health employees for theft of government funds; the alleged incidents occurred in 2002. At year’s end, the cases were pending, and investigation into the alleged financial irregularities at the Ministry was continuing. The Chief Executive Officer of the Ministry, during whose tenure the alleged offenses occurred, was suspended in September; his employment contract expired in November.

The 1988 Ombudsman Act provides for an ombudsman with the authority to investigate complaints by both citizens and noncitizens concerning administrative actions by government agencies, officials, or employees, including allegations of corruption. Under the act, the Ombudsman may require the Government to furnish the Ombudsman with information relating to any matter that is the subject of a complaint.

Under the 1974 Government Proceedings Act, government information is subject to disclosure to parties to any civil proceeding involving the government, unless the information is considered privileged or, in the opinion of a Minister of Government, its disclosure would harm the public interest.

There were 3 women in the 49 member legislature, and 1 woman in the 13 person Cabinet. The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for "at large" voters. One cabinet minister was an at large M.P. of mixed European Samoan heritage. Citizens of mixed European Samoan or Chinese Samoan heritage were well represented in the civil service.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, disability, language, or social status. Citizens of foreign heritage constituted approximately 3 percent of the population; they were not subjected to discrimination.

Politics and culture reflect a heritage of matai privilege and power, and members of certain families have some advantages. While there was discrimination against women and non matai, who only occasionally reached high office, women (and particularly the few female matai) played an important role in society.

*Women.*—While the law prohibits the abuse of women, social custom tolerates their physical abuse within the home; such abuse was common. The role and rights of the village fono and tradition prevented police from interfering in instances of domestic violence, unless there was a complaint from the victim which village custom strongly discouraged. While police received some complaints from abused women, domestic violence offenders typically were punished by village fono, but only if the abuse was considered extreme (that is, visible signs of physical abuse). Village religious leaders also may intervene in domestic disputes. The Government punished persons responsible for extreme assault cases, including by imprisonment.

The Government did not keep statistics on domestic abuse cases, but acknowledged the problem to be one of increasing concern. Under a project funded by the Australian government and attached to the Ministry of Police, the Government was working to develop an interagency approach to combat domestic violence. One aim of the project was to train police officers to respond to domestic disputes and to work with NGOs to support their counseling of victims and abusers. At year's end, proposed options to accomplish the project's goals were under consideration by the Government.

Many cases of rape still go unreported because tradition and custom discourage such reporting; spousal rape is not illegal. Nonetheless, the authorities noted an increasing number of reported cases of rape, as women slowly became more forthcoming with the police. Rape cases that reached the courts were treated seriously. Convicted offenders often were given sentences of several years' imprisonment.

Prostitution is illegal; it existed, but was not a major problem. The law does not address sex tourism specifically; however, it was not a problem. The law prohibits sexual harassment; it was not a widespread problem but was believed to be under-reported.

Women have equal rights under the Constitution and statutory law, and the traditional subordinate role of women is changing, albeit slowly, particularly in the more conservative parts of society. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. In order to integrate women into the economic mainstream, the Government sponsored literacy programs and training programs for those who did not complete high school.

*Children.*—The Government made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Education and the Ministry of Health. Education is formally compulsory through age 14; however, the Government did not enforce this law, and the children of families that

could not pay the required school fees were unable to attend. Boys and girls were treated equally and attended school in approximately equal percentages. Most children attended school through junior high school. The Government provided health care for children at public hospitals for minimal charge. Law and tradition prohibit severe abuse of children, but both tolerate corporal punishment. The police have noted an increase in reported cases of child abuse, which was attributed to citizens becoming more aware of the need to report the physical, emotional, and sexual abuse of children. The Government aggressively prosecuted such cases. There were no reports of commercial sexual exploitation of children. The NGO Mapusaga o Aiga (Women against Domestic Violence) provided limited educational programs on children's rights.

There was one privately run behavior modification camp for foreign children with emotional or behavioral problems. The children were enrolled in the camp by their parents.

*Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons; however, unlike in the previous year, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility to public buildings for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of discrimination against persons with disabilities in the areas of employment, education, access to health care, or in the provision of other state services. Many public buildings were old, and only a few were accessible to persons with disabilities. Most new buildings provided better access, including elevators in most multistory buildings.

The Ministry of Women, Community and Social Development has responsibility for protecting the rights of persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the private sector workforce was unionized. The Public Service Association, which represents government workers (an important sector of the work force), also functions as a union.

*b. The Right to Organize and Bargain Collectively.*—While workers have the legal right to engage in collective bargaining, they seldom have practiced it, due to the relative novelty of union activity. The Public Service Association engages in collective bargaining on behalf of government workers, including bargaining on wages. Under the provisions of the Labor and Employment Act, arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arise.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety. Workers in the private sector have the right to strike, but there were no strikes during the year. The Ministry of Labor adjudicates any cases of anti union discrimination or of retribution against strikers or union leaders on a case by case basis.

There are no special laws or exemptions from regular labor laws in the sole export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, in this collective society, persons, including minors, frequently were called upon to work for their villages. Most persons did so willingly; however, the matai may compel those who do not.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the law, it is illegal to employ children under 15 years of age except in "safe and light work." The Ministry of Labor refers complaints about illegal child labor to the Attorney General for enforcement; however, no cases were prosecuted during the year. Children frequently were seen vending goods and food on Apia street corners. The Government has not made a definitive determination as to whether this practice violates the country's labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated it. There were no reports of compulsory labor by children; however, the law does not apply to service rendered to the matai, some of whom required children to work for the village, primarily on village farms (*see* Section 6.c.). The extent of this practice varied by village, but it generally did not significantly disrupt children's education.

*e. Acceptable Conditions of Work.*—The law establishes a 40 hour workweek for the private sector and an hourly minimum wage of \$0.55 (WS\$1.60). An advisory commission to the Minister of Labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. The national minimum wage sufficed for a decent standard of living for a worker and family when supplemented by the subsistence farming and fishing in which most families engaged. The law provides that no worker should be required to work for more than 40 hours in any week.

The law also establishes certain rudimentary safety and health standards, which the Attorney General is responsible for enforcing. However, independent observers reported that the safety laws were not enforced strictly, except when accidents highlighted noncompliance. Many agricultural workers, among others, were protected inadequately from pesticides and other dangers to health. Government education programs were addressing these concerns. The law does not apply to service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from a dangerous work situation, a report of such a case to the Commissioner of Labor would prompt an investigation, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

The law protects foreign workers; minimum wage and working conditions standards apply equally to them.

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## SINGAPORE

Singapore is a parliamentary republic in which politics is dominated overwhelmingly by the People's Action Party (PAP), which has been in power since the country gained autonomy from the United Kingdom in 1959. Opposition parties exist, and elections take place at regular, constitutionally mandated intervals; however, the PAP holds 82 of 84 elected parliamentary seats and all ministerial positions. The judiciary is efficient and constitutionally independent; however, there is a general perception that it reflects the views of the ruling party in politically sensitive cases. Moreover, a variety of executive actions are exempt from judicial review. Government leaders used court proceedings, in particular defamation suits, against political opponents and critics.

The police are responsible for routine security within the country and for border protection, including action against illegal immigrants. Military forces are responsible for external defense. The Internal Security Department (ISD) in the Ministry of Home Affairs is authorized by the Internal Security Act (ISA) to counter perceived threats to the nation's security such as espionage, international terrorism, threats to racial and religious harmony, and subversion. The Government maintained effective control over all security activities. There were no reports that security forces committed human rights abuses.

The country has a free market economy, and wealth is distributed broadly. Its population is approximately 4.1 million, with foreign workers accounting for nearly one-fifth of the total. Key economic sectors include financial and business services, manufacturing of semiconductors and telecommunications equipment, petroleum refining and petrochemical production. After more than 30 years of high growth rates, economic performance has been inconsistent since 2000. In 2003, the economy grew an estimated 1.1 percent, but on the back of renewed export demand, it has expanded dramatically in the first half of the year, with gross domestic product increasing 12.5 percent and projected to reach 8.1 percent for the year. Unemployment peaked at 5.5 percent in the third quarter of 2003, as the city-state grappled with structural changes in the economy; during the year, unemployment was 3.4 percent.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. The Government has broad powers to limit citizens' rights and to handicap political opposition, which it used in practice. Caning, in addition to imprisonment, was a routine punishment for numerous offenses. The Government continued to rely on preventive detention to deal with espionage, terrorism, organized crime, and narcotics. The authorities sometimes infringed on citizens' privacy rights. The Government continued to restrict significantly freedom of speech and freedom of the press, as well as to limit other civil and political rights. Government pressure to conform resulted in the practice of self censorship among journalists. Government leaders continued to use court proceedings and defamation suits against political opponents and critics. These suits,

which have consistently been decided in favor of government plaintiffs, chilled political speech and action and created a perception that the ruling party used the judicial system for political purposes. Restrictions on indoor public events were partially relaxed during the year, and there was a moderate level of ongoing debate in newspapers and on the Internet on various public issues. A "Speakers' Corner" continued to provide a public forum for persons to address a range of issues; however, government restrictions on its use, including prohibitions against the discussion of sensitive ethnic or religious issues, inhibited free speech. The Government significantly restricted freedom of assembly and freedom of association. Jehovah's Witnesses and the Unification Church are banned; however, freedom of religion generally was otherwise respected. Some violence and discrimination against women occurred. Trafficking in persons occurred.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these prohibitions. In March, a detainee charged with stealing \$120,000 (S\$200,000) from a Housing Development Board office claimed that, while he was under interrogation in July 2003, police officers used physical means to force him to confess and also threatened to arrest his wife. The judge ruled that the confession was involuntary, refused to allow it into evidence, and subsequently acquitted the man of all charges. As of March, the Police Force had not taken any action against the officers accused of using "physical means" because the detainee had not lodged a complaint prior to the trial.

In previous years, there were a small number of cases involving alleged police mistreatment of detainees. Persons who alleged mistreatment were permitted to bring criminal charges against government officials suspected of involvement. The media reported fully on allegations of police abuse, and the Government took action against abusers. In April, the High Court reinstated a police officer after he had won an appeal of the decision dismissing him in 2000 for allegedly slapping three female detainees.

The Penal Code mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving the use of violence or threat of violence against a person, such as rape and robbery, and for nonviolent offenses such as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of force, such as kidnapping or voluntarily causing grievous hurt. All women, men over age 50 or under age 16, and anyone determined medically unfit are exempt from punishment by caning. Although statistics for the year were not available, caning was a commonly administered punishment.

Prison conditions, while Spartan, generally were believed to meet international standards. However, a member of an opposition party who served a 5-week prison sentence in 2002 said after his release that he and other sick bay inmates had been chained to their beds at night. The Government responded that the inmates were restrained to minimize the risk of hurting themselves, medical staff, or other inmates.

Male and female prisoners were held separately, and juveniles were held separately from adults. Pretrial detainees were held separately from convicts. Persons detained under the ISA also were held in separate facilities.

The Government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given consular access to citizens of their countries.

*d. Arbitrary Arrest or Detention.*—The law provides that, in most instances, arrests be carried out following the issuance of an authorized warrant; however, some laws, such as the ISA, provide for arrests without warrants. Those arrested under warrants must be charged before a magistrate within 48 hours. The majority of those arrested are charged expeditiously and brought to trial. A functioning system of bail exists, but there are no commercial bail bond services available. Those who face criminal charges are allowed counsel, and the Law Society of Singapore administered a criminal legal aid plan for those who could not afford to hire an attorney. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel.

The police force was well trained and highly disciplined. Corruption was not a problem, and the police effectively maintained internal law and order.

Some laws—the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. Historically, these threats have been Communist-related; however, in recent years, the ISA has been employed against suspected terrorists. Opposition politicians have called for the abolition of the ISA, but the Government has rejected these calls, claiming that citizens accept the act as an element of the nation's security. The CLA historically has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the Minister for Home Affairs at the direction of the President to order detention without filing charges, if the latter determines that a person poses a threat to national security. The initial detention may be for up to 2 years and may be renewed without limitation for additional periods of up to 2 years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a Supreme Court justice, which reviews each detainee's case periodically and must make a recommendation to the President within 3 months of the initial detention. The President may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order, but he is not obligated to do so.

At year's end, 36 detainees were being held under the ISA as suspected terrorists. Of these detainees, 34 were suspected of belonging to the Jemaah Islamiyah, an Al-Qa'ida-affiliated terrorist group, and 2 were suspected of membership in the Philippines-based Moro Islamic Liberation Front. The first arrests of 15 suspected terrorists occurred in 2001; another group of 22 was arrested in August and September 2002, of whom 19 were detained and 3 were released under Restriction Orders (ROs); a person subject to an RO must seek official approval for a change of address or occupation and for overseas travel and participation in any public organization or activity. One new suspect was detained during the year. In January, the Ministry of Home Affairs announced that ISA ROs had been issued for 12 men with suspected terrorist affiliations.

The CLA comes up for renewal every 5 years, and when Parliament renewed it in September, it also passed an amendment that will allow taking DNA samples. Under the CLA, the Minister for Home Affairs may order preventive detention, with the concurrence of the Public Prosecutor, for an initial period of 1 year, and the President may extend detention for additional periods of up to 1 year at a time. The Minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require detainees be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing, the Committee makes a written recommendation to the President, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA may have recourse to the courts via an application of a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel, but they may challenge only the substantive basis for their detention to the CLAC. The CLA is used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. According to the most recent official figures, 211 persons were in detention under the provisions of the CLA in 2003, down from 463 in 1998 and 1,263 in 1988. Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The MDA permits detention without trial. Under the MDA, the director of the Central Narcotics Bureau also may commit—without trial—suspected drug abusers to a drug rehabilitation center for a 6-month period, which is extendable by a review committee of the institution for up to a maximum of 3 years. According to the most recent statistics available, from January to September 2003, 225 persons were com-

mitted to drug rehabilitation centers. Under the Intoxicating Substances Act, the CNB director may order the treatment for rehabilitation of a person believed to be an inhalant drug abuser for up to 6 months. Other sections of the MDA allow for capital punishment or conviction of persons found guilty of narcotics trafficking offenses (see Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision; however, in practice, laws that limit judicial review permit restrictions on constitutional rights. Some judicial officials, especially Supreme Court judges, have ties to the ruling party and its leaders. The President appoints judges to the Supreme Court on the recommendation of the Prime Minister and in consultation with the Chief Justice. The President also appoints subordinate court judges on the recommendation of the Chief Justice. The term of appointment is determined by the Legal Service Commission, of which the Chief Justice is the Chairman. Under the ISA and the CLA, the President and the Minister of Home Affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the Government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the Constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics (see Sections 2.a. and 3). Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the Government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases. One of the more prominent of these cases was a defamation suit brought by then Prime Minister Goh Chok Tong and then Senior Minister Lee Kuan Yew against opposition leader Chee Soon Juan for comments Chee made during the 2001 election campaign. Chee, stating that he was unable to retain competent local counsel, requested that the judge allow a foreign attorney to represent him. The request was denied, and Chee, representing himself, lost at a summary judgment proceeding in 2002. In February 2003, Chee again represented himself at his appeal, but the appeal was denied in April 2003. At year's end, the case was pending with the High Court to determine damages.

The judicial system has two levels of courts: The Supreme Court, which includes the High Court and the Court of Appeal; and the subordinate courts. Subordinate court judges and magistrates, as well as public prosecutors, are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. In addition, the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims. Supreme Court Justices may choose to remain in office until the mandatory retirement age of 65, after which they may continue to serve at the Government's discretion for brief, renewable terms at full salary. The Constitution permits the Prime Minister or the Chief Justice to convene a tribunal to remove a justice "on the ground of misbehavior or inability...to properly discharge the functions" of office, but this provision has never been used.

The judicial system provides citizens with an efficient judicial process. In normal cases, the Criminal Procedures Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Defendants enjoy a presumption of innocence and the right of appeal in most cases. They have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal aid plan for those who cannot afford to hire an attorney. Since November 2003, the Attorney General's Chambers has conducted a pilot Criminal Case Management System, which accelerates the provision of relevant documents to defense counsel. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Trials are public and heard by a judge; there are no jury trials. Despite the general presumption of innocence, the MDA stipulates that a person who the prosecution proves has illegal narcotics in his possession, custody, or control shall be assumed to be aware of the substance, and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic

is above set low limits, it is the defendant's burden to prove he did not have the drug for the purpose of trafficking. Convictions for narcotics trafficking offenses carry lengthy jail sentences or the death penalty, depending on the type and amount of the illegal substance. Persons charged with a capital offense under the MDA have the right to a public trial and to appeal conviction.

The Constitution extends these rights to all citizens; however, persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public (*see* Section 1.d.).

A two-tier military court system has jurisdiction over all military servicemen, civilians in the service of the Armed Forces, and volunteers when they are ordered to report for service. The system handles approximately 450 cases each year. The Military Court of Appeal has the jurisdiction to examine an appeal from a person convicted at a subordinate military court. Trials are public and the defendants have the right to be present. An accused individual also has the right to defense representation.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution does not address privacy rights. The Government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its broad discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The Government has wide-ranging discretionary powers under the ISA, CLA, MDA, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest is at risk. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, have extensive networks for gathering information and conducting surveillance and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants are required for such operations. The law permits government monitoring of Internet use. It was believed that the authorities routinely monitor telephone conversations and the use of the Internet; however, there were no confirmed reports of such practices during the year. It is widely believed that the authorities routinely conducted surveillance on some opposition politicians and other government critics; however, no such reports were substantiated during the year.

In pursuit of what it considers the public interest, the Government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens live and own their own units. The policy was designed to achieve an ethnic mix more or less in proportion to that in society at large (*see* Sections 1.d. and 5). When a housing development is at or near the limit for a particular ethnic group, the policy could mean owners find it difficult to sell their apartments or are forced to sell at a lower price to a person of the underrepresented group.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and, in practice, the Government significantly restricted freedom of speech and freedom of the press. The Government's authoritarian style fostered an atmosphere inimical to free speech and a free press. Government intimidation and pressure to conform resulted in the practice of self-censorship among journalists; however, there continued to be some limited progress towards greater openness during the year, including a moderate level of ongoing debate in newspapers and on the Internet on various public issues.

Under the ISA, the Government may restrict or place conditions on publications that incite violence, counsel disobedience to the law, have the potential to arouse tensions in the country's diverse population, or might threaten national interests, national security, or public order. While the ISA has not been invoked in recent years against political opponents of the Government, political opposition and criticism remained restricted by the Government's authority to define these powers broadly. In the past, occasional government references to speech that it considered "out-of-bounds" were understood to be implicit threats to invoke the ISA; however, these limits are not codified, and journalists and others generally believed these limitations have shifted toward greater tolerance in recent years.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition, strict defamation and press laws and the Government's demonstrated willingness to respond vig-

ously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

On August 22, newly inaugurated Prime Minister Lee Hsien Loong announced that beginning September 1, citizens no longer needed police approval to speak at indoor public gatherings unless the topic impinged on race or religion. Foreigners still needed a permit, and police further specified that any such indoor public gatherings had to be held in enclosed spaces that were not within hearing or view of non-participants.

Prior to this relaxation, under the Public Entertainment and Meetings Act (PEMA), a permit was required for virtually any form of public speech or entertainment (*see* Section 2.b.). In 2002, opposition leader Chee Soon Juan was charged under the PEMA for holding an unauthorized rally outside the Istana, the government compound that houses the offices of the President and Prime Minister; Chee served 5 weeks in prison rather than pay the \$1,715 (S\$3,000) fine.

In 2000, the Speakers' Corner opened in a financial district park; however, government restrictions limited the ability to speak freely. Prospective speakers must be citizens, must show their identification cards, and are required to register in advance with the police. However, they do not need to obtain a public entertainment license. Speakers Corner rules were relaxed during the year to allow exhibitions and performances; however, sound amplification is still banned. A list of registered speakers was posted on a notice board outside the police station. While it was not necessary to declare speech topics in advance, government regulations governing the Speakers' Corner state that "the speech should not be religious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups." In 2002, opposition figure Chee Soon Juan was fined \$1,715 (S\$3,000) for a speech criticizing the government ban on schoolgirls wearing the "tudung," a headscarf that some Muslims consider a religious requirement (*see* Section 2.c.); under the Constitution, anyone fined more than \$1,140 (S\$2,000) cannot run for Parliament for 5 years.

The Government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Ltd. (SPH) and MediaCorp, own all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. MediaCorp is wholly owned by the government investment company. SPH is a private holding company with close ties to the Government; the Government must approve (and can remove) the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and reporting of sensitive foreign relations issues closely reflected government policies and the opinions of government leaders. However, columnists' opinions and letters to the editor expressed a moderate range of opinions on public issues. In October, an annual survey of journalists conducted by the international nongovernmental organization (NGO) Reporters Without Borders ranked the country as 147th out of 167 countries in terms of press freedom; the organization's report on the country noted strong government and ruling party influence over the media as well as continued censorship and self censorship.

Government-linked companies and organizations operated all broadcast television channels and almost all radio stations. Only one radio station, the British Broadcasting Corporation World Service, was completely independent of the Government. Some Malaysian and Indonesian television and radio programming can be received, but satellite dishes are banned, with few exceptions. However, cable subscribers have access to three foreign television news channels and many entertainment channels, including some with news programs.

A substantial number of foreign media operations were located within the country. The law requires foreign publications that report on politics and current events in Southeast Asia to register, post a \$114,286 (S\$200,000) bond, and name a person in the country to accept legal service. The Government has granted exemptions to 14 of the 17 publications to which these requirements could apply. Nonetheless, these requirements strengthen the Government's control over foreign media. Under the Newspaper and Printing Presses Act, the Government may limit the circulation of foreign publications that it determines interfered with domestic politics. The importation of some publications is barred, although a wide range of international magazines and newspapers can be purchased uncensored. Newspapers printed in Malaysia may not be imported. The circulation of the Asian Wall Street Journal and the Far Eastern Economic Review, both foreign publications, was limited (or "gazetted"). The Government has raised the allowed circulation of publications to correspond more or less to actual demand. The Government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the

UPA. In 2001, Parliament passed an amendment to the Broadcasting Act that empowers the Minister for Information, Communication, and the Arts to “gazette” or place formal restrictions on any foreign broadcaster deemed to be engaging in domestic politics. Once gazetted, a broadcaster can be required to obtain express permission from the Minister to continue broadcasting in the country. The broadcaster also may have restrictions imposed on the number of households receiving its programming and can be fined up to \$57,000 (S\$100,000) for failing to comply with this provision.

The country’s defamation laws make it relatively easy for some plaintiffs to win substantial judgments for damages and legal costs. Conviction on criminal defamation charges can result in a prison sentence of up to 2 years, a fine, or both. Threats of defamation actions often persuaded newspapers and others to apologize and pay damages for perceived slights, a situation which prompted general caution in expressing criticism. Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders’ suits in the last decade has fostered public caution about political speech, has prompted a culture of self-censorship within the news media, and has inhibited opposition politics. During the last decade, ruling party leaders sued opposition politicians J.B. Jeyaretnam, Chee Soon Juan, and Tang Liang Hong for defamation several times. The Government argued that these individuals repeatedly had defamed ruling party leaders, who then acted to clear their names. In 2001, then Senior Minister Lee Kuan Yew and Prime Minister Goh Chok Tong sued opposition leader Chee Soon Juan for defamation (*see* Section 1.e.).

In September, the Economist magazine announced that it had agreed to pay damages to Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew in connection with an article published in its August 14 issue. The article was taken to imply that nepotism had played a part in the appointment of Ho Ching, the Prime Minister’s wife, to head Temasek Holdings, the country’s key state investment entity. Newspaper accounts reported that the amount paid was \$229,000 (S\$380,000) plus legal costs.

In 2002, the Bloomberg news service publicly apologized and agreed to pay \$340,000 (S\$595,000) in damages to then Prime Minister Goh and Senior Minister Lee Kuan Yew for an Internet-distributed Bloomberg column that accused them of nepotism in regard to the Ho Ching appointment at Temasek.

The Singapore Broadcasting Authority (SBA) censored broadcast media and Internet sites. The Ministry of Information, Communication, and the Arts (MICA) censored all other media, including movies, video materials, computer games, and music. Banned publications consisted primarily of sexually oriented materials but also included some religious and political publications. Both SBA and MICA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the banning, seizure, censorship, or restriction of written, visual, or musical materials by these agencies if they determine that such materials threaten the stability of the State, are pro-Communist, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. The Films Act bans political advertising using films or videos, as well as films directed towards any political purpose. Other restrictions tightly control the types of campaign materials that can be distributed by or about candidates and parties during an election.

The Media Development Authority (MDA) has the power to sanction broadcasters for airing what it believes to be inappropriate content, and it has exercised this power in the past. All content airing between 6:00 a.m. and 10:00 p.m. must be suitable for viewers of all ages. Polls indicated strong public support for continued censorship of sex and violence in films; in July, a (Government) Censorship Review Committee report cited polling data that 70 percent of the public was satisfied with existing censorship practices and recommended few changes. A list of banned films was available on the MDA website. Certain films that have been barred from general release may be allowed limited showings, either censored or uncensored, with a special rating. In practice, censorship standards have been significantly relaxed in recent years for live theater performances. Plays with overtly sexual or anti-ruling party themes have been permitted.

The SBA regulates access to material on the Internet, using a framework of website licenses. Internet service providers (ISPs) are not required to submit content for approval before posting but are required to ensure that content complies with the SBA’s Internet Code of Conduct. It also regulates Internet material by licensing the ISPs through which local users are required to route their Internet connections. Such services act as a filter for content that the Government considers objectionable and could block access to certain sites. While the Government did not consider regu-

lation of the Internet to be censorship, the SBA directed service providers to block access to websites that, in the Government's view, undermined public security, national defense, racial and religious harmony, and public morals. The SBA has ordered ISPs to block 100 specific websites that the Government considered pornographic; officials stated that this step was largely symbolic since means existed to circumvent the blocking. The SBA indicated it does not intend to monitor the Internet or e-mail use but to block access to material that contains pornography or excessive violence or incites racial or religious hatred. Those responsible for sites that violate the Code of Practice can face charges, including fines. The Government has not taken official action against any ISPs for violating the code.

Political and religious websites must register with the MDA.

All public institutions of higher education and political research institutions are linked closely to the Government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke and published widely and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or in academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or that appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions “it considers necessary or expedient” in the interest of security, public order, or morality; in practice, the Government restricted this right. Public assemblies of five or more persons, including political meetings and rallies, require police permission; however, during the year the Government relaxed rules (*see* Section 2.a.) so that citizens no longer need permits for some indoor speaking events. Spontaneous public gatherings or demonstrations were virtually unknown. The Government closely monitored political gatherings regardless of the number of persons present. Persons who wished to speak at a public function, excluding functions provided by or under the auspices of the Government, needed to obtain a public entertainment license from the police; however, since 2001, regulations have exempted some cultural events (such as Chinese operas or lion dances), requiring 7-day advance notice to the police in lieu of a permit. In the past, opposition politicians routinely experienced delays before being notified of decisions on their applications for speaking permits, although the Government claimed that the delays came only when applications were submitted late. According to the police, the normal processing time for an application was 7 working days from the date of receipt.

In December, the police denied a public entertainment license for an indoor party marketed to the homosexual community, citing concerns that the event was “likely to be organized as a gay party, which is contrary to the public interest.” The Government had allowed the event in prior years and, in August, had licensed a third annual 3 day festival advertised to homosexuals throughout Asia, an event that attracted approximately 8,000 participants. In December 2003, the police denied a public entertainment license for a forum on Burma organized by the Alliance for Reform and Democracy in Asia and the Taiwan Foundation for Democracy, asserting that “the proposed event is likely to be contrary to the public interest.” The police did grant a license for a December 2003 event organized by an NGO to present the Human Rights Defender award to J.B. Jeyaretnam, former Member of Parliament (M.P.) and former Secretary General of the Workers’ Party.

Most associations, societies, clubs, religious groups, and other organizations with more than 10 members are required to register with the Government under the Societies Act. The Government denied registration to groups that it believed were likely to have been formed for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. From 1999 to 2003, authorities denied registration to 10 of 1,236 groups seeking registration. The Government has absolute discretion in applying criteria to register or dissolve societies. The Government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limits opposition activities and contributes to restricting the scope of unofficial political expression and action (*see* Section 3). The prohibition affected the PAP less because of its long domination of the Government and its overwhelming parliamentary majority; the PAP traditionally has been able to use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than opposition political parties. Political parties and organizations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of

publicly active organizations, there were few NGOs, apart from nonpolitical organizations such as religious groups, ethnically affiliated organizations, and providers of welfare services.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government banned some religious groups. The Constitution provides that every citizen or person in the country has the right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny and must be registered under the Societies Act. The Maintenance of Religious Harmony Act (MRHA) gives the Government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, “exciting disaffection against” the Government, creating “ill will” between religious groups, or carrying out subversive activities. The act was prompted by activities that the Government perceived as threats to religious harmony, including aggressive and “insensitive” proselytizing and the “mixing of religion and politics.” Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The Government played an active but limited role in religious affairs. It did not tolerate speech or actions, including those of a religious nature, which adversely affected racial and religious harmony and sometimes issued restraining orders barring participation in such activities. The Presidential Council for Religious Harmony reviews such orders and makes recommendations to the President on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examines all pending legislation to ensure it is not disadvantageous to a particular group, reports to the Government on matters that affect any racial or religious community, and investigates complaints. The Government also supported citizen access to traditional religious organizations by assisting religious institutions to find space in public housing estates where most citizens lived. The Government maintained a semi official relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advises the Government on the Muslim community’s concerns, maintains regulatory authority over Muslim religious matters, and oversees a mosque-building fund financed by voluntary payroll deductions.

Under the Societies Act, the Government banned meetings of Jehovah’s Witnesses and the Unification Church. The Government deregistered and banned Jehovah’s Witnesses in 1972 on the grounds that its approximately 200 members refused to perform obligatory military service, salute the flag, or swear oaths of allegiance to the State. The Government regarded such refusals as prejudicial to public welfare and order. While the Government did not outlaw the profession or propagation of the beliefs of Jehovah’s Witnesses and does not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah’s Witnesses illegal. The community numbered approximately 2,000 in the country, and Jehovah’s Witnesses continued to refuse to perform national military service. The Government also banned all written materials published by the Jehovah’s Witnesses’ publishing affiliates, the International Bible Students Association and the Watch Tower Bible and Tract Society. A person in possession of banned literature can be fined up to \$1,140 (S\$2,000), and for holding a meeting, the fine can be as high as \$2,285 (S\$4,000). During the year, the authorities briefly detained 11 persons for attempting to bring Jehovah’s Witnesses publications into the country.

During the year, the Ministry of Education indefinitely suspended four children for failing to sing the national anthem and participate in the flag ceremony, down from eight suspensions in 2003. There have been 34 such cases since 2000. All 34 students made alternate schooling arrangements; none have returned to public school. The students can return if they are prepared to sing the anthem, salute the flag, and say the pledge of allegiance.

Missionaries, with the exception of members of Jehovah’s Witnesses and representatives of the Unification Church, were permitted to work, publish, and distribute religious texts. However, while the Government did not prohibit evangelical activities in practice, it discouraged activities that could upset inter-communal relations, such as unsolicited public proselytizing.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens the right to move freely throughout the country; however, while the Government generally respected this right in prac-

tice, it limited this right in a few respects. For example, citizens' choice of where to live sometimes was limited by the Government's policy of assuring ethnic balance in publicly subsidized housing, in which the great majority of citizens lived (see Sections 1.f. and 5). The Government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The Government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA, a person's movement may be restricted (see Section 1.d.). According to official press releases, at year's end, there were 17 suspected terrorists subject to such restrictions.

The Constitution prohibits forced exile, and the country did not employ forced exile.

The right of voluntary repatriation was extended to holders of national passports. The Government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of law allows for the loss of citizenship by citizens who resided outside the country for more than 10 consecutive years, but it was not known to have been used.

Men are required to serve 24 months of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad. Boys age 11 to 16 years are issued passports that are valid for 2 years and are no longer required to obtain exit permits. From the age of 16 until the age of enlistment, male citizens are granted 1-year passports and are required to apply for exit permits for travel that exceeds 3 months.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the Government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the country's internal security. In addition, the law requires them to submit to an interview by the Internal Security Department and to accept any restrictive conditions imposed on them.

The law does not provide for the granting of refugee status or asylum to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provides protection against refoulement, the return of persons to a country where they feared persecution, but does not grant refugee or asylum status. A small number of ethnic Chinese from Indonesia have entered the country as visitors for temporary stays during episodes of racial or religious strife.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully. Opposition parties are free to contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for more than 4 decades, has used the Government's extensive powers to place formidable obstacles in the path of political opponents. In the 2001 elections, the opposition contested 29 of 84 seats and won only 2 seats. There were no allegations of irregularities in the casting or counting of votes, but the opposition continued to criticize what it described as PAP abuse of its incumbency advantages to handicap opposition parties. The PAP maintained its political dominance in part by developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. The belief that the Government might directly or indirectly harm the employment prospects of opposition supporters inhibited opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and a lack of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the Government, which is headed by a Prime Minister. The parliamentary term is for no more than 5 years after the first sitting of Parliament following a general election. Parliament may be dissolved early by presidential proclamation, which normally follows a request by the Prime Minister. Elections must be held within 3 months of Parliament's dissolution. Following the 2001 elections, the PAP held 82 of 84 elected seats; the opposition Singapore People's Party and the Workers' Party each held 1 seat. A constitutional amendment requires at least three opposition members in Parliament even if fewer than three

are elected. Following the elections, the Government allotted a non constituency seat to Singapore Democratic Alliance candidate Steve Chia, the opposition candidate who had obtained the highest share of the vote without winning a seat. In addition to regular M.P.s and non-constituency M.P.s, the Constitution allows a parliamentary committee to select and the President appoint Nominated M.P.s to serve 2 -year terms without facing election. Non-constituency M.P.s and Nominated M.P.s can participate in parliamentary debate and can vote on some, but not all, types of legislation. In November, a new nine-member slate of Nominated M.P.s replaced the Nominated M.P.s who took office in 2002.

The PAP has an extensive grassroots system and a carefully selected, highly disciplined membership. The establishment of government-organized and predominantly publicly funded Community Development Councils (CDCs) has further strengthened the PAP's position. The Councils promote community development and cohesion and provide welfare and other assistance services. The PAP dominates the CDCs even in opposition-held constituencies and has used the threat of withdrawing publicly funded benefits. During the last two election campaigns, the Prime Minister and other senior government officials warned voters that precincts that elected opposition candidates would have the lowest priority in government plans to upgrade public housing facilities. This statement heightened concerns among some observers about voters' genuine freedom to change their government.

The PAP completely controlled key positions in and out of government, influenced the press and courts, and limited opposition political activities. Often these means were fully consistent with the law and the normal prerogatives of the Government, but the overall effect (and many argued the ultimate purpose) was to disadvantage and weaken political opposition. For example, the Government dramatically altered the boundaries of election districts only 17 days before the 2001 general election, abolishing some constituencies and adjusting the borders of many other constituencies. Since 1988, it has changed all but nine single-seat constituencies into Group Representational Constituencies (GRCs) of three to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the Constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. However, these changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multimember candidate lists.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability (*see* Section 2.b.). There were 24 registered political parties in the country; however, only 6 of these were active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing or to establish community foundations. In addition, government influence extended in varying degrees to academic, community service, and other NGOs.

The Films Act bans political films and recorded televised programs, putting opposition parties at a disadvantage. The ban, which ostensibly exists to prevent the sensationalist or emotional effect that video or film productions could have on political issues, applies to the PAP as well as to the opposition parties. Nonetheless, it had the effect of denying opposition parties, which already received far less coverage than did the PAP in the government-influenced press and media, a potential outlet for their political messages. The law regulates the use of the Internet by political parties and others for political purposes during election campaigns (*see* Section 2.a.).

The threat of civil libel or slander suits, which government leaders have often used against political opponents and critics and consistently won, had a stifling effect on the full expression of political opinion and disadvantaged the political opposition (*see* Section 2.a.). Large judgments in libel suits can lead to bankruptcy, and, under the law, bankrupt persons are ineligible to sit in Parliament. The Penal Code also provides for criminal defamation offenses.

In the past, the Government also used parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders. Government entities also used libel or slander suits, and dismissal from positions in government-related entities, to intimidate prominent opposition politicians.

The duties of the President are largely ceremonial. Nonetheless, the President has significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. The President is popularly elected for a 6-year term from among candidates who are approved by a constitutionally prescribed committee to meet specified requirements. Candidates cannot be nominated for the position if they are members of political parties. No election was held for President

in 1999, after the committee decided that the government-backed candidate met the constitutional requirements, but that the other two nominees did not. The Government placed significant obstacles in the way of opposition political figures' presidential candidacies. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial affairs of a large institution, since many of the country's large institutions are government-run or linked to the Government. Opposition political figures asserted that such strict compliance requirements weakened their parties.

There are no laws that specifically provide for public access to government information; however, significant amounts of information are available on government websites.

Voting is compulsory, and women and minorities voted at approximately the overall 95 percent rate in contested constituencies. There is no legal bar to the participation of women in political life; women held only 10 of the 84 elected parliamentary seats, an increase from 6 female M.P.s in the previous Parliament. After the August Cabinet reshuffle, there were two female ministers of state, although none of cabinet rank. Three of the 14 Supreme Court justices were women.

There are no restrictions in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the Government, except in some sensitive military positions. Malays make up approximately 15 percent of the general population and hold approximately the same percentage of regularly elected seats in Parliament. Indians make up approximately 7 percent of the general population and hold approximately 10 percent of the regularly elected seats in Parliament. Minority representation in Parliament is, in part, the result of a legal requirement that candidate slates in every multi-seat constituency have at least one minority representative. There was one ethnic Malay minister and three ethnic Indian ministers. Three of the 14 members of the Supreme Court were ethnic Indian; there were no Malays on the Court.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act (*see* Section 2.b.). Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions.

There is a Presidential Council on Minority Rights that monitors pending legislation for anything possibly disadvantageous to minorities (*see* Section 5).

In recent years, the Government permitted international human rights organizations to observe human rights related court cases. In February 2003, two representatives from the Lawyer's Committee on Human Rights attended opposition figure Chee Soon Juan's appeal of a summary judgment in the defamation suits filed against him by then Prime Minister Goh Chok Tong and then Senior Minister Lee Kuan Yew (*see* Section 1.e.).

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the Government generally respected these provisions in practice. The Constitution contains no explicit provision granting equal rights for women and minorities. Mindful of the country's history of inter-communal tension, the Government took measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or sex. Men do not have the right to seek alimony from their wives in cases of divorce or separation. Women are not required to perform national service; virtually all males must fulfill 24 months of fulltime national service at the age of 18, with continuing reserve requirements thereafter. In August, the Prime Minister announced that medical benefits for male and female civil servants would be equalized; previously, dependants of male civil servants had greater access to subsidized health care.

*Women.*—The Penal Code and the Women's Charter criminalize domestic violence and sexual or physical harassment; however, violence or abuse against women occurred. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse has ceased aggressive behavior. The number of court orders for protection against violent family members has increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. The Penal Code prescribes mandatory caning and a minimum imprisonment of 2 years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury.

The press gave fairly prominent coverage to instances of abuse or violence against women. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research ran a hotline that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development, Youth, and Sports, documented physical and psychological abuse, and provided counseling and other support services to abused women. The Star shelter accepted children, women, and men, and can accommodate up to 30 persons. The Government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law, rape can only be committed by a man, and spousal rape is not a crime; however, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault.

The country's laws neither ban nor authorize prostitution; however, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution and arrested and deported foreign prostitutes, particularly when their activities took place outside informally designated red light areas. In practice, police unofficially tolerated and monitored a limited number of brothels; prostitutes in such establishments were required to undergo periodic health checks and carry a health card.

Women accounted for 55 percent of civil service employees. They enjoyed the same legal rights as men in most areas, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage law falls under the administration of the Muslim Law Act, which empowers the Shari'a (Islamic law) court to oversee such matters. The laws allow Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing wife or wives and reviews the financial capability of the husband. There were 340 applications for polygynous marriage from 1999 to 2003, 109 were approved, about 0.5 percent of all Muslim marriages during that period. Both men and women have the right to initiate divorce proceedings; however, in practice, women faced significant difficulties that often prevented them from pursuing proceedings, especially the lack of financial resources to obtain legal counsel.

Women constituted 42 percent of the labor force and were well represented in many professions, but they held few leadership positions in the private sector. They were still overrepresented in low wage jobs such as clerks and secretaries; however, there were some women who held senior corporate leadership positions. Salaries for women ranged between 62 and 100 percent of men's salaries depending on the occupational grouping. The wage gap has narrowed in recent years; in some specific occupations, women earn more than their male counterparts. Observers noted that the wage differential was smaller in professional jobs and that wage disparities could be attributed in part to differences in average educational levels and work experience. In 2002, the Government eliminated a quota on the number of female medical students who can be admitted to the National University.

There were no specific laws prohibiting stalking or sexual harassment, and sexual harassment was not considered a significant issue. However, the Miscellaneous Offences Act and laws prohibiting insults to modesty were used successfully to prosecute such offenses.

In April, Parliament amended the Constitution to eliminate the inequality whereby female citizens could not automatically transmit citizenship to their children born abroad, but male citizens could.

*Children.*—The Government demonstrated its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Access to public education and medical care was equal for all children. In 2003, a law made compulsory 6 years of public (or government-recognized private) education for all children. Although school attendance previously was not compulsory, virtually 100 percent of children were enrolled through grade 6, and the drop-out rate for secondary school was low. The Children and Young Persons Act established protective services for orphaned, abused, disabled, or "troubled" children, and created a juvenile court system. The Ministry of Community Development, Youth, and Sports worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the Government funded up to 50 percent of all child costs, which included normal living expenses and overhead, as well as expenses for special schooling, health care, or supervisory needs. In some cases, the Government covered 100 percent of such costs.

Child prostitution occurred. Between January and November, approximately 1 percent of the 4,600 persons arrested for prostitution were found to be under age 18. In 2003, the Ministry of Home Affairs found 21 children under the age of 18 who it suspected were involved in prostitution; the figure for 2002 was 66. Sexual intercourse with girls under the age of 16 is illegal, but there is no legal prohibition on commercial sex with "consenting" partners aged 16 and 17. The authorities have the power to detain persons under the age of 21 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to the country for prostitution, or who coerce or deceive women or girls into prostitution.

The Ministry for Community Development, Youth, and Sports sponsored activities promoting children's causes, including family stability. This agency and several NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons occurred.

The three major laws that govern trafficking and prostitution are the Women's Charter, the Children and Young Person's Act, and the Penal Code. Trafficking in women and children, whether or not it is related to prostitution, is punishable by up to 5-years imprisonment, a \$5,700 (S\$10,000) fine, and caning. Traffickers could be prosecuted under the Penal Code's "wrongful constraint" provision, which carries maximum punishments of 10 years imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

Authorities prosecuted some cases of trafficking. In May 2003, authorities charged five individuals with forcing a 12-year-old Malaysian girl into prostitution after promising her employment as a maid. Two of those charged pleaded guilty and were sentenced to 12 years in prison; one of these two was also sentenced to be caned six strokes. The trial of the other three lasted 10 days. One was convicted of rape and sentenced to 12 years in prison and 12 strokes of the cane. The other two were convicted of conspiring to recruit men to rape the girl. One was sentenced to 12 years and six strokes of the cane; the other received a 13-year sentence, 12 strokes of the cane, and a \$5,700 (S\$10,000) fine.

Almost all sex workers were foreign; most originated in Thailand, the Philippines, Malaysia, China, Indonesia, Vietnam, India, or Sri Lanka. Observers believed that almost all foreign prostitutes were aware when they entered the country that they were going to be employed as prostitutes. While prostitution is not legally an offense, public solicitation is illegal. Police periodically carried out crackdowns on prostitutes, particularly those operating outside informally designated red light areas (see Section 5, Women). Foreign prostitutes detained in these raids usually were deported quickly. Foreign prostitutes and maids were deported immediately if they tested positive for pregnancy or HIV/AIDS or other sexually transmitted diseases.

In practice, successful investigation and prosecution of trafficking in persons required that victims remain in or return to the country to testify. Victims were urged by police to remain in the country until a case was prosecuted, and generally they did; however, some abused domestics left and were brought back to testify. Victims did not receive government assistance during this period or at other times and indicated they sometimes were not granted permission for alternative employment and were dependent on support from their embassy. Laws prohibiting the harboring, aiding, or abetting of illegal immigrants could hamper assistance to trafficking victims by putting NGOs in the position of harboring a victim who has no legal status; however, no such cases are known to have occurred. The authorities notified embassies of the arrest of nationals, including for prostitution-related offenses, and allowed consular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation or immigration offenses during police sweeps. However, victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

*Persons With Disabilities.*—The Government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment; however, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. The Gov-

ernment also ran vigorous campaigns to raise public awareness of issues confronting persons with disabilities and the services available to them. A tax deduction of up to \$57,000 (S\$100,000) was available to employers to defray building modifications to benefit employees with disabilities. Informal provisions in education have permitted university matriculation for the visually impaired, deaf, and for students with physical disabilities. There were 20 special education schools that enrolled more than 4,000 students. It is expected that upon completion of retrofitting, one out of every eight schools will be accessible to handicapped students. Beginning in 2003, the Government provided funds for 6 childcare centers to take in 60 children with special needs.

The Government allowed a tax deduction of up to \$2,000 (S\$3,500) per individual for families caring for a sibling, spouse, or child with a disability. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

*National/Racial/Ethnic Minorities.*—Ethnic Malays constituted approximately 15 percent of the population. The Constitution acknowledges them as the indigenous people of the country and charges the Government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The Government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels, and, some assert, in certain sectors of the Government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. The Government has issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as “Chinese speaker” or “physically strong” remains acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the Government on matters that affected any racial or religious community and investigated complaints.

The Government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units, a policy designed to achieve an ethnic mix more or less in proportion to that of society at large.

*Other Societal Abuses and Discrimination.*—Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The Government discouraged discrimination, supported initiatives that counter misperceptions about HIV/AIDS, and praised employers that welcome workers with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides all citizens with the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act, and by labor and education laws, and regulations. Under these laws, any group of 10 or more persons is required to register with the Government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of representation was expanded over the years to cover all public sector employees except the most senior civil servants.

The Trade Unions Act restricts the right of trade unions to elect their officers and whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, the Minister of Manpower could grant exemptions. The Government granted two foreign citizens permission to serve on the executive committee of the Airline Pilots Association of Singapore, the Singapore Airlines pilots’ union. In December 2003, the Government revoked this permission and urged both Singapore Airlines and the pilots to adopt moderate positions in upcoming contract negotiations (see Section 6.b.). The Trade Unions Act limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. According to government statistics, the national labor force was made up of approximately 2.12 million workers, nearly 390,000 of whom were represented by 70 unions. Al-

most all of the unions (which represented virtually all of the union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the Government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's Secretary General, Lim Boon Heng, a PAP M.P., was a member of the Cabinet as Minister in the Prime Minister's Office. Young PAP M.P.s with no union experience were often elected to leadership positions in the NTUC or a member union. The NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. In 2002, the branch chairman of an NTUC-affiliated union was stripped of his position and his union membership because he had been elected secretary general of the Singapore Democratic Alliance, an opposition body. While the NTUC is financially independent of the PAP, the two share a common ideology and work closely with management in support of non-confrontational labor relations. The NTUC is free to associate regionally and internationally and is a member of the International Confederation of Free Trade Unions. The country is a member of the International Labor Organization.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining was a normal part of labor-management relations in the industrial sector. Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before going into effect. The IAC could refuse certification at its discretion on the ground of public interest. Transfers and layoffs were excluded from the scope of collective bargaining. However, in practice, employers did consult with unions on both issues, and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs. Disputes could be settled through discussions with the Ministry of Manpower. If conciliation fails, the parties may submit their cases to the IAC. In limited situations, the law provides for compulsory arbitration, which has not been used since 1980. Agreements between management and labor were renewed every 2 to 3 years, although wage increases were negotiated annually. The National Wages Council (NWC), a group composed of labor, management, and government representatives, issues yearly guidelines on raises and bonus pay that serve as the starting point for bargaining agreements. Subject to negotiation in each enterprise, up to 10 percent of salaries were considered "variable" each month, allowing companies to eliminate that portion of pay if there were financial problems. The intent is to enable companies to adjust wages quickly and minimize job losses in a changing business environment.

Workers in "essential services" are required to give 14 days notice to an employer before striking, and there is a prohibition on strikes by workers in the water, gas, and electricity sectors. Other workers have the legal right to strike but rarely did so. There were no specific laws that prohibited retaliation against strikers. The law provides that before striking, unionized workers must vote in favor of the strike by secret ballot.

Most disagreements are resolved through informal consultations with the Ministry of Manpower. If conciliation fails, the disputing parties usually submit their case to the Industrial Arbitration Court, which is composed of representatives from labor and management, and chaired by a judge. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the Government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy. In addition, the widely held view that labor conflict would undermine the country's economic competitiveness and attractiveness to investors, compounded with a cultural aversion to confrontation, helped to maintain a harmonious labor situation.

The most visible labor story during the year involved the Singapore Airlines (SIA) pilots' union, the only significant union not affiliated with the NTUC. In 2003, SIA cut pilots' pay in response to a sharp travel slump amid the Severe Acute Respiratory Syndrome (SARS) epidemic; once the airline's profits rebounded, the pilots sought to regain some of their losses. In December 2003, citing the "strategic" importance of SIA to the country's economic success, the Government publicly warned the pilots' union against unreasonable contract demands. In March, the Government rescinded the permanent resident status of a Malaysia-born SIA pilot, who had been identified by then Senior Minister Lee Kuan Yew as having instigated a shakeup in the pilots' union leadership; the pilot had lived in the country for 26 years. On April 20, the Trade Unions Act was amended to rescind the right of union members to vote on collective bargaining agreements—unlike other unions, only the pilots' union had its members take such a vote on contracts. In September, SIA and the

pilots reached an agreement that brought overall pay levels back to pre-SARS levels, but the increase was channeled into the variable component of the pay package.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. Under sections of the Destitute Persons Act, any indigent person may be placed in a welfare home and assigned suitable work.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 are rigorous and fully enforced. Children under the age of 14 generally are prohibited from employment in the industrial sector. Exceptions include family enterprises; children may work in a business in which only members of the same family are employed. A child of 12 or older may be employed in light work, subject to medical clearance. Employers have to notify the Commissioner of Labor within 30 days of hiring a child between the ages of 14 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 14 and 16 to no more than 7 hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The Minister of Manpower effectively enforced these laws and regulations.

*e. Acceptable Conditions of Work.*—There are no laws or regulations on minimum wages or unemployment compensation; however, the NWC, a tripartite body consisting of representatives from government, labor, and business, monitored the economy and made annual recommendations to the Government concerning wage guidelines. The labor market offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for 1 rest day each week. In his National Day Rally speech in August, the Prime Minister announced that the Government would move to a 5-day, 44-hour workweek.

The Ministry of Manpower effectively enforces laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While a worker had the right under the Employment Act to remove himself from a dangerous work situation, his right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600,000 foreign workers were employed legally, constituting about 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination; however, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions.

Although the great majority of the approximately 140,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts, their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment and abuse. In response to concern about cases of maid abuse, the Government amended the Penal Code in 1998 to increase the punishment for confining or sexually or physically abusing a maid. The authorities fined or imprisoned employers who abused maids, often with great publicity. Prison sentences have ranged from 7 weeks for one woman to 6 years and 12 strokes of the cane for a male employer convicted on three counts of molesting his maid. Substantiated cases of abuse of foreign maids fell by almost 50 percent following the 1998 amendment strengthening legal penalties. In 2002, there were 43 substantiated cases of maid abuse compared with 89 in 1998. Debate on how to prevent abuse of maids is ongoing. In September, the Government announced that it would raise the minimum age for maids from 18 to 23 and require at least 8 years of formal education. Between 8,000 and 9,000 new maids arrive in the country each month; all new maids and new employers of maids must undergo mandatory training. The curriculum includes such topics as maid's rights and responsibilities.

Most maids worked 6 days per week from very early morning until late in the evening. Many contracts allowed only 1 day off per month. Contracts often stipu-

lated that, even when not working, a maid was required to remain on the premises unless on official duties or on her day off. Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

The Employment Act protects foreign workers, such as the many employed in the construction industry; however, domestic servants are not covered by the act and are not eligible for limited free legal assistance from the Government. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the Ministry of Manpower provided free advisory and mediation services to foreign workers experiencing problems with employers. The Government allowed complainants to seek legal redress.

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## SOLOMON ISLANDS

The Solomon Islands has a modified parliamentary system of government consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister, who is elected by a majority vote of Parliament, and his Cabinet. A new Parliament was elected in 2001 with Sir Allan Kemakeza as Prime Minister; elections were considered generally free and fair. Between 1998 and July 2003, conflict between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—led to a serious deterioration in the human rights situation, with numerous abuses committed by the police and by militant groups on both sides. Thousands of Malaitans residing on Guadalcanal were forced from their homes. Although a peace agreement formally ending the conflict was signed in 2000, subsequent governments had limited success in restoring peace. In July 2003, the Regional Assistance Mission for Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country at the invitation of the Government to assist in restoring law and order and rebuilding the country's institutions. By year's end, law and order largely had been restored, weapons were confiscated and destroyed, and high-profile offenders were arrested. The judiciary is independent.

A police force under a civilian police commissioner is responsible for law enforcement, internal security, and border security. Following the 2000 takeover of Honiara, the capital, by Malaitan militants, the police force became factionalized and did not function effectively. Prior to RAMSI's arrival, some members of the security forces, in particular the paramilitary police unit and untrained former militants who had been taken into the police force in 2001 as "special constables," committed numerous serious human rights abuses. During the year, approximately 350 police from Australia, New Zealand, Fiji, and other countries in the region remained as part of the RAMSI peacekeeping force. RAMSI initially included a strong military component; however, the security situation stabilized so quickly that the military element was substantially withdrawn. At year's end, approximately 160 troops remained. Since RAMSI's arrival, the special constables have been demobilized and the police reorganized. A number of police officers were arrested for offenses committed during the ethnic conflict. During the year, the civilian authorities maintained effective control over the security forces. There were no confirmed reports that security forces committed human rights abuses; however, there were a few allegations of police mistreatment.

The economy is market based. Approximately 75 percent of the population of 480,000 engaged to some extent in subsistence farming and fishing and had little involvement in the cash economy. The formal sector of the economy was on the brink of collapse at the time of RAMSI's intervention. There was some improvement during the year, with economic growth estimated at 5 to 6 percent and modest inflation; however, although no official statistics were available, anecdotal evidence suggested that the economy was still losing jobs and wages were stagnating. During the year, a Malaysian-owned company signed an agreement to resume limited operations at Solomon Islands Plantation Limited, a palm oil producer closed in 1999 due to the ethnic conflict. In addition, an Australian consortium reached agreement with former operators to design proposals for reopening the Gold Ridge Mine on Guadalcanal, closed since 2000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. During the year, there were a few violent incidents linked to the ethnic conflict. Further improvements were made in the judicial

system, but case backlogs remained a problem. Violence and discrimination against women continued to be problems.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On December 22, an Australian Federal Police officer attached to RAMSI was shot and killed while on patrol in Honiara. Police arrested two suspects and charged them with murder in the case, which still was pending at year's end.

In January 2003, a masked gunman shot and killed retired Police Commissioner Sir Frederick Soaki in Auki, Malaita, where he was helping to prepare workshops organized by the U.N. Development Program (UNDP). Police arrested a police sergeant for the murder; however, he escaped from custody. Subsequently, he reportedly went to a police station in Auki, fired an automatic rifle in the station, and fled. At year's end, he was still at large.

In April, citing lack of sufficient evidence, the High Court dismissed murder charges against two men accused of the 2003 beheading of an Australian Seventh Day Adventist missionary in Malaita.

It remained unclear how many of those responsible for the many killings and other human rights abuses committed by both security forces and civilians during the half-decade of conflict and breakdown in law and order prior to RAMSI's arrival in 2003 would be investigated or prosecuted; however, in 2003 and during the year, RAMSI investigated and arrested a number of police officers and militants who allegedly had committed murder and other criminal acts, and brought them to trial (*see* Sections 1.c. and 1.d.). At year's end, the trials were ongoing. Former Guadalcanal Liberation Front leader Harold Ke'ke, who was arrested in 2003 and charged with murder and other crimes, remained in pretrial detention; his case was expected to come to trial early in 2005.

*b. Disappearance.*—There were no reports of politically motivated disappearances. During the ethnic conflict, more than 100 persons were abducted and possibly killed by militants.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no confirmed reports of such practices by the police during the year. There were a few allegations by detainees that they were mistreated by police during questioning. During the violence prior to the arrival of RAMSI, there were numerous reports of acts of torture and mistreatment attributed both to members of the police and to Malaitan and Guadalcanalese militants.

Reportedly between August 16 and 19, a group of persons in the Gold Ridge area of Guadalcanal burned down at least 30 houses and committed other acts of violence against residents, including torture, rape and robbery, allegedly as retaliation against supporters of arrested former militant Stanley Kaoni. In September, police arrested several suspects in the case; they were awaiting trial at year's end.

In 2003 and during the year, RAMSI took action to apprehend and charge persons allegedly responsible for human rights abuses and other criminal acts. More than 240 persons, including approximately 40 police officers and Ke'ke and other militants, were arrested. More than 600 charges were lodged against them. Some of those arrested were tried and convicted during the year, while others were awaiting trial at year's end.

At year's end, prison conditions generally met international standards. Prisoners at Rove Prison in Honiara were housed in a newly constructed building. Each cell had a toilet. The facility included a recreation area, kitchens, and a family visitation center. Prisoners received three basic meals a day.

In 2002, the national Ombudsman visited the small provincial jail at the regional capital of Gizo and announced that conditions there were in breach of human rights standards. RAMSI undertook some renovations in 2003 and during the year at both Gizo and another provincial prison at Aiki. Overcrowding at those facilities was alleviated by transferring persons jailed for serious offenses to Rove Prison, where more space was available.

On August 10, between 100 and 200 inmates broke out of their cells at Rove Prison, occupied part of the compound, and reportedly threw stones at police; no serious injuries were reported and order was restored following negotiations between the authorities and inmates. The Government and RAMSI initiated an inquiry into the incident; however, no findings had been made public by year's end. Following the riot, some inmates filed a petition with the High Court complaining about their

treatment. The court ruled that segregating inmates classified as high security risks in conditions similar to a punishment regime was unlawful and unreasonable. The court also mandated certain improvements in the prison diet and exercise regimen. The acting Commissioner of Prisons subsequently stated that the court's orders were being implemented.

Men and women were held separately. Rove Prison had separate facilities for juveniles. Pretrial detainees were held separately from convicted prisoners. In a change from prior practice, hardened criminals were held separately from first-time offenders.

The Government permitted prison visits by human rights observers, including the International Committee of the Red Cross (ICRC). The ICRC also facilitated visits to Rove Prison by family members of some prisoners.

*d. Arbitrary Arrest and Detention.*—The Constitution prohibits arbitrary arrest and detention and the Government generally observed these prohibitions.

A commissioner, who reports to the Minister of Police, heads the police force of approximately 1,100 members. During the year, a British police official served as Commissioner on a contract funded by the British Government and the European Union (EU). Three other British officers were funded under the same program.

Prior to RAMSI's arrival, the police were largely ineffectual. Corruption was a problem, and there was a lack of accountability for police officers involved in abuses. The situation improved after RAMSI's arrival. By late 2003, nearly 40 police officers, including some of senior rank, had been arrested on more than 90 charges, including murder, assault, intimidation, robbery, and inappropriate use of firearms. During the year, some of the arrested officers, including at least two former police superintendents, were tried and convicted of criminal offenses and received prison terms; others, including two deputy commissioners, were awaiting trial at year's end. RAMSI also re-established 16 police stations throughout the country. During the year, the police service established an inspection unit to monitor staff discipline and performance. A new Police Training College also was established; its first two classes of officers graduated during the year.

The law provides for a judicial determination of the legality of arrests. Officials found to have violated civil liberties are subject to fines and jail sentences. There was a functioning system of bail. However, during the year, delays in adjudication of the large number of cases before the courts resulted in lengthy pretrial detention for some prisoners (*see* Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of a High Court, a Court of Appeals, and magistrates' courts. Accused persons are entitled to counsel. RAMSI expanded the Office of the Public Solicitor, bringing the number of public prosecutors up to seven.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Judicial trial procedures normally operated in accordance with British common law, with a presumption of innocence, right of appeal, access to attorneys, and right to confront witnesses.

In an effort to improve judicial functioning and increase the capacity of the courts to adjudicate cases, RAMSI built two new courthouses and hired additional judges. Nonetheless, backlogs in the investigation and prosecution of cases remained at year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, during the period of violence and with the breakdown of law and order in 2000, there was widespread looting and burning of homes in rural Guadalcanal, including by police. In August, a group of residents from the Gold Ridge area of Guadalcanal reportedly burned down over 30 homes of alleged supporters of a former militia leader (*see* Section 1.c.).

From 1999 to 2001, militants from all sides forced inhabitants from their homes. The forced expulsions ended during 2001, following the departure of virtually all non Guadalcanalese from the areas of Guadalcanal Province adjacent to Honiara (*see* Section 2.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

During the year, print and broadcast media continued to operate on a regular basis. There was a privately owned daily and a privately owned weekly newspaper. The Solomon Islands Broadcasting Corporation (SIBC), a statutory body directly under the Prime Minister's office, broadcast to most of the country. There also were two privately owned FM radio stations. Two television channels broadcast Australia's Asia-Pacific service and BBC International to Honiara and its environs.

Given the high rate of illiteracy, radio broadcasting was more influential than the print media. At least two nongovernmental organizations (NGOs) published periodic news journals; their environmental reporting frequently was critical of the Government's logging policy and foreign logging companies' practices.

The Committee to Protect Journalists reported that in January, assailants chased, verbally harassed, and attempted to assault Charles Kadamana, a photographer for the Solomon Star newspaper; Kadamana escaped without injury, although the assailants ripped his shirt. Kadamana was attacked after he photographed former police official James Kili, who had just been sentenced to 5 years in prison for crimes committed during the ethnic conflict. According to local media reports, relatives of Kili were believed to be responsible for the incident.

In 2002, then-Minister for Communications Daniel Fa'funua and several armed supporters allegedly coerced the Solomon Star newspaper into paying him \$5,000 for publishing an article that he claimed had insulted him. In late 2003, police arrested Fa'funua after an unrelated incident; among other offenses, he was charged with "demanding money with menaces" in the Solomon Star case. In February, he was convicted and sentenced to 5 years in prison.

Internet use was expanding, and privately operated Internet cafés were available in Honiara and Gizo; the Government did not limit or control Internet access. International donor organizations helped fund improvements to the Internet infrastructure, including solar powered e-mail systems set up in several provinces as a means of improving communications with outlying areas.

Foreign assistance enabled the country's College of Higher Education to operate pending its restructuring.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Demonstrators must obtain permits, which generally were granted.

The Constitution provides for freedom of association, but at times the Government restricted this right. The Government outlawed the principal militant groups. Other groups associated freely, and a good governance oversight group, the Civil Society Network, which emerged in 2001, continued to raise issues of concern with the Government (see Section 4).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The public school curriculum included 30 minutes daily of religious instruction, the content of which was agreed upon by the Christian churches; students whose parents did not wish them to attend the class were excused. However, the Government did not subsidize church schools that did not align their curriculums with governmental criteria. Although theoretically non-Christian religions can be taught in the schools, there was no such instruction in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government placed no restrictions on the movement of citizens within or out of the country.

The Constitution prohibits forced exile, and the Government did not use it. Native-born citizens may not be deprived of citizenship on any grounds.

During the violent phase of the conflict on Guadalcanal, an estimated 30,000 Malaitans, Guadalcanalese, Western Province persons, and others living on Guadalcanal were displaced from their homes as a result of armed conflict and intimidation. Approximately 20,000 displaced Malaitans subsequently resettled on their home island of Malaita. By year's end, most of the remaining displaced persons had returned to their home villages, including approximately 1,500 Guadalcanese displaced from Guadalcanal's Weathercoast by acts of violence and intimidation committed by militant leader Harold Ke'ke and his followers prior to Ke'ke's arrest in August 2003. The Government provided very limited help to internally displaced persons, who generally relied on their extended families and subsistence farming for survival. The national Red Cross Society, funded by the EU, provided some assistance.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted domestic legislation or estab-

lished a system for providing protection to refugees. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and the Red Cross in assisting refugees and has not returned persons to a country where they feared persecution.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for persons 18 years of age and over. The Government is a modified parliamentary system consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister and his Cabinet. The 2001 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying and of coercion by armed persons in a number of constituencies. On several occasions since independence, changes of government resulted from either parliamentary votes of no confidence or the resignation of the Prime Minister.

Successive governments were unable effectively to address the violence that began in 1998 between the Malaitan and Guadalcanalese ethnic groups (*see* Section 5), despite the 2000 peace agreement that formally ended the conflict and mandated the surrender of weapons. In 2003, RAMSI instituted a weapons amnesty that resulted in the confiscation and destruction of approximately 3,700 firearms. RAMSI also implemented reform of the police force (*see* Section 1.d.) and provided assistance to the Finance Ministry for budget stabilization and to the justice sector for improving the effectiveness of the legal system. The aid included both funding of improvements and provision of civilian expertise, with approximately 50 personnel placed in key government agencies.

Government corruption and impunity in both the executive and legislative branches were serious problems, compounded by the breakdown in law and order that resulted from the ethnic conflict. During the year, RAMSI worked with the Government and NGOs to reform the public service, including publication of a plan for an independent leadership integrity commission and administrative reorganization of existing "watchdog" agencies such as the Auditor General and the Ombudsman's Office. Also during the year, a number of provincial officials attended workshops abroad on good governance. In October, police charged a former East Honiara Member of Parliament with multiple counts of official corruption involving the granting of certificates of naturalization to Chinese nationals. At year's end, he was awaiting trial.

No law provides for public access to government information. In practice, the Government generally was responsive to inquiries from the media during the year.

Traditional male dominance has limited the role of women in government. There were no women in the 50-member Parliament. During the year, three women were appointed as permanent secretaries in the Government.

There were three members of minorities (non-Melanesians) in the Parliament, two of whom were in the Cabinet. In addition, one of the Prime Minister's advisors was a member of a minority.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no restrictions on the formation of organizations to monitor and report on human rights. The NGO Solomon Islands Development Trust has both development and human rights objectives. The ICRC also operates in the country. The Government generally cooperated with human rights organizations and requested assistance from the U.N. High Commissioner for Human Rights in formulating policies to restore peace and justice.

Numerous domestic NGOs operated freely; most were engaged in developmental or religious activity. In 2001, a number of NGOs and individual citizens established an umbrella organization, the Civil Society Network, to provide oversight of government activity. It regularly criticized practices such as the remission of taxes and custom duties for associates of high-ranking government officials. The Government did not interfere in its operations.

The Constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the Ombudsman's Office has potentially far-ranging powers, it was limited by a shortage of resources. It organized occasional workshops and undertook a few tours during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, or disability shall be treated in a discriminatory manner with respect to access to public places. The Constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in this tradition-based society. Unemployment was high, and there were limited job opportunities for persons with disabilities.

*Women.*—Statistics were unavailable, but incidents of domestic violence appeared to be common. The law does not address domestic violence; however, there are provisions against common assault and rape. In the rare cases of domestic abuse that were reported, charges often were dropped by the victims before the court appearance or the case was settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. In part due to the breakdown in law and order and the lack of an effective, functioning police force after June 2000, women and teenage girls in particular were vulnerable to abuse, including rape, and many rapes have been reported since the ethnic conflict began in 1998. Following RAMSI's arrival, rape charges were brought against a number of persons. As part of a new police curriculum, officers were given specialized training on how to work with victims of rape.

According to a study by Amnesty International based on interviews conducted in the country in April, violence against women, including rape and domestic abuse, remained a serious problem, with nearly 200 rapes reported to police in the first 6 months of the year. Among the reasons cited for the failure to report many incidents of abuse were pressure from male relatives, fear of reprisals, feelings of shame, and cultural taboos on discussion of such matters.

The law accords women equal legal rights, including the right to own property. However, in this traditional society, men are dominant and women are limited to customary family roles. This situation has prevented women from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. The majority of women are illiterate; this was attributed in large part to cultural barriers. The National Council of Women and other NGOs attempted to make women more aware of their legal rights through seminars, workshops, and other activities. The Government's Women Development Division also addressed women's issues.

Prostitution is illegal, but the statutes were not enforced. There is no law against sex tourism. Following media reports in October of a prostitution ring in Honiara that catered to Asian men and other expatriates, the police opened an investigation and subsequently closed an establishment operated by the group. Asian women found working there were deported.

Sexual harassment is not prohibited by law and was a problem.

*Children.*—Within the limits of its resources, the Government was committed to the welfare and protection of children. During the year, major foreign assistance helped to bolster the educational system, which had languished over the previous 5 years. With assistance from RAMSI, all of the country's schools were operating by year's end, and an additional 1,500 classrooms were being built. However, education was not compulsory, and, according to some estimates, less than 60 percent of school-age children had access to primary education; the percentages of those attending secondary and tertiary institutions were much smaller. A higher percentage of boys than girls attended school. School fees required of all students were very high relative to local incomes. Primary school fees were scheduled for elimination in 2005.

The Constitution grants children the same general rights and protections as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect. Children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services, although some cases of child abuse were reported. Virtually no children were homeless or abandoned. All medical care for children was free; however, the lack of resources seriously reduced the quality and availability of medical care.

Several hundred children (generally boys) under the age of 18 were active combatants during the ethnic conflict or assisted in militants' camps. Many of these underage militants joined criminal gangs immediately following the conflict, but as of year's end, most had returned to their villages and reentered civil society. However, some unemployed youth in urban areas were involved in petty crime.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There is no law or national policy on persons with disabilities, and no legislation mandates access to buildings for such individuals. Their protection and care are left to the traditional extended family and NGOs. With high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

The Ministry of Home Affairs is responsible for protecting the rights of persons with disabilities.

The country had one educational facility for children with disabilities, which was supported almost entirely by the Red Cross. A new education unit opened at the College of Higher Education to train teachers in the education of persons with disabilities. Such training was made compulsory for all student teachers at the college.

Persons With mental disabilities were cared for within the family structure; there were no government facilities for such persons.

*National/Racial/Ethnic Minorities.*—The country is composed of over 27 islands with approximately 70 language groups. In the precolonial era, these groups existed in a state of continual warfare with one another, and even today many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Over the past century, and particularly since World War II, many persons from the poor, heavily populated island of Malaita settled on Guadalcanal, the island on which the capital of Honiara is located. The tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998 (*see* Sections 1.c., 1.f., and 2.d.), when Guadalcanalese militants began a campaign of threats and intimidation against Malaitans on Guadalcanal. Scores of Malaitans were killed or injured by Guadalcanalese militants. Approximately 30,000 persons, mainly Malaitans, fled their homes as a result of the conflict. Civilians were the victims of abuses by both sides; such abuses reportedly included abductions, torture, rape, forced resettlement, looting, and the burning of homes. Ethnic tension between Malaitans and Guadalcanalese was greatly reduced with the presence of RAMSI in the country.

*Other Societal Abuses and Discrimination.*—Same-sex relationships are illegal. In January, a woman was arrested and charged with indecent practice between persons of the same sex. She was convicted and sentenced to a jail term.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights, and workers exercised them in practice. Only about 10 to 15 percent of the population participated in the formal sector of the economy. Approximately 60 to 70 percent of wage earners were organized (approximately 90 percent of employees in the public sector and 50 percent of those in the private sector).

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and to bargain collectively, and unions exercised these rights. Wages and conditions of employment are determined by collective bargaining, usually at the level of individual firms. If a dispute between labor and management cannot be settled between the two sides, it is referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. Private sector disputes usually were referred quickly to the TDP for arbitration, either before or during a strike. In practice, the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

Early in the year, several hundred workers went on strike at the Russell Islands Plantation Estate, Limited (RIPEL). The National Union of Workers alleged that RIPEL made improper offshore export sales of copra and cocoa; the company alleged that striking workers had engaged in criminal activities, including occupying company buildings and threatening company managers. Although the High Court declared the strike illegal, the standoff continued at year's end.

The law protects workers against anti-union activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children, and, normally, except as part of a court sentence or order, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The Labor Division of the Ministry of Commerce, Trade, and Industry is responsible for enforcing child labor laws. Given low wages and high unemployment, there was little incentive to employ child labor.

*e. Acceptable Conditions of Work.*—The minimum wage rate is \$0.50 per hour (SI\$2.50) for all workers except those in the fishing and agricultural sectors, who receive \$0.35 (SI\$1.75). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days per week. There are provisions for maternity leave and for premium pay for overtime and holiday work.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The Commissioner of Labor, the Public Prosecutor, and the police are responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

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## THAILAND

Thailand is a democratically governed constitutional monarchy. The King exerts strong informal influence but has never used his constitutionally mandated power to veto legislation or dissolve the elected bicameral Parliament. In 2001, a coalition government led by Prime Minister Thaksin Shinawatra's Thai Rak Thai Party was formed following the January general elections. The election process was viewed as generally free and fair; however, it was marred by widespread vote buying and the killing of some political canvassers during the campaign. Parliamentary elections were scheduled for February 6, 2005. Violence attributed to Muslim separatist insurgents in the southern part of the country resulted in almost daily reports of violence against government authorities and civilians at year's end. The judiciary is independent but was subject to corruption.

While the civilian authorities generally maintained effective control of the security forces, in some instances elements of the security forces acted independently of government authority. The national police force is under the direct authority of the Police Commissioner, who reports to the Prime Minister. The military forces are under the jurisdiction of the Ministry of Defense. With the exception of specific, limited military authority along the country's borders, the police have responsibility for internal security. Elements of both the armed forces and the police had a reputation for corruption. Some members of the security forces committed serious human rights abuses.

The economy was market oriented with a strong tradition of private enterprise, although state enterprises played a significant role in some sectors. The country had a population of approximately 64 million. Gross domestic product (GDP) growth was estimated to be 6 to 7 percent for the year. Annual per capita income was approximately \$2,237. According to the National Statistical Office, approximately 40 percent of all employed workers were employed in the agricultural sector, although agriculture only accounted for approximately 10 percent of GDP. There was a lack of transparency in bureaucratic decisionmaking, and some areas of Government remained vulnerable to corruption.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. Separatist violence in the extreme southern region of the country resulted in the deaths of more than 180 persons at

the hands of security forces. Heightened tensions due to the violence and increased security measures led to occasional clashes with the police and to growing resentment among the local populace in the affected region of the country. Police occasionally beat suspects to coerce confessions. The Government announced investigations in many instances but failed to prosecute vigorously those who committed such abuses, contributing to a climate of impunity. A culture of corruption persisted in many parts of the civilian bureaucracy and in some units of the security forces. Routine demands for bribes undermined the rule of law and permitted the continuation of various illegal activities, including trafficking in persons, sexual exploitation, and prostitution. Conditions in prisons and some provincial immigration detention facilities remained poor. Prolonged pretrial detention, including of aliens, remained a problem. The judiciary suffered from corruption, and, at times, security forces infringed on citizens' privacy rights. The media, while still vigorous, feared lawsuits against individuals or media outlets and practiced some self-censorship. There were some restrictions on freedom of religion and freedom of movement. At times, the Government hindered the activity of some human rights groups. The 1997 Constitution increased legal protections for women and persons with disabilities; however, some inequities in the law remained, and some protections were not enforced. Violence and societal discrimination against women were problems. Trafficking in women and children were serious problems, as were coerced prostitution and labor. Societal discrimination against hill tribes and religious and ethnic minorities continued. Workers' freedom to associate was undermined by deficient legal protections, their right to bargain collectively was inadequately protected, there were reports of forced labor, and the worst forms of child labor occurred in the country.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by the Government or its agents; however, security forces continued to use excessive, lethal force against criminal suspects and committed or were connected to numerous extrajudicial, arbitrary, and unlawful killings.

On April 28, elements of the police and military killed more than 100 persons while repelling multiple attacks in Yala, Pattani, and Narathiwat Provinces by unnamed separatist Muslim men. Of this total, 32 were killed at Krue Se mosque in Pattani, when security forces stormed the mosque after a 9-hour standoff. According to an official independent commission report on the Krue Se mosque incident, the commander on the scene ordered the raid after failed negotiations and the deaths of three soldiers. Civilian authorities in Bangkok, including the Deputy Prime Minister in charge of security, claimed that the raid was conducted without their approval. The commission concluded that force was used when negotiations would have been more appropriate and that the level of force employed was excessive. There were at least two other reports of civilian deaths at the hands of security forces after the April clashes. On September 6, Ilmin Nehlae reportedly was shot in the back and killed while under control of paramilitary rangers. Four paramilitary soldiers were charged with murder. At year's end, a special judiciary panel was established to determine whether the case should be tried by a civilian or a military court.

On June 21, environmental activist Charoen Wataksorn was shot and killed while returning home after testifying at the Parliament against the purchases of public land to be used for a proposed coal-fired power plant. Five persons—two gunmen and three “masterminds”—were charged in connection with his killing, including a provincial official. The gunmen remained in custody, while the three others were granted bail.

On October 25, 78 Muslim detainees being transported to an army camp after a violent demonstration in Tak Bai, Narathiwat Province, died from asphyxiation after police and military forces stacked them horizontally onto truck beds for transport in numbers far surpassing the capacity of the vehicles. In December, an independent commission issued a report concluding that three senior security officials, including the Fourth Army commanding general, failed to perform properly their duty and responsibility to monitor their subordinates in transporting detainees in a humane manner. The commission stated that seven persons remained missing. The commission suggested no legal action or punitive recommendations, but the Government directed the Ministry of Defense to conduct a military disciplinary investigation of the three senior officers cited in the report, and it also directed the Police Department to conduct a criminal investigation. In addition, the Government

established a committee to provide assistance and compensation to victims and their families.

During the year, at least a dozen provincial or district level officials or their political operatives, such as canvassers, were killed. Police investigations indicated that many of incidents were “politically motivated,” but in some cases personal or business disputes were the suspected motive.

On September 17, Rapin Ruankaew, a Pattani provincial court judge, was shot and killed by three gunmen on his way to work. Police arrested a student of a local “pondok” Islamic school. Three other alleged accomplices remained at large.

No progress was reported in the investigations into the extrajudicial killings of approximately 1,300 suspected drug traffickers during the Government’s 3-month “War on Drugs” campaign from February through April 2003. The Narcotics Control Board chaired two committees investigating the killings. The Government maintained that the deaths were the result of disputes between those involved in the drug trade. Local and international human rights groups, including the National Human Rights Commission (NHRC), disputed this claim and called for thorough investigations of all extrajudicial killings.

When the Government investigated extrajudicial killings, it prosecuted few of the accused police or military officers. Senior prosecutors and nongovernmental organization (NGO) legal associations claimed that most cases against police or military officers accused of extrajudicial killings eventually were dismissed because regulations outlined in the Criminal Code require public prosecutors to rely exclusively upon the recommendations of the police when determining whether to bring a case for criminal prosecution. The resulting routine exoneration of police officers contributed to a climate of impunity that persisted in preventing any major change in police behavior. It also discouraged relatives of victims from pressing for prosecution. Procedures for investigating suspicious deaths, including deaths occurring in police custody, required among other things that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest. There was no information available to determine how many cases were settled out of court. However, in cases in which suits were filed, the official charged often compensated the family of the deceased, and the lawsuit was waived. Compensation varied widely, from \$3,750 (150,000 baht) to \$75,000 (3 million baht).

There continued to be no developments in the 2002 killings in Chiang Rai, where police officers killed several civilians suspected of drug trafficking.

According to the Ministry of Interior’s Investigation and Legal Affairs Bureau, during the first 9 months of the year, 1,632 persons died in prison or police custody, 131 due to the actions of police officers (*see* Section 1.c.). Authorities attributed most of these deaths to natural illness. Following an investigation into the January 2003 death of a detainee at the Kanchanaburi police station, the provincial public prosecutor charged a police corporal with murder; the trial continued at year’s end.

No one was charged in the 2003 deaths of detainees in the Muang Surathani police station, despite an aggressive investigation by the NHRC, which suspected that the victims died from beatings by policemen. The victims’ cellmates were charged with murder; their case was referred to the criminal court, but no progress was made during the year.

Beginning in April, there were almost daily reports of separatist violence against government representatives, including teachers and court officials. Occasional bombings, sometimes in public areas, resulted in death and injury.

According to the Thailand Mine Action Center, through October, 11 persons were reported killed and 8 injured by landmines in border areas. Some of these incidents were caused by land mines from former conflicts on the Laotian and Cambodian borders, while others were attributed to recent conflicts on the Burmese border.

*b. Disappearance.*—On March 12, Muslim attorney and human rights activist Somchai Neelapaijit disappeared. Somchai, who represented five Muslim defendants charged with raiding a military camp in Narathiwat Province on January 4, also was the lead attorney for three persons suspected of membership in the Jemaah Islamiya terrorist organization. In April, five police officers were charged with kidnapping and robbery in the Somchai case and released on bail in June. A trial date was set for August 9, 2005. At year’s end, Somchai remained missing.

The media, human rights NGOs, and some members of the opposition Democrat Party petitioned the Government to investigate reported disappearances of mostly Muslim men in some southern provinces, particularly Narathiwat. In June, five men illegally detained Sukip-li Asae in Narathiwat. After villagers intercepted the vehi-

cle used to abduct Asae, uniformed police officers freed him. The five men later were identified as police officers. At year's end, an internal police investigation was pending, but no charges had been filed.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Criminal Code prohibit such practices; however, NGOs and legal organizations continued to report that some members of the police occasionally tortured and beat suspects to obtain confessions. During the year, there were newspaper reports of numerous cases in which citizens accused police of using brutality, threatening false charges, and extorting bribes. Investigations were undertaken in most of the cases, including several in which the accused police officers were suspended pending the result of internal investigations.

In November, a 28-year-old man and his 17-year-old wife, who gave birth to a child in her prison cell, were freed from Lumpini police station in Bangkok after being held for 102 days. No criminal charges were filed by police, who claimed they arrested the couple on July 27 for suspected theft of computer equipment. The couple also claimed that police beat them and robbed them of their personal items. Police Major Kriangsak Thipchoi later was temporarily suspended from the police force, pending an investigation by an internal police panel.

Also in November, police in Ayutthaya and Uthai Provinces reportedly tortured a man after arresting him for suspected robbery. Police beat and applied electric shock to the man's genitals to coerce a confession. Twenty-three members of the police were transferred to Bangkok in connection with the incident, pending an internal police investigation.

On March 10, five suspects in the January 4 Narathiwat military camp raid alleged that police beat and administered electric shocks to them to obtain confessions. The suspects filed a formal complaint with the Ministry of Justice through their lawyer, Somchai Neelapaichjit, who was missing at year's end (*see* Section 1.b.). The suspects were transferred to a prison in Bangkok, and in May, all charges related to the January 4 incident were dropped. However, only one suspect was freed; the other four were rearrested by Narathiwat police on unrelated charges. Police opened an internal investigation of the officers suspected of abuse, but at year's end no criminal charges had been filed.

Six local officials remained free on bail in connection with the May 2003 killing of six Burmese laborers in Mae Sot. The officials were relieved of their duties and their cases referred to the criminal court, but no trial date had been set at year's end.

In July, the police sergeant accused in the 2002 rape of a female detainee at a Bangkok police station was sentenced to 18 years in prison. Also in July, a 36-year-old Karen man accused in a 2002 bus attack in Ratchaburi Province was exonerated of all wrongdoing and freed. He was granted special resident status so that he could remain in the country with his family.

There were no developments in the trial of three soldiers accused of the 2002 alleged rape of two female refugees from Burma.

Prison conditions were poor and severely overcrowded but, in general, did not pose a serious threat to the life or health of inmates. The total prison population of approximately 170,500 inmates was held in 139 prisons and detention centers designed for a maximum of 100,000 prisoners. Sleeping accommodations were insufficient. Medical care in prisons was inadequate, but the number of full-time medical professionals increased significantly. The Corrections Department employed 17 full-time doctors, 147 full-time nurses, and 6 full-time dentists. There were 17 part-time doctors to supplement the permanent medical staff. Construction was completed on a 500-bed hospital at Klong Prem Prison, but the hospital had not opened at year's end. Prison authorities sometimes used solitary confinement of not more than 3 months to punish difficult male prisoners who consistently violated prison rules or regulations. They also used heavy leg irons to control prisoners who were deemed at risk of escape and often for prisoners serving life sentences or on death row.

Male and female prisoners in official detention centers and prisons were segregated. However, approximately 11 percent of the total prison population were pre-trial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station holding cells pending indictment. Juveniles were held separately in 34 of the 76 provinces, but they were detained with adults in some regions of the country.

Conditions in Bangkok's Suan Phlu Immigration Detention Center continued to improve during the year; however, conditions in nine provincial detention centers remained poor. Immigration detention facilities were administered by the Immigration Police Bureau, which reported to the Prime Minister's Office, and were not subject to many of the regulations that governed the regular prison system. There were

credible reports that guards physically abused detainees in some detention centers. Overcrowding and a lack of basic medical care continued to be serious problems.

On February 20, 8 persons under the custody of the Immigration Police were killed and 18 seriously injured in a vehicle accident while being transported for removal to the Burmese border. The truck-style vehicle, originally designed to seat 20 passengers, was loaded with more than 100 persons, including 4 children.

Access to prisons was not restricted, and the Government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC).

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. In practice, the system for issuing arrest warrants was subject to misuse by police officers who provided false evidence to courts to obtain arrest warrants. Under the Constitution, persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. Detainees have the right to have a lawyer present during questioning; however, police often ignored this right in practice. Foreign prisoners sometimes were pressured to sign confessions without the benefit of a competent translator.

The Royal Thai Police (RTP) is under the direct supervision of the Prime Minister and a 20-member Police Commission. The RTP consisted of approximately 200,000 officers in 10 geographic regions. The Police Commissioner-General is appointed by the Prime Minister and subject to cabinet and royal approval. Border Patrol Police have special authority and responsibility in border areas to combat insurgent or separatist movements.

Corruption remained widespread among police officers. Police officials complained that low pay made them susceptible to bribes. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Complaints of police abuse can be filed directly to the superior of the police officer accused, the Office of Inspector General, or the Police Commissioner-General. The NHRC, the Law Society of Thailand, the National Counter Corruption Commission (NCCC), and the Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsmen. When the Police Department receives a petition, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to the criminal court. During the year, the Police Inspector General received 77 petitions alleging police abuse or corruption. In nine cases, officers were found guilty, and disciplinary or administrative punishments were given out. The NCCC received 157 petitions alleging police abuse or corruption. No figures were available on actions taken by the NCCC on these complaints. The RTP increased professional training at the Central Police Academy and provincial police training schools.

The Constitution provides defendants the right to bail, and the Government generally respected this right. However, some human rights groups reported that police frequently did not inform detained suspects of their right to bail or refused to recommend bail after a request for bail was submitted by suspects to the court.

Some police officers were involved in prostitution and trafficking in women and children (see Section 5). In August, the Police Department, after an internal investigation, reinstated four police colonels who had been removed from active duty in July 2003 for allegedly accepting financial and sexual bribes. The status of approximately 40 other officers involved in this case was unknown.

The law requires the police to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest, with extensions of up to 3 days permitted. Police may seek court permission to hold suspects for additional periods (up to a maximum of 82 days for the most serious offenses) to conduct investigations. Laws and regulations place offenses for which the maximum penalty is less than 3 years under the jurisdiction of the district courts, which have different procedures. In these cases, police are required to submit cases to public prosecutors within 72 hours of arrest. Lawyers reported that police rarely brought cases to court within the 48-hour period. As in previous years, several Burmese activists were arrested and held generally on immigration violation charges.

Pretrial detention of criminal suspects for up to 60 days was common. Some foreigners from countries without diplomatic representatives in the country faced trial delays of many months.

Approximately 20,000 prisoners were freed in August as part of the 72nd birthday celebrations honoring Her Majesty Queen Sirikit.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, while the judiciary generally was regarded as independent, it was subject to corruption and influence.

In addition to an independent Constitutional Court, the civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law (last imposed in 1992). The Constitutional Court is charged with interpreting the Constitution. Islamic (Shari'a) courts hear only civil cases concerning members of the Muslim minority. The law provides for access to courts or administrative bodies to seek redress, and the Government generally respected this right.

In February, the Constitutional Court upheld two antiterrorist decrees issued by the Prime Minister in August 2003 that provide punishments ranging from fines to the death penalty for terrorist crimes. This marked the first use of a provision in the Constitution that allows Parliament to refer executive decrees to the Constitutional Court for review.

There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. Trials often required years to complete because they ran sporadically, typically convening for a single day every few months. In January, new court procedures were enacted to provide for continuous processing of cases, rather than sporadic procedural court dates over a typical 2- to 3-year period. However, there remained a large backlog of pending court cases, resulting in an average wait of 12 to 18 months for most trials. While most trials are public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse. Justices nominated to the Constitutional Court or Supreme Administrative Court must be confirmed by the Senate; all other judges are career civil servants whose appointments are not subject to parliamentary review.

The Constitution provides for the presumption of innocence. Defendants tried in ordinary criminal courts enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants were not provided with counsel at public expense automatically. The court was required to appoint an attorney in cases where the defendant was a minor and in cases where possible punishment was imprisonment. Most free legal aid came from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association.

The Constitution and the Criminal Code provide for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that local police often ignored this procedure and conducted interrogations of suspects without providing access to an attorney.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home or Correspondence.*—With limited exceptions, the Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. With a few exceptions, including crimes in progress, the Constitution requires police to obtain a warrant from a court prior to conducting a search. The Criminal Procedure Code provides standardized procedures for issuing warrants.

Police continued to conduct warrantless searches for narcotics in villages in the northern provinces. Such operations are permitted under both the Constitution and the 1976 Narcotics Prevention and Suppression Act in cases in which there is reasonable suspicion and an urgent search is deemed necessary. Some academic groups claimed that the searches were arbitrary and violated the villagers' civil rights.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

*Section 2. Respect For Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution, with some exceptions, provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. However, continued harassment and intimidation of journalists and editors encouraged self-censorship. On at least one occasion, libel laws were used to suppress criticism. Bans on some Internet sites occurred for the first time.

Under the Constitution and laws, the Government may restrict freedom of speech and freedom of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent criticism of the royal family and insults to Buddhism.

The Government generally respected freedom of speech. Individuals could criticize the Government publicly and privately without official reprisal. The Government did

not attempt to impede criticism through such means as monitoring political meetings.

The Constitution makes it unlawful for the Government to censor, ban, license, or restrict print or broadcast media, except by specific legislation in times of crisis. Journalists generally were free to comment on government activities without fear of official reprisal. Media criticism of political parties, public figures, and the Government was common and vigorous. However, the media practiced self-censorship, particularly with regard to the monarchy and issues involving national security. Self-censorship for fear of other political or economic repercussions, such as reassignment to other duties in a publication, termination of a broadcast program, or removal from a role in the production or presentation of a broadcast program, also was evident.

In December 2003, the Chiang Mai Criminal Court acquitted four noncommissioned army officers arrested in connection with the 2000 nonfatal shooting of the editor in chief of a Chiang Mai daily newspaper. The editor appealed the decision. Police continued to investigate the February 2003 death of Thai Rath newspaper reporter Surapong Ritthi.

Despite constitutional provisions, many observers expressed concerns regarding the independence of the press. On May 3, the Thai Journalists' Association issued a report stating that challenges to the media's rights and freedom had become more intense and serious. On September 1, Human Rights Watch condemned the Government's "increasing pressure" on the media and the use of libel suits to quell criticism. According to some members of the Thai Journalists Association, the Government used various means to increase control over the media, including direct control through ownership, the threat of withdrawing financial support and advertisements, constraints on the flow of information, and direct pressure on critical journalists and activists.

Newspapers and magazines generally were independently owned. During the year, investors with connections to politicians purchased large shares in some newspaper businesses, including the purchase of more than 10 percent of the Nation Multimedia Group, an organization widely viewed as an opposition media group.

State entities controlled and owned almost all radio and television stations. The military services retained ownership of 214 radio and television stations, ostensibly for national security purposes. Other owners of national broadcast media included the Government's Public Relations Department.

Television and radio stations must renew their licenses every year, and radio signals were broadcast via government transmitters. Stations are required by law to broadcast 30 minute government-produced newscasts twice daily. The Shin Corporation, which belonged to Prime Minister Thaksin's family, owned iTV, the country's only independent television station. However, iTV's programmers generally were free to determine the nature and content of the station's broadcasts.

Media reform efforts to establish an independent National Broadcast Commission (NBC) to assign broadcast frequencies and regulate the broadcast sector remained stalled. In 2003, the Supreme Court rejected a selection committee's proposed NBC membership list due to a lack of transparency in the selection process. At year's end, the names of 14 candidates were forwarded to the Senate, which was to select the final 7 members comprising the NBC.

Repeated delays in the implementation of the broadcast reforms resulted in attempts by some to establish their own community radio studios and transmitters. Because current broadcast regulations restrict radio frequencies to government entities, these independent community radio stations technically operated outside the law. A 2003 state community radio policy allowed the stations to continue "extralegal" operations until laws and regulations were amended. By the end of the year, over 1,000 independent community radio broadcast stations were in operation. On September 3, the Government Public Relations Department (PRD) announced plans to allow 1,500 community radio stations and permit such stations to broadcast 6 minutes of commercials a day but limit them to 30 watts of power, a 30-foot antenna, and a range of 15 to 18 miles. The PRD has attempted to assert its regulatory control over the community radio stations, citing a 2003 cabinet resolution empowering the department to regulate all radio stations. The PRD, with the approval of the Deputy Prime Minister, attempted to register all community radio stations by the end of the year. Many community radio operators nationwide opposed these efforts. According to press reports, on December 14, approximately 200 members of the National Community Radio Federation threatened to stage a public protest if the PRD's efforts to register all community radio stations went forward. They expressed concerns that, if placed under PRD supervision, ruling government political parties could use the stations as campaign tools. By mid-December, despite PRD

warnings that all unlicensed community radio operators would be arrested after February 2005, the PRD had received only approximately 500 applications.

Unlike in previous years, journalists were not subject to arrest or violence by the police or other government forces. Likewise, there were no reports of criminal, racist, rebel, or terrorist elements threatening journalists. There also were no reports that the Government revoked the visas of foreign journalists or confiscated newspapers or magazines.

The Government did not directly censor the media. The law permits police closure of newspapers or printing presses in times of war or national emergency, but only with a court order. It also allows police to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals. No such closures or seizures occurred during the year, nor did the Police Special Branch issue any official warnings. Books normally were not censored and circulated freely. Police have the authority to ban the importation of publications but did not exercise it.

Self-censorship appeared to have increased. In February, the management of the respected English-language Bangkok Post removed its editor via promotion. While the Post insisted the change was motivated by business concerns, media insiders widely believed the move was occasioned by the editor's sometimes critical stance towards the administration. Soon after the editor's removal, 80 Post journalists signed a statement deploring the "ominous signs" of political interference and demanding continued editorial independence. The editor continued to publish bylined editorials critical of the Government.

The Government reportedly attempted to intervene in the editorial departments of other newspapers via pressure on the newspapers' advertisers or allies to end their support if the newspapers continued to be critical of the Government.

Advertising revenue considerations also reportedly compromised editorial independence. During the year, the Thai Journalists' Association claimed some newspapers reconsidered criticism of government figures who purchased advertising or controlled the advertising placements of large government-owned entities.

Television stations occasionally censored or "blacked out" portions of programming that they deemed politically sensitive or pornographic. Such self-censorship was more common at state-controlled stations. A censorship board in the Office of the Prime Minister reportedly advised broadcasters either verbally or by letter of specific programs deemed inappropriate or offensive and advised programmers to be more careful in the future.

During the year, there were several court cases in which entities in the Government or associated with it used libel laws in apparent attempts to suppress media criticism. In June, a criminal court accepted a libel case filed by the Shin Corporation against Supinya Klangnarong, Secretary General of the NGO Campaign for Popular Media Reform; the small, Thai-language Thai Post newspaper; and Thai Post's three editors. The suit stemmed from a July 2003 Post story in which Supinya said that it appeared the Shin Corporation was a major beneficiary of the Prime Minister's policies. The Shin Corporation also filed a \$10 million (400 million baht) civil case against the same defendants. The criminal case was scheduled to begin July 2005, and the civil case arraignment was to follow the criminal case. Supinya stated that the suit had discouraged her from further criticizing specific businesses.

In another high-profile case, in 2002, four Constitutional Court judges and a state prosecutor filed a libel suit against Prasong Soonsiri, a former foreign minister and columnist for the opposition Naew Na newspaper. Prasong had written an article quoting academics who criticized the Court's acquittal of Prime Minister Thaksin in the 2001 asset-concealment case. On December 3, a criminal court found Prasong not guilty of defaming the judges but guilty of contempt of court by failing to respect the acquittal verdict. Prasong received a 1-year suspended sentence and had to pay a fine of \$175 (7,000 baht). The verdict was generally seen as a victory for Prasong.

Responding to allegations that the freedom of speech provided for in the Constitution was restricted by these uses of libel law, during the year, the Prime Minister stated that freedom of speech "must not violate others' rights and there are laws for people to sue."

The Police Special Branch sent a number of "letters of cooperation" requesting the media to be cautious when reporting sensitive political or social issues, including news that could affect national security negatively. Although these "letters of cooperation" had no legal standing, they may have inspired self-censorship. In March, the Nation reported that it had acquired a copy of one of these letters, sent from the National Police to a supervisor of a police-owned radio station. The letter instructed the recipient to ensure that an evening news discussion program exclude criticism of the Government's plan to privatize major state enterprises. The letter,

signed by a police captain, said the PRD wanted daily tapes of the program hosted by journalist and political activist Samarn Sri-ngarm to ensure that opposition to privatization plans had not been broadcast. Samarn's program soon was taken off the air. The Police Special Branch, the only entity authorized to issue such letters, told diplomatic representatives that it had not authorized the letter.

Cultural events were more directly censored, usually for reasons of public decency. Under the 1930 Film Act, theater owners and broadcasters must submit films they plan to show to the film censorship board for review. The board is composed of officials representing the Ministry of Education, the Ministry of University Affairs, the military, the Department of Religious Affairs, and the Ministry of Foreign Affairs. The board may ban a film if its requirement that portions of the film be deleted are not met. Reasons for censoring films include violating moral or cultural norms and disturbing the public order or national security. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. According to the board, 4 of the 282 films submitted for review in 2003 were banned—3 South Korean and 1 American. Officers at the censorship board cited sexual situations and nudity as the main reasons for banning the four films.

During the year, for the first time, the Government censored the Internet directly. Newspapers reported that in December 2003, the Information and Communications Technology Ministry set up a Cyber Inspector Team to monitor and ban websites featuring pornography and other inappropriate content. The chairman of the Cyber Inspector Team and an advisor to the Prime Minister said the organization was created in November 2003 and had more than 100 volunteers surveying "unsuitable" websites, such as pornography sites and sites offering illegal products. The Government began distributing a growing blacklist of websites, both domestic and foreign, to government and private Internet service providers (ISPs) to be blocked. Compliance by the ISPs in blocking routine access to these websites was universal. Most of the sites blocked were deemed pornographic; however, some were blocked for promoting violent opposition to the Government or secession. According to the Cyber Inspector Team, by May 13, they had "closed" 1,574 websites. All carried content concerning pornography, pornographic material, anti-Thai goods and services messages, or illegal products and services. The Government announced that an additional 2,500 websites were blocked in December and included sites hosted within and outside the country.

Following violence in the south, the Government enhanced efforts to block websites viewed as threatening to national security. On August 15, a press report said authorities blocked access to the Pattani United Liberation Organization (PULO) website, which advocated southern Muslim separatist ideas and violence. The authorities accused PULO of supporting the unrest. Internet providers enforced the ban, informing their customers that they had blocked access to the website.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Permits are not required for private meetings or gatherings unless held on public property or organized by foreign nationals; these are granted routinely. Private associations must register with the Government; such registration was approved routinely.

On October 25, more than 80 persons died in Pattani, most while in the custody of security forces, after being detained following a violent demonstration calling for the release of 6 persons arrested for illegal weapons sales (see Section 1.a.). There were no other reports that security forces forcibly disrupted demonstrations during the year.

In December, charges against 20 of the 32 protesters arrested in 2002 after demonstrating in Hat Yai against a gas pipeline were dropped, and the remaining 12 were freed on bail. In July, the Songkhla Provincial Court accepted a lawsuit filed by a local NGO against a provincial police commander involved in the 2002 clashes between police and demonstrators, which left dozens injured.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, it restricted the activities of some groups. The Constitution requires that the monarch be a Buddhist. The state religion in effect is Theravada Buddhism; however, it is not designated as such.

The Government played an active role in religious affairs. The Religious Affairs Department, which is located in the Ministry of Education, registered religious organizations. Under the Religious Organizations Act, a new religion can be registered if a national census shows that it has at least 5,000 adherents, represents a uniquely recognizable theology, and is not politically active. To register, a religious organization also is required to be accepted into one of the five officially recognized ecclesi-

astical groups: Buddhist, Muslim, Catholic (which includes four Protestant subgroups), Brahmin-Hindu, and Sikh. Since 1984, the Government has not recognized any new religious groups. Government registration conferred some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Unregistered religious organizations did not receive these benefits but operated freely in practice.

The Constitution requires the Government "to patronize and protect Buddhism and other religions." The Government subsidized the three largest religious communities (Buddhist, Islamic, and Christian) by allocating approximately \$45.8 million (1.83 billion baht) during the fiscal year to support these groups. These funds supported Buddhist and Muslim institutes of higher education, religious education programs in public and private schools, daily allowances for monks and Muslim clerics who held administrative and senior ecclesiastical posts, and travel and healthcare for monks and Muslim clerics. This figure also included an annual budget for the renovation and repair of Buddhist temples and Muslim mosques, the maintenance of historic Buddhist sites, and the daily upkeep of the Central Mosque in Pattani. The Government provided funding to Christian organizations to support social welfare projects. Catholic and Protestant groups could request government support for renovation and repair work but did not receive a regular budget to maintain church buildings, nor did they receive government assistance to support their clergy. Private donations to registered religious organizations were tax deductible.

Religious instruction in Buddhism and Islam was required in public schools at both the primary (grades 1 through 6) and secondary (grades 7 through 12) education levels. Students in each grade also took a course called "Social, Religion, and Culture Studies." The course contained information on all five of the recognized religions in the country. Students who wished to pursue in-depth studies of any religion could study at a religious school and transfer credits to a public school.

In May, the Government began registration of over 200 traditional Islamic "pondok" schools in the Provinces of Yala, Pattani, and Narathiwat. In the past, these previously unregistered Islamic religious schools had no government oversight or funding.

The Government permitted foreign missionary groups to work freely throughout the country. The number of officially registered foreign missionaries was limited to a religious and denominational quota established in 1982, but religious organizations reported that unregistered missionaries were able to proselytize. Activities of Muslim professors and clerics were subjected to disproportionate scrutiny on national security grounds.

Muslims, who represented between 5 and 10 percent of the country's population nationwide and constituted the majority in four of the five southernmost provinces, also experienced some economic discrimination. The Government attempted to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities.

Under the 1935 Civil Servant Uniform Act, Muslim female civil servants were not permitted to wear headscarves when dressed in civil service uniforms. Muslim female civil servants who were not required to wear uniforms were allowed to wear headscarves. In practice, most female civil servants were permitted by their supervisors to wear headscarves if they wished to do so, particularly in the country's southernmost provinces.

The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the Buddhist clergy. The Penal Code prohibits the insult or disturbance of religious places or services of all of the recognized religions in the country.

Violence committed by suspected Islamic militants in the southern provinces of Narathiwat, Pattani, Songkhla, and Yala affected the ability of some Buddhists in this predominantly Muslim region to undertake the full range of their traditional religious practices. During the year, unknown assailants killed at least four Buddhist monks and attacked several Buddhist temples and one Chinese shrine. In three incidents, unknown assailants beheaded Buddhist civilians and left notes warning that other Buddhists might share the same fate. A number of monks reported that they no longer were able to travel freely through southern communities. Monks also claimed that, out of fear of being targeted by militants, laypersons sometimes declined to assist them in their daily activities.

On almost a daily basis, militants continued to kill government officials, such as teachers and railway employees, in the southern part of the country. Many officials presumed that the killing of Buddhist monks and laypersons who apparently were targeted solely because of their religious beliefs was intended to increase interfaith tensions. Interfaith tension varied greatly from district to district, and, in some locales, even from village to village. The violence contributed to an atmosphere of

fear and suspicion in the southern provinces; however, it did not result in open communal conflict.

The Government stationed troops to protect religious practitioners and structures in communities where the potential for violence existed and provided armed escort for Buddhist monks where necessary. The Government also offered compensation to the families of 106 Islamic militants killed while attacking security forces on April 28 and allocated funds for the restoration of the Krue Se Mosque, which soldiers damaged during the fighting (*see* Section 1.a.).

Government officials reportedly continued to monitor Falun Gong members, although with decreased vigilance. The Falun Gong group in the country submitted an application to register as an association with the National Cultural Commission and an application with the police to print and distribute a weekly magazine. At the end of the year, both requests were pending consideration by authorities, but the group was able to print and distribute religious materials both in Thai and Chinese on a small, informal basis for free distribution.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of citizens to change their residence or workplace, and the authorities generally respected this right in practice; however, there were some exceptions. Longstanding written restrictions remained in effect on the travel and domicile of certain Vietnamese resident aliens who immigrated to the country in 1945 and 1946 and on Chinese who immigrated between 1953 and 1961. In addition, other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of other members of tribes, were required to seek permission from local authorities or the army for foreign and domestic travel. Registered resident aliens moved freely within the country.

There were periodic unconfirmed reports that the Government continued to monitor the movements of Tibetan and democracy activists, as well as members of the Falun Gong.

The Government limited the economic sectors and provinces in which migrant workers may hold jobs. The Government offered legal registration for illegal migrant workers. Approximately 1.2 million migrants registered (*see* Section 6.e.).

The Government did not extend displaced person status to the many members of the Shan ethnic minority who crossed the border fleeing the effects of forced relocation, other human rights violations, and sporadic fighting in Shan State, Burma. However, in May 2002, the Government granted temporary shelter to approximately 450 Shan who fled fighting in Burma across the border from Chiang Mai Province. In 2002, the Government announced plans to repatriate the group. The Government later delayed the repatriation following an appeal by NGOs. No effort was made by the Government to repatriate the group, and local civilian and military authorities said they would be allowed to stay as long as their home districts in Burma were unsafe to return to. At year's end, the group, numbering 650 persons, remained in the country; some were staying at temporary shelters provided by the Government, while others were residing with relatives in the country.

The Constitution prohibits forced exile, and the Government did not practice it.

The law does not provide for granting asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, the Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. During the year, the Government continued to provide temporary protection to Lao asylum seekers and many Burmese. The Government continued to allow the UNHCR to monitor and provide protection to more than 140,000 Burmese refugees designated by the Government and the UNHCR as "persons of concern" living in 9 camps along the frontier with Burma. However, the Government prohibited the UNHCR from maintaining a permanent presence in the border camps and officially registering new refugees.

In July, the Government deported 16 Lao nationals convicted of illegal immigration and weapons violations. The UNHCR was denied access to these persons to assess claims made through their attorney for political asylum.

Along the border with Burma, the Government generally provided temporary protection to new arrivals. In 1999, provincial refugee screening committees were established to determine eligibility to enter the refugee border camps. Entrance was limited to those fleeing actual fighting rather than on broader grounds of persecution on the basis of race, religion, ethnic group, social class, or political opinion. Since 2002, Ministry of Interior (MOI) officials in the border provinces have opted not to convene refugee screening committees. The UNHCR and the MOI continued discus-

sions on reconstituting these boards. The unregistered population in the refugee camps continued to increase. In late November, the UNHCR began updating its earlier camp census using a computerized registration that included photographs, fingerprints, and family histories of all those living in the nine camps. This process was expected to be completed by mid-2005.

The Government allowed NGOs to provide food, medical services, housing, and other services to Burmese refugees near the border. However, the Government did not allow NGOs to aid ethnic Shan refugees. Government officials periodically arrested Burmese outside designated camps as illegal aliens, including some recognized as “persons of concern” by the UNHCR. Those arrested generally were taken to the border and released without being turned over to Burmese authorities.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to choose or change their government peacefully through free and fair elections based on universal suffrage. The country is a democratically governed constitutional monarchy.

Since 1992, there have been five national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. The King exerts strong informal influence but never has used his constitutionally mandated power to veto legislation or dissolve the elected bicameral Parliament. Voting is compulsory. Eligible voters who fail to exercise their franchise, except for those excused, are subject to the loss of certain rights, including the right to be a candidate in future elections. The Constitution prohibits Buddhist monks and nuns from seeking public office. The most recent parliamentary elections were held in January 2001. The election process generally was viewed as free and fair; however, it was marred by widespread vote buying, a recurrent problem. Exercising its constitutional mandate to prevent election fraud, the Election Commission dismissed polling results and held a total of 5 rounds of re-votes in 72 constituencies due to “election irregularities.” During the campaign before the 2001 vote, there were 25 killings of political canvassers, at least some of which were motivated politically (*see* Section 1.a.). In February 2001, the coalition Government of Prime Minister Thaksin Shinawatra’s Thai Rak Thai Party was formed. The next general election was scheduled to be held February 6, 2005.

Corruption in the executive branch was widely acknowledged by the public. The acceptance of bribes by police and local government authorities for routine services was common. The NCCC reported that, through June, it had more than 6,000 pending investigations of corruption of government officials; of these, 1,122 had been reported during the year. In November, former Public Health Minister Rakkiat Sukthana began serving a 15-year prison sentence for corruption. Two other high-profile cases involved a former Member of Parliament (M.P.) and a provincial vice governor. The Constitutional Court barred the former M.P. from any political activity for 5 years. The vice governor was relieved of his duties, and the Anti-Money Laundering Office confiscated some of his assets. In August, the Prime Minister announced a “war on corruption.” At year’s end, details of this effort had not been released in detail to the public.

The Constitution and the 1997 Official Information Act both provide access to public information. If a government agency denies a citizen’s request for information, a petition may be made to the Official Information Commission. From January to July, 124 petitions and 103 appeals were made. Approximately 99 percent of the petitions were approved. Requests for public information may be denied for reasons of national security, law enforcement, and public safety.

There were 40 women among the 453 remaining members of the 500-member House of Representatives and 21 women in the 200-member Senate. (During the year, a total of 47 members of the House resigned to be able to run for reelection, which reduced the number of House members to 453.) There were 2 women in the 35-member Cabinet. Although half of civil service employees were women, only 15 percent held senior positions. Few ethnic minorities held positions of authority in national politics. Muslims from the south held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 8 Muslim and 2 Christian Senators, and 16 Muslim and 3 Christian Members of the House of Representatives. Two M.P.s were hill tribesmen.

Noncitizen members of hill tribes were barred from participating in the political process (*see* Section 5).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. Several international organizations have a permanent presence in the country, including the ICRC and many U.N. agencies. However, NGOs that dealt with sensitive political issues, such as the Burmese democracy movement, faced periodic harassment.

Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

The Government met and cooperated with visitors from the ICRC and the UNCHR throughout the year. In November, the UNCHR Special Rapporteur on Extrajudicial, Summary or Arbitrary Killings requested permission to visit the country following the incident in Tak Bai in October (*see* Section 1.a.). At year's end, the Government had not publicly announced a date for the visit.

The NHRC was active during the year. As an independent government entity, it submitted an annual evaluation of the human rights situation to the National Assembly, proposed policies and recommendations for amending laws to the National Assembly, promoted measures to educate citizens on human rights, and investigated human rights abuses. Modest staffing and resources, as well as the lack of power to prosecute or to punish violators, hampered the NHRC's ability to carry out its mandate. In August, the NHRC released a draft report on the human rights situation covering the years 2001 to 2003. The report accused the Government of significant human rights violations, including extrajudicial killings in the 2003 "war on drugs." Other allegations included government interference with the media and executive branch circumvention of the required legislative approval for government projects. The report accused the Government of "regressing toward a culture of authoritarianism, instead of progressing to a culture of human rights."

In July, military authorities searched the quarters of 15 students from Prince of Songkhla University who were working as human rights volunteer researchers under the auspices of the NHRC. According to the NHRC, the students stopped working on human rights issues for the commission due to fear for their personal safety. In May, media reports indicated that some NHRC commissioners received written death threats following the commission's investigations of alleged human rights abuses in the southern region of the country.

Both Houses of Parliament maintained subcommittees on human rights. The Senate subcommittee was active in investigating allegations of human rights abuses in the south.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equal treatment under the law without respect to race, sex, religion, disability, language, or social status; however, in practice, some discrimination existed, and government enforcement of equal protection statutes was uneven.

*Women.*—Domestic violence against women was a significant problem and occurred across all social classes. Specific laws concerning domestic violence have not been enacted. A few domestic violence crimes were prosecuted under Penal Code provisions for assault or violence against the body of a person. Domestic violence often went unreported, and the police often were reluctant to pursue reports of domestic violence. Reliable statistics on rates of domestic violence were difficult to obtain. A 2003 study by the Institute for Population and Social Research at Mahidol University found that up to 41 percent of the women surveyed in Bangkok had experienced some type of physical or sexual violence. NGO-supported programs designed to aid victims included emergency hotlines, temporary shelters, counseling services, and a television program that intended to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The Government's "one-stop" crisis centers, located in state-run hospitals, continued to care for abused women and children but faced budget difficulties.

Rape is illegal. Through July, the Police Department reported 2,966 reported rape cases nationwide. There are no provisions for prosecuting spousal rape. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of teams of female police officers who operated in metropolitan Bangkok police stations and in three other provinces. The Criminal Code specifies a range of penalties for rape or forcible sex-

ual assault, depending on the age of the victim, degree of assault, and the physical and mental condition of the victim after the assault. The minimum penalty is imprisonment for 4 to 20 years and a fine of \$200 to \$1,000 (8,000 to 40,000 baht). If firearms or explosive are used, or if it is a serial rape, the penalty increases to 15 to 20 years' imprisonment and a fine of \$750 to \$1,000 (30,000 to 40,000 baht). Life imprisonment or execution is possible for cases in which the victim is injured or killed. A sentence of 4 to 20 years' imprisonment and a fine ranging from \$200 to \$1,000 (8,000 to 40,000 baht) is imposed for statutory rape of a child under 15 years of age. If the victim is under 13, the jail term ranges from 7 years' to life imprisonment. The Criminal Code also provides that any individual convicted of the same criminal offense for the second time within 2 years is liable to increased penalties for recidivism. Police officials increasingly used these powers, and the Government reported 211 persons arrested (in 103 cases) in 2003. Eighty-six cases were referred for prosecution. There were 11 convictions, mostly from arrest cases dating to 2002 and 2003. Victims of sexual abuse were eligible to receive state financial aid of up to \$750 (30,000 baht).

Prostitution is illegal, but it flourished. Prostitution often was protected by local officials with a commercial interest in it (*see* Sections 1.d. and 5, Trafficking). Trafficking in women and children for prostitution was a serious problem (*see* Section 5, Trafficking). Government and NGO estimates of the number of women and children engaged in prostitution varied widely. Many NGOs and government departments reported a figure of 200,000 persons, which was considered conservative. In 2000, the Commission on Women's Affairs estimated that approximately 20 percent of prostitutes were children. There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. The majority of prostitutes were not kept under physical constraint, but a large number worked under debt bondage (*see* Section 5, Trafficking). The Prostitution Prevention and Suppression Act makes child prostitution illegal and states that customers who patronize child prostitutes are subject to criminal sanctions. Parents who allow a child (defined as under 18 years of age) to enter the trade also are subject to criminal sanctions. During the year, there were three arrests and no prosecutions of parents who allowed a child to enter the trade. NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem (*see* Section 5, Trafficking).

The Labor Protection Act makes sexual harassment illegal but covers only persons working in the formal private sector. NGOs claimed that the legal definition of harassment was vague and made the prosecution of harassment claims difficult. No sexual harassment cases were prosecuted during the year. A senior politician accused of sexually harassing a female journalist in 2002 withdrew his libel lawsuit against her newspaper after the newspaper announced that the alleged incident was only a "misunderstanding."

The Constitution provides for the equality of all citizens; however, some inequalities in the law remained. For example, a man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband publicly has acknowledged another woman as his wife. Assets are shared equally at divorce. Women born in wedlock inherit property on an equal basis from their parents; women born out of wedlock must prove before a court their parental relationship to receive their inheritance.

Women had equal access to higher education, and more than half of university graduates were women. However, police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. Women constituted 48 percent of the labor force and held an increasing share of professional positions. Women also were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and there was a significant gap between the average salaries earned by men and women because women were concentrated in lower-paying jobs. In practice, women also received lower pay for equal work in virtually all sectors of the economy. A 2001 Ministry of Labor survey revealed that, on average, men earned 17 percent more than women.

The National Human Rights Commission Act specifies that at least one-third of the members of the NHRC be women; during the year, 5 of the 11 commissioners were women. The Women and Constitution Network, a league of 52 women's organizations, advocated legal reforms to address inequities in the treatment of women. It continued to play an important role in securing the inclusion of gender-equality clauses in legislation that created new government organizations mandated by the Constitution.

*Children.*—The Constitution provides children equal protection under the law. Education is compulsory through grade 9 and free through grade 12. In general, girls and boys attended primary and secondary schools in equal numbers. An estimated 96 percent of children completed grade 6, and 48 percent completed grade 12. Young girls were prohibited by religious practice from enrolling in religious schools restricted to Buddhist monks or novices.

Although there were 52 Juvenile Observation and Protection Centers nationwide, children were tried in the same courts as adults and detained with adults in some regions of the country.

The Criminal Code provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. During the year, police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures allow children to testify on videotape in private surroundings in the presence of a psychologist, psychiatrist, or other social worker with a judge's consent. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for commercial sexual exploitation, remained a serious problem (see Section 5, Trafficking). Pedophilia continued, both by citizens and by foreign sex tourists. The Government, university researchers, and NGOs estimated that there were as many as 30,000 to 40,000 prostitutes under 18 years of age, not including foreign migrants. The Prostitution Prevention and Suppression Act of 1996 made child prostitution illegal and provided for criminal punishment for those who use prostitutes under 18. Parents who allow a child to enter the trade also are punishable. However, custom and tradition made it rare that children accused their parents in court proceedings. Despite press reports detailing a number of such cases, only three arrests occurred.

Child labor remained a problem (see Section 6.d.).

Although it was difficult to estimate the numbers, there were believed to be approximately 20,000 street children in major urban centers. Many were thought to come from neighboring countries, especially Cambodia and Burma. Bangkok authorities attempted to provide shelters; however, resources were inadequate, and many of the children reportedly avoided the shelters for fear of being detained and expelled from the country.

There were many local NGOs that worked to promote children's rights in the country. Employers' organizations, such as the Employers' Confederation of Thailand, also were involved in child labor issues. These organizations received good working support from the Government.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a source, transit, and destination for trafficking in women and children for a variety of purposes, including indentured servitude, forced labor, and prostitution. Some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. Penalties vary according to the age of the victim and the method of trafficking. In general, the law provides for imprisonment of a year to life imprisonment and a fine of \$50 to \$1,000 (2,000 to 40,000 baht). For offenses against children between 15 and 18 years of age, the potential punishment is 3 to 15 years of imprisonment and a fine of \$150 to \$1,000 (6,000 to 40,000 baht). For offenses against children under 15 years of age, the penalty ranges from 5 to 20 years' imprisonment and a fine of \$250 to \$1,000 (10,000 to 40,000 baht). If the offense is committed with deceit, threat, physical assault, immoral influence, or other mental coercion, the sentences and fines may be increased by one-third.

In January, the Parliament amended the Anti-Money Laundering Act to include the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act as a predicate offense. During the year, officials acted to seize assets of suspected traffickers in six cases.

In general, the Government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. The receiving country generally initiated trafficking case investigations in instances where Thailand was the origin country. The Government intensified efforts to investigate rings associated with smuggling female citizens abroad. The law allows for extradition of its nationals; however, no citizens were extradited for trafficking-related offenses. Several requesting-country nationals charged with trafficking-related crimes, including pedophilia, were extradited to Japan, Australia, and Germany.

There were no reliable estimates of the magnitude of the trafficking phenomenon in the country. Some portion (thought by the U.N., NGOs, and the Government to be a minority) of the estimated 200,000 to 300,000 sex industry workers in the country were either underage or in involuntary servitude or debt bondage. These organizations believed women and children (particularly girls) tended to be the most frequent trafficking victims. Although it drew less attention, anecdotal evidence suggested that the trafficking of men, women, and children into other labor fields, such as commercial fisheries or sweatshop work, was a significant portion of all trafficking. Several discoveries were made of groups of young migrant women and girls, particularly from Laos, employed in indentured servitude and in physical constraint in sweatshops. NGOs assisted some victims to obtain back wages from abusive employers.

Within the country, women were trafficked from the impoverished northeast and the north to Bangkok for sexual exploitation. However, internal trafficking of women appeared to be on the decline, due to prevention programs and better economic opportunities. Women also were trafficked to Japan, Malaysia, Bahrain, Australia, South Africa, Europe, and the United States, chiefly for sexual exploitation but also for sweatshop labor. Men were trafficked into the country for commercial fisheries and farm, industrial, and construction labor. Prosecution of traffickers of men was complicated by the lack of coverage contained in the 1997 Trafficking in Women and Children Act.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), and Laos for labor and sexual exploitation. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. Young children, either orphans or those sold by their families, were among them. Entire families occasionally were trafficked for labor in sweatshops. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. According to domestic NGOs, girls between the ages of 12 and 18 continued to be trafficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Social workers noted that young girls were prized because their clients believed that they were free of sexually transmitted diseases. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the north. Generally victims from Yunnan Province were lured into the country with promises of restaurant or household work and then were pressured or physically forced into prostitution.

The U.N. Economic and Social Council and NGOs believed that the lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they were found in disproportionately large numbers in situations entailing the worst forms of trafficking.

Trafficking within the country and from neighboring countries into the country tended to be perpetrated by loosely organized small groups that often had close ties in the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance often were used to recruit trafficking victims. In some cases, the traffickers themselves were former victims, particularly where the sex industry was the destination. There were credible reports that low-ranking police and immigration officials transported women destined for brothels from the border to Bangkok and other areas of the country.

The trafficking of Thai prostitutes abroad, and that of Chinese nationals using the country as a transit point, was done by sophisticated and well-financed international criminal syndicates that sometimes cooperated with each other and at other times competed violently. Low- and mid-ranking immigration police officers at Bangkok's international airport also were implicated in facilitating the travel of Thai sex workers and Chinese nationals using false passports and other documentation.

Police personnel were poorly paid and were accustomed to taking bribes to supplement their income.

The majority of prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their child's future earnings, frequently without the consent of the child involved, who was then obligated to work in a brothel to repay the loan.

Many female citizens were trafficked to Japan for sexual exploitation. Traffickers promised victims lucrative legitimate employment or made false promises regarding wages, working conditions, or the nature of the work. According to Human Rights Watch, upon the victims' arrival in Japan, the traffickers confiscated their passports, demanded repayment for their "purchase," charged the victims for living exp-

penses and care, and fined them for misbehavior. Traffickers often restricted the women's movements, threatened them and their families, isolated them, and used violence to punish them for disobedience.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they were particularly vulnerable to physical abuse and exploitation. Some women were lured into the country with promises of jobs as waitresses or domestic helpers but ended up working as prostitutes. Illegal immigrants had no rights to legal counsel or health care if arrested. The amnesty provisions available under UNHCR auspices did not apply to such women. In May, a series of memorandums of understanding (MOUs) between government agencies and between the Government and domestic NGOs provided some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The agreements stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Instead of being deported, they become the responsibility of the Public Welfare Department. However, implementation of the MOUs continued to be erratic during the year, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

Official corruption facilitating the worst forms of trafficking in persons was generally at the low- and mid-levels. There was no evidence that high-level officials benefited from or protected the practice. Compromised local police protected brothels and other sex venues from surprise raids. Corrupt immigration officials assisted (both indirectly and directly) the movement of Burmese, Lao, and Chinese women and girls into the country, and of Chinese victims out of the country to the United States and other destinations. Officials found complicit in any part of the illegal economy rarely were prosecuted but instead were moved to positions thought to limit opportunities for future corruption.

Several NGOs, both local and international, and government agencies worked with trafficking victims. However, the Government faced severe budgetary limitations on its ability to fight trafficking and to aid its victims.

In general, victims pending repatriation were brought to government-run shelters or, in the case of noncitizens, to NGO-run shelters. The repatriation process took up to 6 months. Through September, the main government shelter in Bangkok received approximately 385 women and children from neighboring countries and 287 Thai citizens, including women found in voluntary prostitution and domestic abuse cases. There were no reliable statistics on how many of these persons were victims of trafficking. The Government provided food, medical care, and limited psychological counseling.

Trafficking victims received limited legal assistance from NGOs and Department of Welfare officials, and they generally were informed of the option of pursuing legal action against the trafficking perpetrators. However, relatively few opted to do so; language barriers, illiteracy, distrust of government officials, the lengthy legal processes, and fear of the traffickers played a role. Trafficking victims illegally in the country were not allowed to obtain employment while awaiting repatriation, even if they were involved in legal proceedings against the trafficker.

In February, police began an information campaign in Bangkok and Pattaya to increase public awareness of trafficking. More than 50,000 posters detailing the various forms of the crime were placed at public transportation venues, along heavily traveled roads, and in residential neighborhoods. Pamphlets were distributed at police stations and neighborhood police boxes. A hotline number for reporting suspected cases was included in the campaign.

The Government entered into cooperative arrangements with local industries, especially the hotel industry, to encourage youth (particularly girls) to find employment outside of the sex industry and other areas of exploitative work. Vocational training programs aimed at high school students also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of choices for recent school graduates.

*Persons With Disabilities.*—The Constitution provides for access to public facilities and prohibits employment and education discrimination against persons with disabilities; however, the Government did not enforce these laws effectively.

The Constitution mandates access to public buildings for persons with disabilities, but laws implementing the provisions have not been enacted. The regulation that makes compliance mandatory was not enforced during the year. Persons with disabilities who register with the Government are entitled to free medical examinations, wheelchairs, and crutches.

Activists continued to work to amend laws that allow employment discrimination against persons with disabilities.

The Government provided 5-year interest-free small business loans for persons with disabilities. At year's end, 4,820 persons with disabilities had been granted loans totaling \$2.4 million (96 million baht).

During the year, an estimated 225,000 children with disabilities attended school. The Government reported that 12,550 students were enrolled in the 43 special schools for students with disabilities; the remaining were enrolled in regular public schools. Nationwide, there were 9 government-operated and 15 NGO-operated training centers for persons with disabilities. However, with little education, very few adults with disabilities were able to find employment. Many of those who found employment were subjected to wage discrimination. A 1991 law requires private firms to hire 1 person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision has never been enforced. Government officials estimated that between 20 and 30 percent of firms disregarded the law. Some state enterprises had discriminatory hiring policies.

*National/Racial/Ethnic Minorities.*—Chinese Nationalist remnants and children of Vietnamese immigrants who resided in five northeastern provinces lived under laws and regulations that could restrict their movement, residence, education, and occupation (*see* Section 2.d.).

*Indigenous People.*—Members of hill tribes without proper documentation, who accounted for approximately half of the estimated 1 million members of hill tribes, continued to face restrictions on their movement, could not own land, and were not protected by labor laws, including minimum wage requirements. The law provides that citizenship is not automatically granted to children born to persons living illegally or without status in the country. Lack of citizenship could make hill tribe persons vulnerable to other abuses and exploitation, such as trafficking (*see* Section 5, Trafficking). They sometimes were denied adequate education and health care. Those residing in national parks or wildlife sanctuaries were subject to eviction. As noncitizen residents, they also were barred from participating in the political process (*see* Section 3).

In 2000, the Ministry of Interior, through two Cabinet resolutions, redefined the category of hill tribe residents eligible for citizenship to include previously undocumented tribal persons, now collectively called "highlanders." The definition includes persons who formerly were defined either as indigenous or migrants. The regulations are designed to ease the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references, and empowering local officials to decide cases. Approximately one-half of the potentially eligible candidates have received citizenship since the regulations were enacted. Activists reported that widespread corruption and inefficiency at all levels, including among highland village headmen and government officials, contributed to a backlog of pending citizenship applications, which remained an obstacle for many hill tribe persons to obtain full citizenship.

On July 23, 41 persons were arrested for illegally trespassing on national forest land. Those arrested were members of the Palaung hill tribe minority group and did not have citizenship; at year's end, they remained in prison in Chiang Mai.

A total of 105 of the 1,243 persons in Chiang Mai Province whose citizenship had been revoked regained citizenship through genetic testing. They had lost their citizenship in 2002 when Government officials claimed that irregularities in the issuance of their identification documents invalidated their claim to citizenship. The remainder of the persons won a ruling in Chiang Mai Administrative Court that restored their citizenship, but the Government appealed the ruling in the Supreme Administrative Court. Individual appeals with the Ministry of Interior on a case-by-case basis continued at year's end.

Hill tribe members continued to be objects of societal discrimination arising from the belief that they were involved in drug trafficking and environmental degradation. Hill tribes occasionally were subjected to indiscriminate searches of villages for illegal drugs (*see* Section 1.f.). In Chiang Rai, provincial authorities required all drug addicts to register with village committees and to join the program. Those who registered were granted immunity from prosecution. The program was aimed at separating drug addicts from drug traffickers.

*Other Societal Abuses and Discrimination.*—The spread of HIV/AIDS was estimated to have infected approximately 1.8 percent of the population. During the year, the Government took measures to improve its support of persons with HIV/AIDS. For example, the Government provided funds to HIV/AIDS support groups, continued public debate at the highest levels of political leadership, sustained public education and media campaigns to alter unsafe behavior, started effective pilot projects to help lead policy, and included all segments of society in the fight against the transmission of the disease. Societal discrimination against persons with AIDS

most often was found in the form of a psychological stigma associated with rejection by family, friends, and community. There were reports of persons dying due to psychological withdrawal after being abandoned by their family. Reports of workplace discrimination were received by local AIDS hotlines, confirming that some employers refused to hire persons who tested positive following employer-mandated blood screening.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law allows all private sector workers to form and join trade unions of their choosing without prior authorization; however, the law provides inadequate protection of workers who participate in union activities. Union leaders and academic observers reported that employers often discriminated against workers seeking to organize unions. During the year, employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions. Trade union leaders can be dismissed for any reason, provided severance payment is made. In such circumstances, the law does not provide for reinstatement. In cases where the labor court finds that dismissal was for union activity and was illegal, reinstatement is provided for, but there are no punitive sanctions for employers.

Union officials must be full-time employees of the enterprise. This prohibition against permanent union staff limited the ability of unions to organize and be politically active. The Labor Relations Act also allows only two outside government-licensed advisors to a union. Union leaders and outside observers complained this restriction interfered with the ability to train union members and develop expertise in collective bargaining.

Less than 4 percent of the total work force but nearly 11 percent of industrial workers and over 50 percent of state enterprise workers were unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the Government to diminish union cohesiveness, and the sizeable agricultural and informal sectors (where unions are not permitted) were cited as reasons for low rates of labor organization.

State enterprise employees can join organizations of workers in the private sector, but only at the level of confederations. This restriction effectively divided the trade union movement along public and private sector lines. However, unofficial contacts at the union level between public and private sector workers continued, and the Government did not interfere with these relationships.

Some corrupt private sector union leaders were exploited by politicians or employers, but public unions generally operated independently of the Government and other organizations. Internal conflicts, corruption, and a lack of leadership weakened the labor movement.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of citizen private-sector workers to organize and bargain collectively; however, the Government's efforts to protect this right were weak. The Labor Relations Act defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice, genuine collective bargaining occurred only in a small fraction of workplaces, and, in most instances, it continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The minimum wage increase in the year did not keep pace with inflation. The Government sets wages for both civil servants and state enterprise employees under the State Enterprise Labor Relations Act (SELRA) (see Section 6.e.).

The Government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year. Labor law also forbids strikes in "essential services," which is defined much more broadly than in the International Labor Organization (ILO) criteria, and includes sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state enterprise workers. On-

going antiprivatization protests by state enterprise employees of the Electrical Generating Authority of Thailand were undermined by management threats of demotions and undesirable work assignments against some workers who assembled outside of work hours. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and to have a strike approved by 50 percent of unionists. During the year, there was 1 legal strike involving 1,700 workers, and there were 4 lockouts involving 1,876 workers.

The law prohibits antiunion actions by employers; however, it also requires that union committee members be full-time employees of the company, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector. Workers also may seek redress for grievances through the Tripartite Labor Relations Committee. The law authorizes the Ministry of Labor to refer any private sector labor dispute for compulsory arbitration by a government-appointed group other than the Labor Relations Committee. Although the legal authority seldom was used, the ILO viewed this provision as acceptable only in defined essential services. Redress of grievances for state enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This limited any disincentive for employers to fire union organizers and activists.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs), in which wages and working conditions often were better than national norms because of the preponderance of foreign-based multinational firms. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization. Unions existed in the automobile and petroleum production facilities located in EPZs.

Noncitizen migrant workers, whether registered or illegally present, did not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by citizens. From July through September, the Ministry of Labor offered a registration program for foreign workers residing illegally in the country, most of whom were from Burma. Few, if any, of the 1.2 million migrants who registered joined unions.

Attempts by registered migrant factory workers in factories to carry out work stoppages to demand minimum and back wages led to mass deportations, resulting from apparent collusion between factory owners and local government immigration officials.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children, except in the case of national emergency, war, or martial law; however, the Government was unable to enforce these provisions effectively in the large informal sector. During the year, there were reports of sweatshops in which employers prevented workers, primarily foreign migrants, from leaving the premises. There were no estimates of the number of such sweatshops, but the growing number of migrants from Burma, Cambodia, and Laos increased the opportunities for such abuse. NGOs and the ILO reported that thousands of underage boys and girls were brought into the country for labor on farms or in sweatshops, and very young children were used to work in street begging gangs.

Forced and bonded labor by children occurred (*see* Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—In general, sufficient legal protections exist for children in the formal economic sector. The Labor Protection Act is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited in compliance with ILO Convention 138, which the Government ratified in May. However, the law does not cover the agricultural and informal sectors, including domestic work, which employ the majority of persons in the workforce, including many child workers. The minimum working age is coordinated with the mandatory national educational requirement. To comply with ILO convention 182, the Government drafted a national strategy to eliminate the worst forms of child labor. At year's end, approval by the Cabinet was pending the appointment of a national-level subcommittee to implement the strategy. However, child labor remained a problem, particularly in small-scale industry and agricultural sectors. Contradictory statistical surveys by various government agencies, which largely ignored foreign children and those in illegal industries, made an estimate of the scope of the phenomenon difficult.

The law permits the employment of children between the ages of 15 and 18 only in "light work," where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is limited. The law prohibits employment of children at night (from 10 p.m. to 6 a.m.), or in places in which alcohol is served. It was estimated that approximately 1 million children worked on family farms. NGOs reported that 2 to 4 percent of children between the ages of 6 and 14 worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily in gasoline stations, small-scale industry, and restaurants. Child labor was not evident in larger export-oriented factories. However, there was no comprehensive survey of child labor in smaller enterprises, since NGOs did not have access to shop house factories. A 2002 survey by the National Statistics Office reported 10,728 children were employed in domestic work. NGOs reported child domestic workers were predominantly foreign, migrating from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation. Minimum wage and age provisions of the Labor Protection Act do not apply to domestic workers, some of whom were believed to be under 15 years of age.

The worst forms of child labor occurred in the country. Children (usually foreign) were exploited in street selling, begging, and prostitution in urban areas, sometimes in a system of debt bondage. Some were sold or otherwise trafficked by parents or other relatives (*see* Section 5). An ILO study noted that drug merchants in Bangkok used male children as delivery boys. Narcotics sellers preferred boys because they were undemanding and were not charged as adults if arrested. Instead, they were remanded to police-run correctional homes.

The Ministry of Labor is the primary agency charged with enforcing child labor laws and policies. During the year, there were 2,354 labor inspection officers, including labor ministry officials and policemen who registered as labor inspection officers. Enforcement of child labor laws was not rigorous, and inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. Inspection of private homes to monitor the welfare of child domestic workers was hampered by the legal requirement to obtain a warrant. In 2003, 1,869 child labor inspections and investigations were performed; 64 resulted in fines or other penalties.

The Government funded 200,000 scholarships for poor citizen and stateless children (children of ethnic minorities born in the country). The intent of the scholarship program was to provide educational opportunities for children who otherwise might be forced by poverty to find work. In July, the Government registered 79,200 migrant children 15 years of age and younger, the first time minors had been given temporary residence permits under migrant labor policy. Government officials stated the new measure would permit foreign children access to the public school system. NGOs reported that this new provision was implemented only if the employer of the migrant parent provided evidence regarding the parent's status to school authorities. In most cases, the employer did not do so.

*e. Acceptable Conditions of Work.*—The minimum wage ranged from \$3.33 to \$4.23 (133 baht to 169 baht) per day, depending on the cost of living in various provinces. The minimum wage was set by provincial committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. With extended family members' financial contributions, the minimum wage provided the basis for a marginally adequate overall standard of living. The official poverty rate was 78 cents (31 baht) per day, which permitted survival only in areas where subsistence agriculture was possible. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, nationwide, academics estimated one-third of formal sector workers received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. An estimated 1 to 2 million unskilled and semiskilled migrant workers worked for wages that were approximately one-half the minimum wage.

The Government mandated a uniform workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week and are not permitted overtime. The petrochemical industry is excluded from these regulations.

Working conditions varied widely. The official rate of injury from industrial accidents remained relatively constant over the last 10 years at 4.5 percent of the total work force. The Ministry of Labor stated that the average annual rate of work-related deaths was 15 per 100,000 workers. However, these rates applied only to industrial sector workers; the rate of incidents occurring in the larger informal and agricultural sectors, and among migrant workers, was thought to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Stress-related disorders and complications resulting from botched abortions were reported by medical workers treating the 50,000 young migrant women employed in textile factories along the Burma border. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers by prohibiting them from working on night shifts, overtime, holidays, or working with dangerous machinery or on boats. Employers of migrant women often fired workers who became pregnant.

The Ministry of Labor promulgates health and safety regulations regarding conditions of work; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters.

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## TONGA

The Kingdom of Tonga is a constitutional monarchy stretching over 170 islands in the southern Pacific Ocean. Political life is dominated by the King, the nobility, and a few prominent commoners. The unicameral legislative assembly consists of the Cabinet; 9 nobles elected by the 33 hereditary peers; and 9 representatives elected by the general population in periodic free and fair elections. The Constitution requires that parliamentary elections be held every 3 years. The most recent election was held in 2002; the next parliamentary election is scheduled for March 2005. The judiciary generally is independent; however, there were allegations that it occasionally was subject to royal influence.

The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The civilian authorities maintained effective control of the security forces. The Minister of Defense controls the 430-man TDS force; the Minister of Police and Prisons directs the police force. There were no reports that members of the police committed human rights abuses.

The country had a population of approximately 100,100 and a per capita gross domestic product of approximately \$1,660. The economy was based primarily on the cultivation of tropical and semitropical crops. The rate of economic growth was approximately 2.8 percent. Wages and benefits largely kept pace with inflation. The demand for imported goods and products led to a substantial trade deficit, which was offset largely by remittances from overseas citizens, foreign aid, and, to a lesser degree, tourism.

The Government's human rights record remained poor. Citizens do not have the right to change their government. At times, the authorities infringed on freedom of speech and press by confiscating newspapers. On October 8, a Tongan court determined that such actions were unconstitutional and ordered restrictions removed; the Government promptly took steps to comply. In addition, during the year, a defamation suit brought by a government minister in 2003 against a newspaper over a story alleging perjury was dismissed. Some women suffered from domestic violence; women also faced discrimination as well as limited employment and economic opportunities. In practice, the right to form labor unions was restricted by the lack of implementing regulations.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, on June 18, two prison escapees claimed they were tortured for prison infractions. One maintained he was stripped to his underwear, chained to a concrete deck, and exposed to the elements for 2 days. The other alleged he was also stripped and then chained by his wrists to outdoor cell bars above his head in “a mosquito infested area” for 2 days. The Government did not challenge the claims, and no action against officials responsible was reported.

Prison conditions were Spartan but reflected local living standards. There were separate facilities for pretrial detainees and convicted prisoners, men and women, and adults and juveniles. Church representatives and family members were permitted to visit prisoners. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits did not arise.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Constitution provides for the right to judicial determination of the legality of arrest, and this was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. There were no reports of preventive detention or other lengthy pretrial detention. The law permits unlimited access by counsel and family members to detained persons; however, there reportedly were instances in which detainees were denied legal counsel.

The police force is composed of approximately 400 officers under the control of the Minister of Police and Prisons. Incidents of bribe-taking and other forms of corruption reportedly occurred.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary, whose highest-ranking judges historically have been foreign nationals, was generally independent; however, on occasion it was subject to royal influence. Judges hold office “during good behavior” and otherwise cannot be dismissed during their terms.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the Police Magistrates’ Court, a general court, a court-martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeal is the highest court. The King’s Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. According to the Constitution, the King, with the consent of the Privy Council, has the right to commute death sentences in cases of murder or treason, the only crimes for which capital punishment can be imposed. Under the same statutes, the King may also commute sentences and free prisoners.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. A court may not summon anyone without providing a written indictment stating the charges. Defendants are presumed innocent, are entitled to counsel, have a right of appeal, and are entitled to bail; lawyers have free access to defendants.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights.

There were eight newspapers and newsmagazines in print: three weeklies, one of which was government owned; three monthlies; one bimonthly; and one quarterly. There were two privately owned television stations and one government-owned station. The government-owned radio station broadcast on AM and FM frequencies. There were three privately owned radio stations. Government-controlled media outlets were criticized for exercising self-censorship.

On October 8, the Chief Justice ruled that the November 2003 Newspaper Act and Media Operators Act were invalid and unconstitutional. This followed the May 2003 ruling that a government ban on the Taimi ’o Tonga was illegal. These attempts to control the press had spurred strong public opposition. Following the October 8 judgment, the Government promptly took measures to comply with the judgment, and on October 15, the Taimi ’o Tonga resumed distribution.

The Human Rights and Democracy Movement in Tonga alleged the Government regularly censors foreign-origin news reports about the country.

While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time, the national media carried comments critical of government practices and policies, including some by prominent citizens.

The law allows suits by government officials and other individuals against media outlets that publish allegedly defamatory remarks. A former Minister of Justice brought a suit against the *Tonga Star* newspaper in 2003 for defamation of character. In November, the former Minister lost both his suit and his attempt to claim legal fees from the newspaper.

The Government did not restrict academic freedom or Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. However, the Constitution states that Sunday, the Sabbath, is to be “kept holy” and that no business can be conducted “except according to law.” Although an exception is made for hotels and resorts that are part of the tourism industry, the Sabbath day business prohibition was enforced strictly for all businesses, regardless of the business owners’ religion. At year’s end, the Legislature amended the law to expand the number of businesses that could operate on Sunday.

Tonga Broadcasting Commission (TBC) guidelines require that religious programming on Radio Tonga be confined “within the limits of the mainstream Christian tradition.” The TBC did not allow members of the Baha’i Faith to discuss the tenets of their religion or to refer to the founder, Baha’ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter-day Saints (Mormons) to discuss its founder, Joseph Smith, or the Book of Mormon by name. However, members of the Baha’i Faith used a privately owned radio station for program activities and the announcement of functions, and Mormons and members of some other faiths were permitted to use Radio Tonga for the announcement of church activities and functions. A government-owned newspaper occasionally carried news articles about Baha’i activities or events, as well as those of other faiths.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Citizens were free to travel within the country and abroad.

The Constitution and law do not prohibit forced exile, but the Government did not employ it in practice.

The Government has not established a system for providing protection to refugees. No person was known to have applied for refugee status. The issue of the provision of temporary protection has never arisen.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in the legislative assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch’s endorsement, at times the King permitted the legislative system to operate without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. The Cabinet is composed of nine ministers and two governors; it included both nobles and commoners, all serving at the King’s pleasure. The King’s son, Prince ‘Ulukalala Lavaka Ata, served as Prime Minister. During most of the year, the Prince also held five other ministerial portfolios, including defense and foreign affairs; however, he gave up the latter two portfolios in September.

The unicameral legislative assembly consists of the Cabinet, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles. Cabinet members and nobles usually voted as a bloc.

In September, seven of the representatives elected by the general population submitted proposals for political reform to the legislative assembly. One proposal called for a referendum in 2005 that would amend the Constitution to give citizens the right to elect all members of Parliament, and another would give the King the

power to appoint the Prime Minister and Cabinet ministers from among the elected Parliamentarians. On November 11, the Prime Minister announced that four new ministers would be appointed after the March 2005 election—two selected from elected nobility and two from elected representatives of the people. This would mark the first time for elected representatives of the people to serve in the Cabinet.

Only citizens 21 years or older and resident in the country may vote. Parliamentary elections in 2002, deemed to be free and fair, resulted in a strong showing for pro-democracy candidates on the main island of Tongatapu. The royalist political group Kotoa was a counterweight to the pro-democracy movement. The next parliamentary elections were scheduled for March 2005.

In 2002, the Government launched an economic and public sector reform program, led by a Cabinet Reform Committee composed of five teams. The teams included members of the Chamber of Commerce and provided the only opportunity for the general population to participate in the reform program. Late in 2003, the Government began implementing the program, and in June it began a survey of work performed by higher-paid public servants.

No woman has ever served as a government minister. During the year, there were no female Members of Parliament. A woman may become queen, but the Constitution forbids a woman to inherit other noble titles or become a chief.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. During the year, there were no restrictions on operations by international human rights groups and no known requests for investigations.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

Social, cultural, and economic facilities were available to all citizens regardless of race or religion, but members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status. It was possible for ordinary citizens to hold cabinet positions in government and to accumulate great wealth and status in the private sector.

*Women.*—Societal violence against women seldom was publicized, but it was a growing problem. Incidents of domestic violence generally were addressed in traditional ways within families or by village elders. Such abuse seldom was reported to the police. Domestic violence can be prosecuted under laws against physical assault. Abused wives sometimes returned to their families if mediation failed. There were shelters, most church affiliated, for abused and troubled women, and the Free Wesleyan Church operated a hotline for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. The law does not recognize spousal rape and states that carnal intercourse by a man and his wife shall not under any circumstance be deemed rape.

Prostitution per se is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Women held several significant government posts, including Secretary to the Cabinet in the Prime Minister's Office and Secretary of Foreign Affairs. Women also headed the Office of Crown Law and the Government Central Planning Office. The majority of commissioned officers in the police force were women. For a woman to rise to a position of leadership, she usually needed the support of the nobility. The King's mother reigned for 46 years, and a royal princess was among the country's most prominent businesspersons. Some female commoners held senior leadership positions in business.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land but not own it. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter.

The Center for Women and Children, an NGO under the auspices of the Catholic Church, focused on domestic abuse and improving the economic and social conditions of women and also offered counseling to women in crisis.

*Children.*—The Government is committed to children's human rights and welfare, and it provides some funding for children's welfare. Education is compulsory from ages 6 to 14. Education was available for all children through Form 6 (high school). Almost all children attended school.

The Government provided free basic medical care to children. Child abuse was rare, and the extended family generally participated in child rearing.

*Trafficking in Persons.*—While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There are no mandated provisions for services for persons with disabilities. There were no reported complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the Queen.

*National/Racial/Ethnic Minorities.*—According to the Ministry of Labor, ownership and operation of food retail stores in the country has been legally restricted to citizens since the early 1980s. However, the retail sector in many towns has become increasingly dominated by foreigners, particularly Chinese nationals. During the year, the Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they had no formal bargaining rights under the act.

The act provides workers with the right to strike; however, implementing regulations never have been formulated. There were no reports of strikes during the year.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is permitted by law, but there was no record of it being utilized during the year.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy.

*e. Acceptable Conditions of Work.*—There is no minimum wage law, although there are government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The Ministry of Labor enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in the agricultural sector and on the outer islands was limited.

Few industries exposed workers to significant danger, and industrial accidents were rare. The Government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

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## TUVALU

Tuvalu is a parliamentary democracy. The head of state is Queen Elizabeth II, represented by the Governor General, who must be a citizen of the country. The country has no formal political parties. In 2002, citizens elected a 15-member unicameral Parliament in free and fair elections. A prime minister is selected by Parliament. The judiciary is independent.

The civilian authorities maintained effective control of the 70 member police constabulary, the country's only security force. There were no reports that security forces committed human rights abuses.

The country has a population of approximately 10,000 persons on 9 atolls, scattered over approximately 350,000 square miles of the central South Pacific Ocean, containing approximately 10 square miles of dry land. The primarily subsistence economy relied mainly on coconuts, taro, and fishing. Remittances from citizens working abroad, the sale of postage stamps, and the sale of fishing licenses to foreign vessels provided additional foreign exchange. The country also relied on interest income generated by the Tuvalu Trust Fund and sales of the ".tv" Internet country designation, which earned approximately \$3.3 million in 2003. The country's isolation limited opportunities for economic development.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. Traditional customs and social behaviors, often considered equivalent to law, have led to some social discrimination. Allegations of nonaccountability, financial mismanagement, and conflicts of interest regarding officials of all four government ministries continued to be voiced. Parliamentary travel, management of the country's Internet designation rights, and the acceptances of high-value gifts by government officials have also been criticized. Women traditionally occupy a subordinate role, with limits on their job opportunities.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them. Local hereditary elders exercised considerable traditional authority, including the right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law. However, during the year, there were no reports of corporal punishment.

The country has one minimum-security prison facility, which is segregated by sex. Adults were held at this facility, and children were remanded to their family's custody. The men's section could accommodate 35 inmates, the women's section 20. During the year, the number of prisoners was far below the maximum capacity; there were no female prisoners at year's end. There also was a holding cell at the police station for detentions of less than 24 hours. Pretrial detainees were usually released on their own recognizance. Pretrial detainees charged with a serious crime, such as homicide, could be held in the prison; in practice, this did not occur.

Detentions longer than a week were rare; more commonly, a person was jailed overnight on charges of inebriation. While prison conditions were somewhat Spartan, they generally met international standards, and complaints were minimal.

The question of prison visits by human rights groups did not arise. Visits by church groups and family members were permitted.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police may hold a person for no more than 24 hours without a hearing before a magistrate. There were no reports of police abuse. Warrants are required but rarely were necessary in a state with a population so small that the police as a group literally knew every citizen.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

There is a two-tier judicial system. Higher courts include the Privy Council, the Court of Appeal, and the High Court. Lower courts consist of senior and resident magistrates, the Island Court, and the Land Court. The High Court is presided over by an expatriate Chief Justice appointed by the Governor General and generally holds court once a year.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Constitution provides that the accused must be informed of the nature of the offense with which they are charged and provided the time and facilities required to prepare a defense. The People's Lawyer (public defender) expressed concern that bureaucratic delays sometimes resulted in several months passing before an accused was informed of the charges. The right to confront witnesses, present evidence, and appeal convictions is provided by law. Procedural safeguards are based on English common law. The services of the independent People's Lawyer are paid by the Government and available to all citizens without charge.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

##### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the media, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary,

and a functioning democratic political system combined to ensure freedom of speech and of the press.

In 2001, the country's sole radio station, formerly controlled by the Government, was converted by statute to the status of a public corporation, the Tuvalu Media Corporation (TMC). According to the TMC's charter, the Secretary to Government serves as the Chairman of the Board, and the Prime Minister's duties include oversight of the TMC. In practice, all copy to be broadcast by the TMC must be approved by the Secretary to Government, and he reportedly has blocked or delayed stories favorable to the opposition. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal.

There were no government restrictions on Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Unlike in the previous year, there were no reports that villages banned new religious groups. In 2003, the island council of Nanumanga reportedly banned the newly formed Tuvalu Brethren Church. The head of the Tuvalu Brethren Church filed a complaint against the island council. In September, the High Court heard the case but at year's end had not rendered a decision.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government generally observed this prohibition.

The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person has applied for refugee status, and the issue of the provision of temporary protection has never arisen. The Government has not formulated a policy regarding refugees, asylees, or temporary protection. There were no reports of the forced return of persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens freely and directly elect a 15-member unicameral Parliament whose normal term is 4 years. Each of the country's nine atolls is administered by a six-person council, also elected by universal suffrage to 4-year terms. The minimum voting age is 18 years.

The Cabinet consists of the Prime Minister, elected by secret ballot from among the Members of Parliament (M.P.s), and four other ministers, appointed and removed from office by the Governor General, with the advice of the Prime Minister. The Prime Minister may appoint or dismiss the Governor General on behalf of the British monarch. The Prime Minister may be removed from office by a parliamentary vote of no confidence.

Elections held in 2002 were free and fair. Of the 15 members elected to Parliament, 6 were serving their first term. The new Parliament elected Saufatu Sopoanga, a former civil servant, as Prime Minister. In August, Sopoanga lost a parliamentary vote of confidence. However, he continued to hold office in a "caretaker" capacity until October 12, when Maatia Toafa, a Sopoanga ally, was named Prime Minister.

There were no formal political parties; however, Parliament informally was divided between a faction that supported the Sopoanga Government and a faction that did not.

From November 2002 to October 2003, then Prime Minister Sopoanga refused to convene Parliament to avoid a likely no-confidence vote that would have removed him from power. Further delaying tactics kept Sopoanga in office, even though for most of that period, the opposition held a majority in Parliament. However, the August election, occasioned by a vote of no confidence in Sopoanga, replaced pro-government parliamentarians with members of the former opposition.

Laws against corruption are weak. Allegations of nonaccountability, corrupt travel, financial mismanagement, and conflicts of interest regarding officials of all four government ministries continued to be voiced. Parliamentary travel to Taiwan, man-

agement of the country's "tv" rights, and acceptance of high-value gifts by government officials have also been criticized.

Laws provide for annual, public, ministerial reports, but publication was spotty and often nonexistent. The Auditor-General's Office, responsible for providing government oversight, was underfunded, lacked serious parliamentary support, and as a consequence continued to lack adequate staff and resources.

Participation by women in government and politics was limited, largely due to cultural traditions. There were no female M.P.s or cabinet ministers.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While no known barriers block their establishment, there were no local nongovernmental organizations concerned solely with human rights. Some human rights advocates operated under the aegis of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The People's Lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution was supported by the Government, which frequently sought its advice. At times, it has been critical of the Government; however, there have been no allegations of human rights violations committed by the Government and no known requests for investigations.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, creed, sex, or national origin, and the Government observed these prohibitions. However, a scarcity of wage-paying jobs and the traditional culture limited women's job opportunities.

*Women.*—Violence against women was rare. Domestic violence was relatively infrequent and was not a source of societal concern. Rape is a crime punishable by a minimum sentence of 5 years' imprisonment; however, spousal rape is not included in the legal definition of this offense. The People's Lawyer has sought to broaden public knowledge of women's rights, particularly in regard to spousal rape and domestic abuse.

Prostitution and sex tourism are illegal. While there are no laws prohibiting sexual harassment, the Penal Code provides specific recourse against indecent behavior, which includes lewd touching.

Women increasingly held positions in the health and education sectors and were more active politically. In an economy with few wage-paying jobs, women held the clear majority of clerical and retail positions. In 2000, the Government established a Women's Department in the Ministry of Internal Affairs; however, it took no significant action during the year.

*Children.*—The Government provided commensurate funding for children's welfare within the context of its total available resources. Education was compulsory for children through age 13. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women.

The Government provided free medical care for children through age 18.

There were no reports of child abuse.

*Trafficking in Persons.*—The law prohibits procurement of persons within and across borders for purposes of prostitution, but it does not mention or prohibit trafficking specifically. However, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There were no known reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. There are no mandated accessibility provisions for persons with disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses, who totalled fewer than 1,000 persons, were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 600 members, who worked on foreign merchant vessels.

*b. The Right to Organize and Bargain Collectively.*—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although

there are provisions for collective bargaining, in practice private sector employers set wages. Both private and public sectors generally used nonconfrontational deliberations in a local, multipurpose meeting hall to resolve labor disputes rather than use legal procedures.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under the age of 14 from working. The law also prohibits children under 15 years of age from industrial employment or work on any ship and stipulates that children under the age of 18 are not allowed to enter into formal contracts, including work contracts. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

*e. Acceptable Conditions of Work.*—The minimum wage, set by the Government, was sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public (government) sector was \$91.65 (\$A130), regardless of sex and age. In most cases, the private sector adopted the same minimum wage rate.

The Labor Office may specify the days and hours of work for workers in various industries. By law, the workday is set at 8 hours. The majority of workers were outside the wage economy.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor, Works, and Communications is responsible for the enforcement of these regulations, but in practice it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

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## VANUATU

Vanuatu is a parliamentary democracy. The Constitution provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may change their government freely. The 52 member Parliament elects the Prime Minister as the Head of Government. An electoral college composed of the Members of Parliament (M.P.s) and the chairmen of the country's six provincial government councils elects the President as the Head of State. The latter's powers are largely ceremonial, except when appointing judges or acting on the advice of the Council of Ministers, who are appointed by the Prime Minister. There also is a Council of Chiefs that provides recommendations on matters relating to custom and traditional practices. Political legitimacy is based on majority rule. Parliamentary majorities have been unstable. The most recent elections, held in July, were considered generally free and fair. After much parliamentary maneuvering, a coalition government was formed with Serge Vohor of the Union of Moderate Parties (UMP) as Prime Minister; however, on December 11, Parliament ousted Vohor in a vote of no confidence and elected Ham Lini to replace him. The judiciary is generally independent of executive interference, although there were tensions between the two branches during the year.

The Police Commissioner commands the country's small police force, including its paramilitary wing, the Vanuatu Mobile Force (VMF). The country has no military force; the VMF has both domestic and external security responsibilities. The civilian authorities generally maintained effective control of the police; however, police officials on occasion have acted peremptorily or at the direction of senior politicians attempting to settle scores or intimidate opponents. There were reports that a few members of the police committed human rights abuses.

The economy is market based, with tourism the biggest source of foreign exchange. The population was approximately 213,000, more than 80 percent of whom were engaged in subsistence farming and fishing. The service sector, composed primarily of government, tourism, and an offshore financial sector, was the largest component of the formal economy. Real gross domestic product grew by 1.6 percent in 2003. Wages and benefits generally kept pace with inflation. Per capita income was estimated at \$1,180 in 2003, a decrease since independence in 1980 when ad-

justed for inflation. In February, Cyclone Ivy struck the country and extensively damaged infrastructure, housing, crops, and water supplies.

The Government generally respected the human rights of its citizens; however, there were problems in some areas, including poor prison conditions, arrests without warrants, an extremely slow judicial process, restrictions on access to government-owned radio and television stations by the political opposition, and violence and discrimination against women.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed torture. There were a few reports of abuses by police.

Prison conditions were poor at both the small, dilapidated central prison in Port Vila and the prison in Luganville, where conditions generally were regarded as worse than in Port Vila. Security at both facilities also was poor. Inmates were treated humanely to the extent allowed by the meager resources of the prison system.

Female prisoners were held in a separate facility. Pretrial detainees usually were held in the police lockup rather than the prison. During the year, with foreign government assistance, the holding cells at the Port Vila police station were enlarged, and prisoners were provided access to modern sanitary facilities.

The Government permits prison visits by independent human rights observers.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these provisions.

The Commissioner of Police heads the police force of approximately 600 officers, including approximately 200 members of the VMF, a paramilitary unit with responsibility for responding to both internal and external security threats or other situations requiring the use of force. The Police Services Commission administers the employment of all police officers and selects the commissioner. The police generally were considered effective but were hampered by a lack of resources and by internal rivalries. Corruption and impunity were not major problems; however, there were some instances of corruption, and there have been some instances in which police have acted without proper authorization at the behest of politicians.

In September, the Chairman of the Police Services Commission was removed and the Police Commissioner and Mobile Force Commander were suspended after the police reportedly attempted to arrest the Prime Minister in connection with a contempt of court charge filed by the Public Prosecutor after the Prime Minister made disparaging remarks in Parliament about the Supreme Court's Chief Justice. The Supreme Court subsequently dismissed the charge. At year's end, appeals of the suspensions were pending in the courts.

The constitutional provision that suspects must be informed of the charges against them generally was observed in practice. A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year, and the Government deported a foreign national wanted by French authorities despite a court order barring his deportation.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency (*see* Section 1.e.). Detainees were allowed prompt access to counsel.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, there were tensions between the executive and the judiciary during the year regarding the case of a foreign national deported by the Government despite a court order barring such action and regarding criticism by Prime Minister Vohor of the Supreme Court's Chief Justice (*see* Section 1.d.).

Magistrates' courts deal with most routine legal matters. There also are island courts at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates' courts. The President appoints the Chief Justice of the Supreme Court after consultation with the Prime Minister and the leader of the opposition; the three other justices are appointed by the President on the advice of the Judicial Services Commission. The Appeals Court is the highest appellate court. It comprises at least three judges, including at least

two judges from the Supreme Court, and often includes senior judges from other common-law countries in the region. Judges cannot be removed without cause.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result. The judicial system is derived from British common law. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to a higher court.

Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years can pass before a case is brought to trial.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution or the law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, during the year, Prime Minister Vohor stated that opposition parliamentarians could not appear on the government-owned television or radio stations without his prior permission. He granted no such permission during the year.

The Government controlled the country's one AM and one FM radio station and a limited service television station that broadcast only to the capital of Port Vila and the second-largest city, Luganville. The television station provided daily English and French news service. Access to international news and information also was available through subscription satellite television service from two private providers. There was one independent daily newspaper and two privately owned semiweekly newspapers. During the year, most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, at times, some individual politicians and their supporters have attempted to intimidate the media, although with no apparent effect.

The Government did not limit access to the Internet; the Internet and e-mail were increasingly used by business and commercial leaders in Port Vila and other major towns, but both computers and Internet access were out of reach for most citizens in the subsistence economy.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government provided some financial assistance for the construction of churches affiliated with member denominations of the Vanuatu Christian Council, provided grants to church operated schools, and paid teachers' salaries at church operated schools in existence since the country's independence in 1980. These benefits were not available to non Christian religious organizations. Government schools also scheduled weekly religious education classes conducted by representatives of Council churches. Students whose parents did not wish them to attend the classes were excused. Non Christian religions were not permitted to give religious instruction in public schools.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution does not address forced exile, but the Government did not employ it.

The law does not provide for the granting of asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. There were no refugee or asylum cases reported during the year. The Government has no association with the office of the U.N. High Commissioner for Refugees.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections are held every 4 years. The 52-member Parliament elects the Prime Minister as the Head of Government. The Electoral College, composed of M.P.s and the chairmen of the country's six provincial government councils, elects the President for a 5 year term. The President's powers are largely ceremonial except when appointing judges and acting on the advice of the Council of Ministers; however, the President has the power to pardon or reduce the sentence of persons convicted of criminal offenses. This power has been used in the past to absolve political figures of criminal convictions.

Parliamentary majorities have been unstable, with frequent motions for votes of no confidence in the government. In October, Parliament passed proposed amendments to the Constitution that, among other things, would bar no confidence motions in the first and last years of a parliament's 4-year term. The amendments would become effective only if approved in a national referendum, which had not been scheduled as of year's end.

National parliamentary elections held in July were considered generally free and fair. Additional police were dispatched to the island of Tanna after alleged supporters of two unsuccessful candidates intercepted police escorting ballot boxes to the capital after the election and reportedly burned several of the boxes. The Government charged 10 persons for their alleged involvement in the incident, including the 2 candidates. No further action was taken in the case by year's end. Following the election, Prime Minister Serge Vohor of the UMP assembled a coalition parliamentary majority and formed the Government. However, on December 11, amid allegations of corrupt dealings, Vohor lost a motion of no confidence in Parliament; Ham Lini of the National United Party was elected to replace him as Prime Minister.

Government corruption was a problem. In May, then-President Alfred Masing Nalo, who had been elected in April, was removed from office after it was revealed that he had a criminal record, including a conviction for receiving property dishonestly. In August, lawyer Kalkot Matas Kelekele was elected President to replace him. Prime Minister Vohor appointed as his Foreign Minister a former prime minister who was convicted of forgery in 2002 and sentenced to 3 years' imprisonment; he was released several months later, after the then-President pardoned him on medical grounds, and was reelected to Parliament. The Public Service Act and related guidelines provide for the appointment of public servants on the basis of merit; however, in practice, political interference at times has hampered the effective operation of the civil service.

No law provides for public access to government information. In practice, governmental response to requests for information from the media has been mixed.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were 2 women in the 52-member Parliament. There was one woman in the Cabinet, appointed in December.

There were at least two members of minorities in the Parliament, one of whom was in the Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no restrictions on the formation of human rights organizations. Some nongovernmental organizations (NGOs), such as the National Council of Women and the Family Health Association, included human rights education as part of their programs. A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials tolerated their views.

A government ombudsman is appointed to a 5-year term by the President in consultation with other political leaders. The 1998 Ombudsman's Act, passed in the wake of parliamentary anger over the previous Ombudsman's vigorous investigations of official corruption, requires that the Public Service Commission, not the Ombudsman, appoint members of the Ombudsman's staff and authorizes the presence of legal counsel during interviews with the Ombudsman.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinions, language, or sex; however, women remained victims of discrimination in the tradition-based society.

*Women.*—Violence against women, particularly wife beating, was common, although no accurate statistics exist. There are no specific laws against domestic violence; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. However, most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters. There were no government programs to address domestic violence, and media attention to the abuse was limited. There were some facilities for abused women run by churches and other NGOs. In 2002, the civil procedure rules were revised to give greater protection to victims of domestic violence by giving magistrates authority to issue domestic violence protection orders. These changes were advocated by NGOs such as the National Council of Women and the Vanuatu Women's Center that also played an important role in educating the public about domestic violence.

In March, the head of the National Council of Women expressed concern about alleged abuse of a female finance department worker by a senior government official. According to press reports, the official publicly slapped and abused the employee because he wanted priority given to processing a payment request; the official denied the reports.

Prostitution is illegal and was not regarded as a serious problem. Although there is no law against sex tourism, none has been reported. Sexual harassment is not illegal and was a problem. During the year, the Commissioner of Police and a high ranking chief both made widely publicized statements against sexual harassment.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. In 2000, a disproportionate number of women's positions were abolished during downsizing of the public service sector. In 2000, as part of the Government's reform program, policies were drafted to guide the Department of Home Affairs in protecting and furthering the rights of women; however, these have not been implemented. The majority of women entered into marriage through "bride-price payment," a practice that has encouraged men to view women as property. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

*Children.*—Access to education was limited, and school attendance was not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than girls. Although attendance rates were similar in the early primary grades (approximately 79 percent for boys and 78 percent for girls), fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate. Medical services were free, and there was a program of immunization; however, the Government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

Child abuse was not believed to be extensive; however, the Government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years but no statistics were available. Children generally were protected within the traditional extended family system. Members of the extended family, particularly paternal uncles, played an active role in a child's development. Virtually no children were homeless or abandoned.

*Trafficking in Persons.*—The Constitution and the law do not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. There were no special programs to assist persons with disabilities. Their protection and care was left to the traditional extended family and to voluntary NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities. Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

*National/Racial/Ethnic Minorities.*—Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although it sometimes was leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, under a law passed in 2003, only indigenous farmers can grow kava, a native herb, for export. There was no evidence of ethnic discrimination in the provision of the limited basic services that the Government provided.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 25,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,000. The five existing trade unions are independent of the Government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU). All workers are permitted to join unions. The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations. The VCTU is a member of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—Unions exercise the right to organize and bargain collectively. They negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration. Complaints of anti union discrimination are referred to the Commissioner of Labor; however, none were reported during the year. While the law does not require union recognition, it prohibits anti-union discrimination once a union is recognized. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations would be referred to the Labor Department for conciliation and arbitration. In the public sector, the Public Service Commission would handle complaints of violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

There were no major strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Labor Department effectively enforced these laws.

*e. Acceptable Conditions of Work.*—A legislated minimum wage was enforced effectively by the Labor Department. Since 1995, it has been approximately \$143 (16,000 vatu) per month for both urban and rural workers. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming. Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act, enforced by the Labor Department, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department could not enforce the law fully.

Laws on working conditions and safety standards apply equally to foreign workers and citizens.

**VIETNAM**

Vietnam is a one-party state, ruled and controlled by the Communist Party of Vietnam (CPV). The CPV's constitutionally mandated leading role and the occupancy of all senior government positions by party members ensured the primacy of Politburo guidelines and enabled the party to set the broad parameters of national policy. In recent years, the CPV gradually reduced its formal involvement in government operations and allowed the Government to exercise significant discretion in implementing policy. The National Assembly remained subject to CPV direction; however, the Government continued to strengthen the capacity of the National Assembly. The National Assembly members were chosen in May 2002 elections in which candidates were vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group for the country's mass organizations. Approximately 90 percent of elected delegates were CPV members. The National Assembly continued to play an increasingly independent role as a forum for local and provincial concerns and as a critic of local and national corruption and inefficiency and made progress in improving transparency in the legal and regulatory systems. The judiciary was subject to the influence of the CPV and the Government.

Internal security primarily is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas, the military is the primary government agency and provides infrastructure and all public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintained a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities; however, this system has become less pervasive in its intrusion into most citizens' daily lives. While the civilian authorities generally maintained effective control of the security forces, there were reports that elements of the security forces acted independent of government authority. Members of the public security forces committed numerous human rights abuses.

The country of over 82 million persons was undergoing a rapid transition from a wholly central planned economy to a "socialist-oriented market economy." During the first 6 months of the year, the gross domestic product growth rate was approximately 7 percent and the inflation rate (the Consumer Price Index) rose 7.2 percent. The agriculture, forestry, and fishery sectors employed 59.04 percent of the labor force and accounted for 21.1 percent of total economic output. The private sector, including independent farming and household businesses, comprised 88.2 percent of the labor force, while the state sector accounted for 10.3 percent, and the foreign invested sector 1.5 percent. Industry and construction contributed 41.3 percent of total economic output, while services accounted for 37.6 percent. During the first half of the year, official development assistance disbursements achieved \$630 million. In the last 10 years, overall poverty levels decreased significantly; as of 2003, approximately 26 percent of the population lived below the poverty line. Particularly in Ho Chi Minh City and Hanoi, economic reforms have raised the standard of living and reduced CPV and government control over, and intrusion into, citizens' daily lives; however, many citizens in isolated rural areas, including members of ethnic minorities in the Northwest Highlands, Central Highlands, and the central coastal regions continued to live in extreme poverty. There was a growing income and development gap between urban and rural areas and within urban areas. Unemployment and underemployment remained significant problems.

The Government's human rights record remained poor, and it continued to commit serious abuses. The Government continued to deny citizens the right to change their government. Several sources reported that security forces shot, detained, beat, and were responsible for the disappearances of persons during the year. Police also reportedly sometimes beat suspects during arrests, detention, and interrogation. Incidents of detention of citizens and foreign visitors, including detention for peaceful expression of political and religious views, continued. Prison conditions were harsh, but not unduly so given the country's level of economic development. The Government denied some citizens the right to fair and expeditious trials. The Government continued to hold political and religious prisoners. The Government restricted citizens' privacy rights, although the trend toward reduced government interference in the daily lives of most citizens continued. The Government significantly restricted freedom of speech, freedom of the press, freedom of assembly, and freedom of association. The Government continued its longstanding policy of not tolerating most types of public dissent and increased efforts to monitor and control citizen's access and use of the Internet; however, the Government allowed elected officials and ordinary citizens in approved forums somewhat greater freedom of expression and of as-

sembly. Security forces continued to enforce restrictions on public gatherings and travel in some parts of the country, particularly in the Central Highlands and the Northwest Highlands. The Government prohibited independent political, labor, and social organizations; such organizations existed only under the control of the VFF. The Government restricted freedom of religion and prohibited the operation of unregistered religious organizations. Participants in unregistered organizations faced harassment as well as possible detention and imprisonment. The Government imposed limits on freedom of movement of some individuals whom it deemed a threat. The CPV continued efforts to strengthen the mechanism for citizens to petition the Government and for victims of injustice to obtain compensation. The Government made significant steps in improving legal transparency for businesses. The Government did not permit human rights organizations to form or operate. In an effort to respond to international criticism of human rights issues, investigate allegations of misdeeds and better implement regulations protecting human rights, the Government established the inter-ministerial Steering Committee on Human Rights Issues. Violence and discrimination against women as well as child prostitution remained problems, although the Government took steps to combat these social ills. Although the Government took steps to combat trafficking in persons, trafficking in women and children for the purpose of forced prostitution within the country and abroad continued to be a problem, and there were reports of the trafficking of women to China and Taiwan for forced marriages. Discrimination against some ethnic minorities continued to be a problem. The Government restricted some core worker rights, such as freedom of association; however, it cooperated with the International Labor Organization (ILO) and international donors to improve implementation of the labor law. There were reports that children worked in exploitative situations; however, the Government recognized child labor as a problem and attempted to address it.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary and Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, there were reports of killings by security forces.

On April 10, ethnic minorities protested in numerous locations in the Central Highlands provinces of Dak Nong, Dak Lak, and Gia Lai. In some of the protests, individuals carried clubs and threw rocks at police officers. In a number of cases, police reportedly responded to by beating and firing upon demonstrators. The Government reported the deaths of three protestors, all at the hands of other demonstrators. Reports from inside the country and from nongovernmental organizations (NGOs) monitoring the situation from abroad suggested that many protestors were killed by police, or fled into the jungle where some died from their wounds, afraid to seek medical treatment. Credible estimates put the number of protestors killed by police at least in double digits; some international organizations report that the figures may be much higher (*see* Section 2.b.).

Police in the Northwest Highlands reportedly beat to death Protestant believers Vang Seo Giao in July 2003 and Mua Bua Senh in 2002. Also in 2003, police in Nam Dinh Province beat to death Tran Minh Duc, who had been detained following a domestic dispute. No action was taken against officials involved in these killings. Authorities continued to investigate three other deaths in custody from 2002, including: The case of three police officers in Quang Nam Province who reportedly killed Nguyen Ngoc Chau while questioning him on murder charges; the case of two police officers in Vinh Phuc Province charged in the death of Khong Van Thoi; and the case of two prison guards in Hai Duong Province charged with manslaughter in the killing of prison inmate Pham Van Dung.

*b. Disappearance.*—There were credible reports that some members of ethnic minority groups in the Central Highlands and Northwest Highlands who were either arrested or detained did not return to their families.

In 2002, in Dak Lak Province, police twice detained large numbers of Protestant villagers for worshipping without official approval. In both cases, most of those arrested were released after a few days, but as many as 70 of the villagers did not return. Police reportedly denied continuing to detain them.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits physical abuse; however, police sometimes beat suspects while arresting them or while they were in custody. In 2002, police reportedly beat to death at least two detainees (*see* Section 1.a.).

Diplomatic officials received a written report that in November 2003, militia soldiers and local officials in Nam Nga village, Lai Chau Province, allegedly raped two

girls, destroyed several houses, killed livestock, and destroyed fences, allowing animals to enter fields and trample crops, in an attempt to punish individuals in the village for practicing Protestantism (*see* Section 1.f.).

Prisoners, including those held for political reasons, were reportedly moved arbitrarily to solitary confinement, where they were deprived of reading and writing materials, for periods of up to several months.

Prison conditions reportedly often were harsh, but generally did not threaten the lives of prisoners. Overcrowding, insufficient diet, and poor sanitation remained serious problems in many prisons. Most prisoners had access to basic health care. Prisoners generally were required to work, but received no wages (*see* Section 6.c.). During the year, visits by select diplomatic observers revealed Spartan, but generally acceptable conditions in at least two prisons.

Men and women were housed separately. Juveniles were housed separately from adult populations. Pretrial detainees were generally held separately from convicted prisoners and were denied visits from family members, though relatives could provide them with money or certain supplies. Under revisions to the criminal procedures code that came into effect in July, pretrial detainees are allowed access to their lawyers from the point of detention; however, bureaucratic delays frequently limited initial contact between detainees and their lawyers, and some detainees particularly political activists—were not permitted regular access by lawyers until shortly before their trials. Unlike in previous years, prisoners sentenced to hard labor did not complain that their diet and medical care were insufficient to sustain good health. Although political and religious prisoners often were held under harsh conditions, there was no evidence to suggest their conditions were significantly different than those for the regular prison population.

During the year, the Government permitted selected diplomatic observers to visit prisons; however, the Government did not allow the International Committee of the Red Cross to visit prisoners.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government continued to arrest and detain citizens for the peaceful expression of their political and religious views.

Domestic police forces are part of the General Department of People's Police, a division of the MPS. Police organizations exist at the provincial, district, and local levels, and are subject to the authority of the people's committees at each level. The police were generally effective at maintaining political stability and public order, but NGOs assessed police capacities, especially investigative, as very low. Police training and resources were inadequate. Corruption was a significant problem among the police force at all levels. Internal police oversight structures exist and can be effective, but they were subject to political influences.

The Supreme People's Procuracy (public prosecutor) issues arrest warrants, generally at the request of police; however, police may make an arrest without a warrant on the basis of a complaint filed by any party. In such cases, the Procuracy must issue retroactive arrest warrants.

After a suspect is detained, a decision to initiate a formal criminal investigation must be issued by a judge within 9 days, or the suspect must be released. Under amendments to the Criminal Code which took effect in July, this investigative period may last from 3 months for "less serious" offenses (those that may result in less than 3 years' imprisonment) to 16 months for "exceptionally serious" offenses (those that may result in over 15 years' imprisonment, life imprisonment, or capital punishment) and an additional 4 months for national security cases. The amended code further permits the Procuracy an additional 2 months at the end of the investigation to consider whether they want to prosecute the detained, or return the case to the police for additional investigation. There is no legal limit on the time that a judge's panel (a body consisting of at least one judge and two lay assessors) has to rule on a case (*see* Section 1.e.). Time spent in pretrial detention usually counted toward time served upon conviction and sentencing.

Amendments to the Criminal Code that took effect in July grant defense lawyers access to their clients from the time of detention. During the investigative period, the amended code provides that defense lawyers be informed of interrogations and be able to attend them and be given access to case files and be permitted to make copies of documents in it. It was not yet clear whether this was respected in practice. In national security cases, defense lawyers are granted access to clients only after an investigation has ended. Although the Constitution provides for legal counsel for all persons accused of criminal offenses, a scarcity of trained lawyers made this provision difficult to implement. Counsel generally was provided only to those charged with crimes that could lead to life imprisonment or the death penalty. Prior to being formally charged, a detainee has a statutory right to notify family mem-

bers, and, in most cases, police informed the family of the detainee's whereabouts. Family members may visit a detainee only with the permission of the investigator. Prior to July, the MPS usually prohibited contact between detainees and their lawyer while the procurator's office was investigating.

Courts may sentence persons to administrative detention of up to 5 years after completion of a sentence. In addition, according to Article 22 of the revised Ordinance on Administrative Violations, police or mass organizations can propose that five "administrative measures" be imposed by people's committee chairpersons at local, district, and provincial levels without a trial. These measures include terms ranging from 6 months to 2 years in either juvenile reformatories or adult detention centers and were generally applied to repeat offenders with a record of minor offenses such as petty theft or "humiliating other persons." People's committee chairpersons can also impose terms of "administrative probation" as defined by Decree 31/CP of 1997. This generally has been some form of house arrest. In October 2003, the People's Committee Chairman of Ho Chi Minh City sentenced four Unified Buddhist Church of Vietnam (UBCV) monks to 2 years' house arrest.

Citizens seeking to exercise freedom of religion, assembly, and expression were at times detained by security forces for several days. There were numerous reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority Protestant believers. For example, in Sapa District, Lao Cai Province, authorities detained without charge numerous ethnic minority Hmong Protestants in at least eight different communes during July and August (*see* Section 2.c.).

On occasion, foreign citizens also were detained and interrogated. For example, on July 29, U.S. citizen Larry Linh Nguyen was taken from a taxi in Ho Chi Minh City and handcuffed and blindfolded by individuals who identified themselves as MPS officers. Mr. Nguyen reported that he was held for 7 days in an empty house where the officers deprived him of sleep and aggressively interrogated him about his alleged affiliation with Vietnamese-American political groups opposed to the CPV. Mr. Nguyen was reportedly forced to sign and read before a video camera an affidavit stating that, if he were released, he would not inform diplomatic officials about his detention. U.S. citizen Hoang The Lan was detained by public security officers early on the morning of August 2 in Soc Trang. He was reportedly taken to a house in Ho Chi Minh City where he was interrogated over a period of 4 days about his involvement with groups that advocate democracy in Vietnam. Mr. Hoang was reportedly told by the officers not to contact diplomatic officials about his detention. At least one other foreign national reported a similar experience, and a second reported a shorter period of detention and interrogation.

At year's end, UBCV leaders and at least one Hoa Hao follower remained under formal administrative detention. A number of Buddhist, Catholic, and Protestant clerics, as well as some writers and political activists, were subject to varying degrees of informal detention in their residences (*see* Sections 2.c. and 2.d.). In addition, activist groups have alleged that in 2003 and during the year over 2 dozen ethnic minority Protestant leaders were detained for varying periods, some may still be detained at year's end.

The Government amnestied prisoners at several times during the year, including an amnesty of 8,623 prisoners to mark the country's national day on September 2. Five religious prisoners benefited from these amnesties.

*e. Denial of Fair Public Trial.*—The Constitution provides for the independence of judges and lay assessors; however, in practice, the CPV controls the courts at all levels, selecting judges, at least in part, for their political reliability. The CPV influenced high-profile cases and cases in which a person was charged with challenging or harming the CPV or the State. During the year, CPV and government officials likely exerted control over court decisions by influencing lay assessors and judges.

The system of appointing judges and lay assessors contributed to executive control over the judiciary. The President presents a nomination for the Presiding Judge of the Supreme People's Court (SPC) to the National Assembly for approval. The President directly appoints the other members of the SPC upon the recommendation of a committee including the Presiding Judge of the SPC, members of the Ministries of the Interior and Defense, the VFF, and the Vietnam Lawyers Association. At the provincial and district level, the recommending panel is headed by the Chairman of the Provincial People's Council (the provincial legislature) and includes members of the Provincial People's Court, Provincial Department of Personnel, the VFF, and the Provincial Lawyers' Association. Judges are appointed to 5-year terms. Provincial and district governments disburse judges' salaries at their respective levels. In 2002, the Government transferred authority over local courts from the Ministry of

Justice to the SPC, in an effort to increase judicial independence. There was no evidence that this change had any effect on the independence of the courts.

Courts of first instance at district and provincial levels include judges and lay assessors, but provincial appeals courts and the SPC are composed of judges only. People's councils appoint lay assessors from a pool of candidates suggested by the VFF. Lay assessors are required to have "high moral standards," but legal training is not necessary. Some international observers suggested that the short terms of appointment for judges and lay assessors and the strong representation of provincial officials on their nominating boards frequently made judges and lay assessors subject to political pressures.

The judiciary consists of the SPC; the district and provincial people's courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district has a district people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province has a provincial people's court, which serves as the appellate forum for district court cases, as well as court of first instance for other cases. The SPC is the highest court of appeal and review. The SPC reports to the National Assembly. Administrative courts deal with complaints by citizens about official abuse and corruption.

Military tribunals, although funded by the Ministry of Defense (MOD), operate under the same rules as other courts. The MOD is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. Military tribunal judges and assessors are military personnel, chosen jointly by the SPC and the MOD, but supervised by the SPC. The law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

The CPV and the Government have established special committees to help resolve local disputes.

The Supreme People's Procuracy brings charges against an accused and serves as prosecutor during trials. Under revisions to the Criminal Procedures Code, which took effect in July, courtroom procedures were to change from an "investigative" system—in which the judge leads the questioning—to an "adversarial" system—in which prosecutors and defense lawyers advocate for their respective sides. This was intended to provide more protections for defendants and to prevent judges from coercing defendants into confessing guilt. The extent to which this change has been implemented in practice was not known at year's end. Although the Constitution provides that citizens are innocent until proven guilty, some lawyers complained that judges generally presumed guilt.

There was a shortage of trained lawyers and judges, and there was no independent bar association. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad in countries with Communist legal traditions. A Ministry of Justice newspaper reported that, in some courts, as many as 30 to 40 percent of verdicts were incorrect and that as many as 50 individuals had been wrongly imprisoned in the first quarter of the year. The newspaper noted that, according to 2001 statistics, 31.2 percent of judgments in criminal cases made by local courts had to be re-examined and 46 percent of the verdicts in civil cases were wrong.

Government training programs to address the problem of inadequately trained judges and other court officials were underway. Foreign governments and the U.N. Development Program (UNDP) provided assistance; however, the lack of openness in the criminal judicial process and the continuing lack of independence of the judiciary hampered progress.

Trials generally were open to the public; however, judicial authorities closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trial and to have a lawyer, although not necessarily the lawyer of their choice. This right was generally upheld in practice. Defendants unable to afford a lawyer were generally only provided one in cases involving capital punishment. The defendant or the defense lawyer has the right to cross-examine witnesses; however, there were credible reports that defendants were not allowed access to government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Lawyers reported that they often had little time before trials to examine evidence to be presented against their clients. Convicted persons have the right to appeal. Courts did not publish their proceedings.

The Government continued to imprison persons for the peaceful expression of dissenting religious and political views. On July 29, democracy activist Dr. Nguyen Dan Que was convicted of "abusing democratic freedoms to infringe upon the interests of the State" and sentenced to 30 months' imprisonment. In December 2003, journalist Nguyen Vu Binh was convicted of "spying." In June 2003, Dr. Pham Hong

Son was convicted under the same charge. In 2002, activist Nguyen Khac Toan was sentenced to 12 years' imprisonment for spying. Diplomats and foreign journalists were refused permission to attend these trials (*see* Section 2.a.).

There were no reliable estimates of the number of political prisoners because the Government usually did not publicize such arrests, rejected the concept of political and religious prisoners, and sometimes conducted closed trials and sentencing sessions. There were at least 9 prisoners known to be held for political reasons and 22 prisoners reportedly held for religious reasons. Some sources had much higher estimates. Among those imprisoned were political activists Dr. Nguyen Dan Que, Pham Hong Son, Nguyen Vu Binh, Nguyen Dinh Huy (who reportedly was suffering from Parkinson's disease), Nguyen Khac Toan, human rights activist Tran Van Luong, scientist and writer Tran Van Luong, Nguyen Minh Thi Hoan, and religious persons Father Nguyen Van Ly, Thich Thien Minh, Bui Tan Nha, Nguyen Thien Phung, Hoang Trong Dung, Vang Chin Sang, Vang Mi Ly, Ly Xin Quang, and Ly Chin Seng.

The Government claimed that it did not hold any political or religious prisoners and that persons described as political or religious prisoners were convicted of violating national security laws or general criminal laws. As with the general prison population, the Government did not allow access by humanitarian organizations to political prisoners.

In March 2003, the Standing Committee of the National Assembly instructed that victims of judicial mistakes should receive compensation, and amendments to the Criminal Code that took effect in July specified procedures for compensating victims. There were no known cases of individuals receiving monetary compensation for judicial mistakes; however, Luong Huu Phi of Thai Binh Province had a suit pending at year's end for having been wrongfully imprisoned for over 5 years. On July 29, the Hanoi People's Procuracy issued a formal public apology to Hoang Minh Tien, who had been wrongly convicted of embezzlement and imprisoned for 1 year. Tien was reportedly in negotiations about financial compensation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy of home and correspondence; however, the Government restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens, but usually did not intrude on most citizens. The authorities focused on persons whom they regarded as having dissenting views, or whom they suspected of involvement in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the Procuracy; however, in practice, security forces seldom followed these procedures but rather asked permission to enter homes, with an implied threat for failure to cooperate. Some individuals refused to cooperate with such "requests." In urban areas, police generally left when faced with noncompliance. In October 2003, security officers entered without permission a house in Gia Lai Province where a foreign diplomat was conducting a consular interview. The security officers later blocked the consular officer from entering residences in Dak Lak Province.

The Government opened and censored targeted persons' mail, confiscated packages and letters, and monitored telephone conversations, electronic mail, and facsimile transmissions. The Government cut the telephone lines and interrupted the cellular phone service of a number of religious and political activists and some of their family members.

The Government tightened control of the Internet, issuing a regulation that requires Internet agents, such as cyber cafes, to register the personal information of their customers and store records of Internet sites visited by customers. The Government also monitored e-mail, searched for sensitive key words, and regulated Internet content (*see* Section 2.a.).

The Government did not have a policy of forced resettlement. The Government resettled some citizens to make way for infrastructure projects. By law, citizens are to be compensated in such cases, but there were widespread complaints, including from the National Assembly, that compensation was not fair or was delayed. Unlike in previous years, there were no reports that officials forced ethnic minority Protestants to leave their homes without providing them with compensation.

Membership in the CPV remained an aid to career advancement and was vital for promotion to senior levels of the Government; however, economic diversification made membership in CPV-controlled mass organizations and the CPV less essential to financial and social advancement. Opposition political parties were not permitted.

The Government continued to implement a family planning policy that urged families to have no more than two children; this policy emphasized exhortation rather

than coercion. The Government can deny promotions and salary increases to government employees with more than two children.

Local officials harassed some family members of political activists. In November 2003, officials reportedly raped two girls in Nam Nga village, Lai Chau Province, to punish their families for following Protestantism (*see* Section 1.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and freedom of the press; however, the Government significantly restricted these freedoms in practice, particularly with respect to political and religious speech. Both the Constitution and the Criminal Code include broad national security and anti-defamation provisions that the Government used to restrict severely such freedoms. In 2003, the NGO Reporters Without Borders claimed that the Government severely restricted freedom of the press.

A press law requires journalists to pay monetary damages to individuals or organizations harmed as a result of their reporting, even if the reports are true. Observers noted that this law limits investigative reporting. Several media outlets continued to test the limits of government press restriction by publishing articles that criticized actions by party and government officials; during the year, there were press reports about topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV officials. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted.

The Government exercised oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship by the domestic media.

In early November, Truong Dinh Anh, the editor of an online newspaper, was criticized in official releases by the Ministry of Culture and Information for printing readers' comments critical of the reported purchase of 78 luxury cars by the Government for use at the Asia-Europe Meeting in Hanoi.

The law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. Senior government and party leaders traveled to many provinces to try to resolve citizen complaints. However, in January 2003, the Hanoi People's Court sentenced four persons to jail terms ranging from 24 to 42 months after they disseminated letters denouncing local land clearance policies. In August 2003, a court in Dong Nai Province sentenced four persons to prison terms of 30 to 42 months for inciting fellow farmers to voice complaints over provincial land use policies.

The Government continued to prohibit speech that questioned the role of the CPV, criticized individual government leaders, promoted pluralism or multiparty democracy, or questioned the Government's policies on sensitive matters such as human rights or the border agreement with China. The line between what constituted private speech and public speech in those areas continued to be arbitrary. On December 30, scientists Tran Van Luong and Nguyen Thi Minh Hoan were sentenced to 21 and 8 months in prison respectively, for having written essays critical of government economic policies. On July 29, democracy activist Dr. Nguyen Dan Que was sentenced to 30 months' imprisonment for posting an essay on the Internet that called for less government censorship. On July 9 and July 14, respectively, activists Tran Khue and Pham Que Duong were each sentenced to 19 months' imprisonment including time served after petitioning the Government for democratic reforms, the establishment of an anti-corruption body, and publication of the country's border treaties with China. In November 2003, democracy activist and former revolutionary Tran Dung Tien was sentenced to 10 months' imprisonment including time served after signing a letter that criticized the arrest of Duong and Khue. Tran Khue, Pham Que Duong, and Tran Dung Tien had all completed their prison sentences and were free at year's end. In December 2003, journalist Nguyen Vu Binh was convicted of "spying" after he had criticized the country's border agreement with China and sent testimony on human rights issues in the country to a foreign government. Binh was sentenced to 7 years' imprisonment and 3 years' house arrest. The sentence was upheld on appeal on May 5. In June 2003, Dr. Pham Hong Son was also convicted of "spying," and sentenced to 13 years' imprisonment and 3 years' house arrest, later reduced on appeal to 5 years' imprisonment, after translating an Internet article titled "What is Democracy." In December 2002, activist Nguyen Khac Toan was sentenced to 12 years' imprisonment for "spying" after disseminating the writings of other democracy activists.

On June 12, the Government reduced by 5 years the prison sentence imposed on Catholic priest Thaddeus Nguyen Van Ly, but added a 5-year administrative detention order to be served after his release. Father Ly originally was sentenced to 15 years' imprisonment in 2001 for "damaging national unity," but the sentence stood

at 5 years, after the June reduction and a similar reduction in 2003. In 2001, Father Ly had submitted written testimony critical of the Government to the U.S. Commission on International Religious Freedom and frequently spoke out for political pluralism and complete religious freedom. In September 2003, the Ho Chi Minh City People's Court sentenced Father Ly's niece, Nguyen Thi Hoa, and two nephews, Nguyen Truc Cuong and Nguyen Vu Viet, to sentences ranging from 3 to 5 years' imprisonment for communicating information on his activities to foreign journalists. In November 2003, the Ho Chi Minh Court of Appeals reduced the sentences of the three siblings to time-served.

The Government restricted persons who belonged to unofficial religious groups from speaking publicly about their beliefs (*see* Section 2.c.).

Some persons who expressed alternative opinions on religious or political issues were not allowed to travel abroad (*see* Section 2.d.).

The CPV, the Government, and the party-controlled mass organizations controlled all print and electronic media.

Published reports on high-level government corruption and mismanagement became more common in recent years. Domestic papers reported extensively on the corruption trial of former Ministry of Agriculture official La Thi Kim Oanh and the subsequent dismissal of the Minister of Agriculture.

In September, the Government unexpectedly blocked press access to the first 2 days of the Asia-Europe People's Forum, an international conference on globalization and democracy.

Foreign journalists must be approved by the Foreign Ministry's Press Center and must be based in Hanoi. The number of foreign staff allowed was limited, and local staff who worked for foreign media were required to be registered with the Foreign Ministry. The Government can withhold or withdraw registration. The Press Center monitored journalists' activities and decided on a case-by-case basis whether to approve interview, photograph, film, or travel requests, all of which in principle must be submitted 5 days in advance. The Press Center refused requests by foreign journalist to travel to the Central Highlands in the immediate aftermath of the April 10 protests in the region. By law, foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although it appeared that this procedure often was ignored in practice. Foreign journalists generally received visas valid for 6 months. During the year, at least two foreign journalists were threatened with nonrenewal of their visas as a result of their reporting.

The Government generally required religious publishing to be done through one government-owned religious publishing house; however, some religious groups were able to print their own materials or import them, subject to government approval (*see* Section 2.c.).

Foreign-language editions of some banned books, such as Duong Thu Huong's "Memories of a Pure Spring," were sold openly by street peddlers, and Bao Ninh's previously banned book, "Sorrow of War," was available in bookstores in Vietnamese-language editions.

Foreign-language periodicals were widely available in cities; however, the Government occasionally censored articles about the country. The Government sometimes delayed availability of a foreign periodical because of sensitive articles. The Government generally did not limit access to international radio, except to Radio Free Asia and the Far East Broadcasting Corporation, which it continued to jam. The Government also jammed the broadcasts of Radio Sweden, but this appeared to be directed at the Far East Broadcasting Corporation, which used a similar frequency.

The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press; however, the law was not enforced uniformly and an increasing number of persons in urban and some rural areas had access to uncensored television footage via home satellite equipment or cable. Cable television, including foreign-origin channels, was available to subscribers living in urban areas, although the Government blocked Vietnamese subscribers from receiving certain news channels, including CNN and the BBC.

The Government censored art exhibits, music, and other cultural activities. However, the Government generally allowed artists broader latitude than in past years in choosing the themes for their works. Many artists received permission to exhibit their works abroad and received exit permits to attend the exhibits and export permits to send their works out of the country.

The Government only allowed access to the Internet through a limited number of Internet Service Providers (ISPs), all of which were State-owned joint stock companies.

In January, the MPS issued a decision forbidding direct access to the Internet through foreign ISPs, requiring domestic ISPs to store information transmitted on the Internet for at least 15 days, and further requiring ISPs to coordinate with the

MPS to provide technical assistance and work space to public security agents to allow them to monitor Internet activities. The decision also requires Internet agents—such as cyber cafes—to register the personal information of their customers, to store records of Internet sites visited by customers for 30 days, and to cooperate with public security officials. It was not clear how fully these provisions were being followed in practice, although many cyber cafes did not register the personal details of their clients.

The Government used firewalls to block websites it deemed politically or culturally inappropriate, including sites operated by exile groups abroad. The Government restricted access to the Radio Free Asia and Voice of America web sites during the year.

The Government required all owners of domestic web sites, including those operated by foreign entities, to register their sites with the Government and to submit their web site content to the Government for approval.

The Government restricted academic freedom, and foreign field researchers often were questioned and monitored. However, the Government permitted a more open flow of information, including in the university system, than in previous years. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical issues widely and freely in classes; however, government observers regularly attended classes taught by both foreigners and citizens. Security officials frequently questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the Government.

*b. Freedom of Peaceful Assembly and Association.*—The right of assembly is restricted in law, and the Government restricted and monitored all forms of public protest. Persons who wish to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. In general, the Government did not permit demonstrations that could be seen as having a political purpose. Persons routinely gathered in informal groups without government interference; however, the Government restricted the right of some unregistered religious groups to gather in worship.

There were numerous reports from the Northwest Highlands and Central Highlands that officials prevented meetings of some Protestant believers, or dispersed those meetings when they did occur (see Section 2.c.).

On April 10, ethnic minorities conducted unannounced demonstrations in numerous locations in the Central Highlands provinces of Dak Nong, Dak Lak, and Gia Lai to protest against lack of economic opportunity, loss of traditional lands, and restrictions on religion. Some protestors also called for the establishment of an independent state in the Central Highlands. In some of the demonstrations, individuals carried clubs and threw rocks at police officers. The majority of protestors were peaceful, and a number of demonstrations involved no violence. In a number of cases, police reportedly responded to the demonstrations by beating and firing upon protestors. On August 11 and 12, a court in Buon Ma Thuot sentenced Y Tlup ADrong, Y Yuan Bya, Y Hoang BKrong, Y K'rec Bya, Y Kuang E. Cam, Y Tan Nie, Y Nguyen K'doh, Y Som H'mok, and Y Bem Nie to between 5 and 12 years' imprisonment for having taken part in the protests. In mid-November, a court in Dak Nong Province sentenced 17 ethnic Ede to between 3 and 10 years in prison for having taken part in the protests. Human rights groups counted at least 76 Montagnards sentenced to prison for participating in protests in 2001 and during the year, and some observers estimated the figure may be considerably higher.

During the course of the year, peaceful small protests of farmers demanding redress for land rights issues frequently took place in front of government buildings in Hanoi. Police monitored these protests but did not disrupt them.

The Government restricted freedom of association. The Government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, particularly unregistered religious groups, were able to operate outside of this framework with little or no government interference (see Section 2.c.).

On May 14, a court in Ho Chi Minh City sentenced Nguyen The Hanh to 2 years in prison for having been involved with Vietnamese-American political activist groups during the 2 years he spent outside the country.

On May 4, a group of lawyers and journalists held a public ceremony in Hanoi to mark the establishment of "Lawyers for Justice," an advocacy group to aid vic-

tims of the police or legal injustice. On May 11, the leaders of the group were called in to meet with the head of the Hanoi Bar Association, who declared that their organization was illegal and that they must disband or be disbarred. Local newspapers and the Ministry of Justice newspaper carried accounts of these meetings. Subsequent to the meeting with the head of the Hanoi Bar Association, the group effectively disbanded.

In July, Tran Khue and Colonel Pham Que Duong were convicted in separate trials of “abusing democratic freedoms” and were both sentenced to 19 months’ imprisonment including time served (they have since been released). In 2001, Khue and Duong sent a letter to the party and government leadership seeking permission to form a “People’s Association to Support the Party and State to Fight Corruption.” They later set up a web site—which the Government did not block—that included contact information, the petition, other documents written by various democracy activists and a bulletin board where several individuals recorded their reactions to the proposal. The site subsequently was removed from the Internet.

*c. Freedom of Religion.*—The Constitution and government decrees provide for freedom of worship; however, the Government continued to restrict significantly organized activities of religious groups that it declared to be at variance with state laws and policies.

According to credible reports, the police arbitrarily detained persons based upon their religious beliefs and practice, particularly among ethnic minority groups in the Central and Northwest Highlands. In 2003 and 2002, there were also reports that two Protestants in those areas were beaten and killed for reasons connected to their faith (*see* Section 1.a.).

In June, the National Assembly issued an Ordinance on Belief and Religion, which took effect on November 15. However, at year’s end, the Government had not issued the regulations required to implement the ordinance and authorities appeared to continue operating under pre-ordinance practices. The ordinance largely consolidated already existing policies regarding religious organizations in the country, but relaxed some controls on the promotion and transfer of clerics, the scheduling of religious activities, and the abilities of religious groups to carry out charitable functions. However, significant limitations remained on religious education and medical and charitable work by religious groups.

The Government still requires religious groups to be registered and used this process to control and monitor church organizations. The Government officially recognizes Buddhist, Roman Catholic, Protestant, Hoa Hao, Cao Dai, and Muslim religious organizations. To obtain official recognition, a group must obtain government approval of its leadership and the overall scope of its activities. Official approval is required for the opening of new places of worship, the ordination of clerics, the establishment of religious teaching institutions, and the entry of students into those institutions. The Government’s approval process was slow and non-transparent. Annual activities by congregations had to be registered with authorities, and activities not on this annual calendar required explicit government approval. Officially recognized religious organizations were able to operate with varying degrees of freedom throughout the country, and followers of these religious bodies were usually able to worship without government harassment, except in some isolated provinces.

In December, the officially-recognized Evangelical Church of Vietnam: North (ECVN) held a national convention for the first time in 20 years. The convention initially had been delayed by refusal by the Government to grant permission, and more recently by reluctance of ECVN leaders to hold the meeting until they could ensure it would be free from government interference. The convention allowed the ECVN to vote on a new leadership board, appoint new pastors and begin a renovation and expansion program.

In addition to officially recognized religious denominations, numerous unrecognized denominations operated in the country, including independent Buddhists, Baptists, Mennonites, Jehovah’s Witnesses, Mormons, Baha’i, independent Cao Dai and Hoa Hao groups, independent Sunni Muslims, and ethnic Cham Hindus. Some unrecognized Protestant, Buddhist, and Hoa Hao religious bodies have requested unsuccessfully official recognition of their organizations in recent years. Activities of unregistered religious groups were considered illegal by the authorities, and these groups sometimes experienced harassment. Many unregistered churches and temples, especially those in urban areas or belonging to traditional Hindu and Muslim groups, were allowed to operate without interference. The Government actively discouraged contacts between the illegal UBCV and its foreign supporters, and between unofficial Protestant organizations, such as the underground house churches, and their foreign supporters, although such contacts continued. Police routinely ques-

tioned some persons who held alternative religious or political views, such as UBCV monks and certain Catholic priests.

Despite the restrictions on organized activity, the Government generally allowed persons to practice individual worship in the religion of their choice, and participation in religious activities throughout the country continued to grow significantly.

Under threat of physical abuse or confiscation of property, some ethnic minority Protestants allegedly were made to sign a formal, written renunciation or to undergo a symbolic ritual, which reportedly included drinking rice whiskey mixed with animal blood. Others refused, often with no known negative repercussions.

The Government sometimes prevented Protestants in the Northwest Highlands and the Central Highlands belonging to unregistered congregations from gathering to worship, forcing them to worship secretly in small family groups. In several Northwest Highlands provinces, provincial officials denied the existence of any religious believers despite recognition by the Central Government that many thousands of unregistered Protestants and Catholics resided there.

On October 11, police in Ho Chi Minh City disrupted an unregistered private bible study seminar and detained 2 unofficial Protestant pastors and 17 ethnic Hmong house church leaders from the Northwest Highlands. The 17 Hmong were held overnight and then returned to the Northwest Highlands. Local officials reportedly interrogated and beat some of the pastors upon their return.

On June 8, in Ho Chi Minh City, Mennonite house church leader Nguyen Hong Quang was detained. On November 12, he was sentenced to 3 years' imprisonment. Five of his followers were sentenced to between 9 months and 2 years in prison. Quang and his followers apparently were convicted as a result of an incident in March in which several of his followers confronted and scuffled with plainclothes police officers monitoring his residence. However, some observers connected Quang's arrest to his broader social activism. During Quang's detention, his wife continued to operate their unauthorized church, but repeatedly was harassed by police. One of Quang's followers, Le Thi Hong Lien, reportedly suffers from mental illness. She was placed in the prison infirmary, but the prison did not appear to be able to provide her with appropriate care and treatment.

The international NGO Human Rights Watch reported that security forces in Kontum Province demolished the chapel of Mennonite Pastor Nguyen Cong Chinh twice during the year. Authorities reportedly based their actions on the fact that Chinh had purchased under a false name the land on which the chapel was built. Other observers noted that at least one other unregistered Protestant church operates a short distance away from Chinh's, but suffered no harassment.

In July and August, authorities reportedly detained without charge over 100 Hmong Protestants—choosing 1 member from each Protestant family—in at least 5 different communes in Sapa District, Lao Cai Province. The authorities attempted to force the detainees to renounce Protestantism, releasing them only when they promised to do so. In March, police in Kon Tum Province reportedly harassed Protestant believers at a house church, seized Bibles, and fined the church organizer. Also that month elsewhere in Kon Tum, police reportedly detained an unregistered ethnic Gia Rai Protestant pastor three different times, beating him and attempting to force him to renounce his faith on each occasion. In 2003, there were several reports of local officials in Dak Lak and Gia Lai Provinces in the Central Highlands forcing ethnic minority Protestants to renounce their faith.

In some cases, particularly involving Hmong Protestants, when authorities prosecuted persons who had organized unauthorized religious services, they used provisions of the Penal Code that allow for jail terms of up to 3 years for "abusing freedom of speech, press, or religion," and terms of up to 2 years for "causing public disorder." The Penal Code establishes penalties ranging from 2 to 15 years' imprisonment for "attempting to undermine national unity" by promoting "division between religious believers and nonbelievers." Unlike in previous years, there were no reports that officials fabricated evidence.

In December 2003, authorities arrested Hmong house church leaders Vang Chin Sang, Vang Mi Ly, Ly Xin Quang, Ly Chin Seng, and Ly Xin Vang from Giap Trung village, Ha Giang Province, for leading "gatherings that caused public disorder" after organizing unauthorized religious services on four Sundays and two Thursdays in October and November 2003. The five Protestants were later sentenced to prison terms ranging from 26 to 36 months.

Government officials denied allegations that Protestant house churches were destroyed or disbanded on the basis that the churches were unregistered and therefore illegal. In September 2003, police reportedly destroyed a small Protestant house church in Ho Chi Minh City.

The Government continued to harass members of the banned UBCV and prevented them from conducting independent religious activities, particularly outside

their pagodas. In September 2003, UBCV leaders met in Binh Dinh in what church members characterized as a de facto re-establishment of the UBCV structure and leadership. Security authorities intercepted several UBCV leaders leaving the meeting and returned them to their respective pagodas. During the year, several UBCV leaders, including Thich Huyen Quang and Thich Quang Do, remained confined to their pagodas and had restrictions on their ability to travel and meet with followers. In November, Thich Quang Do attempted to travel to Quy Nhon Province to visit Thich Huyen Quang, who was hospitalized at that time. Thich Quang Do was blocked from doing so and was returned to his pagoda in Ho Chi Minh City under police escort. However, foreign ambassadors were able to meet with Patriarch Thich Huyen Quang in April and November, and a visiting foreign official met with Thich Quang Do in November.

The Government continued to restrict the Roman Catholic Church and effectively maintained veto power over Vatican appointments of Catholic bishops. The Vatican and the Government reached agreement on mutually acceptable candidates, and all bishoprics were filled. The Government restricted the number of Catholic seminaries and the size and frequency of entering classes, although it did allow an 80 percent increase in the number of new students in at least one seminary. The Catholic Church believes the number of priests is insufficient to meet the needs of believers and has requested permission to increase further the size and frequency of classes and open a new seminary. The Government has not granted these requests. Candidates to enter seminary must receive government approval, and after graduation they must again receive government approval before being ordained as priests. A number of clergy reported a continued easing of government control over church activities in certain dioceses during the year. In many locales, local government officials allowed Catholic Church officials to conduct religious education classes (outside regular school hours) and some charitable activities; however, in other areas, officials strictly prohibited these activities. Catholic Church leaders indicated a desire to expand charitable activities after a new ordinance on religion took effect on November 15; however, this was not possible due to delays in the implementation of the ordinance.

The authorities amnestied imprisoned unregistered Hoa Hao leaders Le Quang Liem on August 23; Nguyen Hai Ha, who died 15 days after his release, on May 31; and Nguyen Van Lia in September. Other church followers remained in prison. Hoa Hao monks and believers following the Government approved Hoa Hao Administrative Council (HHAC) were generally allowed freedom to practice their faith. Between 100 and 200 visitors worshipped at the central Hoa Hao Pagoda in An Giang Province on a daily basis. Monks and followers who belong to dissident groups or decline to recognize the authority of the HHAC suffered more restrictions.

Unregistered Cao Dai sects also were restricted. In August, authorities arrested Hong Thien Hank, leader of the small To Dinh Tan Chieu Minh sect in Tien Giang Province. The Government claimed that Hank had engaged in illegal religious activities, printed and distributed religious information without permission, and defrauded believers.

Muslim Association members were able to practice their faith, including daily prayer and fasting during the month of Ramadan.

The Government restricted and monitored all forms of public assembly, including assembly for religious activities. Large regularly scheduled religious gatherings were allowed, such as the Catholic celebrations at La Vang and the Cao Dai celebrations in Tay Ninh Province. The Hoa Hao were allowed to hold large public gatherings to commemorate some traditional anniversaries, but not others.

Open adherence to a religious faith generally did not disadvantage persons in civil, economic, or secular life, although it likely would prevent advancement to the highest government and military ranks. Religious practice does not preclude membership in the CPV. Some government and CPV officials admitted that they followed traditional and Buddhist religious practices.

Foreign missionaries may not operate as religious workers in the country, although many undertook humanitarian or development activities with government approval.

A government publishing house oversees the publishing of all religious materials. Many Buddhist sacred scriptures, Bibles, and other religious texts and publications, including some in ethnic minority languages, were printed by government approved organizations.

The Government allowed religious travel for some religious persons; Muslims were able to take the Hajj (although apparently none did so during the year due to lack of foreign financial support), and more Buddhist, Catholic, and Protestant officials were able to travel and study abroad. The Government allowed many bishops and priests to travel freely within their dioceses and allowed greater, but

still restricted, freedom for travel outside these areas, particularly in ethnic areas. Many Protestant house church leaders traveled overseas during the year. Government officials discouraged officially recognized clergy from entering Son La Province, Lai Chau Province, and some other “sensitive” ethnic-minority highlands border provinces.

Persons who were religious practitioners in a non-State recognized group sometimes were not approved for foreign travel. On August 29, unregistered Protestant pastor Tran Mai was detained for 8 days after he allegedly committed immigration law violations when he returned to the country through Cambodia. In detention, Mai reportedly was interrogated about his religious activities and connections to imprisoned Mennonite pastor Nguyen Hong Quang. Protestant pastors Nguyen Lap Ma and Nguyen Nhat Thong were restricted from traveling or had to request permission from authorities to travel (*see* Section 2.d.).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides that citizens “shall enjoy freedom of movement and of residence within the country—(and) freely travel abroad and return home—in accordance with the provisions of the law;” however, the Government imposed some limits on freedom of movement. Some local authorities required some members of ethnic minority groups to obtain permission to travel outside certain highland areas, including in some cases travel outside their own villages.

On September 6, the Prime Minister’s office released a decision requiring citizens and resident foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of “national strategic storage,” and “works of extreme importance for political, economic, cultural and social purposes.”

Local officials reportedly informally discouraged some clergy from traveling domestically, even within their own provinces.

Officially, citizens had to obtain permission to change their residence. In practice, many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. Moving without permission hampered persons in obtaining legal residence permits. Foreign passport holders by law must register to stay in private homes; and local authorities at times refused to allow foreign visitors to stay with friends and family. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes; the Government appeared to have enforced these requirements more strictly in some districts of the Central and Northwest Highlands. Police in Hanoi and Ho Chi Minh City used that requirement on two occasions to detain groups of ethnic Hmong house church leaders participating in private bible-study seminars and return them to their home provinces (*see* Section 2.c.).

Authorities barred travel by foreign diplomats to the Central Highlands after protests took place in the region on April 10. On and after April 26, diplomats and international press were allowed into the Central Highlands on several visits. During these visits they were received by local authorities and closely monitored by and prevented from deviating from set itineraries by men in plainclothes. Foreign diplomats visiting the Northwest Highlands were prevented by police from traveling to some areas.

Although the Government no longer required citizens traveling abroad to obtain exit or reentry visas, the Government sometimes refused to issue passports. The Government did not allow some persons who publicly or privately expressed critical opinions on religious or political issues to travel abroad.

Citizens’ access to passports sometimes was constrained by factors such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passports based on personal animosities, on the officials’ perception that an applicant did not meet program criteria, or to extort a bribe. Unlike in previous years, there were no reports that Protestant pastors who had served time in reeducation camps were denied passports. Some family members of ethnic minorities granted refugee status abroad were reissued household registration papers with the missing member removed. In other cases family members of refugees were unable to obtain passports to reunite abroad.

The Constitution does not provide for forced internal or external exile; however, cases amounting to *de facto* exile exist. In October 2003, several UBCV leaders were forcibly returned to their home pagodas and placed under official or unofficial house arrest there (*see* Section 2.c.). Protestant pastor Nguyen Lap Ma has been forced to reside in an isolated village in Can Tho Province since 1982, but authorities have allowed him to travel to Ho Chi Minh City for monthly medical check-ups since he

suffered a stroke in 1998. Another Protestant pastor, Nguyen Nhat Thong, has been forced to reside in a remote village in Binh Thuan Province since 1979. He has been allowed to travel outside the village since 1986, but must ask for the permission of local authorities each time. On January 26, Protestant pastor Tran Dinh Ai, a Vietnamese citizen and frequent critic of the Government now living abroad, was refused entry into the country at Ho Chi Minh City's Tan Son Nhat Airport.

The United States continued to process immigrants and refugee applicants for admission and resettlement, including Amerasians, former reeducation camp detainees, former U.S. government employees, family reunification cases, and returnees from camps of first asylum elsewhere in the region (under the Resettlement Opportunity for Vietnamese Returnees program). Most of these programs were closed to new applicants nearly a decade ago, with the number of cases in some categories now in the low double digits. (An exception was the Amerasian program, which remained open to new applicants; however, this program remains on hold pending new adjudication guidelines.)

The Government generally permitted citizens who had emigrated abroad to return to visit. Officially, the Government considers anyone born in the country to be a citizen, even if they have acquired another country's citizenship, unless a formal renunciation of citizenship has been approved by the President. However, in practice, the Government usually treated overseas Vietnamese as citizens of their adopted country. Emigrants were not permitted to use Vietnamese passports after they acquired other citizenship. The Government generally encouraged visitation by such persons, but sometimes monitored them carefully.

Following the April 10 protests in the Central Highlands a number of Montagnards hid in forests and rubber plantations, and some attempted to flee across the border into Cambodia (*see* Section 2.b.). Vietnamese police attempted to block these potential refugees and reportedly crossed the border into Cambodia. The U.N. High Commissioner for Refugees (UNHCR) sought to monitor conditions in the Central Highlands without restriction to ensure the safety of returned refugees. The Government did not allow this access. Thirteen potential refugees who received UNHCR protection in Phnom Penh independently returned to Vietnam in October. According to Vietnamese authorities, the 13 returned safely to their homes. However, newspapers later printed accounts that made it clear that the 13 had been interrogated extensively by authorities upon their return.

On March 12, Pham Van Tuong, a former UBCV monk known as Thich Tri Luc, was convicted by a court in Ho Chi Minh City of "fleeing abroad or defecting to stay overseas with a view to opposing the people's administration," and sentenced to 20 months imprisonment, including 19 months time served. Released March 26, he left for another country in June, where he was granted refugee status.

The country is not a signatory to the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In July, international NGOs and press reports speculated that the Government allowed more than 450 North Koreans illegally present in Vietnam to travel to South Korea. Reports from similar sources in August stated that as many as 100 North Korean refugees had been forcibly returned to China.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution does not provide the right for citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them. All authority and political power is vested in the CPV, and the Constitution delineates the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV Politburo is the supreme decision-making body in the nation, although it technically reports to the CPV Central Committee. During the first session of the Ninth Congress of the CPV in April 2001, the CPV replaced the standing board with a Secretariat consisting of at least 11 members, to oversee day-to-day implementation of leadership directives.

The Government continued to restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself. No public challenge to the legitimacy of the one-party State is permitted; however, there were instances of unsanctioned letters critical of the Government from private citizens, including some former senior party members, which circulated publicly.

The Government strongly encouraged eligible citizens to vote in elections. Revisions to the Law on Election of Deputies to People's Councils, issued by the National Assembly in November 2003, provided for higher numbers of female and minority candidates, more candidates per position, and fewer party members standing for seats in people's council elections at all levels. Nonetheless, the party-controlled VFF approved all candidates for people's councils, as it did for national and provincial assembly elections. Although voting is not compulsory, election officials applied

many means to persuade citizens to vote, including using public address systems to ask late voting citizens by name to come to the polls. The Government claimed a 99.7 percent voter turnout for the April people's councils election. Proxy voting, while illegal, appeared widespread. In addition, most voting was over by 10:00 a.m., although polls were required to stay open until 7:00 p.m.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and 90 percent of its members were party members), increasingly served as a forum for the expression of local and provincial concerns and as a critic of corruption and inefficiency. However, it did not initiate legislation and did not pass legislation that the CPV opposed. CPV officials occupied most senior government and National Assembly positions and continued to have the final say on key issues. Legislators continued to question and criticize ministers in biannual National Assembly sessions that were broadcast live on television.

Corruption continued to be a major problem. The Government publicized efforts to fight corruption, including publicizing budgets at different levels of government and streamlining government inspection measures. Cases of government officials accused of corruption were broadcast widely, including the trial of senior Ministry of Agriculture official La Thi Kim Oanh, the arrest of nine Ministry of Trade officials, and the removal of several top district officials from Phu Quoc island. Two Deputy Ministers of Agriculture convicted of "dereliction of duty" in the Oanh case had their sentences reduced from imprisonment to probation after the Minister of Agriculture testified on their behalf. A requirement announced on March 17 that candidates for people's councils publicly declare their assets was quietly scrapped a short time later.

In accordance with the amended Law on Promulgation of Legal Normative Documents, the Official Gazette published most legal documents in its daily publication.

The law provides the opportunity for equal participation in politics by women and minority groups. Women held a number of important government positions, including the Vice Presidency. There were 136 women in the 498-seat National Assembly; there were 3 women at the ministerial level; however, there were no female members of the Politburo. There were only a few women in provincial-level leadership positions.

There were 87 ethnic minority members in the 498-seat National Assembly and 2 ethnic minority members serving in cabinet-level positions. The CPV General Secretary is a member of the Tay ethnic minority group; however, the number of minorities in government or national-level politics did not accurately reflect their percentage of the population.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government does not permit private, local human rights organizations to form or operate. The Government generally did not tolerate attempts by organizations or individuals to comment publicly on government human rights practices and used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of assembly, interference with personal communications, and detention. However, the Southern Evangelical Church of Vietnam (SECV) and Catholic Church did not suffer any apparent adverse consequences from widely publicized 2003 letters to the Government criticizing alleged religious oppression of ethnic minorities in the Central Highlands.

The Government generally prohibited private citizens from contacting international human rights organizations, although some activists did so. The Government did not allow visits by international NGO human rights monitors; however, it did allow representatives from the press, the U.N., foreign governments and international development and relief NGOs to visit the Central Highlands in April and May. The Government criticized almost all public statements on human rights issues by international NGOs and foreign governments.

The Government generally was willing to discuss human rights problems bilaterally with some foreign governments. During the year, several foreign governments held official talks concerning human rights.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. Some persons formerly interned in reeducation camps on the basis of association with the pre 1975 government continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. Some military veterans of the pre-1975 government still faced economic hardship as a result of past employment restrictions and discrimination, but none were known still to be incar-

cerated for their activities before 1975. These veterans and their families generally were unable to obtain employment with the Government. This prohibition was less restrictive than in previous years because of the growth of job opportunities in the private sector.

*Women.*—The Penal Code proscribes punishment ranging from warnings to up to 2 years' imprisonment for "those who cruelly treat persons dependent on them"; however, the police and legal system were generally not equipped to deal with cases of domestic violence. Officials increasingly acknowledged domestic violence, which also was discussed more openly in the media. Domestic violence against women reportedly was common. Hotlines for victims of domestic violence run by domestic NGOs exist in some major cities, and the Vietnam Women's Union, a mass organization guided by the CPV, introduced small projects to counter domestic violence in some areas. Approximately two-thirds of divorces reportedly were due in part to domestic violence. The divorce rate has risen in the past few years, but many women remained in abusive marriages rather than confront the social and family stigma and economic uncertainty of divorce.

Under the Penal Code, it is a crime to use violence, threaten violence, take advantage of a person who is unable to act in self-defense, or resort to trickery to have sexual intercourse with a person against that person's will. This appears to criminalize rape, spousal rape, and, in some instances, sexual harassment; however, there were no known instances of prosecution for spousal rape. NGOs and party-controlled mass organizations took some steps to establish shelters for victims of abuse and trained police to deal with domestic violence.

Prostitution is officially illegal but appeared to be tolerated widely. Some women were coerced to work as prostitutes, and some were victimized by false promises of lucrative work (see Section 5, Trafficking). Many more women felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. Estimates varied widely, but some NGOs estimated that there were 300,000 prostitutes in the country, including those who engaged in prostitution part-time or seasonally. There were reports in 2003 that some persons in Ho Chi Minh City addicted young women to heroin and forced them to work as prostitutes to earn money for drugs. Parents often expected an eldest daughter to assume responsibility for a significant part of a family's finances. There were reports that some parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution. The Vietnam Women's Union as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses.

While there is no legal discrimination, women faced deeply ingrained societal discrimination. Despite provisions in the Constitution, in legislation, and in regulations that mandate equal treatment, few women competed successfully for higher status positions. The Constitution provides that women and men must receive equal pay for equal work; however, the Government did not adequately enforce this provision. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace, and Labor Code provisions that call for preferential treatment of women, women did not always receive equal treatment. Nevertheless, women played an important role in the economy and were engaged widely in business and in social and educational institutions. Opportunities for young professional women have increased markedly in the past few years, with greater numbers of women entering and staying in the civil service, universities, and the private sector.

The VFF-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union operated micro-credit consumer finance programs and other programs to promote the advancement of women. International NGOs and other international organizations regarded the Union as effective, but they and Women's Union representatives believed that more time is required to overcome societal attitudes that relegated women to lower status than men. The Government also has a committee for the advancement of women, which coordinated inter-ministerial programs that affected women.

*Children.*—International organizations and government agencies reported that, despite the Government's promotion of child protection and welfare, children continued to be at risk of economic exploitation. While education is compulsory through the age of 14, the authorities did not enforce the requirement, especially in rural areas where government and family budgets for education were strained and where children were needed for agricultural labor. Due to lack of classroom space, most schools operated two sessions, and children attended either morning or afternoon classes. Some street children both in Ho Chi Minh City and Hanoi participated in

night education courses. The culture's strong emphasis on education led parents who could send children to school to do so, rather than to allow them to work. The public school system includes 12 grades. Over 90 percent of children attended primary grades; however, the percentage that attended lower and upper secondary school was much lower. While secondary school enrollments have increased sharply, they were still at less than 75 percent of eligible students for lower secondary and less than 50 percent for upper secondary. Enrollments were lower at all educational levels in remote mountainous areas, although the Government ran a system of subsidized boarding schools through the high school level for ethnic minority students. Religious groups operated some orphanages, despite the Government's prohibition on such activities, and sent the children to public schools during the day.

The Government continued a nationwide immunization campaign, and the government-controlled press regularly stressed the importance of health and education for all children. While reports from domestic sources indicated that responsible officials generally took these goals seriously, concrete actions were constrained by severely limited budgets. According to UNICEF, despite growth in incomes over the past decade, severe malnutrition remained a problem; approximately 39 percent of children under 5 years of age were underweight during the 1995–2000 timeframe.

Widespread poverty contributed to continued child prostitution, particularly of girls, but also of some boys, in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some child prostitutes, such as those from abusive homes, were forced into prostitution for economic reasons.

Some children were trafficked domestically and others were trafficked to foreign destinations for the purpose of sexual exploitation. Press reports documented the conviction and imprisonment of a number of traffickers (see Section 5, Trafficking). Individuals also were convicted in cases in which parents received payments in exchange for giving up their infant children for adoption. In addition, small children and infants were sometimes kidnapped and sold to traffickers in China. In July, police in Hanoi arrested a woman suspected of kidnapping six children in the impoverished provinces of Thanh Hoa and Nghe An for sale in China. Mass organizations and NGOs continued to operate limited programs to reintegrate trafficked children into society. During the year, new programs designed to provide protection and reintegration assistance for trafficking victims through psychosocial support and vocational training, as well as to supplement regional and national prevention efforts by targeting at-risk populations for similar services, started operation in the north of the country.

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were 21,869 street children in the country as of February 2003. Street children were vulnerable to abuse and sometimes were abused or harassed by police. International NGOs documented numerous cases of Cambodian children trafficked to Ho Chi Minh City for short-term work in begging rings. Police picked up street children in Hanoi and Ho Chi Minh City and held them in juvenile detention facilities in advance of the December 2003 Southeast Asia Games.

*Trafficking in Persons.*—The Penal Code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation was a serious problem. There were no known cases of trafficking in persons for labor during the year. While reliable statistics on the number of citizens trafficked were not available, there was evidence that the number has grown in recent years. The Social Evils Department of the MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in combating trafficking, in cooperation with the Ministry of Justice, the Women's Union, and the Border Guards. The police took an increasingly active role in investigating trafficking during the year, including establishing a dedicated anti-trafficking force.

During the year, the Government increased its efforts to prosecute traffickers. The law provides for prison sentences of 2 to 20 years for each offense for persons found guilty of trafficking women, and for between 3 years and life in prison for each offense for persons found guilty of trafficking children. Hundreds of traffickers have been convicted and imprisoned. The Government worked with international NGOs to supplement law enforcement measures and cooperated with other national governments to prevent trafficking. It also cooperated closely with other countries within the framework of INTERPOL and its Asian counterpart. The country hosted an international conference in February on trafficking and human smuggling as part of the Bali Process.

The country was a source for trafficking in persons. Women were trafficked primarily to Cambodia and China for sexual exploitation and arranged marriages. According to one report, between 1990 and 2000, approximately 20,000 young women and girls were sent to China to become brides, domestic workers, or prostitutes;

however, it was not clear how many were victims of trafficking. Between 1995 and 2000, approximately 5,000 women and children were trafficked to and escaped from Cambodia. Some women also were trafficked to Singapore, Hong Kong, Macau, Thailand, Taiwan, the United Kingdom, and the United States. There also were reports that some women going to Taiwan, Hong Kong, Macau, and China for arranged marriages were victims of trafficking. The Government estimated that approximately 10 percent of women in arranged marriages with Chinese men may have become trafficking victims. Women and children also were trafficked within the country, usually from rural to urban areas. There were no incidents of trafficking of adult males domestically or abroad during the year.

Some children were trafficked domestically and others were trafficked to foreign destinations for the purpose of prostitution. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17 years of age. Some reports indicated that the ages of girls trafficked to Cambodia typically were even lower.

Provincial- and national-level authorities made combating trafficking in women and children a priority. In September 2003, the Deputy Prime Minister held a high-level meeting of all relevant agencies to assess anti-trafficking efforts and to chart a course forward. As a result of that meeting, MPS coordinated the Government's interagency anti-trafficking efforts.

There were reports that some women from Ho Chi Minh City and the Mekong Delta who married men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were ostensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In 2002, the Government suspended the licenses of marriage mediation services and transferred their function to the Women's Union. The services had helped to arrange marriages between women and foreigners, primarily Taiwanese men. Government officials still noted that it is difficult to obtain information from Taiwanese officials on cases of alleged trafficking in Taiwan. During the year, the Ho Chi Minh City Women's Union established a pilot program to counsel and assist women who plan to become overseas brides.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. MPS and UNICEF research indicated that trafficking victims can come from any part of the country, but were concentrated in certain northern and southern border provinces as well as the central province of Thanh Hoa. Some were sold by their families as domestic workers or for sexual exploitation. In some cases, traffickers paid families several hundred dollars in exchange for allowing their daughter to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income. Others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (*see* Section 5, Women). The Government stated that organized criminal groups were involved in recruitment, transit, and other trafficking-related activities.

Corruption was a serious problem at all levels, and some officials were involved in the flow of overseas workers into exploitative conditions or into trafficking. There were no cases in 2003 indicating that governmental authorities or security forces facilitate or condone trafficking in persons. However, the Government has a persistent problem with corruption, which is particularly severe among street-level police and border agents. There were several cases in 2003 in which officers in state-owned enterprises were found to have facilitated illegal migration through labor export. The Government prosecuted these cases. In May 2003, three officials from the Employment Service Center of the Administration Department of the General Staff Department of the Ministry of Defense (MOD) were found to have participated in a scheme to send workers to Malaysia, where they were exploited. One of them was prosecuted by the local police in Thai Binh Province and the two others by MOD's Criminal Investigation Division. Also in 2003, the press also reported that the Acting Chief of the Center for Development and Application of Technology and Science—an NGO supported in part by the Government—was sentenced to 9 years in prison for involvement in a predatory labor export scheme.

Official institutions, including the MOLISA, the Women's Union, the Youth Union, and the Committee for Population, Family, and Children, had active programs aimed at prevention and victims' protection. These programs included warning women and girls of these dangers, repatriation programs, and vocational train-

ing for teenage girls in communities considered vulnerable to trafficking. Government agencies worked closely with the International Organization for Migration and other international NGOs to provide temporary shelter, some medical services, education, credit, counseling, and rehabilitation to returned trafficking victims.

Throughout the year, security agencies with border control responsibility have also received training in investigative techniques that can be used to prevent trafficking.

*Persons With Disabilities.*—The law requires the State to protect the rights and encourage the employment of persons with disabilities; however, the provision of services to persons with disabilities was limited. Responsible government agencies worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The Government operated a small network of rehabilitation centers to provide long-term in-patient physical therapy.

Educational opportunities for children with disabilities were poor, but improving. Just over 10 percent of children with disabilities were enrolled in school. During the year, the Government worked with the World Bank and international NGOs to train additional teachers for students with disabilities.

The law provides for preferential treatment for firms that recruit persons with disabilities for training or apprenticeship and for fines on firms that do not meet minimum quotas of 2 to 3 percent of their workforce for workers with disabilities; however, the Government enforced these provisions unevenly. Firms with 51 percent disabled employees can qualify for special government-subsidized loans. In 2002, the Ministry of Construction enacted the “Barrier-Free Design and Construction Code” and “Standards for Access for People with Disabilities,” which requires that the construction or major renovation of new government and large public buildings include access for persons with disabilities. The Ministry of Construction trained architects and engineers in the new requirements. At year’s end, the Government was developing an enforcement and compliant process to support these new codes.

International groups also assisted the Government in implementing programs to increase access by persons with disabilities to education and employment.

*National/Racial/Ethnic Minorities.*—Although the Government officially was opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities was widespread. In addition, there continued to be credible reports that local officials sometimes restricted ethnic minority access to some types of employment and educational opportunities. The Government continued to implement policies to narrow the gap in the standard of living between ethnic groups living in the highlands and richer, lowland ethnic majority Kinh by granting preferential treatment to domestic and foreign companies that invested in highland areas. The Government ran special schools for ethnic minorities in many provinces, including subsidized boarding schools at the high school- and middle school-levels, and offered special admission and preparatory programs as well as scholarships at the university level.

The Government resettled some ethnic minorities from inaccessible areas to locations where basic services were easier to provide; however, the resettlement sometimes diluted political and social solidarity of these groups. The Government acknowledged that one of the goals of resettlement was to impel the minorities to change from traditional swidden agricultural methods to sedentary agriculture. This also had the effect of making more land available to ethnic majority Kinh migrants to the mountainous areas. In August, the Government announced a suspension of state-sponsored migration programs to bring settlers to the Central Highlands, and vowed to discourage spontaneous migration into the area. However, in September, provincial officials said that they were not aware of a change in migration policy. Large-scale migration of ethnic Kinh to the Central Highlands in past years led to numerous land disputes between ethnic minority households and ethnic Kinh migrants. The loss of traditional ethnic minority lands to Kinh migrants was an important factor behind the ethnic unrest in the Central Highlands in 2001 and during the year.

There were numerous credible reports that groups of Montagnards continued to flee to Cambodia to escape ethnic and religious repression in the Central Highlands. These numbers increased after the April 10 demonstrations. Government officials continued to harass some highland minorities, particularly the Hmong in the northwest provinces and several ethnic groups in the Central Highlands, for practicing their Protestant religion without official approval (see Section 2.c.).

The Government continued to impose extra security measures in the Central Highlands, especially after the April demonstrations. There were numerous reports of Montagnards seeking to cross into Cambodia being returned to Vietnam by Vietnamese police operating on both sides of the border, sometimes followed by beatings

and detentions; however, the Government continued to implement measures to address the causes of the unrest and initiate new measures as well. The Government allocated land to ethnic minorities in the Central Highlands through a special program; however, there were complaints that some of the allocated land was poor (see Section 2.d.).

The Government continued a program to conduct classes in some local ethnic minority languages up to grade five. The Government worked with local officials to develop a local language curriculum. The Government appeared to implement this program more comprehensively in the Central Highlands than in the mountainous northern provinces. The Government broadcast radio and television programming in ethnic minority languages in some areas. The Government also instructed ethnic Kinh officials to learn the language of the locality in which they worked; however, implementation was not widespread. Provincial governments implemented initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and be sensitive and receptive to ethnic minority culture and traditions.

*Other Societal Abuses and Discrimination.*—There was no evidence of official discrimination against persons with HIV/AIDS; however, there remains substantial societal discrimination against persons with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are not free to join or form unions of their choosing. Trade unions are controlled by the CPV. All unions must be approved by and must affiliate with the party-controlled Vietnam General Confederation of Labor (VGCL). The VGCL claimed that it represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. Approximately 500,000 union members worked in the private sector, including enterprises with foreign investment. The vast majority of the workforce lived in rural areas, engaged in small-scale farming, and was not unionized. The overall level of unionization of the workforce was 10 percent.

Union leaders influenced key decisions, such as the amendment of labor legislation, development of social safety nets, and the setting of health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not prosecute some violations of the Labor Law. For example, workers at Thien An Company Ltd in Ho Chi Minh City conducted three strikes during the year, complaining that the company repeatedly violated the labor law on matters of wages and social insurance. Authorities took no legal action against the company.

While the Labor Law states that all enterprise-level and professional trade unions are affiliated with the VGCL, in practice hundreds of unaffiliated “labor associations” were organized at many individual enterprises and in occupations such as taxi, motorcycle and cyclo drivers, cooks, and market porters. The ILO and the UNDP cooperated on a large multiyear technical assistance program to strengthen labor law implementation. This involved projects that encouraged job promotion for young women and improvements in occupational safety and health, among other objectives. The ILO was also implementing two projects on eliminating child labor and improving industrial relations, including collective bargaining and dispute settlement. In December, the country held its first national dialogue on industrial relations.

The Labor Law prohibits antiunion discrimination on the part of employers against employees who seek to organize.

Individual unions legally are not free to affiliate with, join, or participate in international labor bodies; however, the VGCL had relations with 95 labor organizations in 70 countries.

*b. The Right to Organize and Bargain Collectively.*—Under the law, the provincial or metropolitan branch of the VGCL was responsible for organizing a union within 6 months of the establishment of any new enterprise, and management is required to cooperate with the union. The Labor Law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers.

The Labor Law provides for the right to strike if workers follow the stipulated process of conciliation and arbitration. The law requires that management and labor first attempt to resolve labor disputes through the enterprise’s own labor conciliation council. However, many enterprises did not have labor conciliation councils. In the absence of such a council or if a council fails to resolve a labor dispute, the dispute is referred to labor arbitration successively at the district and provincial levels. Individual workers may take cases directly to the people’s court system, but in most cases, only after conciliation has been attempted and failed. Unions have the right to appeal decisions of provincial labor arbitration councils to provincial people’s

courts or to strike. Because this process was lengthy and the necessary dispute resolution bodies in many provinces and localities have never been established, nearly every strike became de jure illegal.

According to the Ministry of Labor, 60 strikes took place in the first 6 months of the year. In 2003, 119 strikes occurred, an increase of 43 over the 2002 number. Of these, 81 were against foreign-invested enterprises, 35 involved domestic private enterprises, and 3 affected state-owned firms. Other sources reported 14 strikes against state-owned firms. For example, in September 2003, nearly 400 workers at a company in Ho Chi Minh City blocked the entrance to the factory over unpaid salaries. Also in September 2003, 300 workers demonstrated at another Ho Chi Minh City factory to protest harsh working conditions. Although strikes typically did not follow the authorized conciliation and arbitration process, and thus were of questionable legality, the Government tolerated them and took no action against the strikers. Although the VGCL or its affiliate unions did not sanction these strikes officially, the local and provincial levels of the VGCL unofficially supported many of them. The Labor Law prohibits retribution against strikers, and there were no reports of retribution. In some cases, the Government disciplined employers for the illegal practices that led to strikes. For example, Tuoi Tre newspaper reported that in 2002 Doanh Duc Company Ltd. fought with workers who had struck against the company's violations of the labor law. A Government inspection team later investigated the incident and ordered the company to compensate injured workers and asked the police to take measures against the employer.

The Labor Law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the Government to be important to the national economy and defense. A subsequent decree defined these enterprises to be those involved in: Electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the Prime Minister the right to suspend a strike considered detrimental to the national economy or public safety.

The same labor laws in effect for the rest of the country govern the growing number of export processing zones and industrial zones. There was anecdotal evidence that the Government enforced labor laws more actively in the zones than outside them.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Law prohibits all forms of forced and compulsory labor, including by children; however, there were reports that thousands of children worked in exploitative situations (see Section 6.d.). Some women were coerced into prostitution (see Section 5).

Prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets reportedly to purchase items for prisoners.

A government ordinance requires all male citizens between 18 and 45 years of age and women between 18 and 35 years of age to perform 10 days of annual public labor; however, this ordinance was rarely enforced. The ordinance also allows citizens to find a substitute or pay a marginal fee instead of working.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a problem. The Labor Law prohibits most child labor, but allows exceptions for certain types of work. The law sets the minimum age for employment at 18 years of age, but enterprises may hire children between the ages of 15 and 18 if the firm obtains permission from parents and the MOLISA. The ILO reported in 2001 that approximately 20,000 children between the ages of 8 and 14 years worked part-time or full-time in violation of the Labor Law. That estimate may be low, since many more children worked in the informal sector, usually on family farms or in family businesses not within the scope of the Labor Law.

By law, an employer must ensure that workers under 18 years of age do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the Labor Law. The Labor Law permits children to register at trade training centers, a form of vocational training, from 13 years of age. Children may work a maximum of 7 hours per day and 42 hours per week and must receive special health care.

There were reports that enterprises, including companies with foreign investment, have discovered underage workers in their employ. According to reliable sources, this usually occurred because the worker had presented false identity documents. Once discovered, the children lost their jobs, but in many cases the companies paid for their schooling and promised to reemploy them once they were of age.

In rural areas, children worked primarily on family farms and in other agricultural activities. In some cases, they began work as young as 6 years of age and were expected to work as adults by the time they were 15 years of age. In urban areas,

children also work in family-owned small businesses. Migration from rural to urban settings exacerbated the child labor problem as unauthorized migrants were unable to register their households in urban areas. This meant that their children could not attend public schools and families had less access to credit. Officials said that juveniles in Education and Nourishment Centers, which functioned much as reform schools or juvenile detention centers do elsewhere, were assigned work for “educational purposes.”

A study of child labor in Ho Chi Minh City found cases in which parents in poor families entered into “verbal agreements” with employers, who then put their children to work; the children’s salaries were sent directly to the parents.

Government officials have the power to fine and, in cases of Criminal Code violations, prosecute employers who violate child labor laws. While the Government committed insufficient resources to enforce effectively laws providing for children’s safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers. International donor assistance targeted the problem of child labor. In addition, a child labor unit was established within the MOLISA.

The law prohibits forced and compulsory labor by children; however, thousands of children worked in exploitative situations and were trafficked both domestically and internationally for the purpose of sexual exploitation (*see* Section 5).

*e. Acceptable Conditions of Work.*—The Labor Law requires the Government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for foreign-investment joint ventures was \$40 (626,000 dong) in urban districts of Hanoi and Ho Chi Minh City; \$35.90 (556,000 dong) in rural districts of Hanoi, Ho Chi Minh City, and districts of Hai Phong, Bien Hoa City, and Vung Tau City; and \$31.40 (487,000 dong) elsewhere. The Government may temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise’s operations or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than \$29.90 (417,000 dong). The official monthly minimum wage of the State sector was \$18.80 (290,000 dong). This amount remained inadequate to provide a worker and family a decent standard of living. The new salary policy benefited over 6 million persons, including 300,000 public servants working in administrative organizations, CPV bodies, and unions. However, state-owned enterprises consistently paid more than that minimum wage. The number of workers who received government-subsidized housing decreased. Many workers received bonuses and supplemented their incomes by engaging in entrepreneurial activities. Households frequently included more than one wage earner.

The Government set the workweek for government employees and employees of companies in the state sector at 40 hours and encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours, but did not make compliance mandatory.

The Labor Law sets normal working hours at 8 hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at 1.5 times the regular wage, two times the regular wage on weekly days off, and three times the regular wage on holidays and paid leave days. The law limits compulsory overtime to 4 hours per week and 200 hours per year. Amendments to the Labor Law in 2002 provide for an exception in special cases where this maximum can be up to 300 overtime hours worked annually, subject to stipulation by the Government after consulting with the VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how well the Government enforced these provisions.

According to the law, a female employee who is engaged, pregnant, on maternity leave, or is raising a child under 1 year of age cannot be dismissed unless the enterprise is closed. Female employees who are at least 7 months pregnant or are raising a child under 1 year of age cannot work overtime, at night, or in distant locations.

The Labor Law requires the Government to promulgate rules and regulations that ensure worker safety. The MOLISA, in coordination with local people’s committees and labor unions, is charged with enforcing the regulations. In practice enforcement was inadequate because of low funding and a shortage of trained enforcement personnel. The VGCL reported that there were 300 labor inspectors in the country, but that at least 600 were needed. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. According to MOLISA statistics, there were 4,089 injuries and 513 fatalities resulting from 3,896 work-related accidents (some involving multiple workers) in 2003; however, there was evidence that workers, through labor unions, were effective in improving working conditions. Some for-

Foreign companies with operations in the country have established independent monitoring of problems at their factories. Companies reported that the MOLISA or provincial labor agencies performed labor and occupational safety and health inspections at enterprises when they learned of serious accidents or when there were reports of hazardous conditions.

The Labor Law provides that workers may remove themselves from hazardous conditions without risking loss of employment; it was unclear how well this stipulation was enforced in practice. MOLISA states that there have been no worker complaints of employers failing to abide by it.

## EUROPE AND EURASIA

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### ALBANIA

Albania is a republic with a multiparty Parliament, and a Prime Minister and a President both elected by Parliament. The Prime Minister heads the Government; the Presidency is a largely ceremonial position with limited executive power. In 2003, local elections were held throughout the country, which were judged to be an improvement over previous elections, with only a few isolated incidents of irregularities and violence. The Constitution provides for an independent judiciary; however, corruption and political pressure limited its ability to function independently and efficiently.

Local police units report to the Ministry of Public Order and are responsible principally for internal security. The military forces have a special 151-person "commando" unit, which operates in an antiterrorist role under the Minister of Defense. During times of domestic crisis, the law allows the Minister of Public Order to request authority over this unit. The State Intelligence Service (SHISH) is responsible for both internal and external intelligence gathering and counterintelligence. Civilian authorities generally maintained effective control over the security forces. Some members of the security forces committed human rights abuses.

The country had a mixed economy that was in transition from central economic planning to a free market system. The country continued to experience slow but steady economic progress; the economy grew by 6 percent. However, approximately 25 percent of the population of approximately 3.1 million lived below the poverty line. According to the Government, the unemployment rate was 15.2 percent; however, some unofficial reports put it as high as 22 percent. The average inflation was 3.2 percent and public sector wages increased by 10 percent.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Police beat and abused suspects, detainees, and prisoners. Prison conditions remained poor. The police occasionally arbitrarily arrested and detained persons, and prolonged pretrial detention was a problem. Official impunity was a problem. The Government occasionally infringed on citizens' privacy rights. Political interference in the media occurred less frequently than in previous years. Police reportedly used excessive force against protestors. Individual vigilante action, mostly related to traditional blood feuds, resulted in some killings and an atmosphere of fear in some areas of the country. Societal violence and discrimination against women and children were serious problems. Societal discrimination against Roma, the Egyptian community, and homosexuals persisted. Child labor was a problem. Trafficking in persons remained a problem, which the Government took some steps to address.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, security forces killed one person during the year.

In July, Erigert Ceka, a 17-year-old minor, died as a result of being beaten by police while in detention. As a result of the death, the prosecutor initiated criminal proceedings against two police guards who were charged with committing "arbitrary actions." In November, one guard was sentenced to a 6-month prison term for committing arbitrary actions in violation of the law while escorting detainees, and in December, the other police guard was sentenced to an 8-month prison term for violating the rules of guard service under the military code and misuse of duty. The cases were being appealed at year's end; however, the court did not hold anyone accountable for Ceka's death.

Unlike in previous years, there were no reported deaths due to land mines. However, there were six deaths from mine-related accidents including a cluster bomb in a training facility that killed two and injured several, and a antitank mine that killed four others, three of whom were children.

The country continued to experience high levels of violent crime. Many killings continued to occur as the result of individual or clan vigilante actions connected to traditional "blood feuds" or criminal gang conflicts. According to the Ministry of Public Order, at least 10 individuals were killed during the year in blood feuds, which are based on the medieval Code of Lek Dukagjini (the kanun), which was practiced by individuals particularly in the northern part of the country. Under the kanun, only adult males are acceptable targets for blood feuds; however, women and children often were killed or injured in the attacks. As a result of blood feuds, during the year, 670 families were self-imprisoned, 650 families accepted legal procedures rather than personal vendettas for resolving the conflict, and 54 families were living under protection outside of the country; 160 children were prevented from attending school due to fear of revenge, of which 73 were considered to be in serious danger. This was a decrease from 2003 when it was estimated that there were 1,370 families self-imprisoned at home and 711 children prevented from attending school due to fear of revenge. Land property conflicts and issues related to human trafficking remained the main reasons forcing families to enter into blood feuds. In August, Emin Spahija, the head of the Non-Government organization (NGO) Peace Missionaries League that worked exclusively on blood feud issues, was murdered near his house in the city of Shkodra. Police have not apprehended any suspects in the murder.

Blood feud cases were adjudicated in the Court of Serious Crimes. Cases of blood killings carry a sentence of 20 years or life imprisonment. Although blood feud prosecution rates were not available, estimates indicated that 60 to 65 percent of all cases were brought to court and nearly all of them ended up at the appellate level.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

Three former officials of the SHISH, who were arrested in 2003 in connection with the kidnapping of Ziso Kristopulli and Remzi Hoxha in 1995, were released (one in 2003 and two in May) for lack of evidence and the case was suspended. Although Kristopulli was eventually released, the whereabouts of Hoxha remained unknown.

Human rights groups, including the Albanian Helsinki Committee (AHC) and the Albanian Human Rights Group (AHRG), have questioned the release of the SHISH officials and the suspension of the disappearance case. In November, the NGOs organized a press event and Amnesty International wrote a letter to the Prime Minister requesting that the case be reopened. No actions have taken place so far.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such actions; however, the police at times beat and tortured suspects. The AHC and the AHRG continued to report that police forces nationwide used torture and inhumane or excessive treatment; however, both noted that the number of cases decreased during the year. According to the AHRG, most mistreatment took place at the time of arrest or initial detention. Roma and members of the Egyptian community were particularly vulnerable to police abuse (see Section 5).

In February, according to the AHRG, Niko Puriqi accused the Permeti Chief of Criminal Police of beating him during pretrial detention. The police medical examiner verified Puriqi's allegations. Puriqi initially was accused of theft, although the police later dismissed the charges. In March, the Chief of Criminal Police received a warning.

In October, Stathi Lako, a 31-year-old man from Korca, was detained and allegedly mistreated in pretrial detention by three police officers and the Chief of Office of Serious Crimes, Bajram Hyka. According to AHC, Lako's involvement with Hyka's daughter was the reason for the detention. The prosecutor's office has not initiated an investigation of the case.

In June, Beqir Kaba filed a complaint based on allegations of illegal arrest and maltreatment by two police officers of Dibra police commissariat. Following the Ombudsman Office's intervention, the two police officers were temporarily suspended from work.

In December 2003, the investigation into the 2003 beating of Behar Dedolli by the police was transferred to the military police and later suspended due to lack of evidence.

In 2003, Romeno Nexhipi alleged that Fier police beat him after they asked him to accompany them to the police station. He was sent to the hospital for treatment, then taken to the police station where he was held overnight. Nexhipi was subse-

quently charged with disturbing the peace and assaulting a police officer; however, the case was suspended at the year's end.

Alnor Hasa, former Chief of Criminal Police accused of beating a detainee in 2002, was sentenced to 2 years' imprisonment. There were no developments in the April 2002 Pergjini assault case, which alleged that three brothers were arrested and beaten by police in reprisal for a dispute with the officers. The 2002 Azgan Haklaj assault case, in which charges were filed against four police officers accused of assaulting Haklaj during his 2001 arrest, was suspended by the prosecutor's office during the year.

At times police abused and tortured juvenile detainees (*see* Section 1. a.). According to the Children's Rights Center of Albania (CRCA), police sometimes used threats, violence, and torture to extract confessions from minors. In 2003, according to the AHRG, police used violent means against three minors from Korca, who were witnesses in a trial, in order to manipulate their testimony to favor the prosecutor. No actions were taken against the police officers. The prosecutor charged Gjergji Dabulla with the trafficking of the three minors and continued to use evidence in the case allegedly extracted from the minors by violent means.

The AHRG claimed that police targeted the country's homosexual community. According to the General Secretary of Gay Albania, the police often arbitrarily arrested homosexuals and then physically and verbally abused them while they were in detention. In October, the General Secretary of Gay Albania claimed that he was refused citizenship because he was homosexual.

There were reports that police beat protesters during the year (*see* Section 2.b.).

Conditions inside the prisons and detention centers remained poor, despite government efforts to address problems such as poor facilities and overcrowding as well as efforts to transfer convicted inmates from detention centers to prisons. According to the European Union's Judicial Reform, Asylum and Migration Operations Section, detainees had limited access to bathroom and showering facilities, and insufficient food; in some cases, space and privacy limitations kept them from engaging in religious practices. Access to employment opportunities for prisoners did not exist. The prison staff was poorly trained. During the year, prisoners and detainees rioted in Vlora, Lezha and Lac and held hunger strikes in pretrial detention centers in Elbasan, Corovoda, Korca, Malesia e Madhe and in prisons in Tirana and Burrel to protest poor living conditions, slowness of prisoner transfers from pretrial detention cells to prison facilities and the absence of prison employment. There were no reports of injuries or death from riots.

Overcrowding remained a serious problem. This caused substandard living conditions for prisoners and significant security problems for the police forces. According to the Ministry of Public Order the country's overall space capacity for all pretrial detention facilities amounted to 803, but the actual number of detainees was 1,239. In July, the Ministry of Justice decided to transfer all convicted felons to prisons; however, 188 convicted felons still remained in pretrial detention centers at year's end.

Unlike in previous years, no felons committed suicide.

The transfer of jurisdiction from the Ministry of Public Order to the Ministry of Justice of all pretrial detention centers mandated by a 2001 law was only partially fulfilled with the pretrial detention centers of Tirana and Vlora transferred to the Ministry of Justice by year's end.

Police separated men from women in pretrial detention centers and prisons. According to NGOs monitoring prison conditions, Prison 325 for women in Tirana lacked facilities for newborns of those women prisoners who were pregnant at the time of incarceration. Pretrial detainees were not separated from convicted prisoners, and juvenile detainees were not separated from adults due to overcrowding.

The Ministry of Justice reported that 49 minors were serving prison sentences: 31 in pretrial detention centers in the Ministry of Justice-run centers in Tirana and Vlora and 18 in Vaqarr—the only prison in the country that has a special wing for juveniles. Overall, there were 39 minors held in pretrial detention centers excluding those in Tirana and Vlora. The CRCA noted that juveniles at Vaqarr were mixed with adult prisoners for showers and leisure activities. As a result, there were several reports of sexual abuse of juveniles during the year. According to the CRCA, all minors were denied education in the pretrial detention system; the Government had not responded to the concern by year's end.

Unlike in previous years, there were no minor girls serving sentence in Prison 325 for women.

The Government permitted international human rights observers to visit both pretrial detention centers and prisons; there were no reports of refusals to permit access for inspections by domestic independent human rights monitors. The Govern-

ment cooperated with the International Committee of the Red Cross (ICRC) and with other NGOs.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the police occasionally arbitrarily arrested and detained persons.

According to the Ministry of Public Order, there were 12,132 police officers in the Albanian State Police (ASP); the majority of police officers remained largely untrained, despite assistance received from foreign governments. A new restructuring of the ASP created two deputy directorates: One for operations and the other for administration. Operational Directorates included: Organized Crime and Witness Protection; Fight Against Terrorist Acts and Cold Cases; Public Order and Security; Territorial Control and Coordination; and Border Police and Migration. The overall performance of law enforcement remained weak. Unprofessional behavior and corruption remained major impediments to the development of an effective civilian police force. According to the Ministry of Public Order, only 40 percent of police officers received training beyond basic training. The State Police's Office of Internal Control could engage in the prevention, discovery and documentation of criminal activity committed by police and, during the year, pursued investigations leading to the arrest of 52 police officials and the dismissal of 323 for various degrees of misconduct.

In its yearly tabulations, the People's Advocate—a government ombudsman charged with investigating citizen complaints of public officials' wrongdoing—reported that it handled 2,520 complaints, requests, and notifications related to all forms of public corruption and misconduct. Of those, 19 percent were determined to be legitimate and were forwarded to the appropriate authorities for further investigation. Among these 2,520 cases, the People's Advocate received 25 complaints against police officers for excessive force or maltreatment and determined that 7 were valid, 4 were outside their jurisdiction, 13 were groundless, and 1 was withdrawn; however, no further information on their status was available.

Corruption remained a problem among police forces and low salaries and widespread corruption throughout society made the problem difficult to combat. The State Police Office of Internal Control reported 223 cases of corruption to the Prosecutor's Office involving 230 police officers; 32 officers were arrested.

The 1995 Penal Procedures Code sets out the rights of detained and arrested persons. By law, a police officer or prosecutor may order a suspect into custody. Detained persons must be informed immediately of the charges against them and of their rights and a prosecutor must be notified immediately after the police detain a suspect. Within 48 hours of the arrest or detention, a suspect must appear before a judge. The judge has an additional 48 hours to determine whether the suspect may continue to be detained. In some cases, detained persons have been kept in pretrial detention longer than 48 hours without a court decision on whether the prosecutor has sufficient evidence.

The court may order pretrial detention in especially serious cases that could pose a danger to society. Alternatively, a suspect may be placed under house arrest. Bail may be required if the judge believes that the accused otherwise may not appear for trial.

Legal counsel must be provided free of charge if the defendant cannot afford a private attorney; however, this right was not widely known and police often failed to inform suspects of it. Access to legal information remained difficult for citizens. There were numerous cases in which persons were illegally detained and were unable to contact their private attorneys. In some cases, the detainees, minors included, were interrogated without their defense attorneys present. The services offered by the state bar association were considered inadequate and at times lacking in professionalism.

During the year, the People's Advocate cited nine complaints of arbitrary arrests and illegal detention by the police, and specified that some of the complaints had merit and were forwarded to the prosecutor's office.

The Penal Procedures Code requires completion of pretrial investigations within 3 months; however, the prosecutor may extend this period by 3-month intervals in particularly difficult cases. Lengthy pretrial detention as a result of delayed investigations remained a serious problem. The accused and the injured party have the right to appeal these extensions to the district court. Some prisoners were held in pretrial detention even after their trial.

There were no confirmed cases of detainees held strictly for political reasons. The charges against Ekrem Spahia, Chairman of the Legality Movement Party, in connection with the 1998 murder of a Democratic Party parliamentarian were subse-

quently dropped because he had parliamentary immunity, while the trial of 12 of his supporters remained pending at year's end.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, because of political pressure, intimidation, widespread corruption, bribery, and limited resources, much of the judiciary was unable to function independently and efficiently.

Tension continued between the police, prosecutors, and the judiciary particularly outside Tirana. Each side cited the failures of the other as the reason criminals avoided imprisonment; the courts accused the prosecutors and police of failing to provide the solid investigation and evidence necessary to prosecute successfully, and the police alleged that corruption and bribery tainted the courts. The Judicial Police were responsible, under the direction of prosecutors, for developing investigations initially conducted by the police.

The judicial system is composed of district courts of first instance, six courts of appeal, military courts of first instance and of appeal, and the High Court. There is also a separate and independent Constitutional Court. The High Court hears appeals from both the district courts and the courts of appeal, while the Constitutional Court primarily reviews those cases involving constitutional interpretation and conflicts between branches of government, and cases of individuals alleging denial of due process. The Serious Crimes Court and Serious Crime Court of Appeal became operational during the year and focused on increasing the effectiveness of the fight against organized crime and serious crimes and improving the quality of adjudication.

The President heads the High Council of Justice, which has authority to appoint, discipline, and dismiss judges of the courts of first instance and of the courts of appeal. Judges who are dismissed have the right to appeal to the High Court. In addition to the President, the Council consists of the Minister of Justice, the head of the High Court, nine judges of all levels selected by the National Judicial Conference, and three members selected by Parliament.

The President of the Republic appoints the 17 members of the High Court and the 9 members of the Constitutional Court with the consent of Parliament. Parliament has the authority to approve and dismiss the judges of the Constitutional Court and the judges of the High Court. According to the Constitution, dismissal may be ordered based on violation of the Constitution, conviction of a crime, mental or physical incapacity, or commission of an act that seriously discredits judicial integrity and reputation. The dismissed judges have the right to appeal to the Constitutional Court.

The performance of the Bailiffs Office, the body that ensures that civil judgments are enforced, despite some improvements was poor and, as a result, many civil judgments were not implemented.

The country has no juvenile justice system, and children's cases frequently were presented to judges who had not received any education in juvenile justice. According to the CRCA, recent increases in the length of sentences given to juveniles were due to lack of training of judges in juvenile law.

The Constitution provides for the right to a speedy trial; however, limited material resources, lack of space, and case overload in many instances prevented the court system from processing cases in a timely fashion. Long case backlogs were typical, and resulted in suspects being detained for longer than legal limits (*see* Section 1.d.). Defendants, witnesses, and others who do not speak Albanian are entitled to the services of a translator. Defendants are entitled to a lawyer, and, under the law, the Government provides lawyers for indigent defendants, although the quality of representation varied. If convicted, the accused has the right to appeal the decision within 10 days to the Court of Appeals. During the year, a number of trials, including some of the country's most important ones, were held in absentia, for example: The trial against Altin Arapi, the alleged murderer of the driver of the Prosecutor General; the trial against 13 members, 7 of them in absentia, that organized trafficking in persons in January that resulted in the death of 29 persons; and the "Gaxhai" trial against 5 gang members, 4 of whom were being tried in absentia.

The trial system does not provide for jury trials; the prosecutor and the defense lawyer have the right to be present in front of a panel of three judges, and defendants have the right to all the evidence that will be considered by the judges.

There were no reports of political prisoners.

In July, the Parliament approved a new law on the restitution and compensation of the properties confiscated during the Communist regime. Some former landowners, including religious communities, questioned the law's limitation on property restitution to 60 hectares in total. The Government has not established a monetary

fund to be used for the purpose of compensation. The Ombudsman received 33 complaints related to property compensation disputes during the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, at times, the Government infringed on these rights.

In June, 51 Roma families were forced to abandon their homes, because they blocked the implementation of the local municipality's territory regulation plan.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the media was active and largely unrestrained; however, there were serious, fundamental problems with the use of the media for political purposes. Political interference in the media occurred less frequently than in previous years. Publishers and newspaper owners continued to edit news stories to serve their own political and economic interests and sometimes to block ones that ran counter to those interests. Journalists continued to practice self-censorship. There was little transparency in the financing of media outlets.

Political parties, trade unions, and various societies and groups published their own newspapers or magazines. The independent media was active, but was constrained by limited professionalism and lack of finances. An estimated 200 publications were available, including daily and weekly newspapers, magazines, newsletters, and pamphlets. Three newspapers were published in Greek in the southern part of the country, and 15 Greek papers and magazines were distributed throughout the south; these dailies and weeklies had very small circulation figures.

The Albanian Radio and Television (RTSh) was the sole public broadcaster (30 percent of its budget came from the Government, 70 percent from private sources), and it continued to devote most of its coverage to the Government. RTSh includes a national television channel and a national radio channel. National radio operated a foreign language service that broadcasted in seven languages, including Greek.

Television was highly influential; approximately 80 percent of the public obtained its news and information from television. Television programming included some responsible journalism; however, political affiliation was pervasive in programming. Despite some improvements, the majority of stations were one-sided in their political coverage.

The National Council of Radio and Television (NCRT)—a seven-member bipartisan body elected by the Parliament, with one appointment by the President—governed broadcasting issues. The chairman of the Council resigned in the summer, citing pressure from powerful broadcasters.

Unlike in previous years, physical violence was not used against journalists.

In January, two reporters of Top Channel were detained briefly for secretly filming the Prime Minister in the public domain.

In February, security forces detained two ALSAT TV journalists for several hours and confiscated their videotape of the Prime Minister visiting a hospital.

Unlike in previous years, no television licenses were revoked for political reasons.

In May, a group of journalists and editors issued a press release in which they raised concerns about the Government's efforts to restrict press freedom. They argued that the Government's arbitrary use of financial audits and lawsuits against journalists restricted freedom of the press; however, the Government's position was that the complaints were generated by ire at more effective tax collection.

Journalists also raised complaints about direct or indirect censorship by their publishers or editors because of political or commercial pressure or interests. The absence of employment contracts for many journalists was cited as a frequent hindrance to unconstrained reporting. Some media outlets complained that increased frequency of tax auditing conducted at their offices was in retaliation for reporting critical of government policies. From March to May and again in September, the tax auditing office conducted tax inspections of the newspaper *Koha Jone*.

Libel carries criminal sentences, from a fine to 2 years imprisonment. There were a number of high-profile libel suits during the year involving politicians and well-known journalists. For example, in January, Prime Minister Nano sued the publisher and Member of Parliament Nikolle Lesi for libel for claims published in an edition of his newspaper, *Koha Jone*, alleging that the Prime Minister inappropriately awarded himself and his advisers an additional 5 months worth of salary. The first instance court ruled in favor of the Prime Minister; however the case was pending hearing in the appellate court at year's end.

In May, the Xhoana Nano, the wife of the Prime Minister, lodged a request with the High Court to lift the parliamentary immunity of Nikolle Lesi in order to pursue criminal charges against him for publishing unflattering stories about her in his

newspaper, *Koha Jone*. In September, the High Court ruled in favor of the Prime Minister's spouse; however, in November, Parliament reversed the decision.

Former Minister of Youth, Culture, and Sport Arta Dade and Minister of Local Government Ben Blushi sued Democratic Party Chairman Sali Berisha for libel, and the publishing company that owns the magazine *Spekter* sued columnist Fatos Lubonja for libel; Lubonja previously wrote for the magazine. These cases were pending in the Tirana District Court or Court of Appeals at year's end. In December, the Chairman of the New Democrat Party, Genc Pollo, won a libel case against Farudin Arapi, Chairman of the Pyramid Schemes Assets Commission.

In July, the Democratic Party of Albania cancelled private NEWS 24 TV's accreditation with the party and denied it access to the party's headquarters for allegedly providing biased reporting. The AHC denounced the decision as a violation of the Constitution. The case was pending at year's end.

The Government did not restrict access to the Internet; however, Internet access remained limited especially outside the capital. The Government at times restricted academic freedom. For example, Professor Doka was dismissed as chief of the University of Tirana's Geography Department for having an "antinationalistic approach in his work" for publishing an atlas which broadened the geographical minority zones. The Government also, after initial availability, banned publication of the atlas.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

The law requires organizers to notify state police about gatherings in public places 3 days before the protests. The police may refuse to permit them only for reasons of national security and public security, the prevention of terrorist acts, the prevention of crime, the protection of health or morals, or for traffic reasons; there were no reports that such denials were made arbitrarily.

There were a few instances where the police maltreated protesters during the year. In April, protesters clashed with police over the compensation of former political prisoners and victims of political persecution for their unpaid labor during their imprisonment or persecution; many protestors were taken into custody and detained at the police commissariat for several hours. Police did not press charges.

During the year, Mjaft, a civic youth movement, organized several protests and frequently encountered problems with police over permission to protest. The police pressed charges against some Mjaft organizers, but no trial had begun by the year's end.

The Constitution provides for the right of association, and the Government generally respected this right; however, the Constitution prohibits the formation of any political party or organization that is totalitarian; incites and supports racial, religious, or ethnic hatred; uses violence to take power or influence state policies; or is nontransparent or secretive in character (*see* Section 3). There were no reports that this provision was used against any group during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and the Government generally respected this right in practice. There is no official religion, and all religions are equal; however, the predominant religious communities (Sunni Muslim, Bektashi Muslim, Orthodox, and Roman Catholic) enjoy a greater degree of official recognition (e.g., national holidays) and social status based on their historical presence in the country. Religious movements may acquire the official status of a juridical person by registering with the Tirana District Court under the Law on Non-Profit Organizations, which recognizes the status of a nonprofit association regardless of whether the organization has a cultural, recreational, religious, or humanitarian character.

While the Government does not require registration or licensing of religious groups, the State Committee on Cults keeps records and statistics on foreign religious organizations that contact it for assistance.

The Albanian Evangelical Alliance, an association of approximately 97 Protestant churches, complained that it had encountered administrative obstacles to accessing the media. However, Evangelical Alliance representatives stated that it was not clear whether the limited access was due to the organization's small size or its religious affiliations. Religion was not taught in public schools. There is no law restricting the demonstration of religious affiliations in public schools; however, some students were not allowed to do so in practice. According to the Ministry of Education, there were 14 religious schools in the country, with approximately 2,600 students.

In 2003, a male Muslim student was prohibited from having his diploma photograph taken because he had a beard. The student was eventually permitted to graduate through the intervention of the Office of the People's Advocate.

The Government failed to return to the various religious communities all of the properties and religious objects that were confiscated under the Communist regime in 1967. In cases where religious buildings were returned, the Government often did not return the land surrounding the buildings or provide comparable compensation. In addition, the Government did not have the resources to compensate churches adequately for the extensive damage that many religious properties suffered.

The Orthodox Autocephalous Church of Albania complained that, in addition to problems in recovering property, it also had difficulty in retrieving some religious icons from the Government for restoration and safekeeping and reported some isolated incidents of vandalism to the churches and crosses.

In June, Kastriot Myftari, author of the book "Albanian National Islamism," was acquitted of all charges of inciting religious hatred.

Relations among the various religious groups were generally amicable. However, representatives of the country's Orthodox Church noted that some churches, crosses and other buildings, were the targets of vandalism, although these incidents were isolated and believed to be the result of the country's weak public order rather than due to religious intolerance. At year's end, the investigation into the 2003 killing of former General Secretary of the Islamic Community Sali Tivari was ongoing.

Unlike in previous years, the Bektashi community did not experience intimidation, threats, vandalism, and violence.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

As a result of significant internal migration, many citizens no longer had local registration and status, which led to a loss of access to basic services such as education and medical care. In many educational institutions, students must have, among other documents, an official document from district authorities that acknowledges they are inhabitants of the district. The lack of these documents prevented many students from attending school, with the Roma community especially affected.

There was little progress on the Ministry of Local Government's project to create a standardized national identification document.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of person to a country where they feared persecution. The Government granted refugee status or asylum. The Government also provided temporary protection to individuals who may not qualify as refugees or asylees under the 1951 Convention/1967 Protocol; this was done for approximately 17 individuals. There is an appeals procedure, but it was not functioning during the year.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR, through the state-run National Reception Center for Asylum Seekers, provided social and legal service, health care coverage, insurance, and limited training support for the country's small refugee community and coordinated further assistance through a network of NGOs.

In April, together with international organizations (UNHCR, the International Organization for Migration (IOM), the Organization of Security and Cooperation in Europe (OSCE)), the Government, through the European Union's CARDS Program, extended the prescreening program to illegal immigrants stopped at all border crossing points.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Although municipal elections in 2003 resulted in several reruns, overall the elections met basic democratic standards and the police, leadership of the electoral campaigns, some local election officials, and electoral institutions performed their duties well. However, the elections were marred by repeated refusals of the political leadership of the two main parties to accept unfavorable results. The OSCE and the Office of Democratic Institutions and Human Rights (ODIHR) recommendations on the municipal elections called for setting up of a parliamentary bipartisan commission that would address shortcomings in the election system. From July to December, the bipartisan commission addressed the shortcomings connected with the Cen-

tral Electoral Commission, voter's list, vote counting procedures, and party financing, among others, to prepare for the upcoming general election in the summer of 2005. The bipartisan commission's proposed amendments to the electoral code were pending approval by Parliament at year's end.

Several political parties participated in the political system; the Socialist Party (SP) and the Democratic Party (DP) were the two largest and held a majority of the seats in Parliament. The SP, formed from the former Communist Party (known as the Party of Labor) in 1991, led the governing party during the year. Its coalition included the HRUP, the Social Democratic Party, Agrarian Party, the Democratic Alliance Party and the Social Democracy Party. SP Party Chairman, Fatos Nano, also served as Prime Minister. The DP, led by former President Sali Berisha, was the primary opposition party in the Government.

A political party must apply to the Tirana District Court for registration and declare an aim or purpose that is not anticonstitutional or otherwise contrary to law, describe its organizational structure, and account for all public and private funds it receives. Registration was granted routinely; however, in April, the Motherland Party, composed of members from the Muslim community, was refused registration. The founders of the party reapplied and in November registration was granted.

Corruption remained a major obstacle to meaningful reform in the country. The Government has created a special ministerial position to tackle corruption issues, and also enacted new anticorruption legislation. In 2003, the High Inspectorate for the Declaration and Audit of Assets (HIDAA) was established to oversee the financial disclosures of public officials. Of the 4,160 declaration forms that HIDAA reviewed during the year, only 2 cases were referred to the prosecutor's office for further criminal investigation. However, in the absence of a national conflict of interest law, senior government officials continued to hold public offices even when it appeared to be in conflict with their private business interests. During the year, the prosecutor's office dealt with 376 cases of government officials accused of abuse of authority and other types of corruption; however, no major punishments were issued in the cases. In August, Management System International (MSI) issued a survey that reported that 94 percent of the general public and 90 percent of business managers believed that corruption among public officials was widespread.

The Constitution guarantees the right to access of information; according to the Access-to-Information Law, all citizens, including foreign media, have the right to obtain information about the activities of government bodies, and of persons who exercise official state functions. Under this law, persons in offices with public authority are obligated to release all information, official documents, except classified documents, state secrets, etc. However, this law has not been fully implemented and access to information for citizens and noncitizens remained a problem. For example, a local NGO filed charges against the Ministry of Education because it denied access to requested information. The trial continued at year's end.

There were 9 women in the 140-seat Parliament. There was only one woman in the Cabinet, the Minister of Integration. The major political parties had women's organizations, and women served on their central committees; however, overall, women were very poorly represented in the central and local governments, and few were elected to public office at any level. During the 2003 municipal government elections, fewer than 3 percent of all candidates were women.

Several members of the Greek minority served in both the Parliament and the executive branch in ministerial and sub-ministerial positions, and there was 1 member of the Vlach minority in the 140-seat Parliament. No other minorities were thought to be represented in Parliament or the Cabinet.

Family voting occurred everywhere, but it was more common in rural areas.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were increasingly cooperative and responsive to their views; however, in some areas—such as violence against women, including domestic violence, and children's issues—little progress was made. There were several domestic NGOs active in addressing human rights problems. Despite the assistance of international donors, the work of these organizations was hampered by a shortage of funds and equipment.

There were no reports of government restrictions on the activities of domestic human rights NGOs. The AHC monitored human rights issues as they related to minorities, security forces, the judiciary, and elections. The AHRG, in addition to offering legal assistance, ran a complaint center and conducted police training. Both organizations operated independently from the Government and often issued press

releases and reports calling for government action. The CRCA was the only organization that monitored children's rights in the country. The NGO Citizen's Advocacy Office (CAO), served as a corruption watchdog and investigative unit; citizens could call the CAO hotline to report corruption in government.

The Government cooperated with international organizations, such as the UNHCR, the IOM, and the ICRC, and did not restrict their access to the country.

The People's Advocate investigated inappropriate, inadequate, or illegal actions on the part of the Government. Although it lacked the power to enforce decisions, the People's Advocate acted as a watchdog for human rights violations. Its most common cases included citizen complaints of police and military abuse of power, lack of enforcement of court judgments in civil cases, wrongful dismissal, and land disputes (see Sections 1.c. and 1.e.). In many cases, the Government took concrete steps to correct problems in response to the findings of the People's Advocate; however, disputes between the People's Advocate and the Prosecutor General hampered cooperation.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on sex, race, ethnicity, or language; however, discrimination against women and Roma minority groups persisted.

*Women.*—There was no legislation specifically addressing violence against women or domestic violence; however, violence against women and spousal abuse remained serious problems. In the country's traditionally male-dominated society, cultural acceptance and lax police response resulted in most abuse going unreported. Rape is punishable by law, as is spousal rape; however, in practice, spousal rape was not reported or prosecuted. The concepts of spousal rape and sexual harassment were not well established, and, consequently, such acts often were not considered crimes by authorities or the public. For this reason, it was difficult to quantify the number of women who have experienced rape, domestic violence, or sexual harassment; however, the Counseling Center for Women and Girls noted that, in 2002, its Tirana hotline received 80 to 100 calls per month from women reporting some form of violence. A 1999 poll conducted by the NGO Advice Center for Women and Girls showed that 64 percent of women surveyed had experienced some form of physical, emotional, or sexual abuse; later statistics were not available.

An NGO maintained a shelter in Tirana for abused women, although the facility had the capacity to house only a few victims at a time. The same NGO also operated a hotline that provided advice and counseling to women and girls.

The law prohibits prostitution; however, it was a problem. Trafficking in women and children remained a problem (see Section 5, Trafficking).

Many men, particularly those from the northeastern part of the country, still followed the traditional unwritten code—the *kanun*—in which, according to some interpretations, women are considered to be, and were treated as, chattel. Under the *kanun*, some interpretations dictate that a woman's duty is to serve her husband and to be subordinate to him in all matters.

The February killing of a 21-year-old young woman by her father for alleged tardiness and the father's subsequent sentence of fewer than 2 years' imprisonment received much attention from the media and the NGO community; however, the case was not appealed.

Women were not excluded, by law or in practice, from any occupation; however, they were not well represented at the highest levels of their fields. The Labor Code mandates equal pay for equal work; however, this provision was not fully implemented, although women continued gradually to gain economic power. Women enjoyed equal access to higher education, but they were not accorded full and equal opportunity in their careers, and well-educated women were often underemployed or worked outside their field of training.

In July, Parliament approved a new Law on Gender Equality which guarantees equal rights for men and women, promotes equal opportunities in order to eliminate direct and indirect discrimination, and defines responsibilities for drafting of governmental policies promoting gender equality. However, some NGOs criticized the new law as poorly written and inadequately financed. Under the law, the Government's State Committee on Equal Opportunity was tasked with drafting, promoting and monitoring gender equality programs for the entire country. However, the Committee was underfunded and lacked political influence. The new law also created an advisory body, the Inter-Ministerial Committee on Gender Equality.

Various NGOs worked to promote women's rights. Some of these groups successfully promoted public awareness regarding domestic violence and implemented programs to empower women; however, their ability to lobby the Government and other prominent individuals to institute actual change in government policies and practices regarding women's issues remained limited.

*Children.*—The Government's commitment to children's rights and welfare is codified in domestic law; however, in practice, there was limited commitment.

The law provides for the right to 9 years of free education and also authorizes private schools. School attendance was mandatory through the ninth grade (or until age 16, whichever came first); however, in practice, many children left school earlier than allowed by law in order to work with their families, especially in rural areas (see Section 6.d). Parents had to pay for supplies, books, school materials, and space heaters for some classrooms, which was prohibitively expensive for many families. The lack of proper documents—many of which were lost due to internal migration—prevented many students from attending school (see Section 2.d.). The CRCA estimated that only 62 percent of girls who finished primary schools continued on to high school; the percentage was significantly higher for boys, but figures were not available at year's end. According to UNICEF, the primary school attendance rate for all children ages 7 to 14 years was 90 percent. The net primary school enrollment rate was 97 percent for both boys and girls.

Equal access to medical care was available in principle for both boys and girls; however, a high level of bribery in the medical care system sometimes limited access.

After a decade of significant internal migration, high civil registration fees have prevented many citizens from registering with authorities in their actual places of residence. As a result, children born to these individuals have no birth certificates or other legal documentation. The law requires parents who do not register their children within 30 days of the child's birth to go to court, where fines for not being properly registered in the first place are likely to be incurred. Thus, the country has a large—and growing—population of vulnerable, unregistered children, who are at risk for trafficking or exploitation, particularly from the Roma community.

According to statistics for the year issued by the National Reconciliation Committee, as many as 160 children remained endangered by blood feuds involving their families; 73 of those children were considered to be living in especially dangerous circumstances (see Section 1.a.).

Child abuse, including sexual abuse, was rarely reported; however, authorities and NGOs believed that it was prevalent. According to the Ministry of Public Order, 25 cases of sex crimes against children were reported during the year. Trafficking in children, although not widespread, was problematic (see Section 5, Trafficking). In a few cases, criminals kidnapped children from families or orphanages to be sold to prostitution or pedophilia rings abroad and there were reports that some families sold their children to traffickers (see Section 5, Trafficking).

Child labor remained a major problem. NGOs estimated that there were approximately 50,000 children working part time or full time. There is no legislation or government policies that regulates this concern (see Section 6.d.).

Homeless, displaced or street children remained a problem, especially among Roma children. Roma children lived in extreme poverty throughout the country. They begged in the street or did other petty work, and many immigrated to neighboring countries, especially during the summer.

There is no state authority responsible for children's issues. Since July, the State Committee of Equal Opportunity, which supplanted the State Committee for Women and Family, no longer had a mandate over children's issues.

Various NGOs and international organizations worked on issues related to trafficking of children. In addition, Save the Children created an early childhood development program; Catholic Relief Services sponsored after-school programs and promoted greater community involvement in the education system, and UNICEF worked to develop a juvenile justice system.

*Trafficking in Persons.*—The law criminalizes trafficking in persons and provides penalties for traffickers; however, trafficking in persons, particularly women and children, remained a problem. Police corruption and involvement in trafficking was a problem.

According to the Criminal Code, the penalties for human trafficking for sexual exploitation or forced labor are: Trafficking in persons (5 to 15 years in prison); trafficking of women for prostitution (7 to 15 years in prison); and trafficking in minors (15 to 20 years in prison). Aggravating circumstances, such as kidnapping or death, can increase the severity of the sentence to a maximum term of life in prison.

In February, Parliament approved the addition of fines to the existing penalties: Those convicted of exploitation for prostitution of a minor are fined \$4,000 to \$6,000 (400,000 to 600,000 lek); for women, the fine is \$3,000 to \$6,000 (300,000 to 600,000 lek). In addition, the amended Penal Code states that any government official or public servant convicted of exploitation for prostitution faces 125 percent of the standard penalty. In October, Parliament approved a new law that mandates the

sequestration and confiscation of assets if their source comes from organized crime and trafficking.

The prosecution of traffickers remained a problem; traffickers who were arrested often were released because of insufficient evidence, and, if prosecuted, they often were charged for lesser crimes or were given less than the minimum sentence for trafficking. During the year, according to the Prosecutor's Office, there were 234 ongoing trafficking in persons cases and 362 individuals were convicted of trafficking in persons during the year. For example, two pimps, who mistreated a girl from Tirana and trafficked her to Italy to work as a prostitute, were sentenced to 17 and 19 years imprisonment.

In 2003, police arrested several servicemen on suspicion of raping and trafficking a 16-year-old girl; the girl was smuggled onto the Bishti i Palles naval base to have sex with conscripted sailors and held in a semi-abandoned building on the base for two months and repeatedly raped before she was trafficked to Kosovo. A total of 11 officers and noncommissioned officers—including the 7 participants—were suspended or reassigned. Prosecutors dropped charges against one of the girl's alleged traffickers in August, and the trial of eight sailors and two civilians began in October. Two other individuals allegedly involved have not yet been formally charged.

The 2003 case against operators of a child trafficking ring in Durres, involving a port custom officer and the head of local SHISH office, had not gone to trial by the year's end.

In August, a regional antitrafficking sweep organized through the Southeast European Cooperative Initiative Center called Mirage III, resulted in 125 arrests for various forms of trafficking, prostitution, and smuggling. At year's end, 65 suspects remained incarcerated.

In March, Parliament passed a witness protection law; although the law entered into force in November, the Government did not implement it by year's end. This impeded the Government's ability to build strong cases against traffickers, although cooperation from the international community led to the relocation and protection of three witnesses outside of the country during the year. Victims often did not identify themselves as trafficked persons and were unwilling to testify, due to fear of retribution from traffickers and distrust of the police. Cooperation between the police and prosecutors remained weak.

The country was both a source and a transit country primarily for women and children trafficked for the purposes of sexual exploitation and forced labor, including begging. To a lesser extent than in previous years, the country served as a transit route for trafficked women and girls. Most trafficked women and girls were transported to Italy, Greece, and—to a lesser extent—other European countries, such as Belgium, France, the United Kingdom, the Netherlands and Norway. There was a significant increase in the trafficking of children to Kosovo for exploitation as beggars and for sexual purposes. Traffickers largely used overland routes such as Albania-Macedonia-Greece or Albania-Montenegro or falsified documents to transport their victims via plane or ferry. Internal trafficking increased significantly during the year.

According to the Ministry of Public Order, there were 4,000 children trafficked from the country between 1992 and 2000. Children were generally trafficked for forced begging or sexual exploitation. Roma and Egyptian communities were particularly vulnerable due to poverty and illiteracy. Children also were trafficked for begging. Such children often were bought from families, and in a few cases were kidnapped, reportedly for begging or working abroad.

For example, in November 2003, five persons (two in Korca and three in Pogradec) received prison sentences ranging from 15 to 20 years for trafficking newborn babies to Greece. At year's end, the case had been appealed, after being transferred to the Court of Serious Crimes. Also in November 2003, there were press reports that an Albanian family sold their 3-year-old son to an Italian man; Italian authorities subsequently arrested two persons involved in the sale.

According to the Ministry of Justice, 3,300 unaccompanied Albanian children lived in Italy, although not all were victims of trafficking. A 2002 study conducted by the NGO International Social Service reported that 1,800 unaccompanied Albanian children—many of whom were trafficking victims—lived in Greece; however, according to Terre des Hommes, a Swiss child-welfare NGO operating in the country, the number of children trafficked to Greece has declined in recent years.

Foreign women and girls in transit mostly originated from Serbia and Montenegro (Kosovo), and—to a lesser extent—Moldova, Romania, Ukraine, Russia, and Bulgaria. Traffickers typically confiscated victims' documents, physically and sexually abused them, and sometimes forced them to work as prostitutes before they left the country. Both citizens and foreign women trafficked by domestic organized crime

networks were abused, tortured, and raped. Traffickers also threatened many of the victims' family members.

The main form of recruitment involved marriage under false pretenses or false promises of marriage, with the trafficker luring the victims abroad as prostitutes. Due to the poor economic situation, men and women from organized criminal groups lured many women and young girls from all over the country by promising them jobs in Italy and Greece. To a lesser extent, the selling of victims to traffickers by family members or neighbors or kidnapping, including from orphanages, occurred, particularly of Roma children.

The police often were involved directly or indirectly in trafficking. Six police officers were arrested for trafficking, but no convictions resulted and no other government officials were prosecuted for trafficking during the year. Lawyers and judges were also manipulated and bribed, permitting traffickers to buy their way out of punishment if arrested. During the year, the Ministry of Public Order's Office of Internal Control investigated only 12 cases of police involvement in all forms of trafficking.

Government services provided to trafficking victims remained very limited; however, several NGOs were active in addressing victims' needs. The IOM operated a reintegration center in Tirana that provided counseling and medical services, job training, and some legal assistance. The Vatra Hearth Shelter, an NGO in Vlora, provided similar services. Both shelters reported that a large percentage of their caseload in 2003 and during the year involved victims deported to the country from other European countries.

IOM also had five foster care cases related to trafficking in persons during the year.

Police treatment of trafficked women continued to improve during the year. Most police stopped treating trafficked women as criminals rather than victims and routinely referred them to local and international NGOs for assistance. Foreign women who were detained at times lacked translation services or were not given a choice of lawyers.

With significant input from the NGO community, the Government prepared a Memorandum of Understanding in April to be signed with Greece regarding the repatriation of victims of child trafficking. The Greek government had not signed the agreement by year's end.

Victims of trafficking often faced significant stigmatization from their families and society. According to the Vatra Hearth Shelter, there have been many cases where victims of trafficking, minors included, have been threatened with death by their families because of their past. Government services available to trafficking victims remained limited. Re-trafficking became a significant problem, with 141 out of 291 victims sheltered at the Vatra Hearth Shelter during the year reporting that they had been trafficked at least twice previously and seven of the victims were under continuous threats from the perpetrators.

During the year, the Government prepared a national strategy to combat child trafficking; it was pending approval before the Council of Ministers by year's end.

The Vlora Antitrafficking Center, which opened in 2001, had not become fully operational, although it was used as a command post for Mirage operations. National and international NGOs carried out most of the country's trafficking awareness campaigns.

*Persons With Disabilities.*—There was some discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services. Widespread poverty, unregulated working conditions, and poor medical care posed significant problems for many persons with disabilities. They were eligible for various forms of public assistance; however, budgetary constraints greatly limited the amounts they actually received. No law mandates accessibility to public buildings for persons with disabilities, and little was done in this regard.

*National/Racial/Ethnic Minorities.*—Constitutional protections against discrimination are applied to all minorities; however, societal discrimination against members of minority populations persisted, particularly members of Roma and Egyptian communities. In March, the Council of Ministers established the State Committee on Minorities. The Committee reported and represented the interests of all the minorities vis-a-vis the Government. The Committee is composed of representatives from the various national and ethnic-linguistic minorities.

According to the Minority Affairs Office, to qualify for national or ethno-linguistic minority status, a group of individuals must: Share the same language (different from Albanian), have documentation to prove its distinct ethnic origin or national identity, have distinct customs and traditions, or a link to a kinship state outside of the country. For example, the group known as Egyptians were not given minority

status because they lacked some criteria, such as a distinct language and traditions, that could define them as a minority. Instead, the Egyptians were referred to as a community.

The Greeks are the largest national minority, followed by small groups of Macedonians and Montenegrins; Aromanians (Vlachs) and Roma are defined as ethno-linguistic minority groups.

The ethnic Greek minority, led by its cultural association Omonia, collectively pursued grievances with the Government regarding electoral zones, Greek-language education, property rights, and government documents. Minority leaders complained of the Government's unwillingness to recognize the possible existence of ethnic Greek towns outside communist-era "minority zones"; to utilize Greek on official documents and on public signs in ethnic Greek areas; to ascertain the size of the ethnic Greek population; and to include a higher number of ethnic Greeks in public administration.

Greek-language public elementary schools were common in much of the southern part of the country, where most ethnic Greeks lived. Every village in this zone had its own elementary-middle (9-year) school in the Greek language, regardless of the number of students, and Gjirokaster had two Greek language high schools. However, Omonia said that the ethnic Greeks needed more classes both within and outside the minority zones. The Minority Affairs Office stressed that the Government never closed a minority school or class even when the number of students dwindled as a result of graduation, migration or other factors. In 2003, Parliament passed an amendment that reauthorized the inclusion of nationality/ethnicity in the Civil Registry and internal identification, which was expected to alleviate the difficulty in proving ethnicity for future requests for minority language schools.

The Roma and the Egyptian communities were among the most politically, economically and socially neglected groups in the country. There were reports that police beat Roma and Egyptians during the year (*see* Section 1.c.). There were also reports of Roma and Egyptian families being displaced by police from temporary housing. In June, 51 Roma families were forced to abandon their living quarters (*see* Section 1.f.).

Members of the Egyptian community tended to settle in urban areas and generally were more integrated into the economy than the Roma. In addition to widespread societal discrimination, these groups generally suffered from high illiteracy, particularly among children, poor health conditions, lack of education, and marked economic disadvantages. The Government officially recognized the Roma as an ethno-linguistic rather than a national minority. By year's end, the Government had not implemented its National Strategy for the Improvement of Life Conditions of the Roma Minority. In spite of repeated denials, the Egyptian community continued to try to obtain minority status from the Government.

In 2003, the AHRG claimed that police targeted the country's homosexual community. According to the General Secretary of Gay Albania, the police often arbitrarily arrested homosexuals and then physically and verbally abused them while they were in detention. However, the police denied these charges and stated that when homosexuals were arrested, it was for violating the law—such as disturbing the peace—not for their sexual preference.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers had the right to form independent trade unions, and exercised this right in practice; however, government employees are prohibited from joining unions or holding strikes. Two major federations acted as umbrella organizations for most of the country's unions: The Independent Confederation of Trade Unions of Albania (membership approximately 85,000) and the Albanian Confederation of Trade Unions (membership approximately 100,000). Both organizations experienced a continued drop in membership during the year due to unemployment and decreasing employee satisfaction with the unions. Some unions chose not to join either of the federations. No union had an official political affiliation, and the Government did not provide any financial support for unions.

The law does not prohibit antiunion discrimination; however, there were no reports of such discrimination in practice.

Unions were free to join and maintain ties with international organizations.

*b. The Right to Organize and Bargain Collectively.*—Citizens in all fields of employment, except uniformed members of the armed forces, police officers, and some court employees, have the constitutional right to organize and bargain collectively, and the Labor Code establishes procedures for the protection of workers' rights through collective bargaining agreements; however, labor unions operated from a weak position. In practice, unions representing public sector employees negotiated

directly with the Government. Effective collective bargaining remained difficult, and agreements were difficult to enforce.

The Constitution and other legislation provide that all workers, except civil servants including uniformed military, police, and some court officials, have the right to strike. The law prohibits strikes that are declared openly to be political or that are judged by the courts to be political.

In January, the employees of a Ferrous-Chromium factory in Burrel held a 12-day hunger strike to protest the nonpayment of their salaries. After intervention of the trade union, the factory paid back-salaries to the striking employees.

In April, 10 employees of the Urban Transport Park in Tirana held a 5-day hunger strike to protest illegal dismissal. The director of the park claimed that their strike violated the employment contract. However, the AHRG and Ombudsman stated that the hunger strike was legal and that the Director of the park had not abided by the Labor Code in the firing of the employees. The strike lasted 5 days. By year's end, employees were not reinstated.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and the Labor Code prohibit forced or compulsory labor, including by children; however, such practices occurred (see Sections 5, Trafficking and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code sets the minimum age of employment at 14 years and limits the amount and type of labor that can be performed by children under the age of 16. Children between the ages of 14 and 16 legally may work in part time jobs during summer vacation. The Ministry of Labor may enforce minimum age requirements through the courts; however, there were no reports that enforcement took place. Labor inspections of factories carried out in the first half of the year found only 0.01 percent of the employees were underage. The majority of factories inspected were shoe and textile companies. More than 70 percent of the underage workers were girls. The fine for employing an underage worker was normally 20 to 30 times the monthly minimum wage of the employee. The CRCA estimated that roughly 50,000 children under the age of 18 worked either full or part time. UNICEF estimated that 23 percent of children ages 5 to 14 years in the country were working in between 1999 and 2003. Children considered to be working included those who have performed any paid or unpaid work for someone who is not a member of the household, who have performed more than 4 hours of housekeeping chores in the household, or who have performed other family work. NGOs reported that labor inspectors, who were charged with investigating child labor complaints, did not give out fines, penalties, or convictions to those who violated child labor laws.

There were young children working, some as many as 16 hours a day. According to the CRCA, the majority of child laborers worked as street or shop vendors, beggars, farmers or shepherds, drug runners, vehicle washers, textile factory workers, shoeshine boys, or prostitutes; however, in Tirana and other cities, children—mostly Roma—worked as beggars or sold cigarettes and other items on the street; the police generally ignored this practice. The CRCA also noted that there were approximately 800 street children in Tirana. Increasing numbers of children in Tirana fell victim to prostitution and other forms of exploitation. There were reports that children were trafficked for forced labor (see Section 5, Trafficking).

*e. Acceptable Conditions of Work.*—The legal minimum wage for all workers over the age of 16 was approximately \$110 (10,800 lek) per month, which was not sufficient to provide a decent standard of living for a worker and family. Remittances from those working abroad were vital for many families. The law provides for social assistance (income support) and unemployment compensation; however, these were very limited, both in terms of the amounts received and the number of persons actually covered. The average wage for workers in the public sector was approximately \$217 (21,325 lek) per month. Approximately 25 percent of the population lived under the official poverty line.

The Labor Code establishes a 40-hour work week; however, in practice, hours typically were set by individual or collective agreements. Many persons worked 6 days a week. By law overtime pay must be provided and there were mandated rest periods; however, these provisions were not always observed in practice.

The Government set occupational health and safety standards; however, it had limited funds to make improvements in the remaining state-owned enterprises and a limited ability to enforce standards in the private sector. Actual conditions in the workplace sometimes were very poor and in some cases dangerous. A number of job-related deaths were reported in the press during the year, particularly in the construction and mining industries. The Labor Code lists the safety obligations of employers and employees but does not provide workers with the right to leave a haz-

ardous workplace without jeopardy to their continued employment. The Ministry of Labor and Social Affairs was responsible for enforcing health and safety regulations; however, these regulations were generally not enforced in practice.

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## ANDORRA

Andorra is a constitutional parliamentary democracy. Two Princes—the President of France and the Catholic Bishop of Seu d'Urgell Spain—serve with joint authority as heads of state, and a delegate represented each in the country. Elections in 2001 chose 28 members of the “Consell General,” (the Parliament) which selects the head of government. The judiciary is independent.

The country has no defense force and depends on Spain and France for external defense. Civilian authorities maintained effective control of the national police, who had sole responsibility for internal security. There were no reports that security forces committed human rights abuses.

France and Spain influenced the country's market-based economy significantly. The country had a population of approximately 72,000. Commerce and tourism were the main sources of income. The rate of economic growth was 3.22 percent and wages increased in both the public and private sectors twice a year to offset inflation.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. Prolonged pretrial detention occurred. Violence against women declined; however, violence against children was a growing problem. Some immigrant workers complained that they did not have the same labor rights and security as citizens in practice, despite legal protections.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them. The country is party to a network of 47 States with prisoner transfer agreements, and qualifying prisoners were permitted to serve their sentences in their own country.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

Men and women were held separately, as were juveniles from adults. Pretrial detainees also were held separately from convicted criminals.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police are organized into four areas: public security, technical support, borders and traffic, and crime. Corruption was not a problem; however, if corruption or serious irregularities were discovered, then disciplinary proceedings were initiated. Police received training in and outside Europe. Police responded promptly and effectively to incidents involving violence.

Police may legally detain persons for 48 hours without charging them with a crime. Warrants are required for arrest. The law does not provide individuals under arrest immediate access to an attorney. Legislation provides for legal assistance beginning 25 hours after the time of arrest. There was a system of bail.

Lengthy pretrial detention occurred; the Ombudsman criticized the long period of detention for persons awaiting trial.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The highest judicial body is the five-member Superior Council of Justice. One member each is appointed by the two Princes; the head of government; the President of the Parliament; and collectively, members of the lower courts. Members of the judiciary are appointed for 6-year terms.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants have the right to present evidence and

consult with an attorney. Defendants enjoy a presumption of innocence, and they have the right to appeal.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution acknowledges a special relationship between the Roman Catholic Church and the State, “in accordance with Andorran tradition.” The Catholic Church received no direct subsidies from the Government.

The Government paid the salaries of teachers who taught optional Catholic religious classes to students in public schools; the Catholic Church provided the teachers for these classes.

During the year, the small Jewish community living in the country did not suffer any violent acts, nor was it the target of any terrorist organization.

For a more detailed discussion see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. However, in practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Parliamentary elections in 2001, considered free and fair, allowed the Andorran Liberal Party (the head of the Government’s party) to retain its absolute majority, winning 15 of the 28 seats in Parliament. The Andorran Democrat Center Party and the Social Democratic Party won five and six seats respectively. A local group won two seats.

There were 4 women in the 28-seat Parliament, and 3 women held Cabinet-level positions. There were no members of minorities in the 28-seat Parliament, and there were no minorities in the Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

An Ombudsman received and addressed complaints, some of which were against the Government’s policies. The Ombudsman was free of government control and had good cooperation with the Government.

*Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The Constitution declares that all persons are equal before the law and prohibits discrimination on grounds of birth, race, sex, origin, opinions, or any other personal or social condition, although the law grants many rights and privileges exclusively to citizens.

*Women.*—There were reports that violence against women; however, they decreased by 50 percent from 2003, according to the Andorran International Association (AIA) and the Andorran Women's Association (AAW). There were approximately 20 reports of physical abuse against women compared to 40 in 2003. Women suffering from domestic violence requested help from the AIA and the AAW but rarely filed a complaint with the police for fear of reprisal. There is no specific legislation regarding violence against women, although other laws may be applied in such cases. Some complaints were reportedly filed with the police during the year but no figures were available, as the police refused to make figures public.

The law prohibits rape, including spousal rape, and forcible sexual assault, which are punishable by up to 15 years imprisonment. The law was effectively enforced in practice.

Sexual harassment is not prohibited; however, it was not a problem.

The law prohibits discrimination against women privately or professionally; however, the AAW reported that in practice, there were many cases of women dismissed from employment due to pregnancy. Women did not earn equal pay for equal work; observers estimated that women earned 25 percent less than men for comparable work although this gap continued to decrease slowly.

*Children.*—The Government was committed to children's welfare and provided a universal system of health care and education. Free, universal public education began at age 4 and was compulsory until age 16. The Government provided free nursery schools, although their number continued to be insufficient.

According to the Secretariat of State for the Family, the number of cases was low; however, child abuse was a growing problem.

On July 10, the Parliament enacted a law to protect children in danger.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to public buildings for persons with disabilities, and the Government generally enforced these provisions in practice; however, societal discrimination against persons with disabilities existed on a small scale, in the form of social and cultural barriers.

*National/Racial/Ethnic Minorities.*—Some immigrant workers complained that they did not have the same labor rights as citizens (*see* Section 6.e.). The law gives legal status to the approximately 7,000 immigrants working in the country with no work permits or residence permits.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Antiunion discrimination is not prohibited under the law; however, there were no reports of such discrimination during the year.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. There is no law that specifically provides for collective bargaining. Wages are determined by the annual cost of living. Neither the Constitution nor the law explicitly provides for the right to strike, and there were no strikes during the year. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit forced and compulsory labor, including by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Children under the age of 18 generally were prohibited from working, except in very limited circumstances. The Labor Inspection Office in the Ministry of Social Welfare, Public Health, and Labor was responsible for enforcing child labor regulations and effectively enforced them.

*e. Acceptable Conditions of Work.*—The official minimum wage of \$6.83 (5.06 euros) per hour and \$1,095 (811 euros) per month did not provide a decent standard

of living for a worker and family. The Labor Inspection Office enforced the minimum wage.

The workweek was limited to 40 hours, although employers may require overtime from workers. The legal maximum for overtime hours was 66 hours per month and 426 hours per year.

The Labor Inspection Service set occupational health and safety standards and took the necessary steps to see that they were enforced. During the year, the Labor Inspection Service filed approximately 200 complaints against companies for violating labor regulations, and it had the authority to levy sanctions and fines against such companies. Although the law authorizes employees to refuse certain tasks if their employers do not provide the necessary level of protection, no legislation grants workers the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

Although the Constitution provides that legal foreign residents are to enjoy the same rights and freedoms as citizens, some immigrant workers believed that they did not have the same rights and security. Many immigrant workers held only "temporary work authorizations." When a job contract expired, they had to leave the country. The Government prohibited the issuance of work permits unless workers could demonstrate that they had a fixed address and at least minimally satisfactory living conditions.

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## ARMENIA

Armenia is a republic with a Constitution that provides for the separation of powers; however, the directly elected president has broad executive powers that are not balanced by the legislature (National Assembly) or the judiciary. The President appoints the Prime Minister, most senior government officials, and judges at all levels. In March 2003, President Robert Kocharian was re-elected for a second 5-year term in elections marred by serious voting irregularities. The May 2003 parliamentary election was flawed similarly and did not meet international standards. The Constitution provides for an independent judiciary; however, in practice, judges were subject to pressure from the executive branch, and corruption was a problem.

The National Police and the National Security Service are responsible for domestic security, intelligence activities, border control, and the police force. Both operate independently of any government ministry. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed a number of human rights abuses.

The slow but steady transition from a centralized command economy to a market economy continued. The country's economy remained primarily agricultural with manufacturing and expanding service sectors. The country's population was approximately 3 million. During the year, gross domestic product grew an estimated 10.1 percent. The inflation rate was 7 percent; unemployment was estimated at approximately 20 percent, and, in most sectors, wages kept pace with inflation. There was a high degree of corruption, income inequality, and continued consolidation of wealth into the hands of a select few. Approximately 43 percent of the population lived below the official poverty rate, a 7 percent decrease from previous years, and there was a large shadow economy.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Security forces beat pre-trial detainees, and impunity remained a problem. There were instances of arbitrary arrests and detentions. In April, police used excessive force to disperse an opposition rally, detained opposition politicians, and raided opposition party offices. During the year, the Government helped to create a civilian prison monitoring board and permitted independent monitoring of prison conditions. There were reports that the Government limited the right to privacy. There were some limits on press freedom. Journalists engaged in self-censorship to avoid problems with government authorities, and there were some instances of violence against journalists. The law places some restrictions on religious freedom. In October, the Government approved the registration of Jehovah's Witnesses as a legal entity. While the Government took steps to limit trafficking in persons, violence against women and trafficking of women and children remained problems. Societal harassment of homosexuals and Yezidis was also a problem.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings by the Government or its agents; however, there were some deaths in the military as a result of mistreatment.

The Military Prosecutor's Office reported six deaths; however, the cause of the deaths was unknown. Each case was investigated, but the Prosecutor did not announce final results.

There was one cease-fire violation along the border with Azerbaijan. In June, cross-border fire and shelling in the Tavush region resulted in a number of casualties on both sides.

During the year, there were a few deaths due to landmines, although reliable statistics were difficult to obtain. All sides involved in the Nagorno-Karabakh conflict used landmines, which have been laid along the 540-mile border with Azerbaijan and along the line of contact.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, government security forces employed them. Witnesses reported numerous cases of police beating citizens during arrest and interrogation while in detention. Most cases of police brutality went unreported because of fear of police retribution. Police used excessive force to disperse protestors after an 8-hour political rally on April 12 and 13; some journalists were among those beaten (*see* Sections 2.a. and 2.b.). Human rights nongovernmental organizations (NGOs) also reported claims by detainees that police beat them during pretrial detention.

In July, a law went into effect that changed the Soviet-era definition of mental illness. Although there have been no reported cases of wrongful psychiatric commitment, the law closes an apparent legal loophole that made unwarranted commitment possible. Under the new law, a person can only be forcibly committed by a court order and only if a panel of psychiatrists finds the person to be mentally ill and a danger to the community.

Although there was no reliable or current reporting on the full extent of military hazing, human rights NGOs reported that soldiers continued to complain of frequent hazing. In 2003, a local NGO estimated that there were 30 hazing incidents. Homosexuals and Yezidis, a non-Muslim, Kurdish, religious-ethnic group, also reported that they were singled out for hazing by officers and other conscripts (*see* Sections 2.c. and 5). Military officials did not take any significant measures to limit or stop the hazing.

Mikael Danielyan, director of a human rights organization, was beaten by four unidentified persons near the entrance to his home (*see* Section 4). At year's end, there was no progress in the investigation of an attack on opposition politician Ashot Manucharian.

Prison conditions remained poor and posed a threat to health. Holding and detention cells were overcrowded, and most did not have toilets. Prison authorities did not provide most inmates with basic hygienic supplies. According to the newly formed Civil Society Monitoring Board (CSMB), prisoners remained at a high risk to contract tuberculosis, and adolescents held in juvenile facilities rarely were provided with the schooling required by law. The CSMB also reported that, in certain jails, prisoners paid bribes to move into single occupancy cells and to obtain additional comforts. In some prisons, monitors noted that prisoners had difficulty mailing letters and that some prison officials did not facilitate family visits adequately.

Men, women, and juveniles were held in separate prisons, and pretrial detainees were held separately from prisoners. CSMB monitors reported that female prisoners had more freedom of movement, and that their facility was cleaner and better equipped and maintained than prisons for men.

The Government permitted independent monitoring of prison conditions by local NGOs and international human rights groups such as the International Committee of the Red Cross (ICRC). In June, the Ministry of Justice (MOJ) authorized the CSMB to visit prisons without giving advance notice; however, the National Police Ministry did not allow some local monitoring groups to visit holding cells where detainees could be kept for up to 3 days without charge and where most abuse was believed to occur.

The ICRC and CSMB had access to all detention facilities, including holding cells, prisons, and local police stations to conduct independent monitoring and to meet with detainees and prisoners. Both reported that prisoners spoke freely and openly about their treatment and prison conditions.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, in practice, the authorities continued to arrest and detain criminal suspects without legal warrants. Impunity was a problem.

The police and the National Security Service (NSS) are jointly responsible for domestic security, intelligence activities, border patrols, and the police force. Both are independent government ministries that lacked training, resources, and established procedures to implement reforms or to prevent incidents of abuse. Prisoners reported to local and international monitoring groups that police and NSS authorities did little to investigate allegations of abuse. As a result, impunity was a serious problem. Corruption also remained a large problem in the police force and security service.

To make an arrest, prosecutors and police must first obtain a warrant from a judge except in cases of imminent flight risk or when a crime is in progress. Judges rarely denied police requests for arrest warrants, and police sometimes made arrests without a warrant, often on the pretext that detainees were material witnesses.

There is no bail system; however, a prisoner may be released to a form of house arrest under certain circumstances and at the discretion of the court; however, most defendants remained in detention.

The law also requires police to inform detainees of their right to remain silent, to make a phone call, and to be represented by an attorney from the moment of arrest and before indictment; however, in practice, police did not always abide by the law. Police often questioned and pressured detainees to confess prior to indictment when they did not have an attorney present. According to the law, a detainee must be indicted or released within 3 days of arrest, and this procedure was followed in practice. Police sometimes restricted access to detainees by family members.

During protest rallies in the spring, arbitrary detention was a problem. According to the country's Human Rights Ombudsman and a human rights NGO, between April 13 and 15 police detained and questioned 115 individuals in connection with an April 12–13 protest rally. Approximately 35 were held in detention for up to 15 days under a Soviet-era law that prescribes administrative detention (*see* Section 2.b.).

On May 20, police detained up to 25 opposition activists in anticipation of an opposition rally. According to media reports and opposition sources, the authorities fined and released some of the activists; however, more than a dozen were detained for up to 10 days under the administrative detention law for using foul language and insulting police officers. In most of these cases, defense attorneys were not allowed to meet with detainees until after court proceedings were completed. The rallies took place as planned, and they proceeded peacefully.

Lengthy pretrial detention remained a problem. According to the law, a suspect may not be detained for more than 12 months pending trial; however, in practice, this provision was not always enforced. Both prosecutors and defense attorneys frequently requested trial postponements on the grounds that they required more time to prepare for trial.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice, courts were subject to political pressure from the executive and legislative branches, and corruption was a problem. Unlike in previous years, lengthy public trials were not a problem.

The Constitution provides for a three-tier court system. The highest court is the Court of Cassation. There are also two lower-level courts: The Court of Appeals; and courts of the first instance. Most cases originate in courts of first instance; appeals are lodged with the Court of Appeals and the Court of Cassation. The Constitutional Court rules on the conformity of legislation with the Constitution, approves international agreements, and decides election-related questions; however, it can only accept cases proposed by the President, approved by a two-thirds majority of Parliament, and cases on election-related issues brought by candidates who ran for parliament or president. These limitations, combined with the judiciary's lack of independence, prevented the Constitutional Court from ensuring compliance with the human rights safeguards provided by the Constitution.

Under the Constitution, the Council of Justice, which is co-chaired by the President, the Prosecutor General, and the Justice Minister, appoints and disciplines judges for the courts of first instance, Courts of Appeals, and the Court of Cassation. The President appoints the other 14 members of the Justice Council and 4 of the 9 Constitutional Court judges. This authority gives the president dominant influence in appointing and dismissing judges at all levels.

The Constitution requires that all trials be public except when government secrets are at issue. Juries are not used in trials; a single judge issues verdicts in all courts

except the Court of Cassation and the Constitutional Court, where a panel of judges presides.

Defendants are required to attend their trials unless they have been accused of a minor crime not punishable by imprisonment. They also have access to a lawyer of their own choosing, and the Helsinki Association reported that the Government provided a lawyer to defendants who requested legal counsel; however, individuals often chose to defend themselves. More than half of all defendants chose to argue their own case in court due to the perception that public defenders colluded with prosecutors.

Defendants may confront witnesses and present evidence. Defendants and their attorneys may examine the Government's case in advance of trial. Judges generally granted requests by defendants for additional time to prepare their cases.

The Constitution provides for the presumption of innocence; however, in practice this right was not always observed. Prosecutors often did not begin a trial if they believed they would not obtain a guilty verdict. As a result, defendants remained in detention during extended pretrial investigations. Both defendants and prosecutors have the right to appeal.

The law does not allow detainees to file a complaint prior to trial to address alleged abuses committed by the Prosecutor's Office, the police, or other security forces during criminal investigations. Failure to testify is a criminal offense; detainees must obtain permission from the police or the Prosecutor's Office to obtain a forensic medical examination to substantiate a report of torture. Defense lawyers may present evidence of torture in an effort to overturn improperly obtained confessions; however, defendants stated that judges and prosecutors refused to admit such evidence into court proceedings even when perpetrator(s) could be identified.

There is no military court system; trials involving military personnel take place in civilian courts, but they are handled by military procurators. Military prosecutors performed the same functions as their civilian counterparts and operated in accordance with the criminal code.

In April, a court of appeals upheld the convictions of some of the defendants who were convicted for murder and terrorism in the 1999 attacks on the National Assembly. In December 2003, a Yerevan district court sentenced six persons to life in prison; a seventh received a 14-year sentence.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits unauthorized searches and provides for the right to privacy and confidentiality of correspondence, conversations, and other communications; however, the Government did not always respect these rights in practice.

Under the law, authorities must obtain permission from a judge, on the basis of compelling evidence, to wiretap a telephone or to intercept correspondence; however, in practice the law was not strictly enforced and some judges arbitrarily granted permission.

In May, an opposition leader complained that authorities had tapped his telephone.

The law also requires authorities to obtain search warrants, and allows the judiciary to exclude evidence obtained without a legal warrant. In several cases, judges refused to issue warrants because of a lack of compelling evidence and excluded evidence from trials that was obtained illegally.

Unlike the previous year, there were no reports of forced conscription of ethnic Armenian refugees from Azerbaijan, who by law are exempt from military service. However, police, at times, maintained surveillance of draft age men to prevent them from fleeing the country.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government partially limited freedom of speech, and there were several incidents of violence, intimidation, and self-censorship.

On April 12, according to several media reports, police detained a man in the capital for attempting to announce an opposition rally scheduled for later in the day. He was detained and released after questioning.

Most newspapers were privately owned with the exception of Hayastani Hanrapetutyun and its Russian-language version Respublika Armenia. The state printing house and distribution agency, which published many of the country's newspapers, functioned as commercial enterprise with no apparent government intervention. No newspaper was completely independent of patronage from economic or political interest groups or individuals. According to the Yerevan Press Club, total newspaper circulation in the country was 60,000, an increase of 20,000 from

the previous year. There were 27 newspapers available in the capital, 6 of which were published daily and the remainder less frequently.

Because of low newspaper circulation, most persons in the country relied on television and radio for news and information. Nationwide, there were more than 20 radio stations and more than 40 television broadcasters; most were privately run. In the capital and other regional cities, private television stations offered generally independent news coverage of good technical quality; however, the substantive quality of news reporting on television and radio varied due to self-censorship by journalists and the stations' dependence on patronage.

Senior officials within President Kocharian's office continued to significantly influence state television news coverage by providing policy guidance to Public TV of Armenia. While the news reporting on Public TV was mostly factual, it avoided editorial commentary or criticism of the Government. For example, it provided little coverage of the April 12 and 13 political demonstrations in the capital (*see* Sections 1.d., 2.b. and 3).

In March 2003, Kentron TV, a new, national television channel affiliated with a widely distributed newspaper with ties to the opposition, was awarded a broadcast frequency that belonged to A-One Plus, one of the country's last independent television stations. Some critics of the decision, made by the National Commission on Radio and Television, said A-One Plus lost its broadcast license in 2002 because of sharp critical coverage of President Kocharian's administration.

In October, Kentron television chose to discontinue program collaboration with Radio Free Europe/Radio Liberty. Kentron's director stated that agents of the Government had not contacted his station about the program but that it felt pressure to replace the program. In the past, Kentron TV replaced on-air personalities for lacking objectivity and being too political.

Major media outlets in the country were generally pro-government. For example, during the 2003 presidential election campaign, the majority of the media, including Public TV of Armenia, most private television stations, and the major state-funded newspaper, all provided heavily biased news coverage that favored incumbent President Kocharian.

International media outlets operated freely in the country. Local stations rebroadcast several Russian television stations and CNN, and authorities did not censor the few international newspapers and magazines that were available in the country.

Harassment of journalists was a problem. At an April 5 opposition rally, men in civilian clothing smashed the video cameras of at least four journalists, assaulted several reporters, and destroyed filmed footage of the events. According to eyewitness accounts, police stood by and did not intervene to stop the attacks. On June 10, a court found two men guilty of the attack; each was ordered to pay a fine of \$188 (100,000 Dram).

On April 13, police beat at least three journalists and destroyed or confiscated their video cameras after an opposition rally. The journalists maintained that they had identified themselves to police as working reporters.

On August 24, a journalist was assaulted after photographing a luxury villa owned by a Member of Parliament as part of a report he and a colleague were preparing. In October, a court of first instance sentenced a man to 6 months in jail for the assault.

There also were unconfirmed reports of incidents of harassment and intimidation of journalists outside the capital.

There was no official censorship; however, there were continued reports of intimidation of journalists, and some print journalists continued to practice self-censorship to avoid problems with the Government and because of pressure from official sources.

In June, the Government repealed a provision in the criminal code that punished libel of a public official with up to 3 years' imprisonment; however, violations were still considered to be a criminal offence. The revised code increased financial penalties for libel as well as the penalty for libeling a government official.

The Government did not restrict access to the Internet or academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, there were some limits on this right.

In March and April, authorities denied several requests from opposition parties for permits to organize rallies and demonstrations in the capital and other cities. The Government did not interfere when small rallies took place without permission. However, between April 13 and 15, police detained and questioned 115 persons in connection with an April 12 and 13 protest rally that attracted an estimated 7,000 persons; approximately 35 persons were detained for up to 15 days (*see* Sections 1.d. and 3).

On April 13, at approximately 2:00 a.m., police used excessive force to disperse hundreds of protesters who remained in front of the National Assembly and had blocked a major city street for more than 8 hours. A number of protesters sought treatment for injuries at a local hospital, some of which were caused by police use of flash grenades, water cannon, and batons. Police also beat several journalists who covered the opposition rallies (see Section 2.a.) and ransacked opposition party offices after dispersing the protestors.

On April 28, the National Assembly passed a law that lifted the requirement to obtain a government permit to organize rallies or demonstrations. Organizers now must only notify authorities in advance of their plans for such events. However, the new law, which took effect in June, limits the locations where demonstrations can be held without permission. For example, demonstrations in front of government offices, monuments, and venues where another rally or public event is taking place still require a police permit. The law also empowers police to break up illegal rallies and demonstrations, particularly those that encourage violence and the overthrow of the Government.

The Constitution provides for freedom of association; however, there were some limits on this right. Registration requirements for all political parties, associations, and secular and religious organizations remained cumbersome, exacting, and time-consuming. In 2003, the Government compelled some human rights and political organizations to revise their bylaws several times before approving their registration application; however, during the year, no human rights groups or political organizations reported problems with registration.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, there were some restrictions in practice. The Armenian Apostolic Church has formal legal status as the national church, and enjoys some privileges not afforded to other faiths.

The law grants specific rights to minority religious groups that register with the National Registrar. Religious organizations that are not registered cannot publish newspapers or magazines, rent meeting places on government property, broadcast television or radio programs, or sponsor official visitors.

In October, the State Registrar registered the Jehovah's Witnesses as a legal entity. The group had applied for registration 13 times since 1995. In November, senior members of the Armenian Apostolic Church called on the Government to reverse the registration, saying the group's activities ran counter to the country's interests. The Government ignored these requests.

The law prohibits "proselytizing," which is not defined in the law, by minority religions and bans foreign funding for foreign-based churches; however, neither ban was enforced and members of Jehovah's Witnesses reported gains in membership.

Unregistered religious organizations may not import large shipments of religious literature; only small quantities were allowed into the country for private use. The law also requires all religious organizations, except the Armenian Apostolic Church, to obtain prior permission to engage in public religious activities, travel abroad, or to invite foreign guests to the country; however, in practice, no travel restrictions were imposed on any religious denomination.

The Jewish community reported several incidents of verbal harassment during the year. The director of ALM TV frequently made anti-Semitic remarks on the air, and the Union of Armenian Aryans, a small, ultranationalist group, called for the country to be "purified" of Jews and Yezidis.

In May, Jewish groups complained to government authorities about the distribution of anti-Semitic literature. Authorities said the imported literature apparently violated the Law on Distributing Literature Inflaming National Hatred and recommended that the groups file a complaint with the Prosecutor General's office. However, neither police nor Jewish groups were able to identify the importers, and Jewish leaders had not taken any formal action by year's end.

On September 17, offices of the Jewish community in Yerevan received a message that vandals had damaged the local memorial to the victims of the Holocaust. Several photographs of the memorial were taken, and the vandalism was reported immediately to the local police, the Ministry of Religious Affairs, and the government-owned television channel. A television crew arrived at the site together with an official from the Jewish community in Yerevan and discovered that the memorial had been wiped clean, apparently by the park guard. There was no further investigation into the incident.

Yezidi leaders reported that police and local authorities subjected their religious community to discrimination and that a small ultra-nationalist group, the Union of Armenian Aryans, had called for the country to be "purified" of Yezidis (see Section 5, National Minorities).

According to observers, the general population viewed “nontraditional” religious groups with suspicion and expressed negative attitudes about Jehovah’s Witnesses, because they refused to serve in the military and misunderstood their proselytizing practices. Jehovah’s Witnesses continued to be targets of hostile sermons by some Armenian Apostolic Church clerics and experienced occasional societal discrimination.

As a result of the Nagorno-Karabakh conflict with Azerbaijan, most of the country’s Muslim Azeri population had left by 1991. The few remaining Muslims in the country kept a low profile. There was no formally operating mosque, although one surviving 18th century mosque in the capital remained open for Friday prayers. Although it was not registered as a religious facility, the Government did not create any obstacles for Muslims who wished to pray there. Approximately 1,000 Muslims resided in the capital.

In June, a new law on Alternative Military Service, took effect to exempt conscientious objectors from the draft, and, by year’s end, the National Assembly completed all legal requirements to implement the law. However, 10 members of the Jehovah’s Witnesses remained in prison for refusing compulsory military service as conscientious objectors before the law went into effect; 3 others were in pretrial detention for draft evasion or desertion, and 17 others who were imprisoned, were released to house arrest after serving one-third of their sentences.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within The Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, in practice, there were some restrictions on these rights.

The Government generally did not restrict internal movement, and citizens had the right to change their residence or workplace; however, corruption and an inefficient bureaucracy hindered citizens’ efforts to register changes.

In April, human rights groups reported that police stopped cars from entering the capital in an attempt to prevent opposition members from attending protest rallies.

The law requires authorities to issue passports to all citizens, except for convicted felons; however, an exit stamp may be denied to persons who possess state secrets, are subject to military service, are involved in pending court cases, or whose relatives have lodged financial claims against them. An exit stamp is valid for up to 5 years and may be used without limit. Men of military age must overcome substantial bureaucratic obstacles to travel abroad.

The Constitution does not prohibit forced exile; however, there were no reports that the Government employed it.

In December, the Norwegian Refugee Council reported that 4,077 internally displaced persons (IDPs) lived in the country.

During the country’s war with Azerbaijan, the Government evacuated as many as 65,000 persons from the border region, but most returned or settled elsewhere. Of the 4,077 remaining IDPs, almost two-thirds could not return to their villages, which are surrounded by Azeri territory. Others chose not to return because of a collapse of industry near the border and a fear of landmines. IDPs enjoyed full rights as citizens, but the Government has not created any special programs to help them adjust to their new surroundings. There were no reports of abuse of IDPs.

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to most refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government grants refugee status or asylum; however, during the year, no refugees were granted asylum; 10 were denied asylum.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Since 1988, the Government has accepted as many as 360,000 refugees from Azerbaijan. In February 2003, the law on refugees was amended to improve temporary protection for an estimated 12,000 ethnic Armenian refugees from Chechnya and Abkhazia.

During the year, the Government also provided temporary protection to approximately 96 individuals who did not qualify as refugees under the 1951 Convention/1967 Protocol. Most of these individuals were ethnic Armenians fleeing war in Iraq.

There was an established procedure to recognize asylum, but border officials had little training on asylum issues, which, at times, caused delays at airports and land borders.

Ethnic Armenian refugees from Azerbaijan are eligible for citizenship upon request, and other ethnic Armenians can generally receive resident status and citizenship after a slightly longer process.

Unlike in the previous year, there were no reports of harassment of refugees.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, the right was restricted in practice due to continued flaws in elections.

International observers found both the 2003 presidential and parliamentary elections to be well below international standards. There were serious irregularities, including ballot box stuffing, discrepancies in vote counts, partisan election commissions, and wide use of public resources to support the incumbent president.

Authorities harassed opposition supporters, including arrests. Unlike in previous years, there were no reports of punitive job dismissals. In Yerevan, more than 200 persons were detained between the 2 rounds of the presidential election in February and March 2003 for participating in unsanctioned campaign rallies.

Opposition candidates filed several legal complaints with the Constitutional Court challenging the results of the presidential election. In March 2003, the high court said it had identified irregularities and criticized the Government's handling of the electoral process; however, it ruled that there was no constitutional basis to change the outcome of the election.

From March through May, opposition groups demonstrated in the capital and other major cities to demand a referendum on the mandate of the President. At the height of a protest on April 12, approximately 10,000 individuals gathered in front of the National Assembly. Police used excessive force to disperse some 1,000 protesters in the early morning hours of April 13 (see Section 2.b.).

Of the 131 seats in the National Assembly, 96 were occupied by pro-government parties or deputies that make up the governing coalition. Unaffiliated deputies held 17 seats, most of whom voted frequently with the pro-government bloc. Opposition candidates and parties secured 22 seats; a few of the unaffiliated deputies voted with the opposition.

Corruption was perceived to be widespread. According to an opinion survey released in September by a local research institute, a large majority of citizens believed that corruption exists "in all spheres and at all levels" in the country. A similar survey in 2003 indicated that citizens believed that corrupt authorities were not truly committed to fighting corruption.

In January, the Government adopted an ambitious anti-corruption strategy, and, in March, the President appointed a special commission to implement it. During the year, the commission primarily focused on establishing its internal organizational procedures.

In 2003, the Government adopted the Law on Freedom of Information, which provides for access to information as well as its dissemination and transparency; however, the law was rarely followed, and most journalists and officials remained unaware of its provisions.

There were 6 women in the 131-seat Parliament but no women in the cabinet. There were no ethnic minority representatives in the Cabinet or in Parliament.

The country's population is homogeneous; at least 98 percent were ethnic Armenians. Minorities are not prohibited from running for election, and some have done so.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

During the year, more than 20 local religious and human rights organizations operated in the country.

The Government was generally cooperative with international NGOs, and there were no reports of government harassment of other international human rights NGOs.

On March 30, the director of a human rights organization, Mikael Danielyan, was beaten by four unidentified persons near the entrance to his home. According to Danielyan, the attack was triggered by an interview with an Azerbaijani newspaper. According to observers, some local groups interpreted his remarks about the country's authorities as traitorous. Danielyan reported the attack to authorities and to

the country's Human Rights Ombudsman. The Prosecutor General opened an investigation into the case, but Danielyan refused to cooperate with the investigation. At year's end, there was no significant progress in the investigation (*see* Section 1.c.).

In March 2003, the Helsinki Citizen's Association suspected that a fire at one its regional offices was caused by arson; however, an investigation later showed the fire began as a result of faulty wiring.

In June, the Government cooperated with a commission from the Parliamentary Assembly of the Council of Europe, which reviewed the human rights situation in the country. The commission reported that, while the Government has made some progress, the most important areas for reform in the near future are election laws, the constitution, and the judiciary.

In February, the President appointed the country's first Human Rights Ombudsman, amid questions by numerous human rights NGOs and the Council of Europe about the ombudsman's independence from the Government. During the year, the Human Rights Ombudsman created a public working group focused on securing the rights of minority religious groups. Local organizations attended the working group meetings.

However, according to a report released in December, which was sponsored by the U.N. Development Program (UNDP), the ombudsman's office suffered from internal disorganization and a perceived lack of independence from the Government during its first year of operation. The ombudsman acknowledged the report's recommendation to improve the office's operations.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, gender, disability, language, or social status; however, there was societal discrimination against women, ethnic minorities, and persons with disabilities.

*Women.*—There is no law banning domestic violence against women, and few cases of spousal abuse or other violence against women were reported during the year; however, such violence was believed to be widespread.

While there is no recent information on the extent of the problem, a 2001 survey conducted found that 45 percent of respondents acknowledged that they were subjected to psychological abuse, and 25 percent considered themselves victims of physical abuse.

Most cases of domestic violence were not reported to police because victims were either afraid of physical harm and feared that police would return them to their husbands or were embarrassed to make family problems public. Several NGOs in the Yerevan and Gyumri areas and in Martuni provided shelter and assistance to battered women; however, it was rare for battered women to have psychological or legal counseling.

Rape and spousal rape are illegal and carries a maximum 15-year prison sentence. By year's end, authorities registered 52 cases of rape and attempted rape and no deaths in connection with rape. According to the Prosecutor General's office, authorities identified and prosecuted 51 suspects in rape cases.

Trafficking in women for sexual exploitation was a problem (*see* Section 5, Trafficking). Prostitution and sex tourism is not illegal, but operating brothels is prohibited. Operating a brothel or other forms of pimping is punishable by 1 to 10 years' imprisonment.

According to the NGO Hope and Help, there were between 5,000 and 6,000 prostitutes in the country, and approximately 1,500 of them were registered in the capital.

The law does not specifically prohibit sexual harassment, although articles in the criminal code address different aspects of sexual harassment such as lewd acts or indecent behavior. Many of these offenses are not clearly defined, but punishments range from fines to imprisonment. Some offenses are actionable under civil law. However, societal norms did not consider cases of sexual harassment worthy of legal action.

The law provides men and women with equal status; however, gender discrimination existed and was a continuing problem in the public and private sector.

For example, although the law states that women should receive equal pay for equal work, a recent survey in Yerevan reported that, overall, women earned 40 percent of what men earn.

Women generally were not afforded the same professional opportunities as men and often were relegated to more menial or low-skill jobs. The law prohibits discrimination in employment and hiring because of pregnancy; however, the extremely high unemployment rate made it difficult to gauge how effectively the law was implemented. More women than men were enrolled in university and postgraduate programs, but all doctoral candidates were men.

*Children.*—The Government is committed to protecting children's rights and welfare; however, it did not have the economic means to fulfill its commitment.

Education is free, universal, and compulsory through age 14; it is then optional through age 16 (complete secondary education). According to a 2003 U.N. Development Program survey, 84.3 percent of students completed schooling through age 14, and 36.7 percent studied through age 16. Girls and boys received equal educational opportunities; however, many facilities were impoverished and in poor condition. Some teachers were known to demand bribes from parents in return for good or passing grades for their children. Access to education in rural areas remained poor, and children's work in fields during harvest season took precedence over school.

In the Yezidi community, a high percentage of children did not attend school, partly for family economic reasons and partly because schools lacked Yezidi teachers and books in their native language.

Free health care was available for all children through age 8 for treatment of some diseases and for emergency care, but care often was of poor quality, and the practice of demanding overt or concealed payment of fees for medical service continued. Boys and girls had equal access to health care.

Child abuse was a problem; however, the Prosecutor General's office did not report any cases of child abuse during the year.

Trafficking in girls for the purpose of sexual exploitation was a problem (see Section 5, Trafficking).

Child labor was a problem (see Section 6.d.). However, there was no reliable or current reporting on the extent of the problem.

In 2003, the Ministry of Social Welfare estimated that there were 130 homeless children in Yerevan. In 2002, a local NGO reported that nationally there were approximately 900 homeless children and that the number continued to grow. Abuse of street children did not appear to be a serious problem.

A number of international agencies, such as UNICEF, World Vision, the World Bank, and the OSCE, worked with the Government and local groups to upgrade and improve schools, integrate children with special needs into schools, and to facilitate government efforts against trafficking of children.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and offenses committed for "mercenary purposes" are crimes according to a law that took effect in August 2003; however, trafficking in persons from, through, and to the country remained a problem. There were reports that border guards and some prosecutors were complicit in trafficking.

Violations of the law are punishable by fines of up to \$12,195 (6.5 million drams), correctional labor up to 2 years, or imprisonment for up to 8 years, if the crime was committed under aggravated circumstances. In December 2003, police arrested two men in connection with trafficking six women into the country. On June 28, three of the persons were sentenced to between 2 and 4.5 years' imprisonment.

On October 4, police detained a man for allegedly trafficking 11 women to engage in prostitution in Turkey. The same day, police arrested a woman for allegedly recruiting women to be trafficked to the United Arab Emirates. Both were charged with pimping, which may carry a lighter penalty than trafficking. No one was charged under the trafficking statute during the year.

A governmental Interagency Commission, the National Police, and the National Security Service are responsible for coordinating and implementing anti-trafficking policy and for combating trafficking. The Government actively sought bilateral cooperation with several trafficking destination countries and regularly shared information with these partners.

The authorities reported that the country is a source and transit point for women and girls trafficked primarily for sexual exploitation to the United Arab Emirates, Turkey, Russia, Uzbekistan, Greece, and other European countries. However, there were reports that the country was also a destination point for trafficked women for sexual exploitation, particularly from Ukraine and Uzbekistan.

There were no reliable estimates on the number of individuals who were trafficked. Trafficking organizations typically recruited victims with the promise of high paying work in another country. Once in the country of destination, victims were deprived of their travel documents, locked in hotel rooms, and told that they must "repay" the cost of their travel. There were reports about women who were encouraged to become recruiters for trafficking rings with a promise of keeping a percentage of their "earnings." Trafficking victims were at greatly increased risk of sexually transmitted diseases, and some reported incidents of physical violence.

Victims reported that some border guards were bribed or worked with the traffickers. In 2002, a criminal group of police employees and employees of the country's international airport was uncovered. The group allegedly assisted traffickers using

fraudulent documents to traffic citizens to the UAE for sexual exploitation. The officials allegedly received proceeds regularly from some traffickers working in the UAE. The Prosecutor General opened a criminal investigation into the case. Two police officers and two airport officials were convicted for abuse of power in the case. No prosecutions were reported during the year.

The International Organization for Migration (IOM) and a local NGO, Hope and Help, with funding from foreign governments, operated an assistance program for trafficking victims. The Government did not offer financial assistance, but referred victims to these organizations.

Upon their return, many victims feared societal stigma and discrimination. Government officials did not require victims to aid in finding and prosecuting traffickers; however, they worked with victims who were willing to report their cases.

NGOs and the Government increased trafficking prevention activities, primarily through education and mass media programs to raise public awareness. The Government trained its consular corps to identify signs of trafficking. The Government also collaborated with police in destination countries to apprehend traffickers. Authorities also established a hot line to connect victims with police; however, it only worked in certain parts of the country.

*Persons With Disabilities.*—There was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services.

The Ministry of Labor and Social Affairs was responsible for protecting the rights of persons with disabilities; however, the ministry lacked the resources to fulfill this responsibility.

It focused primarily on legislative remedies, which were seldom enforced. For example, the law and a government decree mandated accessibility to buildings for persons with disabilities; however, in practice, very few buildings and other facilities were accessible to persons with disabilities.

Institutionalized patients often lacked medication, and care was substandard. Hospitals, residential care, and other facilities for persons with serious disabilities were substandard.

*National/Racial/Ethnic Minorities.*—The population was approximately 98 percent ethnic Armenian. The Government did not discriminate against the small, officially recognized “national” communities, although the economic and social situation of such groups has deteriorated substantially since independence in 1991. National communities recognized by the Government included Russians, Ukrainians, Belarusians, Jews, Kurds, Yezidis, Assyrians, Georgians, Greeks, and Germans. Several hundred Azeris or persons of mixed Azeri heritage maintained a low profile to avoid possible societal discrimination.

The Constitution grants national minorities the right to preserve their cultural traditions and language, and the law provides linguistic minorities with the right to publish and study in their native language. There were token publications in minority languages. By law, all children of citizens must be educated in Armenian-language schools. Virtually all students, including members of the Yezidi and Greek communities, attended Armenian-language schools, with very few classes available in their native tongues.

Yezidi leaders continued to complain that police and local authorities subjected their community to discrimination. The Yezidis, whose number had been estimated at 30,000 to 40,000 by their leaders, speak a Kurdish dialect and practice a religion derived from Zoroastrianism, Islam, and animism. Yezidi leaders cited numerous incidents of unfair adjudication of land, water, and grazing disputes; hazing of Yezidi conscripts in the army; and poor police response to serious crimes committed against Yezidis (see Sections 1.c. and 2.c.). On occasion, Yezidi children reported hazing by teachers and classmates. Members of the Yezidi community had tried previously to address their grievances with the Presidential Advisor on National Minorities, but they claimed that all their attempts have been ignored. According to Yezidi community leaders, appeals on their behalf with respect to alleged discrimination were raised at all levels of the Government; however, no government responses were forthcoming.

*Other Societal Abuses and Discrimination.*—Military officers targeted homosexuals for hazing. The Helsinki Association reported cases of police harassment of homosexuals through blackmail, extortion, and, on occasion, violence.

Unofficial reports suggested that during a routine police investigation, police threatened to make one homosexual’s sexual orientation public. The man later alleged that police revealed his homosexuality to his employer, and, shortly thereafter, he quit his job.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides employees with the right to form and join trade unions, but employees did not exercise this right in practice. The law stipulates that the right to form associations, including political parties and trade unions, may be limited for persons serving in the armed services and law enforcement agencies. In practice, labor organization remained weak because of high unemployment and the weak economy.

*b. The Right to Organize and Bargain Collectively.*—Although the law provides for the right to organize and bargain collectively, in practice, there was no collective bargaining. Factory directors generally set pay scales without consulting employees. Labor disputes were arbitrated in regular or economic courts.

The Constitution provides for the right to strike; however, workers rarely exercised this right because workers did not have the financial resources to maintain a strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the law, the minimum age of employment is 16; however, in some cases, with the permission of the child's parents and labor union, children may work from age 14 in non-dangerous situations. The law was unevenly enforced by local community councils, unemployment offices, and, as a final board of appeal, the courts. Children under the age of 18 are prohibited from working overtime or in harmful and dangerous conditions, at night, and on holidays.

There were reports that children worked in family businesses and on family farms, which is not forbidden by law. Children were also observed on the streets of Yerevan selling newspapers, flowers and working in local markets.

According to the Ministry of Labor and Social Affairs, some children were involved in family businesses, as well as in other business activities, such as agriculture, where such activity is not prohibited by law.

*e. Acceptable Conditions of Work.*—The Government sets the minimum wage by decree. The monthly minimum wage of \$24 (13,000 drams) did not provide a decent standard of living for a worker and family. Approximately 43 percent of the population lived below the poverty line of about \$2 (1,000 drams) or less per day. An estimated 15.9 percent of the population was considered extremely poor, with a daily income of less than \$1 (500 drams).

There was a large shadow economy. As much as 40 percent of overall economic activity, and in some areas, such as retail, as high as 80 percent, took place without being recorded or taxed by local authorities.

The law defines the workweek as 40 hours and provides for mandatory rest periods and overtime compensation. In December, the Government passed legislation that would reset the levels of overtime compensation and limits on required overtime. The Ministry of Labor and Social Welfare oversees workers' rights health and safety but took few affirmative steps to enforce statutory regulations. National unemployment of 20 percent or more and low wages were a problem.

Workers had the right to remove themselves from dangerous work and situations that endangered health and safety; however, in practice, doing so would likely jeopardize their future employment, especially those persons who worked in the shadow economy.

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## AUSTRIA

Austria is a multiparty parliamentary democracy in which constitutional power is shared between the popularly elected president and the 183-member Parliament. Citizens choose their president and representatives in periodic, free, and fair multiparty elections. In April, voters elected President Heinz Fischer of the Social Democratic Party of Austria (SPO) to a 6-year term. In November 2002, the Austrian People's Party (ÖVP) received a plurality in parliamentary elections and renewed its right-center coalition with the Freedom Party (FPÖ). The judiciary is independent.

The national police maintain internal security, and the army is responsible for external security. The civilian authorities maintained effective control of the security forces. There were reports that police committed some human rights abuses.

The country's highly developed, market-based economy, with its mix of technologically advanced industry, modern agriculture, and tourism, affords the approximately 8 million citizens a high standard of living. During the year, wages grew slightly faster than inflation. The gross domestic product grew by slightly less than 1 percent during the year; there were no serious inequalities in the distribution of income.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some reports of abuse by police, which involved occasional beatings, but primarily verbal abuse, threats, and harassment. Foreign observers criticized the strict application of slander laws as detrimental to press reporting. There was some governmental and societal discrimination against members of some unrecognized religious groups, particularly those considered to be "sects." There were neo-National Socialist, rightwing extremist, and xenophobic incidents during the year. Trafficking in women for forced prostitution remained a problem, which the Government took steps to combat. In July, the Equal Treatment Bill implementing the European Union (EU) Anti-Discrimination and Anti-Racism Guidelines took effect.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

There were no developments in the 2003 killing of a 33-year-old Mauritanian man who died in custody after being arrested by Vienna police. Criminal investigations against four policemen, as well as the emergency physician present, continued at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were occasional reports that at times police beat and otherwise abused persons. Government statistics for 2003 showed 988 complaints against federal police officials; of those, 983 were dropped. In 11 court cases, 1 officer was convicted of using unjustified force; 73 cases were pending at the end of 2003. Types of abuse ranged from slander to kicking and hitting. Some of the violence appeared to be racially motivated. Nongovernmental organizations (NGOs) and other groups continued to criticize the police for targeting minorities. During the year, the Interior Ministry conducted racial sensitivity training programs for over 2000 police and other officials with NGO assistance.

A committee in the Interior Ministry seeks to ensure that the police and gendarmerie respect human rights while carrying out their duties. During the year, the committee issued 11 recommendations regarding the improvement of human rights in the country, including in the following areas: The creation of a special institution to implement predeportation orders; the deportation zone at Vienna Schwechat airport; minimum standards regarding arrests of suspects; predeportation arrests of minors; the use of force by police; handling of illegal immigrants at border checkpoints; the use of language by law enforcement officials; and a review of law regulating arrest of suspects.

The Government continued to deny Kosovo authorities' request for extradition in the case of an Austrian police officer convicted in absentia for torture committed while serving in Kosovo's civilian international police in 2003. The officer was recalled to Austria, where he was allowed to remain on duty while an investigation into his alleged misconduct proceeded. That investigation remained ongoing at year's end.

In December, charges arose that army conscripts had been mistreated during drill exercises at three barracks. The controversial exercises included mock hostage taking and humiliating captivity practices. In response to these charges, the Defense Ministry set up an ad-hoc army investigation panel, which concluded that the conscripts had endured a "violation of human dignity." The Ministry suspended the responsible army supervisors from duty, and also withdrew oversight competencies for drilling exercises from a top Ministry official.

Prison conditions generally met international standards. The Government held male and female prisoners, adults and juveniles, and pretrial detainees and convicted criminals separately. The Government permitted independent human rights

observers to conduct prison visits. Some human rights observers criticized the fact that nonviolent offenders, such as persons awaiting deportation, were incarcerated for long periods in single cells in inadequate facilities designed for temporary detention. Some observers argued that the Government should hold prisoners in more open facilities.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The two law enforcement bodies, the police and gendarmerie, have central command in the Ministry of Interior. In 2003, the Ministry of Interior initiated an overhaul of the structure of law enforcement bodies with the goal of merging the police and gendarmerie units. An initial 3-month trial phase of merged gendarmerie-police units in selected Vienna districts ended in August and generated strong criticism from participants. In December, Parliament passed a new security law, which included implementing legislation for the merger.

The police were generally well trained and disciplined, and there were no reports of police corruption.

In criminal cases, the law provides for investigative or pretrial detention for up to 48 hours; an investigative judge may decide within that period to grant a prosecution request for detention of up to 2 years pending completion of an investigation. The law specifies grounds required for such investigative detention and conditions for bail. The investigative judge is required to periodically evaluate an investigative detention. There is a system of bail.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The Constitution provides for the independence of judges in the exercise of their judicial office. Judges cannot be removed from office or transferred against their will. There are local, regional, and higher regional courts, as well as the Supreme Court. While the Supreme Court is the highest judicial body, the Administrative Court acts as the supervisory body over administrative acts of the executive branch, and the Constitutional Court presides over constitutional issues.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The system of judicial review provides for extensive possibilities for appeal. Trials must be public and conducted orally. Persons charged with criminal offenses are considered innocent until proven guilty.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the strict application of slander laws tended to discourage reports of police brutality. Foreign observers, including the European Court of Human Rights (ECHR), have criticized the use of libel procedures to protect politicians, which they argued hampered freedom of speech and the press. Those convicted of libel cannot appeal to the Supreme Court. Publications may be removed from circulation if they violate laws concerning morality or public security, but such cases were extremely rare.

The case involving FPO trade unionist Joseph Kleindienst and former Vienna FPO Secretary Michael Kreissl, accused of bribing police in 2000, concluded in February. The court acquitted both Kleindienst and Kreissl on all charges.

The independent media were active and expressed a wide variety of views without restriction.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. However, the Law on the Formation of Associations states that permission to form an organization may be denied if it is apparent that the organization would pursue the illegal activities of a prohibited organization, such as Nazi organizations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The status of religious organizations is governed by the 1874 Law on Recognition of Churches and by the 1998 Law on the Status of Religious Confessional Communities, which establishes the status of “confessional communities.” Religious organi-

zations are divided into three legal categories, each with different rights, privileges, and responsibilities (listed in descending order of status): Officially recognized religious societies, religious confessional communities, and associations. Government recognition as a religious society has a wide range of implications, including the authority to participate in the mandatory church contributions program, which can be legally enforced, to provide religious instruction in public schools, and to recruit religious workers to act as ministers, missionaries, or teachers. Religious societies have “public corporation” status, which permits them to engage in a number of public or quasi-public activities that are denied to confessional communities and associations.

The law also allows religious groups that are not recognized as religious societies to seek official status as confessional communities without the fiscal and educational privileges available to religious societies. Confessional communities have legal personality, which permits them to engage in such activities as purchasing real estate in their own names and contracting for goods and services. In 2003, the Administrative Court agreed with the 2002 Constitutional Court decision upholding the Government’s 1998 rejection of the Sahaja Yoga group’s application to become a confessional group.

Ten religious groups have constituted themselves as confessional communities according to the law. Numerous religious groups not recognized by the State, along with some religious law experts, have complained that the law’s additional criteria for recognition obstruct claims for recognition and formalize a second-class status for unrecognized groups. Legal experts questioned the 1998 law’s constitutionality.

In 2003, the ECHR received an appeal by the Jehovah’s Witnesses, arguing that the legal requirement of a 10-year period of existence to be recognized as a religious group is illegal on administrative grounds. This appeal remained pending at year’s end.

Religious groups that do not qualify for either religious society or confessional community status may apply to become associations under the Law of Associations. Associations are corporations under law and have many of the same rights as confessional communities, including the right to own real estate. Some groups have organized as associations, even while applying for recognition as religious societies.

There was some societal discrimination against members of unrecognized religious groups, particularly those considered to be “cults” or “sects.” The majority of sects were small organizations with fewer than 100 members. Among the larger unrecognized groups were the Church of Scientology and the Unification Church. A large portion of the public perceived such groups as exploiting vulnerable persons for monetary gain, recruiting and brainwashing youth, promoting anti-democratic ideologies, and denying the legitimacy of government authority.

The conservative OVP held the position that party membership is incompatible with sect membership if the sect holds a “menschenbild” —a view or conception of mankind—fundamentally different from that of the Party, advocates opinions irreconcilable with the ethical principles of the Party, or rejects the basic rights granted by progressively minded constitutional states and in an open society. This position was used to deny OVP membership to Scientologists.

The Ministry for Social Security and Generations and the City of Vienna funded a counseling center of a controversial NGO, the Society Against Sect and Cult Dangers (GSK), that actively works against sects and cults. GSK distributes information to schools and the general public and runs a center to counsel persons who believe that sects and cults have negatively impacted their lives.

The Federal Office of Sect Issues continued to function as a counseling center for those who have questions about sects and cults. Under the law, this office is independent of the Government; however, the Minister for Social Security and Generations appoints and supervises its head. Some members of the public believed the Federal Office of Sect Issues and similar offices at the state level fostered societal discrimination against unrecognized religious groups.

At the end of 2003, the state of Lower Austria’s Family Office withdrew a presentation on its website, which negatively characterized many religious groups.

Muslims have complained about incidents of societal discrimination and verbal harassment. Reports indicated several incidences of discrimination against Muslim women wearing headscarves in schools. In January, a high school in the state of Upper Austria prohibited students from covering their heads in school. A Muslim parent filed a discrimination complaint with local police authorities, who ordered that his daughter be allowed to wear a headscarf. In response to this incident, the head of the Upper Austrian State School Council and the Ministry of Education confirmed that Muslim girls and women had the right, according to legal provisions on religious freedom, to wear headscarves.

Sensitivity to and fears of Scientology remained an issue. Individual Scientologists reported discrimination in hiring.

The NGO Forum Against Anti-Semitism (Forum gegen Antisemitismus) reported 135 anti-Semitic incidents during the year, including 4 physical attacks. The incidents included name-calling, graffiti/defacement, threatening letters, anti-Semitic Internet postings, property damage, vilifying letters and telephone calls, and physical attacks. The EU's Monitoring Center on Racism and Xenophobia declared that anti-Semitism in the country was characterized by diffuse and traditional anti-Semitic stereotypes rather than by acts of physical aggression.

The law prohibits any form of neo-Nazism and anti-Semitism and any type of activity in the spirit of National Socialism. It also prohibits public denial, belittlement, approval, or justification of National Socialist crimes, including the Holocaust. The Criminal Code prohibits public incitement to hostile acts, insult, contempt against a church or religious society, or public incitement against a group based on race, nationality, or ethnicity, if that incitement could pose a danger to the public order. The Government strictly enforced its anti-neo-Nazi legislation and provided police protection for Jewish community institutions.

Holocaust education was generally taught as part of history instruction, but also was featured in other subjects under the heading "political education (civics)." Religious education classes were another forum for teaching the tenets of different religions and overall tolerance. Special teacher training seminars were available on the subject of Holocaust education. The Education Ministry also ran a program through which Holocaust survivors talked to school classes about National Socialism and the Holocaust.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The Government did not restrict free movement within the country or the right of citizens to change residence or workplace. The law prohibits forced exile, and the Government did not use it in practice.

Immigrants must show a basic knowledge of the German language and an understanding of the country's culture when applying for an immigrant visa. New immigrants who cannot show a basic knowledge at the time of application need to complete German language and civics courses by various deadlines. Those who fail to complete these language and culture requirements could face financial penalties, deportation, or expulsion. Annual immigration quotas remained static at approximately 8,000 per year.

In 2003, there were 45,126 illegal aliens intercepted at national borders, a 7 percent decrease from the previous year. Approximately 65 percent of these were asylum seekers. As of August, the number of illegal immigrants (both illegal workers and trafficked persons) continued to decrease. Under the "Dublin II" Regulation effective since 2003, asylum seekers could be sent back to the first Dublin member-state they entered, which in practice would likely be one of the new EU member states. With the inauguration of the EURODAC fingerprinting/registration system in 2003, asylum seekers could be more easily identified if they moved from country to country.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum; however, the Government subscribed to a safe country of transit policy, which required asylum seekers who transited a country determined to be "safe" to return to that country to seek refugee status. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

On May 1, a new asylum law entered into force, aimed at expediting the asylum claim process by requiring a first determination to be made within 72 hours of the filing of a claim. Under the new law, applicants whose claims are found to be unjustified can be deported. All other applications are to be forwarded to the Federal Asylum Office for further review. If the adjudicator at the Federal Asylum Office believes the claim to be "manifestly unfounded," or the applicant has a previous asylum request refusal on record and has not submitted significant new information or grounds, the adjudicator is required to refuse the asylum claim. These rejected applicants have limited rights of appeal and no guarantee they can remain in the country during the appeals process. The new law also stops the practice of accepting asylum claims at land borders and introduces a list of "safe countries of transit."

In October, in a legal challenge to the new asylum law, the Supreme Court upheld the law, but struck down certain provisions as unconstitutional. These included the provisions that in Dublin cases allowed the prompt removal of an applicant during the appeal process and the provision that automatically placed persons filing follow up applications in deportation detention. While endorsing the law's general limitation on the presentation of additional evidence in the appeals process, the court ruled that no such limit should apply in cases involving torture victims.

In cases where the refugee arrived from a safe country of transit, the Government returned refugees to that country, rather than the country from which they originally fled. If the Federal Asylum Office rejected an asylum claim, the claimant could appeal to the independent Federal Asylum Senate, then to the Supreme Administrative Court. Rejected asylum seekers also had recourse to the Constitutional Court in cases in which they alleged a breach of the European Convention on Human Rights and Individual Freedoms. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

During the year, there were a total of 24,676 asylum applications, compared with 32,359 in 2003, a 23.7 percent decrease. The official approval rate for 2003 was 29.6 percent. The rate dropped to 21.6 percent when "refoulement decisions"—negative decisions where applicants cannot be returned to the country of origin because of fear of prosecution and obtain a temporary right of residence—were counted. In 2003, the largest groups of applicants were persons from Russia (predominantly Chechens), Turkey, India, Serbia and Montenegro, and Afghanistan.

The Government contracted with a private company, European Homecare, to provide counseling to asylum applicants throughout the asylum process and encouraged them to return to their country of origin if their claims were denied. Since July 2003, this company also provided care and maintenance for asylum seekers at residential facilities. There have been accusations of injury, violence, and death occurring at centers operated by European Homecare. For example, in January, a female asylum seeker in Traiskirchen refugee camp alleged that a guard raped her. In March, the public prosecutor's office suspended its investigations citing a lack of grounds on which to initiate criminal charges.

The new asylum laws define "government care" as a form of voluntary support provided by the Government in cooperation with the states, municipal authorities and relief organizations. The maximum number of persons who qualified because of financial hardship (asylum seekers and otherwise needy applicants) was estimated at approximately 16,000. After lengthy negotiations between the Government and the states, the two sides agreed on a quota of how many qualified individuals each state would house and on the division of costs. At year's end, only two of the nine states met their required quotas. States argued that the numbers of affected applicants far exceeded the original estimates. At a special meeting of state governors in September it was agreed that a more precise definition of criteria for needy applicants was needed. Followup meetings occurred in November and early December, but most states still have yet to provide additional housing.

The Human Rights Advisory Council continued to operate to ensure that the police and gendarmerie respect human rights while carrying out their duties.

In August, the Superior Provincial Court in Vienna ruled on civil charges filed on behalf of the daughter of Marcus Omofuma, an unsuccessful Nigerian asylum applicant who died after being physically restrained for violent behavior while being deported to Nigeria, awarding damages of \$13,500 (10,000 euros) to the family.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In April, voters elected President Heinz Fischer of the SPO to a 6-year term.

The Constitution provides for full public access to government information. Authorities can only deny such access if doing so would violate substantial data protection rights or would involve information that is of "national security interest." Petitioners can challenge denials before the Administrative Court. Application of this law has been largely uncontroversial.

There were 59 women in the 183-seat National Assembly and 18 in the 62-member Federal Assembly. There were 5 women in the 12-member Federal Cabinet.

Although there was relatively little minority representation at the national level, no precise statistics were available, since most people self-identified as Austrians, not as members of minorities.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases, groups were dissatisfied with the information supplied by authorities in response to specific complaints. There were no reports of discrimination against organizations that report on human rights. The Human Rights Advisory Council, composed of representatives from the Justice and Interior Ministries, and NGOs, operated to ensure that the police and gendarmerie respected human rights while carrying out their duties.

In May, the Government adopted a revised Equal Treatment Bill, implementing the EU Anti-Discrimination and Anti-Racism Guidelines. The bill went into effect on July 1. Opposition parties and NGOs criticized the Government for having integrated the EU guidelines into existing legislation, rather than formulating a specific anti-discrimination law. Although NGOs conceded that the revised law was a positive step, they criticized the sanctions and fines for noncompliance as too weak. They also criticized the Government for not comprehensively including NGOs in the consultation process.

The Austria Convention (Oesterreichkonvent) continued the work begun in May 2003 on reforming the national Constitution. One committee focused on streamlining human rights provisions in the Constitution, including the creation of a list of all fundamental human rights. Final recommendations were due in early 2005.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides for protection against discrimination in employment, provision of welfare benefits, and other matters, and the Government generally enforced these provisions effectively. In August, a public debate took place on expanding the rights of homosexuals.

*Women.*—Although no accurate statistics were available, violence against women was a problem. Police and judges enforced laws against violence; however, media reports estimated that fewer than 10 percent of abused women filed complaints. The Association of Houses for Battered Women estimated that one-fifth of the country's 1.5 million adult women had suffered from violence in a relationship. The law provides that police can expel abusive family members from family homes for up to 3 months. In 2003, an injunction to prevent abusive family members from returning home was applied in 4,180 cases. The Government also sponsored shelters and helplines for women.

Prostitution is legal; however, trafficking for the purposes of prostitution is illegal and was a problem (*see* Section 5, Trafficking). Laws regulating prostitution require prostitutes to register, undergo periodic health examinations, and pay taxes. Despite the existence of legal prostitution, illegal prostitution was a problem.

The law prohibits sexual harassment, and the Government effectively enforced those laws. Of the 2,556 new cases brought to the Ombudsmen for Equal Opportunity in 2003, 394 were complaints of sexual harassment. The Federal Equality Commission, as well as the Labor Court, may order employers to compensate victims of sexual harassment.

There are no legal restrictions on women's rights. A Federal Equality Commission and a Federal Commissioner for Equal Treatment oversee laws prescribing equal treatment of men and women.

In 2003, 62.8 percent of women between the ages of 15 and 65 were employed; on average, women earned only 79 percent of what men earn for the same work. Women were more likely than men to hold temporary positions and part-time jobs and also were disproportionately represented among those unemployed for extended periods.

Although labor laws provide for equal treatment of women in the civil service, women remained underrepresented. To remedy this disparity, the law requires hiring women of equivalent qualifications ahead of men in all civil service areas in which less than 40 percent of the employees are women, including police; however, there are no penalties to agencies for failing to attain the 40 percent target.

Female employees in the private sector may invoke equality laws prohibiting discrimination of women. The Federal Equality Commission may award compensation of up to 4 months' salary to women who experienced discrimination in promotions because of their gender. The Commission may also order compensation for women who were denied a post despite having equal qualifications. Parents who work for companies with more than 20 employees and have children under the age of 7 have the right to work part-time.

Women may volunteer to serve in the military forces. As of September, there were 246 women serving in the military, out of a standing force of approximately 35,000, including 4 commissioned officers. There were no restrictions on the type or location of assignments of women. Ten women worked in peacekeeping assignments abroad.

Some women's rights organizations were politically affiliated, while other groups operated autonomously. They usually received wide public attention when voicing their concerns. The Government provided subsidies to these groups.

*Children.*—The law provides for the protection of children's rights. Each state government and the federal Ministry for Youth and Family Affairs has an Ombudsperson for Children and Adolescents whose main function was to resolve complaints about violations of children's rights.

While 9 years of education were mandatory for all children beginning at age 6, the Government also provided free education through secondary school and subsidized technical, vocational, or university education. The majority of school-age children attended school. Educational opportunity was equal for girls and boys. Comprehensive, government-financed medical care was available for all children without regard to gender.

Child abuse was a problem. Although there was no societal pattern of abuse against children, heightened awareness of child abuse and a growing number of reports of incidences of abuse led the Government to continue its efforts to monitor the issue and prosecute offenders. While doctors were required to report suspected cases of child abuse and molestation to the police, there were exceptions if the suspected abuser was a close relative of the victim or if the doctor judged it necessary for the well-being of the minor. However, in such cases, the victim's representative was required to contact a youth care officer or a hospital's child protection unit.

According to the Penal Code, sexual intercourse between an adult and a child under 14 years of age is punishable with a prison sentence of up to 10 years; in case of pregnancy of the victim, the sentence can be extended to up to 15 years.

In 2003, the Interior Ministry reported 731 cases of child abuse, most involving intercourse with a minor. The same year, the Justice Ministry reported 193 convictions. Under the law, any citizen engaging in the sexual abuse of a child in a foreign country is punishable under Austrian law, even if the actions are not punishable in the country where the abuse was committed. The law also provides for criminal punishment for the possession, trading, and private viewing of child pornography. Exchanging pornographic videos of children is illegal even if done privately rather than as a business transaction.

The Federal Crime Authority had a special department for cyber crime, with an anonymous e-mail point of contact for the public to report on child pornography on the Internet.

Trafficking of children remained a problem (*see* Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however there were reports that trafficking occurred. Trafficking in women for forced prostitution and domestic service was a problem. Child trafficking was a problem.

Articles 217, 104, and 104a of the Criminal Code, as well as Paragraph 105 of the Aliens Act, are the key provisions for the prosecution of traffickers, addressing: Trafficking for prostitution through deception regarding the purpose of the journey, coercion, or the use of force; trafficking for the purposes of slavery; alien smuggling; and the exploitation of aliens without specifically requiring demonstration of prostitution as a goal or assistance in the illegal entry of aliens. In February, Parliament passed legislation that expanded the definition of trafficking to include trafficking of persons for the exploitation of labor and trafficking of organs. This legislation entered into effect in May.

Trafficking is illegal and punishable by prison sentences of up to 10 years. Trafficking for purposes of slavery is punishable by a prison sentence from 10 to 20 years. The maximum penalty for alien smuggling is 10 years' imprisonment.

The Interior Ministry's Federal Bureau for Criminal Affairs has a division dedicated to combating human trafficking. Law enforcement officials have established contacts with authorities in countries of origin to facilitate the prosecution of suspected traffickers.

The country was a transit point and final destination for women trafficked from Bulgaria, Romania, Ukraine, Moldova, the Balkans, and, to a lesser extent, the Czech Republic, Slovakia, and Hungary. The women were trafficked into the country primarily for the purpose of sexual exploitation. Women also were trafficked from Asia and Latin America for domestic labor. Police noted increased trafficking of Bulgarian children to engage in begging and stealing in Viennese shopping centers. There were also reports that some children were trafficked for possible sexual exploitation.

There were no accurate statistics on trafficked persons. However, the number of intercepted illegal immigrants, some of whom some were believed to be trafficking victims, continued to increase. In 2003, the NGO LEFOE reported that it assisted 142 victims of trafficking, down from 208 victims in 2002. The country was particularly attractive to traffickers because of its geographic location and because citizens of the Czech Republic, Slovakia, Hungary, Romania, and Bulgaria did not need visas to enter the country. Most trafficked women were brought to the country with promises of unskilled jobs such as nannies or waitresses. Upon arrival, they were coerced into prostitution. According to police, there also were cases of women who knowingly entered the country to work as prostitutes, but who then, were forced into dependency akin to slavery. Most victims were in the country illegally and feared being turned into authorities and deported. Traffickers usually retained victims' official documents, including passports, to maintain control over them. Victims of trafficking reported being subjected to threats and physical violence. A major deterrent to victim cooperation was widespread fear of retribution, both in the country and in the victims' countries of origin.

The majority of traffickers arrested by police were citizens; however, the number of foreigners engaged in trafficking has increased over the years. Police estimated that a large portion of trafficking was controlled by organized crime, primarily from Eastern Europe.

The Government provided temporary residence to trafficking victims who were prepared to testify or who intended to file civil law claims. However, victims still rarely agreed to testify, due to fear of retribution. Temporary residency status allowed victims to stay in the country only during a trial. There were no provisions allowing victims of trafficking to remain in the country following their testimony; virtually all victims were repatriated.

LEFOE provided secure housing and other support for victims of trafficking. The International Organization for Migration sought to put victims in contact with NGOs in their countries of origin upon their return. With financial assistance from the Interior Ministry, LEFOE also continued to operate the Intervention Center for Victims of the Trade in Women in Vienna, which provided services to trafficked women, including psychological, legal, and health-related counseling and assistance, emergency housing, and German language courses. There were also NGOs in other cities financed by federal and local governments, which provided counseling and assistance.

The Government worked actively with international and regional organizations to carry out preventive programs throughout the region. Government-funded research on the problem of trafficking and NGO prevention work included anti-trafficking brochures, law enforcement workshops, and international conferences, funded with the help of private sources. The Government also funded intervention centers that provided emergency housing or psychological, legal, and health-related assistance to victims. The Government was also active in U.N. and Organization for Security and Cooperation in Europe international efforts to combat trafficking.

*Persons With Disabilities.*—The law protects persons with disabilities from discrimination in housing, education, and employment and explicitly requires the Government to provide for equal rights for persons with disabilities “in all areas of everyday life.” The law requires all private enterprises and state and federal government offices to employ one person with disabilities for every 25 to 40 employees, depending on the type of work. Employers who do not meet this requirement must pay a fee to the Government, and the proceeds help finance services for persons with disabilities such as training programs, wage subsidies, and workplace adaptations. However, many observers criticized the law for setting penalties too low to discourage companies from ignoring the requirement. There were no reports of societal discrimination against persons with disabilities. In addition to funding a wide range of programs for persons with disabilities, the Government budgeted \$94.5 million (70 million euro) during the year to fund projects that employed persons with disabilities.

Federal law mandates access to public buildings for persons with physical disabilities; however, low fines and insufficient enforcement resulted in the inaccessibility of many public buildings to persons with disabilities.

Adults with mental disabilities may be sterilized only in cases where a pregnancy would be considered “life-threatening,” although no such sterilizations have been performed in recent years. The law prohibits the sterilization of minors.

*National/Racial/Ethnic Minorities.*—The law recognizes six national minority groups: Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes. In the past, any community where at least 25 percent of the population belonged to one of these groups was entitled to bilingual town signs, education, media, and access to federal

funds earmarked for national minorities. As of September, there was still no decision on implementation of the 2001 Constitutional Court ruling ordering the lowering of the standard.

Most human rights groups claimed that Roma faced particular discrimination in employment and housing. Members of other minority groups, such as Turks, were not considered indigenous national minorities and did not have access to the same type of assistance. However, Turkish citizens benefited from a wide range of language and job promotion courses. NGOs complained that Africans living in the country experienced verbal harassment in public.

Statistics for 2003 showed a continued decrease in the number of neo-Nazi, right-wing extremist, and xenophobic incidents. During 2003, the Interior Ministry recorded 299 incidents, compared to 326 in 2002. During the year, the Government continued to express concern over the activities of extreme-right skinhead and neo-Nazi groups, many with links to organizations in other countries.

In March, the domestic NGO ZARA, in conjunction with other groups, released a report entitled "Racism 2003," which found that persons from diverse ethnic and racial backgrounds faced increasing discrimination from government officials, particularly police, as well as in the workplace and in housing. The report cited 140 examples of discrimination faced by immigrants on a daily basis and called for the strengthening of public education and legal protections for immigrants.

The Government continued its training program designed to combat racism and educate the police in cultural sensitivity.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers the right to form and join unions without prior authorization or excessive requirements, and workers exercised this right in practice. No workers were prohibited from joining unions. An estimated 47 percent of the work force was organized into 13 national unions belonging to the Austrian Trade Union Federation (OGB), which had a highly centralized leadership structure. Association of national unions with the OGB was voluntary. Individual unions and the OGB were independent of government or political party control, although formal factions within these organizations were allied closely with political parties.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 80 percent of the workforce was under collectively bargained agreements. Almost all large companies, private or state-owned, were organized. The OGB and the National Chamber of Commerce and its associations, which represented the employers, negotiated collective agreements covering wages, benefits, and working conditions for each industry. The OGB was exclusively responsible for collective bargaining.

The Constitution and national legislation do not explicitly provide for the right to strike; however, the Government recognized the right in practice. There were three legal strikes during the year. The law prohibits retaliation against strikers, and the Government effectively enforced the law. A special arbitration court for social affairs, which is part of the judicial system, generally handled legal disputes between employers and employees regarding job-related matters. Unions have access to the arbitration court.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, trafficking was a problem (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum legal working age is 15 years. The Labor Inspectorate of the Ministry of Social Affairs effectively enforced this law. The Government has adopted laws and policies to protect children from exploitation in the workplace.

There were reports of trafficking of children and child labor (*see* Section 5).

*e. Acceptable Conditions of Work.*—There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. The accepted unofficial annual minimum wage is \$13,500 to 14,850 (10,000 to 11,000 euros), and it provided a decent standard of living for a worker and family.

The Act on Working Hours regulates working hours and limits standard working hours to 8 hours per day and up to 40 hours per week. The standard workday may be extended to 10 hours, as long as the weekly maximum is not exceeded. Statutory provisions cover compulsory time off on weekends and official holidays. If the work-

day exceeds 6 hours, a half-hour break in between is mandatory. An employee also must have at least 11 hours off between workdays.

Overtime is defined as a period of working hours exceeding the daily or weekly maximum of the standard working hours. Overtime pay is 150 percent of regular salary. Monetary overtime compensation can be substituted by compensatory time off. The law limits overtime to 5 hours per week plus up to 60 hours per year. Collective bargaining agreements may provide for higher limits. In practice, these limits were frequently exceeded. These laws and regulations were generally effectively enforced, but there were press reports that indicated some workers were subject to compulsory overtime.

Foreign workers are subject to the same regulations as domestic workers.

The Labor Inspectorate of the Ministry of Social Affairs regularly enforced laws that provide for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. However, workers exercised this option rarely; workers normally relied instead on the Chambers of Labor, which filed suits on their behalf. The Labor Code provides that workers have the right to remove themselves from a job if they fear "serious, immediate danger to life and health" without incurring any prejudice to their job or career, and the Government effectively enforced this law.

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## AZERBAIJAN

Azerbaijan is a republic with a presidential form of government. The Constitution provides for a division of powers between a strong presidency and parliament (Milli Majlis), which has authority to approve the budget and to impeach the President. The President dominated the executive, legislative, and judicial branches of government. Ilham Aliyev, the son of former president Heydar Aliyev, was elected President in October 2003 in a ballot that did not meet international standards for a democratic election due to numerous, serious irregularities. There were similar irregularities during parliamentary elections in 2001 and 2003, and some domestic groups regarded the Parliament as illegitimate. Only 5 of the Parliament's 125 members were opposition members. The Constitution provides for an independent judiciary; however, it was corrupt, inefficient, and did not function independently.

The Ministry of Internal Affairs (MIA) and Ministry of National Security are responsible for internal security and report directly to the President. Civilian authorities maintained effective control of security forces. Members of the security forces committed numerous human rights abuses.

The Government continued programs to develop a market economy; however, the pace of reforms was uneven. The population was approximately 8 million, of which an estimated 2 million lived and worked abroad. Widespread corruption and patronage reduced competition. The slow pace of reform limited development outside the oil and gas sector, which accounted for more than 80 percent of export revenues. Private commercial agriculture remained weak; subsistence farming dominated the rural economy. Economic growth was approximately 10 percent. Nationwide poverty decreased, although 44 percent of the population lived below the poverty level. Unemployment estimates ranged from 15 to 20 percent.

The Government's human rights record remained poor, and it continued to commit numerous abuses. The Government continued to restrict the right of citizens to peacefully change their government. There were four deaths that occurred in custody allegedly due to beatings. Police tortured and beat persons in custody, and used excessive force to extract confessions. In most cases, the Government took no action to punish abusers. Prison conditions remained harsh and life threatening, and some prisoners died as a result of these conditions; however, the Government permitted independent monitoring of prison conditions by local and international humanitarian groups. Arbitrary arrest and detention and lengthy pretrial detention continued to be problems. After the October 2003 presidential elections, authorities conducted a wave of politically motivated arrests of more than 700 persons, including, opposition members, journalists and election officials. According to Organization for Security and Cooperation in Europe (OSCE) observers, many of the trials of those accused of post-election violence did not meet OSCE and other international standards. In a series of presidential pardons, a number of political prisoners, as defined by the Council of Europe (COE), were released. Authorities interfered with privacy rights.

The Government continued to restrict freedom of speech and of the press. Defamation lawsuits brought by officials against independent journalists and newspapers and high court fines for libel remained significant problems for the media. The Government restricted freedom of assembly and did not sanction any demonstrations by opposition political parties during the year. The Government continued to restrict freedom of association by harassing domestic human rights activists and nongovernmental organizations (NGOs). There were some restrictions and abuses of religious freedom, and low-level and local government officials continued to harass minority religious groups. Violence against women, societal discrimination against women and certain ethnic minorities, trafficking in persons, and limitations of some worker rights remained problems.

Despite a cease-fire in effect since 1994, minor outbreaks of fighting with Armenia over Nagorno-Karabakh occurred, resulting in six deaths of civilians and combatants during the year. Armenian forces continued to occupy an estimated 16 percent of the country's territory, including Nagorno-Karabakh. The occupation dominated national politics and undermined democratic and economic development in the country. The Government did not exercise any control over developments in territories occupied by Armenian forces, and little verifiable information was available on the human rights situation there. Approximately 800,000 Azerbaijanis remained refugees or internally displaced persons (IDPs) after fleeing or having been forced from their homes between 1988 and 1993.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings by the Government or its agents; however, during the year there were four deaths in custody due to alleged abuse and mistreatment. Authorities did not prosecute suspected abusers in these cases (*see* Section 1.d.).

In March, Etibar Najafov was arrested on misdemeanor charges and taken to Sabayil District Police Department. Authorities allegedly beat him during questioning, but the Government reported that he died while trying to escape from a 2nd floor window. In April, Akif Mirzayev died in a prison hospital after allegedly being beaten in the Organized Crime Department of the Ministry of Internal Affairs while serving a 5-year sentence for kidnapping. The Government said he was a drug addict who had cirrhosis of the liver. In May, Azer Safarov died after allegedly being beaten at the Sumgayit City Police Station. Authorities acknowledged arresting Safarov on burglary charges but denied responsibility for his death. In December, Badal Babayev died after allegedly being beaten in an Absheron police station. His body was covered in bruises. Authorities said Babayev died of a heart attack after he left the police station. Authorities did not conduct further investigations into any of these cases.

In October 2003, law enforcement officials beat to death one person at a post-election demonstration that turned violent (*see* Section 2.b.). There was no development in this case or in the 2002 death of Beylar Kuliyeve, who died in police custody after 10 days of interrogation.

During the year, the press reported that four army conscripts died of causes attributed to military hazing.

Occasional cease-fire violations by both sides in the conflict with Armenia over Nagorno-Karabakh resulted in six deaths and injuries to civilians and soldiers during the year. According to the National Agency for Mine Actions, landmines killed 13 persons and injured 21 during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

The International Committee of the Red Cross (ICRC) continued to urge the Government and Armenia to provide information on the fate of persons missing in action since the fighting over Nagorno-Karabakh began. Since the early 1990s, the ICRC has collected the names of approximately 3,100 individuals of various ethnic backgrounds that remain missing because of the conflict. However, the Government estimated that approximately 4,850 citizens remained missing and were allegedly held by Armenia.

During the year, the ICRC assisted in the return of four Azerbaijani citizens from Armenia at the request of the Government.

*c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices and provides for punishment of up to 10 years in jail; during the year, there were fewer credible reports that security forces beat and tortured detainees and used excessive force to extract confessions during interrogations and pretrial detention. However, torture remained a problem.

Following post-election disturbances that turned violent in Baku in October 2003, MIA personnel detained, tortured, and beat three leading opposition leaders: Hope Party Chairman Iqbal Agazade, Azerbaijan Democratic Party (ADP) Secretary General Sardar Jalaloglu, and the ADP's election secretary Natiq Jabiyev (*see* Section 3).

In 2003, Human Rights Watch (HRW) documented numerous cases of beatings, torture, and verbal abuse, including threats of rape, by the MIA's organized crime unit following the post-election violence in October 2003 (*see* Section 1.d.). HRW reported that police also severely beat and tortured detainees to extract confessions and pressured them to sign false statements to denounce and implicate opposition leaders in the post-election violence. For example, during the trial of seven opposition leaders accused of organizing and participating in the post-election violence, some witnesses testified that they were coerced into giving false depositions (*see* Section 1.e.). By year's end, there had been no investigation into these abuses.

Police also harassed members of certain religious groups, such as Baptists, Adventists, Jehovah's Witnesses, and the Muslim Juma Mosque Community, and there were reports of several beatings of members of the Jehovah's Witnesses (*see* Section 2.c.). No measures were taken against police who detained and beat Haji Jubrail Alizade following clashes in 2002 in Nardaran between protesters and police.

Prison conditions remained harsh and sometimes life threatening. Overcrowding and poor medical care combined to make the spread of infectious diseases a serious problem. Tuberculosis (TB) remained the primary cause of death in prisons. The Government reported that 774 prisoners were treated for TB during the year. However, due to the absence of systematic medical screening, prisoners often started TB treatment when already seriously ill. Many prisoners relied on families for food and medicine, who often paid bribes to gain access to imprisoned relatives.

Harsh prison conditions resulted in deaths during the year.

There were separate facilities for men, women, juveniles, convicts, and pretrial detainees.

In maximum-security facilities, authorities limited physical exercise for prisoners, as well as visits by attorneys and family members. Some pretrial detainees were kept in "separation cells," often located in basements, to conceal evidence of physical abuse and where food and sleep reportedly were denied to elicit confessions.

During the year, the Ministry of Justice (MOJ), which oversees the prison system, continued a program to improve prison conditions and renovated five prisons. In 2003, the Government built five new prisons and several were renovated.

The government permitted visits by international and local humanitarian and human rights groups. In 2002, the Government extended the ICRC's access to all detainees and prisoners. The ICRC also had access to prisoners of war (POWs) and to civilians held in connection with the conflict over Nagorno-Karabakh. Foreign observers were allowed to enter maximum-security prisons and to meet with alleged political prisoners. During the year, human rights activists worked with the MOJ to create a monitoring group that could visit prisons regularly and report on conditions. The group worked with the MOJ's Deputy Minister to increase accountability of prison staff and to improve prison conditions. In September, the head of one Baku prison was dismissed after the monitoring group complained to the MOJ about his conduct. Domestic observers' access to police stations remained restricted.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the Government generally did not observe these prohibitions in practice, and impunity remained a problem.

The MIA and Ministry of National Security are responsible for internal security and report directly to the President. The MIA oversees local police forces and maintains internal civil defense troops. The Ministry of National Security has a separate security force.

Police corruption mainly consisted of levying spurious and informal fines for traffic and other minor violations and extracting protection money from local residents. Police officers received a pay raise during the year; however, low wages of law enforcement officials continued to contribute to police corruption.

In most cases, the Government took little or no action to investigate reports of arbitrary arrest or detention; however, the Government reported that during the year, it took disciplinary action against 78 police officers for 57 cases of abuse of human rights and civil liberties. Of these, 11 officers were dismissed from the Ministry of Interior, 12 officers were charged criminally, 6 officers were dismissed from their positions, and 1 officer was demoted.

By year's end, the Government did not arrest any police officers or announce the results of an investigation into election-related police clashes with journalists and opposition activists in September and October 2003.

The Government did not investigate or take any punitive action against individuals named in a 2003 HRW report that documented numerous cases of torture and abuse of opposition supporters that were detained by the MIA's Organized Crime Department following the post-election violence in October 2003. Several of the officers allegedly involved in the abuses received promotions during the year, including the Chief of the Organized Crime Department, who was promoted from Colonel to General (*see* Sections 1.c. and 2.b.).

During the year, an international foundation trained more than 160 security officers attached to the Special State Protective Service (SSPS) in human rights theory, standards, and practices. The officers who participated in the training were recruited from the SSPS, the State Border Guard, the Army, and police. The SSPS, a government agency responsible for protecting the Baku-Tbilisi-Ceyhan pipeline, coordinates pipeline security with different ministries.

Authorities often arbitrarily arrested and detained persons without legal warrants. The law allows police to detain and question individuals for 3 hours without a warrant. The Constitution also states that persons who are detained, arrested, or accused of a crime should be advised immediately of their rights, reason for arrest, and should be accorded due process of law; however, authorities did not respect these provisions in practice.

The Constitution also provides for access to a lawyer from the time of detention; however, access to lawyers was poor, particularly outside of Baku (*see* Section 1.e.). Authorities often restricted family visits and withheld information from family members; frequently, days passed before they could obtain any information about detained relatives. Bail was commonly denied and lengthy pretrial detention was a serious problem.

Police detained more than 700 persons across the country in October 2003, most of whom were members of the opposition Musavat party, following post-election demonstrations in Baku that turned violent. Of 126 persons found guilty, 41 were given prison terms, 79 others received suspended sentences, and 6 received limited liberty sentences. The trial for the remaining 10 defendants continued at year's end. Other opposition parties also reported numerous brief detentions before the October 2003 presidential election.

In August, authorities again detained ADP Secretary Taliyat Aliyev following an incident outside the trial of seven opposition leaders charged with participating and organizing the October 2003 post-election violence (*see* Section 1.e.). Authorities charged Aliyev with pressuring a witness to give false testimony and with assaulting and injuring a police officer and detained him while the charges were investigated. At year's end, the case had not been tried and Aliyev remained in detention. Authorities had also detained Aliyev in September 2003.

As compared with the previous year, there were fewer incidents of police harassing members of opposition political parties or their families.

In August, police reportedly threatened the family of Gabil Rzayev, Deputy Chairman of the Umid ("Hope") Party, to disclose his whereabouts. According to party officials, Rzayev sought political asylum outside the country after he alleged that police tortured him in detention in September 2003.

On April 2, a three-judge panel convicted Ilgar Ibrahimoglu, the Imam of the independent Juma Mosque, of inciting and committing violence in connection with a post-election demonstration in October 2003 that turned violent. He was given a 5-year suspended sentence and released immediately, having served 4 months in pre-trial detention. On July 30, authorities detained the Imam again together with 25 members of the Juma Mosque in connection with activities of the Juma Mosque but released him the same day (*see* Sections 2.c. and 4).

Two relatives of former Speaker of Parliament and exiled ADP leader Rasul Guliyev remained in jail at year's end after convictions for crimes related to corruption during Guliyev's term in office. In September, authorities pardoned one other relative who was jailed in 2003.

During the year, President Aliyev pardoned 810 prisoners, including 55 prisoners considered political prisoners by local activists. For example, in March, 33 persons accused of participating in 2 coup attempts against the late President Heydar Aliyev were freed. They included former Prime Minister Surat Huseynov. In May, Faina Kunqurova, an ADP member convicted on hooliganism charges in 2002, and Jan Mirza-Mirzoyev, who publicly criticized the Minister of Defense and was convicted of murder in 2001, were both pardoned. In September, former separatist leader Alikram Humbatov and four other persons connected with coup attempts against the late President were freed. None of the 126 persons convicted on charges stemming from the October 2003 post-election violence were pardoned. Forty-one remained in prison, and the others were either on suspended sentences or limited liberty.

Also during the year, authorities reportedly released three POWs from Armenia taken in connection with the Nagorno-Karabakh conflict.

*e. Denial of a Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice, judges did not function independently of the executive branch. The judiciary was corrupt and inefficient.

The executive branch exerts a strong influence over the judiciary. The President appoints Supreme and Constitutional Court judges, whom Parliament confirms. The President appoints lower-court judges without confirmation, as well as the Prosecutor General and the Deputy Prosecutor General, both of whom Parliament confirms. The Prosecutor General hires prosecutors at the district and republic level.

Judges' salaries have steadily increased over several years; however, there continued to be credible allegations that judges accepted bribes, which contributed to the overall lack of respect for the rule of law. There were also credible reports that judges and prosecutors took instruction from the Presidential Administration and the MOJ, particularly in cases that drew attention from international observers.

Judges preside over and direct trials. Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District courts try the majority of cases. The Supreme Court may not act as the court of first instance. One judge hears cases at the district court level, while a three-judge panel hears cases at the Court of Appeals, the Court of Grave Crimes, and the Supreme Court. The Constitution provides all citizens with the right to appeal to the Constitutional Court. Citizens also have the right to appeal to the European Court of Human Rights.

The Constitution provides for public trials except in cases involving state, commercial, or professional secrets or matters involving confidential, personal, or family matters. The Constitution provides for the presumption of innocence in criminal cases, pretrial discovery, a defendant's rights to confront witnesses and present evidence at trial, a court-approved attorney for indigent defendants, and appeal for both defendants and prosecutors; however, these provisions were not generally respected in practice. Foreign and domestic observers usually were allowed to attend trials. Although the Constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' prerogatives outweighed those of the defense.

The law limits representation in criminal cases to members of a state-controlled Collegium of Lawyers (bar association), thereby restricting the public's access to legal representation. In August, the Government enacted a law that was expected to reform the legal profession and establish a more independent bar association by allowing independent lawyers to join the Collegium automatically. However, by year's end, there was still no independent bar association. The Government retained control over the Collegium by using a narrow and questionable interpretation of the new law that prevented most independent lawyers from joining the bar. Instead, the state-controlled Collegium instituted examinations for new members and for the right to argue cases before the Supreme and Constitutional Courts. In December, several groups of independent lawyers filed lawsuits against the Collegium and the MOJ challenging the membership rules. At year's end, one case was decided against the lawyers, and two others were pending.

The Constitution prohibits the use of illegally obtained evidence; however, investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Despite defendants' claims that testimony was obtained through torture or abuse, no cases based on claims of abuse were dismissed, and there was no independent forensic investigator to determine the occurrence of abuse (see Section 1.c.). Serious crimes that were brought before the courts were likely to end in conviction; this was a result of judges requiring only a minimal level of proof and the close collaboration between prosecutors and judges. In the rare instance when a judge determined the evidence presented was not sufficient to convict a defendant, judges could and did return cases to the prosecutor for additional investigation, in effect giving the prosecution a "second chance" for a conviction.

On October 22, the Court of Grave Crimes found seven opposition leaders guilty of inciting post-election violence in October 2003 and sentenced them to prison terms ranging from 30 months to 5 years. On November 19, the Court of Appeals upheld the convictions. At year's end, the defendants' appeal was pending with the Supreme Court. The defendants were: Rauf Arifoglu, Deputy Chairman of the Musavat Party and Editor-in-Chief of Yeni Musavat newspaper; Arif Hajili, Deputy Chairman of Musavat Party; Ibrahim Ibrahimli, Deputy Chairman of Musavat Party; Panah Huseynov, Chairman of the People's Party; Sardar Jalaloglu, General Secretary of the ADP; Iqbal Agazade, Chairman of the Hope Party; and Etimad Asadov, Chairman of the Karabakh Veterans Association.

The trial began with pretrial testimony in May and was marked by lengthy delays and questionable court decisions. In August, several witnesses testified that they ei-

ther had been beaten or pressured to give false depositions against the defendants (*see* Section 1.c.). However, the judges neither requested a thorough investigation into the allegations of torture, nor gave the witnesses' testimony serious consideration in the conviction and sentencing. The OSCE, in its report issued after the trials, stated that many of the international rights that defendants were entitled to were violated, from the time of arrest through the right to a public and reasoned judgment. Specifically, officials did not adequately investigate pervasive, credible claims of torture; the seven defendants did not have adequate access to the prosecution's evidence or time to prepare a defense once they were given the materials; there were questions as to the impartiality of the judges; and the judgment, which rejected the defense's witnesses on spurious grounds and did not address inconsistencies in witness testimonies, was not reasoned.

The country also has a military court system with civilian judges. Cases go either to the Court of Grave Crimes on Military Cases or to the Collegium on Military Cases under the Court of Appeals and the Supreme Court.

Local NGOs maintained that the Government continued to hold political prisoners. However, NGO estimates of the number of political prisoners varied, due in part to differing definitions of what constitutes a political prisoner. For example, some reported that the Government held more than 200 political prisoners, including those sentenced in connection with the post-election violence in October 2003. During the year, NGO activists forwarded to the COE more than 170 names for consideration as political prisoners.

In 2002, the COE tasked 2 independent experts to examine 716 cases of individuals whom local NGO activists said were political prisoners. Using a definition of political prisoners developed by the COE for Azerbaijan and Armenia, independent experts eliminated 504 names for lack of accurate information, such as a person was not actually detained or a person's case had already been investigated. Of the remaining 212 cases, the COE experts rendered decisions on 104 and released those findings in July. The COE report stated that the experts determined that 45 persons were actual political prisoners. Of these 45, 11 were retried (in retrials later determined not to meet international standards), 34 were pardoned either in 2003 or during the year, 2 were released following a retrial, and 4 others were released 2 months after a retrial.

At year's end, 9 persons deemed to be political prisoners by the COE, together with approximately 170 other persons who NGO activists said were political prisoners, remained in prison.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary invasions of privacy and monitoring of correspondence and other private communications; however, in practice, the Government restricted privacy rights.

The Constitution allows for searches of residences only with a court order or in cases provided by law; however, authorities often conducted searches without warrants, particularly after the October 2003 election.

It was widely believed that the Ministry of National Security and MIA monitored telephone and Internet communications, particularly those of foreigners and prominent political and business figures; however, there was no evidence to support this claim.

Police continued to intimidate and harass family members of suspected criminals. In comparison to the previous year, there were fewer allegations that the authorities interfered with opposition members and members of their families (*see* Section 1.d.).

Some local officials continued to prevent Muslims from wearing headscarves (*see* Section 2.a.).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press and specifically prohibits press censorship; however, the Government did not respect these rights in practice.

The Government intimidated and harassed the media, primarily through defamation suits, prohibitively high court fines for libel, and through measures that hampered printing and distribution of independent newspapers and magazines. The print media enjoyed more freedom than the broadcast media, and there was lively public debate of government policies. However, the Government continued to control state-run television and radio, which was the primary source of news and information for most of the population.

A large number of opposition and independent media outlets operated during the year. There were more than 40 active independent newspapers and magazines and 24 television and radio stations. There also were 10 "national" state newspapers and 80 newspapers funded by city or district-level officials.

Most newspapers and magazines were printed in government publishing houses or on private printing presses owned by individuals close to the Government. The majority of independent and opposition newspapers remained in a precarious financial position; they continued to have problems paying wages, taxes, and court fines. These financial difficulties were worsened by the Government's practice of prohibiting state businesses from buying advertising in opposition newspapers and pressuring private business to do the same. In January 2003, the late President Aliyev suspended until the end of 2005 an estimated \$300,000 (1.5 billion manat) in debt that newspapers owed to the state-owned publishing house. These unpaid debts continued to put indirect pressure on opposition newspapers by influencing their decision to shut down temporarily.

Government-run and independent kiosks distributed most newspapers and periodicals. Distribution of independent and opposition newspapers outside of Baku was sporadic. Baku-based journalists reported that authorities in the exclave of Nakhchivan continued to block distribution of opposition newspapers.

In Baku, the Government tightened enforcement on unregistered, independent newspaper vendors who mainly distributed opposition newspapers. Authorities claimed that the illegal vendors created traffic hazards on city streets. In December, the administrator for the Baku subway system prohibited the sale of opposition newspapers within the subway system; however, government-affiliated newspapers continued to be sold. The country's largest independent newspaper distributor, Gaya, did not report any new closures of its kiosks during the year. However, it was unable to reopen any of its newsstands that were torn down in 2002 in an effort to run the company out of business. Gaya reported that of the 55 newspaper stands it once operated throughout the country, it retained 36. In June, the Economic Court ruled that the 13 Gaya newsstands dismantled in Baku should be re-opened. The Baku Executive Authority appealed the court's ruling, and both the Court of Appeals and the Supreme Court upheld the appeal against Gaya. There were no independent newsstands in Nakhchivan or other parts of the country.

The Hurriyet newspaper closed in March, and the financial situation of most other opposition newspapers remained precarious due to government harassment, high court fines, libel lawsuits, and declining readership. Unlike previous years, the courts began collecting libel fines primarily through freezing bank accounts and collecting profits through distribution agencies, which increased the financial burdens of some opposition newspapers. During the year, many opposition and government-run newspapers reduced circulation and several, including prominent opposition paper Yeni Musavat, reduced periodicity and stopped printing for short periods because of lack of funds. Other publications like Monitor Magazine stopped printing at times during the year because of technical difficulties. However, some government newspapers also reduced circulation and moderate independent newspapers like Echo, Zerkalo, and Ayna either maintained their circulation or slightly increased it.

In addition, Monitor magazine, Yeni Musavat, and Baki Kheber endured additional difficulties when they were forced to relocate after landlords threatened them with eviction due to government pressure. Other opposition newspapers endured threats from the state-owned publishing house, which stated that it would not print opposition newspapers with unpaid debts.

Government-controlled radio and television remained the main sources of news and information for much of the population. The Government periodically used state-run television to denounce and harass political parties and leaders who criticized the Government. Private television channels broadcast the views of both government and opposition officials, but their programs were not available in all parts of the country. A total of 36 television and radio channels were registered with the MOJ, although only 15 television stations and 9 radio stations operated. Most television stations were either controlled by the Government or by individuals close to the Government.

Radio was oriented largely to entertainment programming. Radio Free Europe/Radio Liberty (RFE/RL) and the Voice of America operated without restriction; however, in January, the MOJ rejected RFE/RL's October 2003 registration application because the paperwork was not in order. In April, RFE/RL reapplied, and the MOJ approved the application in May. There were no restrictions on satellite broadcasts by foreign stations.

Harassment and violence against journalists continued. The Azerbaijan Committee for the Protection of Journalists (RUH) reported 81 incidents of physical attacks or harassment during the year, in contrast to 170 during 2003.

In July, unknown persons allegedly kidnapped and beat Aydin Guliyev, editor of the Baki Kheber newspaper. He was subsequently released. On July 25, two unknown assailants struck Eynulla Fatulliyev, a staff writer for Monitor magazine, on

the head with a lead pipe. Both journalists had written articles critical of presidential chief of staff Ramiz Mekhdiyev; however, there was no evidence to suggest the attack on Fatulliyev was connected with his work. The Government continued its investigation into the incidents at year's end.

In 2003, police injured and detained many journalists at various election-related events (see Sections 1.c. and 1.d.). Most of the injuries occurred at election-related demonstration in October 2003. According to the Azerbaijan Journalists Confederation and RUH, police beat 54 journalists, detained or arrested 18, and damaged the equipment of 6 others.

There is no transparent or independent mechanism to issue licenses for television or radio stations. The National Council for Television and Radio, which was created in 2002, was responsible for issuing licenses and for monitoring television and radio broadcasts. However, it was inefficient and did not function independently of the Government. Because the Government had not established a fee structure to obtain a broadcast license, no new television stations could be licensed within the provisions of the law during the year. At year's end, nine applications for license renewals from entertainment-oriented television stations remained pending.

In March, the President vetoed a bill on Public Television and Radio Broadcasting, sending it back to Parliament for revisions that would bring it more in line with international requirements set out by the COE. In September, the President signed a new version of the law, which provides for a public television channel to be created on the basis of a second, state-run channel, AZTV2. The primary state-run channel, AZTV1, would continue operating. International and local NGOs expressed concern that without abolishing AZTV1, a public television channel would not have the resources to become an effective alternative source for news and information.

Libel is a criminal offense; the law allows for large fines and up to 3 years' imprisonment. According to the RUH, 13 lawsuits were successfully brought against 7 print media outlets during the year. Six of these cases resulted in monetary fines, totaling approximately \$69,000 (345 million manat). In contrast, in 2003, 40 libel suits were brought against 18 journalists and media outlets for total fines of \$325,000 (1,592.5 million manat). In 2002 and 2003, the popular opposition newspaper *Yeni Musavat* was successfully sued for libel 22 times with fines totaling approximately \$100,000 (500 million manat).

In February, a libel suit brought against the *Mukhalifat* newspaper in 2003, ended with a 2-year suspended sentence against the editor and editor-in-chief. Two of three criminal charges brought in 2002 against *Yeni Musavat's* Editor-in-Chief Rauf Arifoglu were pending at year's end. Arifoglu himself was found guilty in October of inciting post-election violence in October 2003 (see Section 1.e.).

In August, Baki Kheber editor Aydin Guliyev was sentenced to a 1-year suspended sentence as a result of a libel suit brought by Jalal Aliyev, the brother of former president Heydar Aliyev. Guliyev had reprinted an article from *Alternative* newspaper; however, Aliyev did not bring a lawsuit against *Alternative* newspaper.

In October a district court in Baku ordered Eynulla Fatulliyev to begin paying a \$2,000 (10 million manat) fine for libeling two high-ranking Ministry of Defense officers in a *Monitor Magazine* article in 2002 about military hazing. Under the court order, Fatulliyev was required to pay \$2 (10,000 manat) every month for 30 years. In addition, court executors inventoried Fatulliyev's parents' apartment. The court also impounded *Monitor Magazine's* profits from distribution agencies to pay for its portion of the same libel fine.

The Government required Internet Service Providers to have licenses and formal agreements with the Ministry of Communications and Information Technologies. At year's end, there were 21 licensed providers. Public Internet access at a wide variety of Internet clubs and cafes cost less than 50 cents (1,500–2,000 manat) per hour; however, home connectivity and access to affordable computers were still cost-prohibitive for the average user. Internet usage grew significantly in Baku, Sumgayit, Ganja, Mingechevir, Lenkoran, and Sheki, but it was less common in other parts of the country. There was no evidence to support the widely held belief that the Government monitored Internet traffic of foreign businesses and opposition leaders (see Section 1.f.).

The Government generally did not restrict academic freedom. Several tenured professors were active in opposition parties; however, some faculty and students did experience political pressure. Following the October 2003 election, some professors and teachers said they were dismissed because of their membership in opposition political parties. Also in 2003, police harassed and detained Elnur Sadikhov, a university student and correspondent for the Popular Front Party's (PFP) *Azadliq* newspaper in Ganja. Ganja State University subsequently suspended his enrollment; press reports said Sadikhov had left the country.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. While the law allows individuals and political parties to assemble and organize demonstrations, it also requires prior notification and in some cases a permit from government authorities. During the year, the Government sanctioned only 1 rally, a gathering of some 250 persons in September in Baku to protest the planned arrival of Armenian officers for a NATO exercise.

In May, the PFP applied several times for a permit to hold a demonstration. The Baku Executive Authority (BEA) repeatedly denied the requests stating that the issues the PFP wanted to protest were either being addressed by the Government or were not true. In June, the PFP sought to overturn the BEA's denials in district court, but the court upheld the BEA's actions. However, the Court of Appeals overturned the lower court's ruling and remanded the case back to the district court. The case remained pending at year's end. The BEA also repeatedly denied requests from other opposition political parties during the year for permits, and police frequently broke up pickets and demonstrations, at times detaining protestors.

In June, members of the Organization of Karabakh Liberation (OKL) protested the Armenian military presence at a planning conference for a NATO exercise. Several protestors shoved their way into the conference room by breaking a glass door. Authorities arrested 15 protestors. In August, six OKL members were convicted of hooliganism and disrupting public order; they were sentenced from 3 to 5 years' imprisonment. In September, the Court of Appeals reversed the jail terms and issued suspended sentences.

In the months before and after the October 2003 election, the Government routinely and forcibly disrupted unsanctioned protests. Police and MIA officers harassed, beat, and detained opposition party members, demonstrators, and journalists who took part in mostly peaceful demonstrations and political meetings in Baku, Lenkoran, and Nardaran. Authorities injured and detained many persons, some of whom were beat in detention (*see* Sections 1.c., 1.d., and 2.a.). On October 22, the trial of seven opposition leaders arrested in connection with the post-election demonstrations in October 2003 ended with guilty verdicts (*see* Section 1.e.). They were sentenced to imprisonment of up to 5 years for inciting clashes between police and protestors.

Following the election, Musavat Party supporters gathered outside party headquarters to protest election results; security forces broke up the meeting, harassing and beating many participants. The following day a large crowd gathered in downtown Baku for an unsanctioned demonstration that turned violent. Security forces used excessive force, beating demonstrators, killing 1 person, and injuring at least 300 persons. Several hundred persons were arrested. Of that number, 41 were convicted of crimes related to the disturbances and given moderate prison terms. Another 79 were found guilty but given suspended sentences (*see* Sections 1.c., 1.d. and 1.e.). The trial of the remaining 10 defendants continued at year's end.

A joint monitoring group, created by an NGO and the MIA in 2003, continued to work to improve police-journalist interactions at demonstrations. During the year, the monitoring group distributed personal identification cards, vehicle identification cards, and special clothing to distinguish journalists from demonstrators.

During the year, the Government took no action to investigate or prosecute MIA officers who reportedly beat villagers in Nardaran in 2002.

The Constitution provides for freedom of association; however, in practice, the Government continued to restrict this right. A number of provisions allowed the Government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register either with the MOJ or the State Committee on Work with Religious Associations (SCWRA). Registration was required to rent property, open a bank account, and function as a legal entity. However, the vague, cumbersome, and nontransparent registration procedures resulted in long delays that, in effect, limited citizens' right to associate. There were more than 40 registered political parties (*see* Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the law expressly prohibits the Government from interfering in the religious activities of any individual or group except in cases where public order and stability may be threatened; however, several legal provisions allow the Government to regulate religious groups. There were some abuses, restrictions, and instances of discrimination against minority religions.

In the northern city of Khachmaz, community members reported that on several occasions police harassed and detained some Muslims who had disrupted public order. The police allegedly shaved the detainee's beards; however, police officials denied detaining anyone for religious reasons.

The Law on Religion requires religious organizations to register with the SCWRA. Government authorities gave SCWRA and its chairman, Rafiq Aliyev, sweeping powers over registration; control over the publication, import, and distribution of religious literature; and the power to suspend the activities of religious groups that violate the law. The registration process was burdensome; there were frequent, lengthy delays to obtain registration. Religious groups may appeal registration denials to the courts. Since SCWRA was established in 2001, more than 350 groups have successfully registered. Only registered religious groups may maintain a bank account, rent property, and act as a legal entity. Unregistered organizations were vulnerable to closure as a result of charges that they were engaged in illegal activities. These restrictions made it difficult, but usually not impossible, for groups to function.

Several religious groups reported that they were still not registered despite repeated applications; however, they continued to function. Unregistered churches included the Greater Grace Baptist Church, the Baptist community in Neftchala, and Protestant churches in Sumgayit.

On January 16, authorities ordered the Juma Mosque congregation in Baku to vacate its premises because of Imam Ilgar Ibrahimoglu's and the community's political activities. The law prohibits a religious organization from directly involving itself in political activities, and Ibrahimoglu was a human rights activist with DEVAMM and head of the Baku Chapter of the International Religious Liberty Association. The Juma Mosque congregation, which registered with the MOJ in 1993, has refused to reregister with SCWRA amid concerns that the new process might allow the Government to interfere with its practices. On March 1, the Sabayil District court ordered the mosque to be turned over to the Icheri Sheher Historical and Architectural National Reserve. The mosque belongs to city of Baku. On March 11, the community appealed the eviction. In April, the Court of Appeals upheld the Sabayil District Court Decision. On June 30, MOJ officials and police began the court-ordered eviction of the Juma Mosque community from its premises.

The Caucasus Muslim Board, which approves Muslim religious groups, appointed a new religious leader to replace Ibrahimoglu. The mosque remained open for worship with the new Imam leading prayers. On July 8, authorities closed the building for renovation. The following day, approximately 30 members of the Juma Mosque community started afternoon prayers on the steps of the mosque. Police used excessive force in arresting five worshippers. On July 30, police detained 26 members of the Juma Mosque community, including Ibrahimoglu, who had gathered at a private home for funeral rites. They were all released several hours later. On August 11, the Supreme Court upheld the decision to evict the Juma Mosque community from the historic mosque.

In April, following a flawed trial, a court convicted Ibrahimoglu of participating in post-election demonstrations in October 2003 and sentenced him to a 5-year suspended sentence; Ibrahimoglu had already spent 4 months in pretrial detention (*see* Section 1.d.). Since his conviction, Ibrahimoglu has not been allowed to travel outside the country, including to several OSCE meetings as an official NGO participant because the law prohibits citizens convicted of criminal offenses and with suspended sentences from traveling abroad.

Some local authorities at times discriminated against members of minority religions and harassed nontraditional religious groups. In many instances, abuses by authorities reflected the popular prejudice against conversion to Christianity and other nontraditional religions (*see* Section 5).

Members of Jehovah's Witnesses also reported that authorities regularly interfered with their ability to rent public halls for religious assemblies and, on occasion, fined or detained and beat individuals for meeting in private homes.

The Government remained concerned about "foreign," primarily Iranian and Wahhabi Muslim, missionary activity. There were reports that the Government closed Muslim groups and organizations with alleged ties to terrorists. In April and September 2003, the Court for Grave Crimes sentenced six Muslim clerics in Ganja to between 3 and 7 years' imprisonment for allegedly preparing a forcible seizure of power.

The law prohibits religious proselytizing by foreigners, and this was strictly enforced. Authorities deported several Iranian and other foreign clerics operating independently of the organized Muslim community for alleged violations of the law. Although there were no legal restrictions on large religious gatherings, authorities interfered with attempts by the Jehovah's Witnesses and the Pentecostal "Cathedral of Praise" to rent halls for religious assemblies.

Some local officials continued to discourage Muslim women from wearing headscarves in schools. The International Religious Liberty Association reported that women were still prohibited from wearing them for identification and passport

photos, which complicated voter registration. In December, a group of women appealed to the European Court of Human Rights to protest the ban.

Some religious groups, including the Union of Baptists, the Adventist Church, and the Jehovah's Witnesses reported that some government ministries continued to restrict and delay the importation of certain religious literature. However, at the same time, the SCWRA facilitated the import of some religious materials.

Cases of prejudice and discrimination against Jews in the country were very limited, and in the few instances of anti-Semitic activity, the Government was quick to respond. Jewish community leaders consistently remarked on the positive relationship they have with the Government and leaders of other religious communities. In April, however, a rabbi in Baku received a threatening letter prior to the start of Passover. Authorities responded quickly and took security precautions to ensure that the festival proceeded without incident. In July, a new Jewish Community Center was opened in Baku with high-level government participation. Authorities also reserved one wing of a Baku school for secular and religious classes for 200 Jewish students.

During the year, several newspapers and television broadcasts depicted nontraditional religious groups as a threat to the country's identity. Some of these highly critical reports extended to humanitarian organizations in the country that had links with foreign religious organizations. Such hostility was also directed toward foreign Iranian and Wahhabi Muslim missionary activity, which was viewed as a threat to stability and peace and an attempt to politicize Islam. Pro-government media targeted some Muslim communities that the Government claimed were involved in illegal activities.

In those parts of the country controlled by Armenians, all ethnic Azerbaijanis have fled, and mosques not already destroyed did not function. Animosity toward ethnic Armenians elsewhere in the country forced most Armenians to emigrate, and all Armenian churches, many of which were damaged in riots that took place more than a decade ago, remained closed. As a consequence, the estimated 20,000 ethnic Armenians who remained in the country were unable to attend services at their traditional places of worship.

The Constitution provides the right to alternative military service; however, members of the Jehovah's Witnesses continued to have difficulties exercising this right since there is no legal mechanism to implement this provision. At year's end, the case of Mahir Baguirov, a Jehovah's Witness called into military service in 2000 and again during the year, remained pending with the Supreme Court.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, at times, the Government limited freedom of movement. IDPs were required to register their place of residence with authorities and could live only in approved areas. This so-called "propiska," a carryover from Soviet times, was imposed mainly on persons forced from homes after the Armenian occupation of western parts of the country. The Government asserted that registration was needed to keep track of IDPs to provide them with assistance.

Residents of border areas in both the country and Iran traveled across the border without visas. There were no exit visa requirements. The law required men of draft-age to register with military officials before traveling abroad; some travel restrictions were placed on military personnel with access to national security information. Citizens charged with criminal offenses were not permitted to travel abroad. Officials regularly extracted bribes from individuals who applied for passports.

There were approximately 800,000 refugees and IDPs in the country. The vast majority fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict. According to the State Statistics Committee, approximately 200,000 were refugees and 572,000 were IDPs. There were credible reports that Armenians from outside of the country, including ethnic Armenian immigrants from the Middle East had settled in parts of Nagorno-Karabakh and possibly other Azerbaijani territories occupied by Armenian forces. The Government appealed to the U.N. and the COE regarding those reports, and an OSCE Fact-Finding Commission was established to investigate the matter.

The Constitution prohibits forced exile, and the Government did not use it in practice.

There were no prohibitions against the return of citizens who left the country. However, the government agency responsible for reintegrating citizens who were refused asylum in other countries lacked the capacity to accommodate these individuals upon their return.

Approximately 20,000 Armenians, almost all of mixed parentage or in mixed marriages, continued to live in the country. This total does not include Armenians living in the occupied territories. According to unofficial estimates, between 200 and 250 ethnic Armenians of mixed marriages leave the country each year. While official government policy allowed ethnic Armenians to travel, low-level officials often extracted bribes or harassed Armenians who applied for passports. According to the International Organization for Migration (IOM), 43 Armenians of mixed descent reported to an Azerbaijani NGO that they had problems with officials in the passport and registration department when applying for identification cards; applicants who applied with Azerbaijani surnames encountered no problems except for having to pay bribes.

The Armenian Government continued to prevent the hundreds of thousands of Azerbaijanis forced out of their homes in the occupied territories from returning; however, the Armenian Government did permit the return of some ethnic Armenians.

In July, the President issued a decree to improve living conditions and to increase employment for refugees and IDPs. Under the state-run program, all IDPs are expected to be resettled from camps to newly constructed housing. According to the Government, it directed \$3.14 million (15.7 billion manat) from the State Oil Fund to build housing and to improve socio-economic conditions of refugees and IDPs. At year's end, the Government began construction of 5 new settlements in Agdam and 1 in Agjabedi for 3,600 families.

During the year, the Government received \$34 million (170 billion manat) in assistance from international and domestic humanitarian organizations for refugees and IDPs. According to the Government, it also allocated \$18 million (88 billion manat) from the country's oil fund to improve living conditions for IDPs and refugees. In August, the IDP and Refugee Committee's estimated expenditures were \$60.8 million (297.7 billion manat).

According to the IOM, approximately 40,000 IDPs continued to live in camps, 60,000 in underground dugout shelters, and 20,000 in railway cars; however, the Government took steps to relocate 40,000 IDPs out of railway cars and camps to special settlements. Still, the majority of IDPs lived at below-subsistence levels, without adequate food, shelter, education, sanitation, and medical care. At the same time, approximately 40,000 IDPs lived in settlements provided by the EU, while another 40,000 lived in housing provided by the U.N. High Commissioner for Refugees (UNHCR). The remainder were scattered among unfinished buildings, hostels, public health facilities, and the homes of relatives.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection for refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they faced persecution, and granted refugee status during the year.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. These organizations reported full and unrestricted access to the refugee population. Unlike in previous years, all asylum applications were now sent directly to the Refugee Status Determination Department (RSD) of the State Committee for Refugees instead of through the UNHCR. By year's end, a total of 177 residual cases of asylum seekers from Afghanistan and Iraq (161 Afghans and 16 Iraqis) were handed over to the RSD. The UNHCR in Baku continued to provide assistance to asylum seekers while monitoring the RSD's processing of asylum cases and providing referrals to legal assistance for those whose claims were rejected.

At year's end, the RSD had received 235 applications for refugee status for 432 individuals. Of that number, 117 applications came from the UNHCR; the remaining were new applications. The RSD granted refugee status to 18 persons during the year.

By year's end, the UNHCR registered 10,764 asylum seekers or refugees, including the 8,669 Chechens who fled from Russia and 581 Afghans. However, according to re-registration figures, there were only 161 long-term Afghan residents in the country. A small number of new refugees and asylum seekers from Iran, Iraq, and other countries also registered during the year.

Under the non-visa regime with Russia, Russian citizens can enter, exit, and move through the country without a visa, but they were expected to register with the Baku Police Department within 3 days of their arrival. However, in practice the majority of asylum seekers from the Russian Federation did not register and remained in the country illegally. During the year, the UNHCR received no information regarding expulsions or deportation of asylum seekers from Russia.

Arbitrary harassment, detention, and arrests of undocumented Chechens continued to be a problem; however, the UNHCR noted fewer cases than in the previous year. The laws on residence, registration, and the status of refugees and IDPs did not apply to Chechens, who were required to register with the police and not entitled to residence permits. Chechens may receive a 3-month visa. Chechen children were allowed to attend public schools. As of September, approximately 700 Chechen children out of an estimated 3,000 attended public schools. Access to medical services improved for Chechen refugees; however, access to specialized medical assistance remained problematic.

During the year, the UNHCR reported that police arrested seven Chechens: Six on suspicion of criminal activity and one for not having a residence permit. Chechens accused of criminal offenses and wanted by Russian authorities were extradited to Russia.

The RSD did not accept applications for refugee status from Chechens. Instead, the UNHCR carried out all functions to provide Chechens with required assistance and protection to remain in the country legally. Pursuant to UNHCR guidelines and to the Government's policy, most refugees from Russia that originate from Chechnya were considered persons of concern. Only Chechens who registered with the UNHCR were provided letters of concern, which protected them from forced repatriation to their homeland. These letters were not travel documents and were valid for a limited time.

According to IOM, the Government continued to deport illegal Iranian immigrants, many of whom were economic migrants who continued to return to the country even after they were deported.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, the Government continued to restrict this right by interfering in local elections. The Constitution provides for an independent legislature; however, in practice, Parliament's independence was minimal, and it exercised little legislative initiative independent of the executive branch.

The October 2003 presidential election, which formally brought Ilham Aliyev to power, failed to meet international standards for democratic elections due to a number of serious irregularities. These included the lack of a level playing field in the pre-election campaign, police violence in the pre- and post-election periods, and partisan election commissions.

Serious irregularities noted by observers included disenfranchisement of voters because of inaccurate voter lists, intimidation of voters and election commission members, ballot box stuffing, and irregularities in vote counting and tabulation. The Government accredited approximately 2,000 domestic election observers but banned domestic NGOs that receive foreign assistance from observing the election.

However, there were some improvements in the October 2003 election, including application of parts of the Unified Election Code (UEC), which the President signed into law in May 2003 and is scheduled to take full effect in 2005. The Government also promptly posted election results on the Internet; however, the observed irregularities and insufficient transparency in vote counting and tabulation led to serious doubts about the accuracy of the 77 percent of the vote officially recorded for Ilham Aliyev. In the days prior to the announcement of preliminary results from the October 2003 presidential elections, the CEC denied OSCE/ODIHR observers access to its documents and activities, resulting in a lack of transparency during the final vote count (see Section 4). By year's end, the Government still had not investigated the irregularities.

In December, nation-wide municipal elections were marred by widespread fraud and serious irregularities. These included ballot-box stuffing, forging voters' signatures, multiple voting, voting without proper identification, and intimidation of election officials and voters by local government authorities appointed by the presidential administration. There were also technical problems. For example, in some districts, up to 110 candidates competed for 19 municipal seats, which presented precinct commission members with the difficult task of accurately counting all votes, and many commissions failed to do so.

Most prominent opposition political parties boycotted the election due to an uneven playing field; however, many opposition candidates registered as independents. In a positive step to acknowledge the gravity of the irregularities, the Central Election Commission (CEC) for the first time forwarded 95 complaints of election fraud to the Prosecutor General's office for criminal investigation. The law stipulates up to 1 year in prison for election-related fraud.

The October parliamentary by-elections were also marked by serious irregularities such as ballot-box stuffing, fraudulent voter lists, and falsification of figures on precinct protocols. Some voters received ballots without providing valid identification or by showing invalid documents, and election observers witnessed poll workers forging signatures on voter registration lists. Unauthorized persons, including representatives of local governments, were present in many precincts during the vote counting and in some cases directed the counting.

Two amendments passed in the 2002 referendum continued to be controversial. One eliminated the proportional representation system required for 25 of the 125 seats in Parliament; the second replaced the Chairman of the Parliament with the Prime Minister in the line of succession to the presidency, a change that makes it easier for the President to designate his successor. In August 2003, then President Heydar Aliyev named his son, Ilham, Prime Minister, which allowed him to assume unofficially the responsibilities of acting president because of his father's ill health, and to run as the incumbent in the October 2003 election.

During the year, authorities harassed and evicted opposition political parties from their offices. Limitations on opposition activities were particularly acute in certain remote regions, including Nakchivan where opposition activities were severely limited. The Government also applied organized pressure against opposition party members to limit their business activities and dismiss opposition-linked persons from state-funded jobs.

Throughout the summer, local authorities around the country interfered with a study on religious freedom conducted by the FAR Center, a Baku-based research organization. The interference allegedly occurred because the director of the center had close political ties to the opposition Musavat party.

In 2003, HRW documented more than 100 job dismissals around the country of either opposition members or their relatives. Many of those who were dismissed said their employers warned them before the election and explicitly told them afterwards that they were dismissed because of their opposition activity or the activity of their relatives. There were also credible reports that some election commission members who refused to sign falsified vote tallies were also dismissed.

At least 20 of the 42 registered political parties were considered opposition parties (*see* Section 2.b.). Unregistered political parties continued to function; however, authorities prevented them, as well as registered opposition parties, from conducting outdoor gatherings (*see* Section 2.b.). Registered parties were able to hold indoor meetings. Members of unregistered political parties may run for president but must be sponsored by a registered party or by an independent "voters' initiative group." Members of unregistered parties also may run for Parliament, although none was represented in the Parliament. Opposition members occupied 5 seats in the 125-member Parliament.

The 2003 UEC includes provisions for a new CEC, District Election Commissions, and Precinct Election Commissions that will come into force based on the results of parliamentary elections in 2005. The UEC, which combines four existing election laws and referenda, was drafted in consultation with international election advisers, including IFES, the COE, and OSCE/ODIHR. However, the UEC permits establishment of election commissions structured in favor of the ruling party, and did not change provisions contained in other legislation that prohibit domestic NGOs that receive foreign funding from observing elections.

The laws penalizes corruption by outlawing bribery; however, there was widespread public perception of corruption throughout all facets of society, including the civil service, government ministries, and the highest levels of government. The law on bribery carries a sentence of 2 to 7 years for receiving a bribe, and up to 5 years for offering a bribe. Presentation of a bribe to an official is punishable by 3 to 8 years' imprisonment. According to the General Prosecutor's office, 120 criminal cases related to corruption were opened during the year, with 10 specifically on bribery charges; however, these cases had little or no impact overall on the prevalence of bribery and corruption in the country.

In March, the President enacted a new law on corruption by decree, which is scheduled to take effect in January 2005. It requires public officials to report annual income, sources of income, property owned, and financial liabilities. It also prohibits nepotism and limits giving gifts and direct or indirect financial benefits to public officials or third parties.

The law provides for public access to government information by individuals and organizations; however, it does not specify procedures for obtaining government information.

Although government ministries have separate procedures on how to request information, they routinely denied requests, claiming not to possess the information.

Individuals have the right to appeal the denials in court; however, the courts generally upheld the decisions of the ministries.

There were no legal restrictions on the participation of women in politics; however, traditional social norms limited women's political roles, and they were under-represented in elective offices. The practice of "family voting," whereby men voted on behalf of their wives and other female family members, continued. There were 14 women in the 125-seat Parliament. Several women held senior government positions, including Deputy Chair of Parliament, Chairperson of the Supreme Court, and Deputy Chair of the CEC.

Lezghins, Talysh, and Avars continued to serve in Parliament and Government.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Many domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the Government maintained ties with some human rights NGOs and responded to their inquiries, on occasion, the Government criticized and intimidated some human rights NGOs and activists, and the MOJ routinely denied or failed to register some human rights NGOs (see Section 2.b.).

Several NGOs reported that the Government and police at times refused to protect them from so-called "provocateurs" who harassed and attacked NGO activists and vandalized their property. The NGOs accused authorities of inciting the harassment and attacks in some cases. For example, in June authorities in the exclave of Nakchivan allegedly beat and detained Avaz Hasanov, coordinator for an international working group on prisoners, hostages, and lost persons in Karabakh, after he returned from Nagorno-Karabakh. Also in June, the Ministry of Taxes and MOJ in Nakchivan threatened to close the NGO Resource Center because it was not registered. The Resource Center had applied for registration but was denied. However, in October, Nakchivan authorities approved the Resource Center's registration, making it the first registered NGO in the exclave. In May, Mahammad Rzayev, a lawyer working for the resource center who also worked part-time as a regional correspondent for opposition newspaper Azadliq, was kidnapped and beaten by police.

In September, in Baku, provocateurs disrupted a major, high-level NGO conference on coordinating NGO activity for December municipal elections by shutting off the power and removing tables and chairs. The same NGO also had problems holding similar conferences throughout the regions in the weeks leading up to the municipal elections. In November, Akifa Aliyeva, coordinator of the Ganja branch of the Azerbaijan Helsinki Citizens' Assembly (HCA) was presented on television as an enemy of the state after her interview on a peace-building project between Azerbaijanis and Armenians was edited to purposely distort her remarks. Individuals subsequently protested at the HCA offices in Baku and in Ganja.

In early 2003, Leyla Yunus, Director of the Institute of Peace and Democracy, and Eldar Zeynalov, Chairman of the Human Rights Center of Azerbaijan, were harassed for their work on Nagorno-Karabakh. In September 2003, the Committee for the Protection of Women's Rights reported that security officials at the Nakchivan airport refused to assist a group of human rights activists who were assaulted with eggs and tomatoes.

In April, the President issued a decree to implement the law on registering NGOs; however, the registration law remained cumbersome, and some provisions related to the liquidation of NGOs were vague. For example, amendments passed in 2003 complicated requirements to register grants from foreign entities and subjected the funds to a social security tax of 27 percent on employee salaries. However, grants from a few countries, which had bilateral agreements with the Government, were subject to a 2 percent tax on employee salaries. NGOs remained exempt from value added tax (VAT).

In December, the President issued another decree to establish a central registration point and eliminate artificial impediments to registration and other technical improvements. By year's end, no information was available on whether this decree eased the registration process. During the year, 168 NGOs were registered.

In September 2003, the MOJ revoked the registration of a Muslim NGO, Islam-Ittihad, on charges of spreading religious propaganda and attempting to establish a religious regime. The NGO focused on preventing alcoholism, narcotics abuse, and helping orphans and children with thalassemia. The Islam-Ittihad directors, Azer Ramizoglu and Ilgar Ibrahimoglu, who were both outspoken religious freedom activists, appealed the decision (see Section 2.c.). In July, the Supreme Court upheld the MOJ decision.

Foreign diplomats, the ICRC, and COE delegations all had access to prisons to meet with prisoners (see Section 1.c.). The Government met with COE rapporteurs

who visited the country to monitor political conditions, and allowed OSCE/ODIHR and other international observers to monitor the October 2003 election. However, in the days prior to the announcement of preliminary results from the October 2003 presidential elections, the CEC denied OSCE/ODIHR observers access to its documents and activities, resulting in a lack of transparency during the final vote count (see Section 3).

In 2002, Parliament established the office of an Ombudswoman for human rights. Citizens may appeal violations committed by the state or by individuals. The Ombudswoman may refuse to accept cases of abuse that occurred more than 1 year ago, anonymous complaints, and cases that are being handled by the judiciary. During the year, the Ombudswoman traveled around the country to hear human rights complaints and cooperated with foreign diplomats working on human rights activities. However, according to local human rights NGOs and activists, the Ombudswoman's work was ineffective. In December, the Ombudswoman presented her annual report to Parliament, which was not made public by year's end.

The Parliament and MOJ also had human rights offices that heard complaints and followed up with investigations and recommendations to relevant government bodies. Officials of the human rights office with the Ministry of Foreign Affairs met with the diplomatic community to discuss issues of concern to the international community.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equal rights without respect to gender, race, national origin, language, social status, or political affiliation; however, in practice the Government did not always respect some of these provisions.

*Women.*—Violence against women, including domestic violence, continued to be a problem. In rural areas, women had no effective recourse against assaults by their husbands or others; there are no laws on spousal abuse or rape. Rape is illegal and carries a maximum 15-year prison sentence. The Government stated that 25 rapes and attempted rapes had been reported during the year. Most rape victims reportedly knew their assailants but did not report incidents out of fear and shame.

There were no government-sponsored programs for victims of domestic violence or rape. In Baku a women's crisis center operated by the Institute for Peace and Democracy provided free medical, psychological, and legal assistance for women. Since 2001, the center has provided services to more than 4,200 women, including 1,700 during the year. An additional 4,700 women have called the center's hotline. During the year, the Institute also completed work with Internews on a television series on women's rights, anti-trafficking, and gender issues, which was broadcast on regional channels and in Baku.

Prostitution is not a crime; it is an administrative offense punishable by a fine of up to \$100 (500,000 manat). Pimps and brothel-owners may be sentenced to prison for up to 6 years. The legal age of consent was 16. Prostitution was a serious problem, particularly in Baku.

Women nominally enjoy the same legal rights as men; however, societal discrimination and trafficking in women for sexual exploitation were problems (see Section 5, Trafficking).

Traditional social norms and poor economic conditions continued to restrict women's roles in the economy, and there were reports that women had difficulty exercising their legal rights due to gender discrimination. For example, women were underrepresented in high-level jobs, including top business positions. The law prohibits pregnant women and women with children under the age of 3 from working at night; pregnant women and women with children under 18 months of age cannot work more than 36 hours per week.

There were approximately 50 registered NGOs that focused on problems affecting women. One of the most active, the Society for the Defense of Women's Rights, provided speech and communication training for women in politics, and urged political party leaders to appoint women to high-ranking positions.

*Children.*—The law requires the Government to protect the rights of children with regard to education and health care; however, difficult economic circumstances limited the Government's ability to fulfill its commitments.

Public education was compulsory, free, and universal until the age of 17. According to the Ministry of Education, 100 percent of school-age children attended school during the year; however, UNICEF reported that the figure was approximately 88 percent. The Government provided a minimum standard of health care for children, but the overall quality of medical care was very low.

The law prescribes severe penalties for crimes against children, and children were generally treated with respect, regardless of gender; however, there were some reports of abuse of children, including trafficking (*see* Section 5, Trafficking).

A large number of refugee and IDP children lived in substandard conditions in camps and public buildings (*see* Section 2.d.). In some cases, children were unable to attend school. In impoverished rural areas, large families sometimes placed a higher priority on the education of male children and kept girls to work in the home. Some poor families forced their children to beg (*see* Section 6.d.).

A coalition of more than 30 local and international NGOs worked with the Government, the local community, and international organizations such as UNICEF and the World Bank, to raise awareness of children's needs and to build capacity to meet those needs. During the year, the coalition worked with the World Bank to redistribute the social benefit package for children and families in need, and began work on the alternative report to the Government's spring submission on the status of its obligations under the U.N. Convention on the Rights of the Child.

From June through December, the coalition taught street children about healthy lifestyle choices, brought in an occupational therapist to assess conditions for children with disabilities in orphanages, and completed a public awareness campaign on the rights of children with disabilities. The coalition also met routinely with government officials for talks on the rights of children.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, although existing provisions of the law are used to prosecute trafficking cases, and there were reports that men, women, and children were primarily trafficked from the country for sexual exploitation and forced labor. Corruption in some government agencies facilitated trafficking.

While trafficking is not a criminal offense, traffickers may be prosecuted under laws prohibiting rape, forced prostitution and labor, and forgery of travel documents. Most trafficking-related crimes prosecuted during the year carried maximum penalties between 3 and 6 years' imprisonment, except for rape and sexual violence, which both carry maximum 15-year prison sentences. There also are criminal penalties for enslaving, raping, and forcing children into prostitution. During the year, the Government convicted 10 individuals on trafficking-related crimes. It also arrested 48 individuals and opened 32 trafficking-related criminal cases.

Numerous government officials and ministries were involved in efforts to combat trafficking in persons; however, problems remained with providing formal assistance for victims, corruption, and adopting anti-trafficking laws. In May, the President signed a decree that ordered all government bodies to implement a new national action plan to combat trafficking in persons. The decree named a Deputy Minister of Internal Affairs as the national coordinator for anti-trafficking efforts. Since then, the Government created a special anti-trafficking police unit and began drafting legislation and Criminal Code amendments to specifically criminalize trafficking in persons.

The MIA improved its capacity to track potential traffickers and victims transiting through the country's international airport. The Government regularly collaborated with neighboring countries on anti-trafficking investigations.

The country was primarily a country of origin and transit for trafficked women, men, and children for sexual exploitation and forced labor. Azerbaijani, Russian, and Central Asian women and girls were trafficked from or through the country to the United Arab Emirates (UAE), Turkey, and Pakistan for work in the sex industry. In addition, 162 Azerbaijani trafficking victims were identified in other countries, including 63 in Pakistan, 45 in the UAE, 40 in Turkey, and 14 in India.

Women and girls were trafficked internally from rural areas to the capital for sexual exploitation. Men were trafficked to Turkey and Russia for forced labor and boys were trafficked internally for begging. Iranians, Iraqis, Afghans, and migrants from South Asia were smuggled through the country to Europe—particularly Germany, Sweden, France, and the Netherlands—and possibly the United States where they at times had their passports confiscated and were subjected to forced labor. Traffickers generally targeted women.

Traffickers were either foreigners or ethnic Azerbaijanis who acted in loose concert with international networks. They approached victims directly and indirectly through friends and relatives. Traffickers also used deceptive newspaper advertisements that offered false work abroad.

Traffickers also used fraudulent marriage proposals from men posing as Iranian businessmen to lure women into prostitution in neighboring Iran. Traffickers approached some families who willingly married their daughters to wealthy Iranians without concern for the actual outcome.

There was no evidence of government complicity in facilitating trafficking in persons; however, NGOs suspected that low-level government workers and police officers accepted bribes from traffickers to overlook their activities. During the year, the Government dismissed the chief of a regional passport registration office and two inspectors for issuing illegal citizenship identification cards to several individuals.

There were no government-sponsored anti-trafficking public education campaigns, and no standardized mechanism to return trafficked women to the country; however, during the year Azerbaijani consular officials began to work on an ad hoc basis with international organizations to repatriate trafficking victims to the country.

The Government reported that by year's end it had sent 150 trafficking victims (141 Azerbaijanis, 6 Uzbeks, 2 Russians, and 1 Georgian) to a special healthcare center.

According to IOM, some Azerbaijanis and third country nationals who were either victims of trafficking or engaged in prostitution were deported to the country, primarily from Turkey and the UAE. However, the Government had no program to assist them.

Several NGOs, like the Institute for Peace and Democracy and Clean World, and bodies such as the State Committee for Women's Issues, worked on anti-trafficking activities and programs to prevent prostitution. The IOM and OSCE provided training for domestic NGOs on how to operate emergency hotlines, conduct awareness campaigns, and secure housing for trafficking victims.

*Persons With Disabilities.*—There was social discrimination against persons with disabilities in employment; however, there were no credible reports of discrimination in education or access to health care.

The law gives priority to persons with disabilities to obtain housing, pension supplements, and discounts for public transportation; however, the Government did not have the means to fulfill these commitments. There are no special provisions in the law mandating access to public or other buildings for persons with disabilities, and improving access was not a government priority.

Depending on the severity of the mental illness, some individuals were denied the right to vote.

The Ministries of Health and Labor and Social Welfare were responsible for protecting the rights of persons with disabilities. Care in facilities for the mentally ill and persons with disabilities varied. Some provided adequate care but others lacked qualified caregivers, equipment, and supplies to maintain sanitary conditions, and provisions to provide a proper diet. There were no credible reports of cruel treatment of patients in government-run mental health facilities. The Ministry of Health continued a program to renovate state mental health facilities in recognition of the need to provide better care for persons with mental disabilities.

*National/Racial/Ethnic Minorities.*—Numerous indigenous ethnic groups lived in the country, and the Constitution provides them with the right to maintain their culture and language, and the Government generally respected these rights; however, there were some problems.

For example, some groups complained that authorities restricted their ability to teach or print materials in their native languages. Farsi-speaking Tالش in the south of the country, Caucasian Lezghins in the north, displaced Meskhetian Turks from Central Asia, and displaced Kurds from the Armenian-occupied Lachin region reported incidents of discrimination, restrictions on the ability to teach in their native languages, and harassment by local authorities.

Some Armenians and persons of mixed Armenian-Azerbaijani descent said they were denied work, medical care, and education and could not register their residences due to their ethnicity. The approximately 20,000 citizens of Armenian descent also complained of discrimination in employment, schooling, housing, and other areas. They said they experienced discrimination and harassment at work and that local authorities refused to pay their pensions. Most Armenians concealed their ethnicity, legally changed the ethnic designation in their passports, or tried to leave the country. However, some persons of mixed Armenian-Azerbaijani descent held government jobs. Public figures in mixed marriages or of mixed-Armenian and Azerbaijani parentage were at times openly criticized by colleagues in newspapers and on television and radio.

There was one senior government official responsible for ethnic minority policy; however, preventing discrimination was not a government priority.

In the area occupied by ethnic Armenian forces, approximately 600,000 ethnic Azerbaijanis were forced to flee their homes during the Nagorno-Karabakh conflict (see Section 2.d.). The authorities who controlled the occupied areas effectively banned ethnic Azerbaijanis from all spheres of civil, political, and economic life.

*Other Societal Abuses and Discrimination.*—The Government did not officially condone discrimination based on sexual orientation; however, there was societal prejudice against homosexuals, especially with regard to housing.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association, including the right to form labor unions; however, there were some restrictions on this right in practice.

Uniformed military and police were prohibited from participating in trade unions, although civilians working in the Interior and Defense Ministries were allowed to do so. The law also prohibits managerial staff from joining a trade union; however, in practice, managers in state industries often had union dues automatically deducted from their paychecks. During the year, the Government refused to register a trade union in the transportation sector because the Government alleged that it had engaged in criminal activity.

The law prohibits unions from engaging in political activity; however, some government-aligned unions ignored this prohibition. Individual members of trade unions were not restricted from political activity. Trade unions were allowed to draft legislation on labor, social, and economic matters, but most did not take part in such activity.

Many of the state-owned enterprises that dominate the formal economy withheld union dues from workers' pay but did not deliver the dues to the unions. As a result, unions did not have resources to carry out their activities effectively.

The overwhelming majority of labor unions continued to operate as they did under the Soviet system, and remained tightly linked to the Government; exceptions were independent journalists' unions.

The Azerbaijani Trade Union Confederation (ATUC) had approximately 1.5 million members, including 26 labor federations in various industrial sectors. Although registered independently, some workers considered the ATUC a "yellow union" because of its close alignment with the Government.

The Union of Oil and Gas Industry Workers continued to operate without a vote by rank and file workers, and membership remained mandatory for the State Oil Company's (SOCAR) 60,000 workers, whose union dues (1 percent of each worker's salary) were automatically deducted from their paychecks.

There were no reports of government anti-union discrimination; however, labor disputes were primarily handled by local courts, which were widely considered corrupt. There were reports of anti-union discrimination by foreign companies operating in Baku. Most foreign oil companies did not allow union membership; however, in July free trade unions were established in one foreign company and one joint venture involving a foreign company.

*b. The Right to Organize and Bargain Collectively.*—The law allows trade unions to conduct their activities without government interference; however, in practice, most trade unions were not independent. The law also provides for collective bargaining agreements to set wages in state enterprises, and trade unions actively negotiated with employers, particularly in the formal sector. However, unions could not effectively participate in negotiating wage levels because government-appointed boards ran major state-owned firms and set wages according to a unified tariff schedule. In addition, the Ministry of Labor reported that the government continued to have limited success in addressing worker-related issues with foreign companies.

The law provides most workers with the right to strike. Categories of workers prohibited from striking include high-ranking executive and legislative officials, law enforcement officers and court employees, health, electric power, water supply, telephone, fire fighters, and railway and air traffic control workers. Striking workers who disrupt public transportation can be sentenced up to 3 years' imprisonment. The law prohibits retribution against strikers such as, dismissal or replacement. In July, police twice prevented workers from striking at Baku Tram Park.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution allows forced or compulsory labor only under states of emergency and martial law, or in court decisions affecting condemned persons; although there were no reports of slavery or prison labor imposed by government authorities, there were reports of forced or compulsory labor, including trafficking in persons (*see* Section 5, Trafficking).

The law also permits compulsory labor in connection with the military or extreme situations based on legislative authorization and under governmental supervision.

Two departments in the General Prosecutor's Office were responsible for enforcing the prohibition on forced or compulsory labor.

There were continued reports that some military officers used conscripts as unpaid laborers on construction projects.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for the protection of children from economic exploitation and from work that is dangerous to their health, and there were few complaints of abuses of child labor laws.

The minimum age for employment depended on the type of work. In most instances, the law permits children to begin work at age 15; however, with the consent of their parents, 14-year-olds may work in family businesses or at after-school jobs during the day that pose no hazard to their health. Children under 16 may not work more than 24 hours per week; children between 16 and 18 may not work more than 36 hours per week. The law prohibits employing persons younger than 18 in jobs with difficult and hazardous work conditions. The Ministry of Labor and Social Security was responsible for enforcing child labor laws.

During the year, the Government ratified the ILO Convention 182 on the worst forms of child labor. The country also joined the European Charter Article on Protecting Child and Youth Rights.

There were reports that some parents forced their children to beg.

*e. Acceptable Conditions of Work.*—In December, a presidential decree raised the minimum monthly wage from \$20 (100,000 manat) to \$25 (125,000 manat). The move followed an increase in July that raised the minimum from \$12 (60,000 manat) to \$20 (100,000 manat). The \$25 minimum wage was slightly above the official poverty level of \$24 (120,000 manat) set by the Government. However, it was not sufficient to provide a decent standard of living for a worker and family.

Most workers earned more than the minimum wage, with the average monthly wage reaching \$93 (467,300 manat) during the first 8 months of the year. Many citizens also relied on extended families or on remittances from relatives working in Russia for support. The combination of these funds and other strategies allowed most urban dwellers to attain a subsistence income level.

The law provides for a 40-hour work week; the maximum daily work shift is 12 hours. Workers in hazardous occupations may not work more than 36 hours per week. The law requires lunch and rest periods, which are determined by labor contracts and collective agreements. The Government attempted to enforce the contracts and agreements; however, the Ministry of Labor reported little success in the informal sector, where most individuals were employed, because of poor cooperation from private companies.

The law set health and safety standards, but they were widely ignored; government inspections of working conditions were weak and ineffective. The ATUC also monitored compliance with labor and trade regulations, including safety and health conditions. Between 1997 and year's end, the ATUC reported that it inspected 2,000 enterprises and organizations and found 28,432 legal and technical violations. The ATUC said that virtually all of the violations were addressed, and no official complaints were registered.

Workers could not leave jobs that endangered their health and safety without fear of losing their jobs. According to the Oil Workers Rights Defense Council (ORDC), an NGO dedicated to protecting worker rights in the oil sector, six State Oil Company workers were lost at sea due to workplace accidents during the year. Another three oil workers died in other industry-related accidents. Workplace accidents were also a problem in other sectors of the economy. The law provides equal rights to foreign and domestic workers, though local human rights groups, including ORDC, maintained that disparities existed, particularly in foreign oil companies.

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## BELARUS

According to its amended Constitution, the country is a republic with a directly elected president and a parliament consisting of two chambers. The lower chamber's members are directly elected and the upper chamber's members are appointed by the president and elected by regional councils. President Aleksandr Lukashenko, first elected in 1994, has systematically undermined the country's democratic institutions. Through a series of flawed referenda, manipulated elections, and undemocratic laws and regulations, he has concentrated all power in the executive branch and extended his term in office. An October 17 referendum changed the Constitution and removed term limits for the office of President. Both the referendum and the parliamentary elections that took place on the same day failed to meet international

democratic standards. The judiciary is not fully independent and operates under significant control by the presidential administration.

The Committee for State Security (BKGB) and the Ministry of Internal Affairs (MVD), both of which report directly to the President, share law enforcement and internal security responsibilities. The President and the Presidential Administration exercise control over the security forces. Members of the security forces committed numerous human rights abuses.

The economy was largely centrally planned with industry accounting for approximately 50 percent of economic output. The country had a population of just under 10 million. The majority of workers were employed in the state industrial and state agricultural sectors. The living standards for many segments of society remained low, and wages in the state sector were lower than the national average. The International Monetary Fund reported that the gross domestic product grew by an inflation adjusted rate of 6.4 percent. The rate of inflation was 20 percent for during the year. The Government reported that unemployment decreased to 2.4 percent, but most independent observers believed that hidden unemployment was high.

The Government's human rights record remained very poor and worsened in some areas, and the Government continued to commit numerous serious abuses. The Government continued to deny citizens the right to change their government through a transparent democratic process; opposition political parties and movements were subjected to increased pressure through both judicial and extrajudicial measures. The Government refused to register many opposition parliamentary candidates. The authorities did not undertake serious efforts to account for the long term disappearances of well known opposition political figures and a journalist and continued to discount credible reports regarding the role of government officials in those disappearances. Police abuse and occasional torture of prisoners and detainees continued. Prison overcrowding remained a problem. Security forces arbitrarily arrested and detained citizens for political reasons; in addition, individuals were sentenced to jail terms for such political crimes as defamation of state officials.

The Government continued to restrict the freedoms of speech, press, assembly, and association. Law enforcement officials arrested and used excessive force against individuals peacefully protesting electoral and referendum fraud and also against journalists reporting on such protests. It intensified pressure on the independent media by closing numerous newspapers. It further restricted the activities of NGOs by using legal technicalities to de register them and subjecting them to frequent tax investigations and other forms of harassment. It imposed restrictions on religious freedom. The Government shut down most major registered human rights NGOs, and state security authorities increasingly harassed those that remained. Societal violence and discrimination against women remained problems. Trafficking in women and children remained a problem, although the Government continued serious efforts to combat it. The authorities intensified their already severe restrictions on workers' rights to associate freely, organize, and bargain collectively.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents; however, at least one individual died in official custody in circumstances suggesting official culpability.

On January 23, Maksim Khromelyu died in police custody; credible reports indicate that his body displayed bruising and hemorrhaging indicative of assault.

There were no credible government efforts during the year to solve the disappearances and presumed killings of journalist Dmitryy Zavadskiy in 2000, opposition figures Yuryiy Zakharenko, and Viktor Gonchar in 1999, and businessman Anatoliy Krasovskiy in 1999 (see Section 1.b.). Credible evidence indicates that government agents may have killed Zakharenko, Gonchar, and Krasovskiy because of their involvement with the political opposition. On April 6, the Government declared Zavadskiy to be deceased and suspended its investigation of his abduction for a second time. They first declared in November 2003 that Zavadskiy was deceased and then reversed that declaration and resumed the investigation in December 2003.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances during the year.

The earlier disappearances and presumed killings of television cameraman Dmitryy Zavadskiy, former Minister of Internal Affairs Yuryiy Zakharenko, 13th Supreme Soviet Deputy Chairman Viktor Gonchar, and opposition supporter Anatoliy Krasovskiy remained unresolved. There were credible reports that senior government officials were involved in the disappearances, and the Government did

not make a serious effort to solve them during the year. On April 8, the U.N. Commission for Human Rights (UNCHR) approved its second resolution on the disappearances, urging the Government to conduct an impartial investigation, beginning with the suspension of those senior officials suspected of involvement. The UNCHR nominated a Special Rapporteur to examine the country's human rights performance (see Section 4). The authorities denied a visa to this Rapporteur in December. On April 28, following an investigation of the disappearances by its own Special Rapporteur, the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution stating that the Government had failed to investigate these disappearances and had covered up the true circumstances of the disappearances (see Section 4). The Government has not acknowledged the deaths of the other three.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police and prison guards regularly beat detainees and prisoners. The law restricts the use of force by police and prison officials; however, human rights monitors repeatedly reported that investigators coerced confessions through beatings and psychological pressure.

Police and plainclothes officers occasionally beat individuals while arresting them or holding them in detention. During a July 21 opposition protest, Interior Ministry riot police (OMON) beat 17 year old Mikhail Avdeyev with truncheons, leaving him with broken ribs and a hematoma, which led to the removal of his spleen. On October 19, in breaking up a protest following the constitutional referendum, police used truncheons and other force against some of the protesters while arresting them, including United Civic Party leader Anatolyy Lebedko. Lebedko was hospitalized after his arrest, beating, and a subsequent brief detention. Police forcibly kept journalists from photographing the arrest and beating of Lebedko and damaged a video camera in the process.

Credible reports indicated that prison guards regularly beat detainees and prisoners and that torture was widespread in prisons. There were no prosecutions in the March 2003 police beating of Anton Kishkurno. The Ministry of Foreign Affairs (MFA) reported that the district police officer in charge of youth issues was dismissed after the investigation into the July 2003 beating of Oleg Gnedchik.

Dedovshchina, the practice of hazing new army recruits through beatings and other forms of physical and psychological abuse, reportedly continued. The authorities blocked efforts by family members and human rights monitors to investigate reports of dedovshchina.

On several occasions during the year, unknown persons attacked political opponents of the Government. On July 1, several unknown assailants beat prominent opposition parliamentarian Valeriy Frolov and his driver as they were returning from Moscow; no arrests were made in the case. No further developments were reported in the 2003 beatings of school rector Vladimir Kolas, scientists Yevgeniy Babosov and Radim Goretskiy, and NGO head Oleg Volchek nor was there any indication that the authorities were pursuing these cases.

Prison conditions remained austere and were marked by occasional shortages of food and medicine and the spread of diseases such as tuberculosis, syphilis, and HIV/AIDS. About 1,100 prisoners were infected with HIV. Leila Zerrougui, the chairperson of the U.N. Working Group on Arbitrary Detention, who visited the country in August, noted that conditions in detention centers were worse than those in prisons because of improper sanitary and living conditions, restrictions on detainees' rights to make phone calls and receive parcels, and pressure to confess to wrongdoing. According to human rights monitors, conditions in prison hospitals were also poor.

The problem of overcrowding eased. The Government reported that the prison population, which was 52,500 in 2003 decreased to approximately 33,000 in June. In many cases, food provided in prisons did not meet nutritional requirements or accommodate dietary needs.

According to prison policy, male and female prisoners were held separately. Juveniles were held separately from adults, and pretrial detainees normally were held separately from convicted prisoners.

At times, authorities granted human rights monitors access to observe prison conditions. In August, they allowed a visiting delegation from the United Nations Working Group on Arbitrary Detention general access to prisons and detention centers; however, the Government denied the group access to a BKGB detention center, claiming that the group did not request the visit in advance. The monitors indicated that they had not been informed of such a notification requirement. The ICRC did not seek permission to visit inmates during the year.

*d. Arbitrary Arrest or Detention.*—The law limits arbitrary detention; however, the Government did not abide by these limits. Authorities continued to use administra-

tive measures to detain political activists before, during, and after protests (*see* Section 2.b.). Politically motivated arrests continued, but most of those arrested were released within a few hours or days.

The Ministry of Interior has authority over the police, but the BKGB and Presidential Security forces also exercise police functions. The President has the right to subordinate all security bodies to his personal command. Petty corruption among police was widespread. Impunity remained a serious problem. While the law gives individuals the right to report police abuse to the prosecutor, the Government often did not investigate abuses by the security forces or hold the perpetrators accountable.

The law specifies that police may detain an individual for up to 3 hours without providing any explanation for the detention, and the authorities frequently used this provision to detain opposition members and demonstrators. Police often detained individuals for several hours for the ostensible purpose of confirming their identity. On December 22, police detained 70 people about to depart for Kiev to observe the Ukrainian presidential elections. They were held for 4 hours and released without charge. The detention prevented the observers from boarding their scheduled train. The law allows police to detain a person suspected of a crime for up to 10 days without a formal charge and up to 18 months once charges are filed, and the authorities generally did not exceed these limitations. The law gives detainees the right to petition the court to determine the legality of their detention. In practice, appeals by suspects seeking court review of their detentions were frequently suppressed because detention officials were unwilling to forward the appeals. There is no provision for bail.

The law requires a warrant for searches; however, the Government in some cases performed searches without a warrant. For example, on June 30, police officers entered Yevgeniy Afnagel's apartment without presenting a warrant, then arrested Afnagel for attempting to refuse entry to the officers. There was credible evidence that prosecutors charged and courts convicted, individuals on false charges. There was also credible evidence that authorities filed economic charges against individuals in order to receive monetary payments, in at least one case extrajudicially.

Despite legal protections, investigators routinely failed to inform detainees of their rights and conducted preliminary interrogations without giving detainees an opportunity to consult counsel. Information obtained from such interrogations was used against the defendants in court. The Government frequently failed to notify family members when a detention occurred, including that of a juvenile. For example, on September 23, police detained tenth grader Aleksandr Ryzhanovsky for 3 hours for passing out anti government leaflets before notifying his parents, despite the legal requirement for immediate notification.

The Government arbitrarily detained representatives of independent media (*see* Section 2.a.). On October 17, police arrested Russian journalist Pavel Sheremet on allegations of starting a fight in which Sheremet received serious injuries. Credible reports indicated that Sheremet was the victim of the assault, not its perpetrator, and that his detention was related to his journalistic work. Charges against Sheremet were later dropped. Police on multiple occasions during the year detained journalists for Russia's REN TV who were covering protests. Unidentified plainclothes officials working for the security services also regularly apprehended and detained individuals engaged in anti government demonstrations and who distributed opposition materials. Several plainclothes officers apprehended youth group leader Dmitry Dashkevich as he shouted, "Shame" during an address by President Lukashenko announcing a referendum that would eliminate term limits on the presidency and thus permit him to run for a third presidential term. Police took Dashkevich away in an unmarked van (*see* Section 2.a.). On October 19, police arrested 34 opposition activists for holding an unauthorized rally in the center of the city near the Presidential Administration; these activists received fines or administrative detention of up to fifteen days. On July 21, police arrested 60 individuals during a protest, and one protester was hospitalized as a result of injuries sustained during the arrests (*see* Section 1.c.). Security officials also held some detainees incommunicado following demonstrations.

In addition to hundreds of anti government protesters, many of whom authorities held for several hours or days, authorities also held several prominent political detainees for prolonged periods of time in pretrial detention. Lengthy pretrial detention was common, although statistics on the number of persons in pretrial detention and the average length of such detention were not available. BKGB officers arrested and detained the former External Economic Affairs Minister and opposition politician Mikhail Marinich from April 26 until the end of December on a changing series of charges that included illegal possession of firearms, illegal possession of classified documents, and theft of computer equipment and cell phones from an NGO he head-

ed. On December 30, Marinich was convicted of the theft of the computer equipment and cell phones and sentenced to 5 years in prison (*see* Section 1.e.). U.N. observers were denied access to Marinich to verify his condition (*see* Section 1.c.).

*e. Denial of Fair Public Trial.*—The Constitution subordinates the judiciary to the executive branch by giving the president the power to appoint 6 of the 12 members of the Constitutional Court, including the chairman. The President also appoints the chairmen of the Supreme Court and the Supreme Economic Court and has the constitutional authority to appoint and dismiss all district and military judges. One judge was tried and convicted of corruption during the year. Corruption and inefficiency in the judiciary were generally due to political interference in the work of the court system.

The criminal justice system has three tiers: District courts, regional courts, and the Supreme Court. A Constitutional Court was established to adjudicate serious constitutional issues; however, it was dependent on the executive branch. In practice, it did not challenge presidential initiatives and had no means of enforcing its decisions.

Prosecutors are also organized into offices at the district, regional, and republic levels. They are responsible to, and serve at the pleasure of, the Prosecutor General, who is appointed by the President. Prosecutors are not independent and do not have the authority to bring charges against the President or the members of his executive staff.

The Constitution provides for public trials; however, the courts frequently held trials in judges' offices, which prevented interested observers from monitoring certain trials. Judges adjudicate most trials; juries determine innocence or guilt only in the case of capital offenses in which the defendant pleads not guilty and demands a jury trial. Since judges were dependent on the Ministry of Justice (MOJ) for sustaining court infrastructure and on local executive branch officials for providing personal housing, there were widespread and credible reports that executive and local authorities dictated the outcome of trials.

Defendants have the legal right to attend proceedings, confront witnesses, and present evidence on their own behalf; however, in practice these rights were not always respected. Those sentenced to administrative detention often were not notified about trials against them. For example, on September 24, a court sentenced Nikita Sasim to 15 days of detention for hooliganism without Sasim's presence. On September 3, in Grodno, a judge denied Valeryy Levonevskiy the right to present witnesses, arguing that the 10 prosecution witnesses had provided enough information. On September 7, the judge sentenced Levonevskiy to 2 years in prison for defaming the President in a poem. The law provides for unlimited access to legal counsel for detainees and requires that the court appoint a lawyer for those who cannot afford one; however, at times these rights were not respected.

A presidential decree that subordinates all lawyers to the MOJ compromised the independence of lawyers. Several lawyers have claimed that they were told they would not receive licenses because of their activities in defense of NGOs or opposition political parties.

The Constitution provides for the right to choose legal representation freely; however, a presidential decree prohibits members of NGOs from representing individuals other than members of their own organizations in court. This decree was used on several occasions during the year to deny NGO members the right to defend individuals in court and was also used as a pretext to close certain NGOs (*see* Section 4). The Constitution establishes a presumption of innocence; however, in practice defendants frequently had to prove their innocence. In December, President Lukashenko noted that 93 individuals had been acquitted during the year; Deputy Justice Minister Aleksandr Petrash noted that over the first 10 months of the year the courts adjudicated 243,000 administrative cases, 117,000 civil cases and 48,000 criminal cases. Both defendants and prosecutors have the right to appeal court decisions, and most criminal cases were appealed; however, appeals rarely resulted in reversals of verdicts. In an appeal, neither defendants nor witnesses appear before the court; the court only reviews the protocol and other documents from the lower court's trial. On December 20, the Chairman of the Supreme Court stated that annually only 1.5 percent of all court decisions were overturned on appeal.

A few individuals were held as political prisoners. On September 7, a Grodno judge sentenced opposition activists Valeryy Levonevskiy and Aleksandr Vasilevto to 2 years in prison for authoring a poem insulting President Lukashenko. The judge prevented the men from calling witnesses during the trial. There were no reported attempts by humanitarian organizations to visit Levonevskiy or Vasilev during the year.

On December 30, a court in Minsk sentenced opposition political figure Mikhail Marinich to 5 years in prison on the charge of having stolen property belonging to an NGO he headed, even though the NGO had not claimed that the property was stolen. Marinich, a former government minister and presidential candidate, was widely regarded as a likely opponent of President Lukashenko in elections scheduled for 2006. During the trial, the prosecutor asked numerous questions about Marinich's political activities, which were unrelated to the charges, lending credence to accusations the trial was politically motivated. The court also ordered confiscation of \$90,000 found on Marinich's person at the time of his arrest; the money was also unrelated to the charges. The BKGB had held him in pretrial detention since April (see Section 1.d.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, these rights were not respected in practice. The interception of telephone and other communications without a court order is prohibited; however, in practice authorities continued to monitor residences, telephones, and computers. The BKGB, MVD, and certain border guard detachments may use wiretaps, but they must first obtain a prosecutor's permission; however, the BKGB entered homes, conducted unauthorized searches, and read mail without warrants. Credible reports indicate that government agents covertly entered homes of opposition activists and offices of opposition groups.

The lack of independence of the prosecutor's office rendered the due process protections relating to wiretaps meaningless. The law provides penalties for those who obstruct BKGB officers in the performance of their duties. Any effort to prevent BKGB officers from entering the premises of a company, establishment, or organization is an administrative offense, as is any refusal by such entities to allow audits or to deny or restrict access to company information systems and databases. Contracts used by the Ministry of Communications for supplying telephone service prohibit subscribers from using telephone communications for purposes that run counter to state interests and public order. The Ministry has the authority to terminate telephone service to those who breach this provision; however, there were no reports during the year that the Ministry exercised this authority.

In most circumstances, night searches are prohibited, but this prohibition was occasionally ignored. On April 17, the Grodno regional prosecutor's office confirmed that the two men who broke into the offices of the independent newspaper Den on the evening of March 18 were BKGB officers but refused to explain their actions, citing a law on state secrets. In the evening of December 22, BKGB officers raided the offices of the NGO, Partnership, confiscated the group's computers, and broke its fax machine.

Nearly all opposition political figures reported that authorities monitored their activities and conversations; the Government did not deny these reports. During the trial of Mikhail Marinich, the prosecutor introduced as evidence a number of transcripts of Marinich's phone conversations that had been recorded by the BKGB (see Section 1.e). Representatives of certain NGOs also said that their conversations and correspondence were monitored routinely by the security services. The Prosecutor General declined to investigate charges of illegal wiretapping brought by members of the opposition.

There was no judicial or legislative oversight of the Presidential Guard's budget or activities, and the executive branch thwarted attempts to exercise such oversight. Some officials were themselves monitored.

Harassment in the form of inspections by security officials and confiscation of political literature, often without warrants, was widespread. Targets included opposition candidates and their supporters. On October 1, police seized large quantities of campaign leaflets from registered parliamentary candidates Valentina Polevikova and Aleksandr Dobrovolsky of the United Civic Party (UCP), after searching a campaign office without providing a warrant. Police occasionally detained family members of political leaders. Police detained Valeriy Levonevskiy's eldest son, Dmitryy, on several occasions after Levonevskiy was initially arrested on May 1. On April 29, prior to a scheduled May 1 protest, which Valeriy Levonevskiy helped organize, his sons Dmitryy and Vladimir and his daughter Yekaterina were all detained for handing out leaflets for the protest.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government did not respect these rights in practice. The Government took serious steps to stifle independent media. The Ministry of Information suspended 25 independent newspapers and interfered with the efforts of others to print and distribute. The authorities imposed huge fines on journalists and editors for criticism of the President or his supporters. The Government continued

to make use of its monopoly on television broadcasting to present biased news coverage and to minimize the presentation of opposing points of view, particularly in the period leading up to the October parliamentary elections and constitutional referendum.

The law, which prohibits a range of broadly defined activities, effectively limits freedom of expression. The law provides for punishment of public insults or libel against the President by up to 4 years' imprisonment, 2 years' *khimya* (detention in internal exile), or a large fine. The authorities continued to make use of such laws, which also penalize insults to other government officials, to stifle press freedom, to imprison political opponents (*see* Section 1.e), and, during the election campaign, to disqualify some opposition candidates and intimidate others (*see* Section 3). According to Belarusian Association of Journalists (BAJ) President Zhanna Litvina, the laws penalizing slander of officials effectively constituted a ban on press criticism of the Government. The law also limits freedom of expression by prohibiting the wearing of masks and use of unregistered flags, symbols, and placards bearing messages deemed threatening to the state or public order. In November, a judge in the Grodno region fined Vadim Saranchukov of the Belarusian National Front for displaying the banned nationalist white red white flag.

Government authorities fined, warned, or jailed members of the media, members of opposition, and religious groups, who publicly criticized the Government. The defamation law makes no distinction between private and public persons in lawsuits concerning defamation of character. A public figure who was criticized for poor performance in office by a media outlet may ask the prosecutor to sue both the journalist and media outlet that printed the criticism.

On June 9, a district court in Minsk sentenced Oksana Novikova, a prominent anti Lukashenko protester, to 2 years and 6 months under house arrest for slandering the President. Prosecutors accused Novikova of passing out leaflets at the main railway station in Minsk which contained slanderous information and that accused the President of serious crimes. These leaflets, which Novikova herself typed and copied, included a picture of Lukashenko and specifically accused him of causing the disappearance of various citizens, causing natural gas to be shut off in February, smuggling, cheating the Government out of customs revenue by exempting his companies from paying customs fees, and retaining power illegally.

The highest circulation newspapers and other print media were state owned and printed only materials supportive of the Government. There were independent newspapers, including one independent daily, and magazines, many of which engaged in limited criticism of the Government. However circulation was small and some of these publications engaged in self-censorship.

Only the state run radio and the state-run television networks ONT and Belarusian Television (BT) broadcast nationwide. Russian channels NTV and RTR were generally available nationwide, although in many parts of the country only through pay cable services. However, their news programs were at times blocked from broadcast. Broadcasts from other countries, including Poland, and Lithuania, could be received in some parts of the country; however, the Brest local government removed three Polish channels from local cable providers in December. The reporting of both ONT and BT was biased heavily in favor of the Government and sharply critical of opposition politicians and organizations, and both failed to provide opposing viewpoints. This bias became more pronounced before the October 17 parliamentary elections and referendum. The BAJ reported that state channels provided only positive reviews of the President and Government. State owned media, including television, radio, and print, continued to marginalize the political opposition by depicting them in a negative way or by ignoring them altogether. A third state owned television station, LAD, established in October 2003, replaced the popular Russian television network Kultura and some other Russian state television channels. Local independent television stations operated in some areas and reported local news relatively unhindered by the authorities; however, most of these stations reported that they were under pressure not to report on national level issues or were subject to censorship.

All foreign media correspondents are required to register with the Ministry of Foreign Affairs. On June 21, the BKGB expelled Mikhail Podolyak, the Ukrainian born deputy chief editor of the independent newspaper *Vremya*, accusing him of attempting to harm national interests, biased coverage, libel, and incitement against the Government.

Veronika Cherkasova, a journalist for the independent *Solidarnost* newspaper, was killed on October 20. While the official investigation has centered on domestic violence, some members of the independent media view her death as related to her work, which included critical articles on the BKGB.

The Government took numerous actions during the year to stifle independent media. These included: The continued use of libel laws, limitations on foreign funding, pressure on businesses not to advertise with independent media and on distributors not to distribute them, limits on access to newsprint and printing presses, censorship, restrictions on the import of media related materials, and temporary suspension of independent and opposition periodicals. Authorities imposed huge fines on journalists for criticism of the President or his supporters. Several independent newspapers, including Belorusskaya Delovaya Gazeta (BDG), Den, and Solidarnost began printing their materials in Russia because domestic printing presses (mostly state owned) refused to print them. In August, there were credible reports that several large Minsk supermarket chains halted sales of the independent newspapers Belarusskaya Gazeta, Belorusskiy Rynok, Belorusskaya Delovaya Gazeta and Narodnaya Volya after Vladimir Mirgolovskiy, a government official in charge of the markets, suggested that the stores not sell the newspapers, as they might disturb and excite citizens during parliamentary elections. These newspapers could still be purchased from independent sellers, but their circulation was seriously restricted by these measures.

The Government suspended 25 newspapers during the year, including 11 in the month before the parliamentary elections. On February 11, Information Minister Vladimir Rusakevich suspended the regional newspaper Evening Stolin for 3 months. Rusakevich stated the paper was suspended for covering politics despite its registration as an entertainment newspaper. Credible reports indicate the closure was motivated by the newspaper's independent political coverage. In August, police seized 1,070 copies of the Vremya newspaper, printed in Russia, from an opposition activist as he brought the paper into the country. On September 3, the Minister of Information suspended Vremya. On October 19, foreign journalists were prevented from transmitting footage of post-election protests.

Independent media underwent numerous inspections from the Ministry of Information, tax inspectors, and other government bodies. On April 17, the Grodno regional prosecutor's office confirmed that two men who broke into the offices of the independent newspaper Day on the evening of March 18 were BKGB officers but refused to provide an explanation for their actions, citing a law on state secrets (*see* Section 1.f.).

The Government levied fines against newspapers, journalists, and editors as another way to stifle the independent press. In the case of Narodnaya Volya, the country's only independent daily, the courts imposed huge libel fines against the newspaper, a journalist, and the person interviewed, for a story that criticized a government official. In a separate case, Narodnaya Volya was fined for libeling a progovernment businessman. In August, the courts seized most of Narodnaya Volya's property until these two large libel fines were paid a short time later. In November, the deputy editor of the newspaper fled the country and sought political asylum abroad. According to the BAJ, independent newspapers, especially in the provinces, engaged in self censorship due to the Government's use of the libel laws to fine journalists and editors. On May 26, the government owned Minsk publishing house Svetoch phoned the editor of Mestnaya Gazeta, an independent newspaper, to demand that an article about corruption in the local tax authority be removed. When the editor refused, the publishing house cancelled the printing job. The publishing house refused to renew contracts, or enter into contracts, with several other independent newspapers.

On April 17, authorities interrupted the broadcast of the Russian channel Rossiya, ostensibly for routine maintenance, during a news program that had been scheduled to report on recent developments in Belarusian politics. The broadcasts contained interviews with opposition members.

The arbitrary use of presidential power, often exercised through presidential decrees, created additional obstacles to an independent press. A November 2003 presidential decree "On Improving the System of Receipt and Use of Humanitarian Assistance" was allegedly aimed at stopping foreign supported seditious activity. The decree specifically prohibits a broad range of foreign supported activities and was the basis for a nationwide crackdown during the parliamentary electoral campaign on independent media outlets and independent NGOs, many of which were supported by the international community (*see* Section 3).

The Government successfully discouraged companies that owned printing presses from printing the legally authorized leaflets of opposition candidates by threatening them.

The law specifies that the Government may close down a publication after two warnings about violations of various restrictive laws, and the authorities continued to pressure independent newspapers through the use of these warnings. The Government issued 160 warnings against 81 independent newspapers during the year.

Regulatory provisions also grant the authorities power to ban and censor critical reporting; for example, the State Committee on the Press was given authority to suspend the publication of periodicals or newspapers for 3 months without a court ruling. The law also prohibits the media from disseminating information on behalf of unregistered political parties, trade unions, and NGOs. During the parliamentary election campaign, the Ministry of Information ordered the suspension or closure of 11 independent newspapers, citing publication and distribution violations. In one of these cases, a paper was accused of illegally publishing two newspapers after the Ministry determined that its television program guide supplement counted as a separate publication.

The Government tightly controlled the content of television broadcasts. The Ministry of Information informed radio stations during the year that they were no longer required to forward copies of the news stories they had broadcast to the Ministry of Information; however, the change in the requirement did not noticeably affect the content of the news presented. Credible reports claimed that during the year the BKGB was tasked with censoring national television news broadcasts. The Government banned six popular musical groups from playing concerts, being played on the radio, and from being distributed on compact disks or tape after the groups performed at a July 21 opposition concert.

The Ministry of Culture refused to authorize the distribution of a requiem film about the late writer Vasil Bykov claiming that the film said nothing about Bykov as a writer and expressing fear that the film might have a negative influence on the moral and ethical fundamentals of life within the country. The documentary featured interviews with friends of the author who regarded Bykov as a great writer. The Ministry of Culture also banned two films about WWII, alleging that one attempted to humanize Hitler and the other misrepresented the WWII guerrilla movement, might insult veterans, and have a negative influence on the next generation. On two separate occasions clubs cancelled concerts initiated by and supportive of students of the closed Belarusian Lyceum. Credible reports indicated these clubs were encouraged to cancel the concerts because of the Lyceum chairman's links with the opposition.

The Government's telecommunications company Beltelekom retains a state monopoly over Internet service, which resulted in high prices, poor quality, limited service, and allowed the Government to monitor practically all e-mail. Unlike in previous years, there were no confirmed instances of authorities selectively cutting off Internet access, although leading human rights websites were occasionally inaccessible.

The Government continued to restrict academic freedom, in part by requiring all educational institutions to teach, and all students to study, the official state ideology, a concept which combines reverence for the achievements of the Soviet Union and Belarus under Lukashenko with advocacy of an authoritarian, Soviet style, political and social structure. In April, the Ministry of Education announced that all higher education establishments, regardless of whether they are private or state run universities, must adhere to state standards. On July 26, the Government cited a failure to meet "state standards of education" when it closed the European Humanities University (EHU), the country's premier independent university, by depriving it of premises. On September 23, President Lukashenko declared that the Government had closed EHU and the Belarusian National Humanities Lyceum, closed in 2003, because the schools sought to educate a new national elite that would turn the country to the West. In April, the Government closed two independent think tanks, and pressured other think tanks throughout the year.

The Government continued to harass students engaged in anti government activities, such as demonstrations (*see* Section 2.b.). Students reportedly were pressured to join the government-backed Belarusian Republican Youth Movement (BRYM) in order to receive benefits and rooms in dormitories. Credible reports indicated that local authorities pressured BRYM members to campaign on behalf of government candidates. Several members of opposition-oriented youth groups were expelled from institutions of higher education for their political activities.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. Police and other security officials beat, detained, and attempted to coerce confessions from some demonstrators following several unsanctioned but peaceful demonstrations.

By law, organizers must apply at least 15 days in advance to local officials for permission to conduct a demonstration, rally, or meeting. The local government must respond with a decision no later than 5 days prior to the scheduled event. A single infraction of these regulations entitles the Government to shut down the or-

ganization concerned. However, permits to demonstrate either were not granted or were granted only for demonstrations in obscure, hard to reach locations.

Demonstrators are required by law to pay for any damages that arise from demonstrations and to pay for the presence of police and medical personnel, though this requirement was generally not enforced in practice. Only political parties, trade unions, or registered organizations may request permission for a demonstration of more than 1,000 individuals. The law also prohibits the wearing of masks and use of unregistered flags, symbols, and placards bearing messages deemed threatening to the state or public order (*see* Section 2.a.).

According to members of opposition parties, authorities frequently denied permission to opposition groups to meet in public squares in the center of Minsk. Nevertheless, demonstrations occurred in Minsk, varying in size from a few participants to approximately 2,000. However, the demonstrations were always under strict government surveillance, including open videotaping of the participants by police and plainclothes security officers. Demonstrations also occurred in other parts of the country, although less frequently.

On October 2, police interrupted a meeting of a group discussing plans to register a new NGO, started videotaping the participants, and arrested former parliamentarian and prominent independent union leader Sergey Antonchik, the group's leader. Antonchik was sentenced to 15 days of administrative detention for authorizing an unregistered assembly, even though the meeting was held in Antonchik's office. Several venues in Minsk refused the request of the opposition Five Plus coalition to hold a conference; the IBB Center, a hotel conference hall in Minsk, reneged on a December 19 agreement to hold the conference on the next day. Credible sources claimed that the government, a part owner of the center, ordered the IBB to refuse to rent its space to the coalition.

There were several reports that police beat demonstrators during protests. There were also reports that police violently pulled demonstrators into police vans. In July, special police (OMON) detained, arrested, and beat approximately 50 individuals during an unsanctioned protest marking the 10th anniversary of the initial election of President Lukashenko. Courts sentenced 15 participants to short detentions and fined 9 others. After OMON police hit 17 year old Mikhail Avdeyev with truncheons he was hospitalized with several broken ribs and had his spleen removed (*see* Section 1.c.). Others traveling in a van from outside Minsk to participate in this demonstration were stopped by authorities several times and finally forced to return home by train. On September 7, plainclothes officers seized Dmitryy Dashkevich, leader of a youth opposition group, and threw him into an unmarked bus after he and others shouted, "Shame!" during a live address by President Lukashenko announcing a referendum that would permit him to extend his presidential tenure. A Minsk court sentenced Dashkevich to 10 days in prison.

On April 26, police detained several opposition members for participating in an unauthorized rally marking the 18th anniversary of the Chernobyl disaster. A Minsk court fined one of the activists, Lyudmila Gryznova, approximately \$2,000 (4 million Belarusian rubles), and the Government subsequently refused to place an exit stamp in her passport until she paid the fine, which she did in June.

The Constitution provides for freedom of association; however, the authorities severely restricted this right in practice. The Government continued to employ an elaborate system of laws and regulations governing the registration of organizations for the purpose of restricting the ability of individuals to form associations that might be critical of, or not susceptible to manipulation by, the Government. All NGOs, political parties, and trade unions are required to register with authorities, and it is illegal to act on behalf of an unregistered organization. Legislation on the registration of public associations remains extremely strict; registration procedures are costly and onerous, requiring the number of founders to be specified, their names, and a legal address for the organization, which is in a nonresidential building. Individuals listing themselves as members are vulnerable to retribution. More important, the refusal of the Government to rent premises to organizations of which it disapproves and the expense of renting privately owned space forced most organizations to violate the requirement for a nonresidential address. This in turn led to deregistrations and denials of registration. During the year, the MOJ deregistered or denied registration to 1 opposition and 37 NGOs, many of them because of failure to meet the address requirement. The MOJ also denied registration to one political party and an unknown number of NGOs. On August 2, the Supreme Court closed the Party of Labor, a member of a coalition of leading democratic parties, in part because the Party of Labor failed to maintain a legal address.

A Commission composed of government officials must review and approve all registration applications. The Commission continued to base many of its decisions largely on the political and ideological compatibility of the applicant organization

with the Government. While the MOJ claimed that it continued to register NGOs, credible reports indicated that most organizations that were registered during the year dealt with sports and entrepreneurial interests and none promoted civil society. On February 24, the MOJ closed the NGO Maladaya Gramada, citing the group for a violation of the legal residence requirements. According to the Assembly of Belarusian Pro Democratic NGOs, 2,214 NGOs were registered as of January 1. All but two national level human rights NGOs have been deregistered or denied reregistration.

Authorities regularly harassed members and supporters of opposition parties and confiscated their leaflets and publications (*see* tion 3). During the year, the MOJ acknowledged that no political parties had successfully registered since 1999.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government restricted this right in practice. Although the Constitution affirms the equality of religions and denominations before the law, it also contains restrictive language that stipulates that cooperation between the state and religious organizations “is regulated with regard for their influence on the formation of spiritual, cultural, and country traditions of the Belarusian people.” The Government has negotiated a Concordat and other arrangements with the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow-based Russian Orthodox Church, which provides that Church with some privileges not enjoyed by other religious organizations.

The Committee of Religious and Nationalities Affairs of the Council of Ministers (CRNA) regulated all religious matters in the country. The law concerning religion contains a number of very restrictive elements that were used to hinder or prevent activities of religious groups other than the BOC.

In March, the National Intellectual Property Center granted the BOC the exclusive right to use the word “Orthodox” in its title and to use the image of the Cross of Euphrosynia, the patroness saint of Belarus, as its symbol. This decision could further restrict the ability of Christian Orthodox faiths not under the jurisdiction of Moscow, such as the Belarus Autocephalous Orthodox Church (BAOC) and the True Orthodox faith, to exist in the country.

The law restricts the ability of religious organizations to conduct religious education, requires all religious groups to receive governmental approval to distribute literature, and prohibits foreigners from leading religious organizations. Religious groups that could not register frequently were forced to meet illegally or in the homes of individual members. According to the CRNA, 27 religious denominations were officially registered as of January; however, authorities continued to refuse legal registration at the national level to faiths considered to be nontraditional.

All religious organizations were required to reregister with the authorities by November in keeping with a 2002 law on religion. The law establishes specific requirements for membership size and years of activity for religious groups. According to the CRNA, 2,678 of the 2,783 religious communities previously registered did so by the November 17 deadline. Of the remaining 105, many had dissolved due to lack of membership; others, such as the Hare Krishnas, were appealing their registration denial. The CRNA continued to delay the registration of the Church of Scientology, and the BAOB remained unregistered; registration of its churches would require the approval of local BOC bishops.

Although the Greek Catholic Church was officially registered, it experienced problems with the Government because of historical tensions between it and the government-favored BOC and because of the Greek Catholic Church’s emphasis on using the Belarusian language. While the Greek Catholic Church reported that its communities found it easier to rent facilities for worship than in previous years, they were still not able to register a monastery because the Church lacked a registered central association and the monastery did not have the required ten participants. Lack of a central association also bars the church from inviting foreign citizens to engage in religious activities.

The Government increased its harassment of some religious groups based not only upon the law on religion but also on directives that provide additional rules and requirements for religious groups, which are not outlined in the law.

Authorities at the oblast level are required, based on a 2002 CRNA instruction, to assess public opinion before the construction or reconfiguration of religious buildings for religious purposes. According to the CRNA, the authorities may deny permission for such work if the local population opposed it; however, there were no reports of such a denial occurring during the year.

The leaders of the Light of Kaylasa, a Hindu group, sought asylum abroad, citing government pressure against the group, and there were no reports indicating that the group remained active at year’s end.

The law allows persons to gather to pray in private homes; however, it places restrictions on holding rituals, rites, or ceremonies in such locations and requires permission from local authorities. Several cases of police interference with prayer meetings in residences occurred during the year.

Limitations on ownership of, or access to, property for religious purposes continued to present problems for a number of religious organizations. Restitution of religious property remained limited. There was no legal basis for the return of property seized during the Soviet and Nazi occupations, and legislation restricts the restitution of property that is being used for cultural or educational purposes.

According to the Government, the law permits residential property to be used for religious services only after it has been converted from residential use. This ruling effectively requires all religious organizations to reregister their properties as religious properties. Government figures from 2002 showed that 110 religious communities, including 34 Protestant denominations, registered their property according to this ruling; however, authorities continued to reject requests for property registration from many Protestant churches, as well as other nontraditional faiths. At the end of the year, the Government rejected registration of a property that the Hare Krishna community intended to use for religious purposes.

On June 20, Minsk Oblast and CRNA officials reportedly warned a local BAOC priest to stop his efforts to reconstruct a former BAOC church in the town of Semkov Gorodok.

According to the Full Gospel Evangelical Christian Church, authorities continued to deny permission to construct a building for religious purposes in Minsk. District officials banned four evangelical groups from leasing premises for church worship in October, citing violations of safety laws under the Religion and Public Assembly Law. According to Reverend Boris Chernoglaz, pastor of the Church of Christ, government officials first tried to press landlords to break the leasing contracts. When that failed, they resorted to alleging legal violations to prevent the groups from renting the premises.

Meeting hall officials cancelled or refused to extend agreements with religious groups to use their facilities, citing a government decree specifying measures to ensure public order and safety during public gatherings.

Unlike in previous years, there were no reported publications of anti Protestant articles in state owned periodicals during the year, but state owned periodicals continued to publish attacks on other nontraditional faiths. For example, an April 16 article described the activities of destructive "sects" in the country and claimed there were 370 such sects. According to the article, the Unification Church, the Church of Christ, and the Church of Scientology were among the most dangerous of the sects.

According to bishops of the Union of Evangelical Faith Christians in Belarus, authorities have been trying to bar children from attending Protestant churches and Sunday schools. They claim authorities have repeatedly questioned students about their attendance at Sunday schools, the church they belonged to, and the names of their pastors and Sunday school teachers. Teachers reportedly questioned priests of three churches about the curriculum and qualifications of the instructors at Sunday schools. At year's end the impact of this pressure remained unclear.

By law, citizens may speak freely about their religious beliefs; however, the authorities continued to intervene to prevent, interfere with, or punish those who proselytized. For example, on April 17, a court in Mozyr fined three members of the unregistered International Union of Baptist Churches \$176 (380,000 Belarusian rubles) each after they passed out bibles at a local hospital during Easter. The Government also fined and detained members of unregistered religious groups that engaged in illegal religious activity. Police regularly detained, fined, and jailed numerous Hare Krishnas for illegally distributing religious literature. Baptists, Pentecostals, and other Protestants were fined for illegally conducting and hosting religious services. According to the CRNA, convictions for such offenses were based on charges of either disturbing public order or illegally gathering without prior permission.

Foreign missionaries were not permitted to engage in religious activities outside of the institutions that invited them. The law requires 1 year, multiple entry, "spiritual activities" visas for foreign missionaries. According to the CRNA, in 2003, religious associations invited 956 foreign religious workers, including 254 who arrived specifically to participate in religious activities. Despite these figures, even religious groups with a long history in the country continued to experience difficulties in obtaining visas. Since April 2003, Grodno authorities have repeatedly denied registration to a foreign rabbi because he does not speak Belarusian or Russian. Members of the Hare Krishna and Protestant communities reported that they were unable to invite any foreign clergy to participate in religious activity. In contrast to previous

years, there were no reports that the authorities sought to inhibit the Roman Catholic Church from employing foreign priests in its activities.

Government officials continued to take a number of actions indicating a lack of sensitivity toward the Jewish community. Grodno authorities continued work on a stadium located on the site of a former Jewish cemetery. Following local and international protests, Grodno authorities reached an agreement with the local Jewish community on the treatment and reburial of the remains. Although there were some lapses, construction on the site was completed, and the local community was satisfied with the government's cooperation and the disposition of the remains.

On August 18, the Ministry of Foreign Affairs notified the local chapter of the Union of Councils for Jews in the Former Soviet Union (UCSJ), one of the country's primary Jewish human rights organizations, that it would not be reregistered because the chapter submitted some documents late.

There were isolated instances of anti-Semitic vandalism during the year. On November 5, vandals defaced (for the fifth time) a Holocaust Memorial in Brest. While the Government investigated such incidents and often assisted in restoring such memorials, no individuals have been arrested for vandalism of these sites.

Distribution of the anti-Semitic and xenophobic newspaper *Russki Vestnik* newspaper resumed in February through the state distribution agency *Belsoyuzpechat*, despite a May 2003 order by the Prosecutor General and the Ministry of Information that it be terminated. Sales of such literature continued throughout the year in government owned buildings, in stores, and at events affiliated with the BOC. Anti-Semitic and Russian ultra-nationalistic literature continued to be sold at *Pravoslavnaya Kniga* (Orthodox Bookstore), a store operated by Orthodox Initiative that sells Orthodox literature and religious paraphernalia. Anti-Semitic literature also continued to be sold at kiosks selling Orthodox literature, including one located in the National Academy of Sciences. The CRNA claimed it was difficult to prevent the distribution of Russian-produced anti-Semitic literature.

In January, the organization Russian National Unity distributed anti-Semitic leaflets in Gomel, which stated: "The Jews are trying to destroy Christianity," "Now hostile activities against the Jews will begin," "The Jews are the forces of evil," and "The fighters against God must be exterminated." In addition, the letters RNE were sprayed on the walls of the Jewish Community building in Gomel. No suspects were arrested at year's end.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement; however, in practice a citizen's right to choose his place of residence was at times restricted. Internal passports served as primary identity documents and were required for internal travel, permanent housing, and hotel registration.

In 1999, the Constitutional Court declared unconstitutional an article of the Administrative Code barring enterprises, establishments, and organizations from employing persons without a pass (*propiska*) or a registered address. Under that article, employers faced fines for giving jobs to persons who had no stamp in their passports indicating that their residence and their new place of employment were located in the same city or district. Credible reports indicated that police continued to harass individuals because they were living in a location other than their legal place of registration.

The Constitution provides for freedom of movement in and out of the country; however, this right was restricted at times. Official entry and exit regulations specify that citizens who wish to travel abroad must first obtain an exit stamp valid for 1 to 5 years. Once the traveler has a valid stamp, travel abroad is not restricted by further government requirements and formalities; however, the Government could intervene to invalidate stamps that had been issued. Authorities imposed a foreign travel ban on opposition activists Antonina Kovaleva and Lyudmila Gryaznova. Gryaznova failed to pay a fine of approximately \$2,000 (4 million Belarusian rubles) for staging an unauthorized opposition march on April 26 marking an anniversary of the Chernobyl disaster, and the Government invalidated her foreign travel permit on July 8. Some months after the fine was paid, Gryaznova's ability to travel abroad was restored.

The law requires travelers to border zones to obtain an entrance pass (*propusk*). Some long term election observers of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) reported problems gaining permission to travel to the border zones as part of their mission. ODIHR reported that the application of this law did not appear to be uniform and their long term observers received conflicting information about the need to obtain an entrance pass.

The law provides for internal exile, and the Government uses it. Detention in internal exile is one possible penalty for defaming the President. For example, Yuriy Bandazhevskiy, a former university rector and Chernobyl researcher, was serving an 8 year sentence in internal exile in the Grodno for this offense.

The Constitution provides for the right to emigrate, and the authorities generally respected this right; however, there were restrictions for individuals with access to sensitive state information or citizens involved in criminal investigations. Prospective emigrants who have been refused the right to emigrate may appeal to the courts.

The Constitution gives aliens and stateless persons the same rights as citizens, except in cases established by law, international agreement, or the Constitution.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and the Government has established a system for providing protection to refugees. Under the refugee law, all persons who applied for or received asylum are protected against refoulement, the return of persons to a country where they feared persecution; however, the Government often deported individuals seeking to transit the country from Russia back to Russia, despite the fact that the UNHCR did not consider Russia to be a safe country for such purposes. The Government granted asylum during the year to individuals from Afghanistan and Georgia.

The authorities cooperated with the UNHCR and other humanitarian organizations in assisting refugees. Since 1997, approximately 3,000 applications for refugee status were filed; of which 732 persons received refugee status. Of the 719 officially recognized refugees in the country, the most refugees were from Afghanistan, Georgia, Armenia, Azerbaijan, Tajikistan, and Ethiopia. During the year, 23 individuals were granted asylum, while 33 asylum applications were rejected. The UNHCR operated a center in Vitebsk providing temporary accommodations for 30 persons. The UNHCR also opened a social rehabilitation center for forced migrants in Gomel, which was designed to accommodate up to 14 refugees at a time for 6 months. On March 18, the UNHCR provided funds to open a center to provide temporary accommodation for asylum seekers and illegal migrants at the Minsk National Airport. The center can house up to 12 individuals. Only two migrants applied for asylum at the airport in 2003, and two more applications had been received as of October.

*Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

The Constitution provides the right for citizens to change their government peacefully; however, the Government effectively denied citizens this right. The President dominates all branches of government. Since his election in 1994 to a 5 year term as the country's first President, he has consolidated power steadily in the executive branch. He used a 1996 referendum and another referendum on October 17 to amend the Constitution to broaden his powers and extend his term in office, although the Constitutional Court in 1996 ruled that the Constitution could not be amended by referendum.

The Constitution limits the legislature to meeting twice a year for a total of no more than 170 days. Presidential decrees issued when the legislature is out of session have the force of law, except in a few cases specified in the Constitution. The Constitution also allows the president to issue decrees with powers equal to that of law in specific, urgent circumstances, a provision President Lukashenko has interpreted broadly.

On October 17, the country held parliamentary elections and a referendum to change the Constitution and eliminate term limits for the president, thus allowing Lukashenko to run for a third term in 2006. The elections were neither free nor fair. The Government used administrative resources to support the referendum and government backed candidates. An ODIHR observation mission reported that the election fell significantly short of international standards for democratic elections, citing the active exclusion of opposition candidates, detention of opposition campaign workers and domestic observers, restrictive campaigning rules, unbalanced media coverage, flawed vote counting, and a lack of transparency in vote tallying. Other electoral irregularities included the firing and non extension of employment contracts of opposition candidates and individuals who worked on their campaigns, and widespread, credible reports of coercion of individuals to vote early, when oversight was more lax.

Election commissions consisted almost exclusively of government employees, despite the nomination of opposition candidates to these bodies. Of the 1,430 members of district election commissions, only 27 represented opposition political parties.

District election commissions (DECs) refused to register several opposition candidates for parliament, claiming that signatures presented by the candidates on

their registration petitions were fraudulent. There were reports that authorities had pressured some signatories to say that they had not signed. The Central Election Commission (CEC) and the Supreme Court both refused to overturn the DEC decisions in several cases where individuals whose signatures were questioned provided sworn testimony that they had indeed signed the petitions. Former parliamentarian Vladimir Novosyad, former opposition presidential candidate Vladimir Goncharik, and former Presidential Administration Head Leonid Sinitsyn all were denied registration despite providing proof that signatures described by the authorities as fraudulent were valid. On October 5, a DEC official at Goncharik's appeal of his nonregistration before the Supreme Court admitted that his commission only sought to verify signatures supporting certain candidates.

DECs also deregistered several prominent opposition candidates who had managed to register, generally on the grounds that they had employed inappropriate or illegal material in their television and radio speeches, newspaper articles, or election leaflets. A Vitebsk DEC removed youth opposition leader Pavel Severinets and opposition candidate Vladislav Tokarev from the ballot for saying in their campaign speeches that corruption and red tape permeated the local government. The Government's Media Supervisory Council, which consisted exclusively of government officials and members of progovernment groups, assessed the speeches as defamation. Credible reports indicated that warnings and deregistration were applied more frequently to opposition party members than to government-supported candidates.

The BAJ and the OSCE/ODIHR both observed that state media outlets provided extensive and solely positive coverage of the President while providing negative coverage of opposition parties and political figures. State media frequently denigrated opposition political parties. On May 11, BT aired a special called "The Road to Nowhere" accusing the opposition of incompetence and dependence on foreign sponsors. The broadcast equated campaign training sessions attended by the opposition with Nazi saboteur training sessions.

Credible reports indicated that local executive committees denied opposition candidates' requests for opportunities to meet with voters or allowed meetings only in remote locations, while government supported candidates were allowed to schedule meetings in populated locations. Minsk district authorities prohibited opposition candidate Yuriy Zenkovich from holding rallies on 25 occasions before the parliamentary elections, citing doubts about Zenkovich's Belarusian citizenship, even though he presented his passport as proof of citizenship. They also cited his non payment of legally mandated fees for police and medical personnel required to be present at such demonstrations.

The Government engaged in arbitrary tax inspections, safety inspections, the deregistration of candidates, and confiscation of printed matter and equipment to immobilize much of the pro-democratic opposition leading up to the parliamentary elections and Constitutional referendum.

A September order by the Deputy Prime Minister that all government employees be moved to fixed-term contracts by October 6 was credibly viewed as a means of exerting pressure on those employees working on election committees to falsify results during the October 17 voting.

Early voting was conducted from October 12 until October 16. The Government reported that early votes composed 20 percent of all votes, while independent observers put the figure at 25 percent. ODIHR reported that 20 percent of early voting ballot boxes inspected by observers on October 17 did not have seals, which were required to ensure that no ballot tampering took place. Tallies of early votes showed a higher percentage of support for Lukashenko than among votes cast on election day.

While few serious violations were noted during the process of voting, observers noted significant violations during vote tallying. Observation of vote tallying was restricted; however, when observers were able to view vote tallying, many reported that the number of votes listed on protocols did not match the ballots tallied. On the day after the election, an individual found over 60 referendum ballots in the garbage outside of a DEC. All of these ballots contained votes against the referendum. The voting process was nontransparent for both local and international observers, which led observers to call into question the accuracy of reported results.

During the year, the Government used force to disperse demonstrations by opposition parties (*see* Section 2.b.).

Corruption in the executive branch of Government was a significant problem. While some individuals were prosecuted for corruption during the year, these prosecutions did not represent a serious attempt to combat corruption. On February 10, President Lukashenko dismissed the head of the Property Management Division of the Presidential Administration Galina Zhuravkova and on February 13 he dismissed the head of the Belarusian State Television and Radio Company Yegor Ryba-

kov. Police formally charged Rybakov with grand larceny, bribery, and power abuse and Zhuravkova with large scale embezzlement. Zhuravkova was later released from custody after paying restitution but her criminal case is still pending. No resolution to the Yegor Rybakov's case occurred by year's end.

Laws and government policies severely restrict public access to government information and the authorities moved to restrict it further during the year. An April 12 Presidential Edict broadened significantly the amount of government material considered a state secret. On April 26, BKGB officers arrested Mikhail Marinich, a prominent opposition member and a former Ambassador and Minister, on accusations of stealing secret documents. These documents related to Marinich's work as Minister of External Economic Relations. Credible reports indicate that the arrest of Marinich was politically motivated and that the Presidential Edict provided the basis for one of the criminal charges against Marinich, although this charge was later dropped (see Sections 1.d. and 1.e.).

Of the 110 deputies in the newly elected lower house of parliament, 32 were women, while 18 of the 56 elected members of the upper house of parliament were women. With the exception of the judiciary, social barriers against women were strong, and men held virtually all of the leadership positions. The Ministers of Social Security and Health were the only female members of the Council of Ministers. The head of the Government's Central Election Committee was a woman. At a July 20 news conference, President Lukashenko directed that women should make up between 30 and 40 percent of the new legislature.

The country was ethnically homogeneous; most minorities have long been assimilated. There was little ethnic discord. No high level members of government or parliament identify themselves as members of a minority.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic human rights groups were active in the country; however, authorities hindered their attempts to investigate alleged human rights violations. The authorities monitored NGO correspondence and telephone conversations (see Section 1.f.). They also harassed NGOs by bureaucratic means. The authorities generally ignored reports issued by human rights NGOs and did not meet with these groups during the year. Official state media did not report on human right NGOs and their actions; independent media that reported on human rights' issues were subjected to closure and harassment (see Section 2.a.).

The Government closed most remaining major registered human rights NGOs and NGO resource centers during the year, actions viewed by independent observers as politically motivated. The law requires two violations before the MOJ can initiate procedures against an NGO. The violations most frequently cited were discrepancies between the stamp that had been presented when the organization registered and the one used on a subsequent occasion, petty inaccuracies in an organization's letterhead, the use of a mailing address at a residence rather than at an office, alleged forgeries among the signatures required to obtain legal registration, and failure to follow the organization's own bylaws.

On January 28, the Government closed the Independent Society for Legal Studies (ISLS), citing legal support provided by its members to other NGOs. The Government closed "New Group" for a discrepancy in its legal address as well as for its provision of assistance to ISLS during the Government's action to close ISLS. On September 16, the MOJ initiated a lawsuit to close the Belarusian Helsinki Committee (BHC), the most prominent registered human rights group in the country, citing as grounds a September 15 lawsuit filed by BHC alleging the referendum to remove Presidential term limits was unconstitutional; the MOJ's lawsuit had not been pursued by the prosecutor by year's end.

The law prohibits individuals from acting on behalf of an unregistered NGO, and several individuals were prosecuted for this offense during the year. On August 31, a Zhlobin court fined Vladimir Katsura \$265 (540,000 Belarusian rubles) for acting on behalf of the unregistered Five Plus coalition.

Government regulations effectively prohibited human rights NGOs from receiving support from foreign sources. A 2003 Presidential decree stipulated that international assistance may only be granted to, or accepted by, an organization that is registered with the Ministry of Economy. On the receiving side, all non-governmental projects receiving funds or materials from abroad, including those carried out by international organizations, must be registered either with the Ministry of Economy (in cases of technical aid) or with the Humanitarian Assistance Department of the Presidential Property Management (in cases of humanitarian relief). Unregistered organizations are not allowed to receive foreign assistance. Further, the law specifies that any local body that receives "illegal" foreign aid may be closed

after just one violation of these requirements. It is illegal for unregistered organizations to receive foreign assistance or provide assistance to other NGOs. A presidential decree, "On Improving the System of Receipt and Use of Humanitarian Assistance," issued in November, 2003, and allegedly aimed at stopping foreign supported seditious activity, specifically prohibits foreign support for a broad range of activities directed at the "alteration of the constitutional order, the overthrow of state power, or the encouragement of such activities." Prohibited activities include the preparation, administration, and organization of elections and referenda; the organization of meetings, rallies, demonstrations, pickets, and strikes; the publication and distribution of promotional materials, and the organization of seminars and other types of promotional activities involving the population.

Break ins and questionable tax audits remained problems during the year. The MOJ ordered a comprehensive audit of the BHC after a court rejected an order by the tax authorities for the BHC to pay \$73,000 (155 million Belarusian rubles) in taxes on foreign assistance received from the EU (the EU and the Government had signed a memorandum of understanding providing that the assistance was exempt from taxation).

The country's poor human rights record continued to draw the attention of many international human rights organizations. Authorities were increasingly reluctant to discuss human rights with international NGOs, whose members often had difficulty traveling to the country and were occasionally expelled from the country. The authorities increased their harassment, often through tax assessments and inspections, of international NGOs working in the country. The Ministry of Foreign Affairs refused to reregister the Union of Councils for Jews in the Former Soviet Union (UCSJ), an affiliate of a foreign based organization, ostensibly because some of its documents had been submitted late (*see* Section 2.c.).

The Government rejected an April 8 UNCHR resolution that urged it to conduct a transparent investigation of the disappearances of prominent opposition activists and to suspend or dismiss those suspected of involvement in such disappearances (*see* Section 1.b.). The resolution also stressed the need to establish an independent judiciary, release journalists imprisoned for political reasons, bring the actions of its police and security forces into compliance with the International Covenant on Civil and Political Rights, and comply with the various mechanisms of the Commission on Human Rights. The UNCHR named Adrian Severin of Romania as its Special Rapporteur on the human rights situation in the country; however, the Government refused to grant Severin a visa to enter the country to conduct his assessment and stated that it would not cooperate with the UNCHR if it did not agree with the assessment's findings.

On April 28, PACE reacted to the results of an investigation it had commissioned on the disappearances of Krasovskiy, Gonchar, Zakharenko, and Zavadskiy (*see* Sections 1.a. and 1.b.). It adopted a unanimous resolution calling on the authorities to conduct a "truly independent" investigation of the disappearances after first suspending then Prosecutor General Viktor Sheiman, who was accused of orchestrating the disappearances. The resolution called for maintaining the suspension the country's earlier Special Guest status and indicated that until there was substantial progress by the Belarus Government in investigating the disappearances, the presence of any parliamentarians from that country in PACE would be inappropriate. The Government condemned PACE's action.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution states that all citizens are equal before the law and have the right to equal protection of their rights and legitimate interests; however, neither the Constitution nor the laws specifically prohibit discrimination based on factors such as race or sex. Racial and national groups, women, and persons with disabilities experienced discrimination.

*Women.*—Women's groups reported that domestic violence, including spousal abuse against women, was a significant problem. In January, a Belarusian delegation to the Commission on the Elimination of Discrimination Against Women (CEDAW) stated that 30 percent of women reported suffering from domestic violence. NGOs run crisis centers, primarily in Minsk. Spousal abuse is punishable under the law, and women's groups indicated that the police generally enforced these laws against domestic violence and that the courts generally imposed appropriate sentences. In 2003, police charged 2,214 individuals with involvement in domestic violence that included 165 homicides and 380 instances of severe injury. Nevertheless, reluctance among women to report instances of domestic violence due to fear of reprisal and social stigma remained widespread.

Rape was a problem. A law against rape exists; however, most women did not report rape due to shame or fear that the police would blame the victim. Over 20 per-

cent of women reported experiencing sexual abuse at least once, according to data released by the Ministry of Labor and Social Security in November. In a survey of 2,000 women, 30 percent indicated that they had been raped or sexually abused between the ages of 14 and 17. In addition, sexual harassment was reportedly widespread, but no specific laws other than those against physical assault deal with the problem. There is no explicit law against spousal rape and there have been no prosecutions. Socially, spousal rape was not viewed as a crime.

Although the authorities and local human rights observers reported that prostitution was not a significant problem, considerable anecdotal evidence indicated that it was growing, particularly in regions outside the main cities. Street prostitution appeared to be growing, and prostitution rings operated in state owned hotels.

Trafficking in women was a serious problem, which the Government took some steps to address (*see* Section 5, Trafficking).

The law requires equal wages for equal work; however, it was not always enforced in practice. Women had significantly fewer opportunities for advancement to the upper ranks of management or government. Women held only four high level government positions and one CEO position in a major company. Women reported that managers frequently considered whether a woman had children when examining job candidates.

On May 18, lawmaker Anna Burova called for a gender equality law that would create a post of commissioner in the Government, which could supervise and coordinate policies for gender equality; however, at year's end there was no indication that the Parliament was considering such legislation. The Ministry of Labor and Social Security bears responsibility for issues involving gender equality; however, it cannot issue binding instructions to any other government agency.

The level of women's education was higher than that of men. Women constituted approximately 58 percent of workers with a higher education and approximately 66 percent of workers with a specialized secondary education. A disproportionate number of the unemployed were women. Women are equal in law to men with regard to property ownership and inheritance and this was generally respected in practice.

Women's groups were active and focused primarily on child welfare, environmental concerns (especially the after effects of the Chernobyl nuclear disaster), the preservation of the family, the promotion of women to decision making levels in the country, the support of women entrepreneurs, and combating trafficking. Job training provided the best results in efforts to increase women's roles in business and society and to combat trafficking. For example, the United Nations Development Program (UNDP) continued its program, "Support to Expanding Public Space for Women in Belarus," which provided leadership seminars, business start up training and an MBA program. There was an active women's political party.

*Children.*—The authorities were committed to children's welfare and health. By law all inhabitants, including children, were entitled to health care and education, which they generally received, although the quality of education and medical care was lower outside of major cities. There was no reported difference between the treatment of girls and boys in the provision of either health care or education.

Children begin school at the age of 6 and are required to complete 9 years, and this requirement was generally met. The Government made 11 years of education available at no cost and continued to develop a 12 year education program. State run and private higher education was available, but some private institutions experienced government harassment or closure based on their curricula (*see* Section 2.b). The Government provided alternative modes of education for children with disabilities, depending upon the severity of their disabilities. Children with severe disabilities may attend centers located throughout the country. Assistance offices exist to help children with physical and mental disabilities integrate into traditional classrooms. The quality of these programs varied. A law adopted in May provided children with disabilities the ability to receive education at home, which some parents utilized. The NGO Belarusian Assistance to Children and Young Persons with Disabilities promoted the rights of children and young persons with disabilities.

In the past, the Government has devoted considerable attention to overcoming the health effects of the Chernobyl nuclear accident; however, in response to the insistence of President Lukashenko, expressed in November, the Government threatened to restrict children's rehabilitation trips abroad.

Families with children continued to receive government benefits, such as discounted transportation, but a disproportionate rate of families with children lived under the poverty line. In October, the President by edict created financial and housing incentives for families with three or more children with the aim of increasing the population and remedying the high levels of poverty for this group. Child abuse exists; however, there did not appear to be a societal pattern of abuse of chil-

dren. According to Ministry of Education figures released during the year, 40,000 children were neglected. Orphans and abandoned children accounted for 1.5 percent of children, 2.5 times as many as in 1990.

There were no specific reports of trafficking in children but informed observers indicated that it existed but was rare (*see* Section 5, Trafficking).

On February 23, the Government enacted a law allowing military units to adopt and train orphans between the ages of 14 and 16. The orphans may not be enrolled as servicemen while still children. The Government committed itself to providing free food, clothing, housing, education, medical care, and cash allowances. These children are required to comply with the rules of the military units where they live, wear a uniform, obey orders, and join the unit upon reaching the draft age of 18.

UNICEF's affiliated NGO, the Belarusian Association of UNESCO Clubs, reported a severe shortage of information on children's issues.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking, particularly trafficking in women, remained a serious problem. The Government continued to make significant efforts to combat trafficking; however, three difficulties inhibited this effort: Corruption among police officers and border guards, lack of communication among government agencies, and the perception of trafficked persons as criminals rather than victims.

The Criminal Code penalizes trafficking in persons for the purpose of sexual or other kinds of exploitation. The Criminal Code also criminalizes hiring individuals for sexual or other exploitation. The penalty for trafficking is 5 to 7 years' imprisonment. Severe forms of trafficking are punishable by up to 15 years' imprisonment. On July 23, law enforcement authorities secured their first trafficking conviction under the country's anti trafficking law. The courts sentenced the trafficker to 6 years in prison and fines for trafficking two teenage girls to Lithuania in the fall of 2003.

In June, the Government created the Department on Combating Trafficking in Human Beings. This office remains subordinate to, and yet independent of, the Drugs and Morals Enforcement Department of the Ministry of the Interior, which previously dealt with trafficking issues. Observers noted that the creation of this office was a positive step in combating trafficking, but many concluded that the Government needed to clarify the role and power of the new Department in order for it to be effective.

Attention to trafficking at the border increased, but segments remain largely uncontrolled. The Ministry of Labor continued to monitor and license activities of employment agencies offering labor contracts in foreign countries. Since July 2003, all agencies arranging employment abroad must be licensed. In some instances, the Ministry suspended or revoked such licenses for failure to meet established standards as a legitimate agency or business. The Ministry viewed these agencies as potential vehicles for trafficking.

The Government collaborated with foreign governments to pursue trafficking investigations. The Government assisted government agencies in Germany, England, Lithuania, Austria, Poland, Italy, Turkey, and other nations on various trafficking cases.

The International Organization for Migration (IOM) estimated during the year that 10,000 citizens become victims of trafficking annually, primarily for sexual exploitation in other countries. The country was both a country of origin and transit for women trafficked to the European Union (particularly Germany and Poland), the Middle East (particularly Israel and Cyprus), Turkey and Russia, Ukraine, Lithuania, Germany, Israel, Poland, Czech Republic, Turkey, Cyprus, Bahrain, Syria, Greece, Hungary, and Serbia and Montenegro. The open border with Russia was a particular problem as it allowed easy trafficking of Russian women to the West or Belarusian women to Russia and the East. Women and girls under the age of 25 were at particular risk of trafficking due to ignorance of the risk and lack of domestic economic opportunities in the country.

Traffickers used force, fraud, and coercion to traffic their victims. Victims were trafficked mostly from economically depressed areas, where traffickers recruited through overseas employment offers, marriage arrangements, and travel agencies. More than half of the trafficked women were promised jobs as dancers or entertainers without any mention of prostitution or sexual exploitation. Traffickers often withheld victims' documents and used physical and emotional abuse to control victims en route and in the destination country.

Employment agencies, particularly travel and modeling agencies, as well as individuals with connections overseas, were primarily responsible for trafficking. Some traffickers had links to organized crime and drug trafficking, but there was no information on the extent of this involvement.

Corrupt officials facilitated trafficking by accepting bribes and turning a blind eye to trafficking. However, the Government began to crack down on corruption, prosecuting two officials in two different cases during the year for aiding trafficking. In 2003, the Government and an international organization collaborated to produce a counter trafficking operations handbook for police and border guards.

Women seldom reported incidences of trafficking to police, probably due to the social stigma attached to trafficking crimes, a negative public opinion about authorities, insufficient protection of victims and witnesses, and a shortage of reintegration services for victims. Some victims were deported back to the country and did not receive special status or assistance as trafficking victims either in the countries to which they were trafficked or at home. During the year the IOM assisted 251 victims. The number of victims seeking assistance more than quadrupled in comparison with 2003. The IOM attributed this growth to increased public awareness of the problem of trafficking and improved law enforcement assistance to victims of trafficking. More than half of the victims referred to the IOM were referred by law enforcement agencies.

In the summer, the European Community and the UNDP opened the country's second shelter for victims of trafficking. IOM used the shelter of a local NGO, Radislava. La Strada opened a mini-shelter in the early summer. The Government cooperated with NGO and international organizations in assisting victims but did not directly fund any assistance programs.

The IOM, UNDP, and La Strada/YWCA conducted national awareness campaigns and provided training to NGOs in regional towns. La Strada/YWCA and IOM continued to open and operate hotlines throughout the country. These hotlines provided opportunities for women to seek information about agencies, laws, and risks before accepting employment or marriage offers from overseas. In the summer, the NGOs managed to switch the hotlines to free "green line" numbers and create new billboards and brochures informing women to call the hotlines before making decisions to work or live abroad. The Government did not conduct independent awareness campaigns, but did increase trafficking coverage in state controlled news.

*Persons With Disabilities.*—Discrimination against persons with disabilities in the provision of employment, education, access to health care, and other state services was a problem. Credible observers noted that the Government provided significantly more support for children with disabilities than for adults with disabilities. The law mandates that transport, residences, and businesses be accessible to persons with disabilities; however, facilities, including public transport and government office buildings, often were not accessible. In 2001, the Government started a 5 year initiative to make all public buildings accessible to persons with disabilities; however, the Republican Association of Disabled Wheelchair Users (RADWU) reported that 4 years into this project, little had changed. Ramps were installed on the exteriors of some buildings, but the interiors remained inaccessible. RADWU estimated that over 75 percent of persons with disabilities were unable to leave their homes without assistance. Many sidewalks and stores had no ramps and many buildings had only stairs or small elevators.

The central authorities continued to provide some minimal benefits and subsidies to persons with disabilities, but according to the RADWU and the Belarusian Society of the Disabled, most of those benefits were ineffectual. For example, while persons with disabilities were given a 50 percent discount on rent and utilities, the reduction could only be claimed if the individual lived alone. Very few could claim the discount, as there were few homes accessible to persons with disabilities, and most individuals lived with friends or family who provided daily mobility. Public transportation was free of charge, but neither the metro nor the bus system was wheelchair accessible.

The Government prohibited any employer from requiring a person with disabilities to work more than 7 hours per day. This regulation was intended to protect the disabled, but actually provided a disincentive for hiring disabled persons as companies received less work than from a typical employee. The Government's decision to support only government run rehabilitation facilities, which were often less well-equipped and less responsive to needs than NGO facilities, had a negative effect on the quality of care.

Foreign and domestic charities continued to provide care for children with disabilities.

*National/Racial/Ethnic Minorities.*—The Russian and Belarusian languages share equal legal status; de facto, however, Russian remained the predominant and often only language used in government activities and on government forms. The Government's record in providing services in the Belarusian language improved slightly during the year. Authorities were occasionally responsive to requests for use

of the Belarusian language in official activities. They occasionally published government documents in the Belarusian language. The authorities continued to limit the availability of early childhood education in Belarusian. The authorities claimed they only closed those Belarusian language schools that experienced diminishing enrollment; however, observers doubted this claim. While several subjects in schools, such as the history and geography of Belarus, were taught only in Belarusian, most school content continued to be taught in Russian.

During the year, youth belonging to Russian ultra nationalist skinhead groups continued to be active. They continued to target foreigners as well as citizens promoting Belarusian culture. There were a number of skinhead groups, including the Russian National Union (RNU) and the National Bolshevik Party. The ultra nationalist RNU targeted both minorities and oppositionists. Observers noted that the RNU disrupted an opposition rally in May.

Despite legislation prohibiting the dissemination of hate literature, events and stores associated with the BOC continued to sell anti-Semitic literature, though such materials were in small quantities and not prominently displayed (*see* Section 2.c). Despite assurances from the Committee of Religious and Nationalities Affairs (CRNA) that the Government took all necessary steps to address such manifestations of hate literature, no concrete steps were observed during the year.

Both the Government and society engaged in significant discrimination against Roma, who numbered almost 70,000. High unemployment and low levels of education characterized the Roma community. On November 9, the Government cited the Roma unemployment rate at 93 percent. Due to negative stereotypes, other citizens did not hire Roma. The police harassed Romani women selling produce or telling fortunes in the marketplace. State media and government officials portrayed Roma negatively. On June 23, Romulad Andrievski, head of the Ministry of Internal Affairs' Department of Drug Trafficking, asserted that at least 50 percent of all Roma were drug dealers; while credible sources indicated that drug dealing by Roma was a problem, they regarded the 50 percent figure as exaggerated.

Roma children struggled in the school system; they speak primarily Romani and Belarusian, but in most Belarusian schools the language of instruction is Russian. Parents often withheld their children from kindergarten in an effort to avoid assimilation. As a result, Romani children were linguistically behind in the all Russian classrooms. It took 2 to 3 years for the students to catch up; Romani students reported that their teachers and fellow students often assumed they were lazy or mentally incompetent when their academic difficulties actually resulted from language difficulties.

Roma were able to receive higher education in the country's few private educational institutions, but were often denied access to higher education in state run universities. The Roma Lawyer's Group repeatedly petitioned the Government to permit the establishment of a public Roma school in Minsk, arguing that there were schools for Jews, Lithuanians, and Poles, but the Roma have no such educational opportunities. By year's end, there had been no response from the authorities.

*Other Societal Abuses and Discrimination.*—Homophobia and discrimination against homosexuals were a problem. Although homosexuality was not a criminal offense, homophobia was widespread and instances of harassment occurred in all spheres of society. A negative statement about homosexuals by President Lukashenko in September demonstrated that negative attitudes towards homosexuals existed at the highest levels of government.

Instances of discrimination included canceling in May of a concert by openly gay pop star Boris Moiseyev's performance for the 60th anniversary of liberation from Nazi occupation. In another incident, the Music 1 Channel denied a homosexual man permission to post a message on a televised dating chat room. The channel explained that they are not allowed to "propagate non-traditional sexual behavior" in their programming. Such incidents were not isolated.

According to the UNDP, there was no official discrimination against persons with HIV/AIDS; however, there was societal discrimination. HIV infected individuals were afraid to disclose their status for fear of prejudice based primarily on a lack of understanding of the virus. Even doctors often strongly feared AIDS and lacked knowledge about the disease. The UNDP reported that very few medical personnel dealt with HIV/AIDS patients and HIV-infected women could give birth only at one department at one hospital. In prisons, HIV-infected inmates faced strong discrimination and were segregated to minimize risk of injury or even death at the hands of other prisoners.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution upholds the right of workers, except state security and military personnel, to form and join independent unions on

a voluntary basis and to carry out actions in defense of worker rights; however, these rights were not respected in practice. Measures to suppress independent unions included the conversion of all government employees to short-term contracts, the nonextension of employment contracts for some members of independent trade unions, the arrest of members of independent trade unions for distributing union literature, the confiscation of union materials, the denial to union members of access to work sites, excessive fines, and pressure on union members by managers and state authorities to join progovernment unions. In a report published October 8, an ILO Commission of Inquiry criticized the Government for its interference in trade union activity. The Government continued to pursue the objective of bringing all trade union activity under its effective control.

During the year, the authorities continued to interfere in the work of the independent Congress of Democratic Trade Unions (CDTU), especially regarding activities of independent, affiliated unions. In June, the International Labor Organization's (ILO) Standards Committee included the country in its special paragraph on trade union violations for a third consecutive year and urged the Government to address the ILO recommendations that it eliminate Government interference in unions. On October 8, the ILO Commission of Inquiry, established in November 2003, published a report detailing serious violations of workers' rights in the country. The ILO report concluded the Government had violated the ILO Freedom of Association and Protection of the Right to Organize Convention and the Right to Organize and Collective Bargaining Convention by using laws on registration to restrict the formation of trade unions, by failing to take effective measures against anti union discrimination, and by preventing workers' organizations from organizing their activities freely.

In November 2003, the Ministry of the Economy informed the ILO that all activities related to the ILO's technical assistance project to labor unions must cease, because the registration of the project had been rejected. The Ministry cited the exclusion of the Federation of Trade Unions of Belarus (FTUB) from project activities as the main reason that registration was denied, even though local branch unions affiliated with the FTUB participated in project activities throughout the year.

A 2003 Presidential decree requires trade unions to enroll a minimum of 10 percent of the workers of an enterprise in order to form and register a local union. The decree specifies a minimum enrollment of 500 members for national unions. It also obliged existing registered unions to reregister and to meet the new requirements. Independent trade union leaders reported that this decree had the effect of making registration, and therefore union activities, nearly impossible in many of the larger state owned enterprises. Some local unions have been denied registration under this decree. The ILO Commission of Inquiry on October 8 noted that a Grodno regional court denied registration to the Belarusian Free Trade Union (FTU) at Khimvolokno, a local business, because the FTU did not provide documents confirming the FTU met the 10 percent minimum membership requirement.

The authorities continued to threaten employees at state run enterprises who joined independent trade unions with dismissal. The FTUB, formerly the Belarusian branch of the Soviet Union's All Union Central Council of Trade Unions, consisted of approximately 3.9 million workers and was the largest trade union organization. The independent CDTU consisted of 4 independent unions totaling 12,000 members. According to FTUB figures, 92 percent of the workforce was unionized.

The Government forced government employees and employees of state-owned businesses, who together were a majority of the workforce, to move to a short term contract system from a lifetime contract system of employment during the year. A September 2 order by Vice Premier Andrey Kobyakov threatened ministers and governors that failure to transfer government officials to fixed term contracts before October 6 would be "called into account." Credible reports indicate that the Government used the fixed term contract system to dismiss independent union members and opposition political activists. Although the contract system allows contracts to be signed for periods up to 5 years, only one major employer signed contracts of that length. Most contracts were concluded for 6 months or 1 year terms.

Independent trade unions faced continual Government harassment. The ILO Commission of Inquiry noted on October 8 that the punishment courts imposed on union leaders Aleksandr Yaroshuk and Aleksandr Bukhvostov and lawyer Vladimir Odynets in 2003 was motivated by their union activities. On September 17, the management of the Belarusian Aerial Navigation Enterprise informed the former vice president of the deregistered Belarusian Air Traffic Controllers' Union Oleg Dolbik, that his contract would not be extended. On September 20, a Grodno court fined Ivan Roman, a member of the Belarusian Trade Union of Workers of Radio and Electronic Industry, Automobile Machinery, Metalworking Industry, and Other Branches of the National Economy (REPAM) \$84 (180,000 Belarusian rubles) for

distributing the REPAM bulletin "Shaber." The MOJ had revoked the registration of the REPAM on July 22, only 3 months after it granted it. The ministry also blocked efforts by the Belarusian Trade Union of Workers of Radio and Electronic Industry (REP), one of the two unions forming the core of REPAM, to broaden its membership base.

The MOJ closed the Belarusian Party of Labor (BPL) on August 2. President Lukashenko and Industry Minister Anatoly Kharlap both set the removal of party chairman Aleksandr Bukhvostov and party leader Gennady Fedynich from the head of FTUB affiliated unions as a primary goal for 2003. Bukhvostov was removed from his position as head of the Agricultural Machinery Workers Union (ASM) in December 2003,

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively; however, the authorities and state owned enterprises hindered the ability of workers to bargain collectively and, in some instances, arbitrarily suspended collective bargaining agreements. An ILO Commission of Inquiry concluded that several trade unions had been denied the right to bargain collectively because of the deregistration and nonregistration of unions. The independent Free Trade Union reported it had been unable to open negotiations on a collective bargaining agreement for workers at the Mogilev factory of artificial fiber for over a year. Unions reported that some enterprises and state agencies pressured workers to accept individual contracts in lieu of collective contracts and also altered the duration of the contracts from life to fixed terms (see Section 6.a.).

The Constitution provides for the right to strike; however, tight control by the Government over public demonstrations made it difficult for unions to strike or to hold public rallies furthering their objectives. During the year, small vendors and workers organized several small strikes in various regions of the country. However, there were many instances in which management and local authorities frustrated workers' attempts to organize strikes by declaring that such activities would be illegal.

There are no special laws or exemptions from regular labor laws in the six special economic zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children, except in cases when the work or service to be performed is fixed by a court's decision or in accordance with the law on states of emergency or martial law; however, there were some reports that such practices occurred. A February 23 law allows the commanding officers of military units to receive responsibility for orphans from the ages of 14 to 16; such orphans are required to join the military unit after they reach the legal draft age. The Government approved several "subbotniks" by which workers "volunteered" to work on Saturday and donate the day's earnings to finance certain social projects. Participation in subbotniks was technically voluntary but effectively mandatory; workers who refused to participate were subject to fines and intimidation by employers and the authorities.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law establishes 16 as the minimum age for employment. With the written consent of one parent (or legal guardian), a 14 year old child may conclude a labor contract. The Prosecutor General's office reportedly enforces this law effectively. However, students were required to participate in potato harvesting activities.

*e. Acceptable Conditions of Work.*—The minimum wage was \$40 (87,000 Belarusian rubles) a month, which was below the country's minimum sustenance budget of \$60 (130,000 Belarusian rubles) and did not provide a decent standard of living for a worker and a family; however, average real wages improved during the year from approximately \$126 (264,000 Belarusian rubles) to \$175 (380,000 Belarusian rubles) a month.

The Constitution and Labor Code set a limit of 40 hours of work per week and provide for at least one 24 hour rest period per week. In reality, because of the country's difficult economic situation, a number of workers found themselves working considerably fewer than 40 hours per week. Reportedly factories often required workers to take unpaid furloughs caused by shortages of raw materials and energy and a lack of demand for factory output.

The law establishes minimum conditions for workplace safety and worker health; however, these standards often were ignored. Workers at many heavy machinery plants did not wear even minimal safety gear, such as gloves, hard hats, or welding glasses. A State Labor Inspectorate existed but did not have the authority to enforce compliance, and violations often were ignored. During the year, 250 workers died and 840 were seriously injured in workplace accidents. The high accident rate was

due to a lack of protective clothing, shoes, equipment, failure to observe temperature regulations, the use of outdated machinery, and inebriation on the job. 46 percent of those who died in workplace accidents were inebriated. There is no provision in the law that allows workers to remove themselves from dangerous work situations without risking loss of their jobs.

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## BELGIUM

Belgium is a parliamentary democracy with a constitutional monarch who plays a mainly symbolic role. The Council of Ministers (Cabinet), led by the Prime Minister, holds office as long as it retains the confidence of the lower house of the bicameral Parliament. Federal parliamentary elections held in May 2003 were free and fair and resulted in a four-party coalition government. The country is a federal state with several levels of government, including national, regional (Flanders, Wallonia, and Brussels), community (Flemish, Francophone, and German), provincial, and local. The judiciary is independent.

The civilian authorities maintained effective control of the security forces. The Federal Police are responsible for internal security and nationwide law and order. Local Federal Police branches operated in all 196 police districts. There were no reports that security forces committed human rights abuses.

The country, which has a population of approximately 10.3 million, is highly industrialized, with a large private sector and limited government participation in industry. The primary exports were machinery and equipment. The economy grew an estimated 2.7 percent during the year and provided a high standard of living for most citizens; there was little economic disparity.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of addressing individual instances of abuse. Racist and xenophobic violence against Jews and Muslims occurred infrequently. Trafficking in women and children remained a problem, which the Government took steps to address.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

During the year, six people were convicted of conspiracy to murder the former Socialist Party Minister Andre Cools, who was assassinated in 1991. Socialist Party Minister Alain Van der Biest was implicated in the conspiracy and committed suicide in 2002.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

There were instances of violence by groups towards Muslims and Jews (*see* Section 5).

In July 2003, the Government published its response to a report by the Council of Europe's Committee for the Prevention of Torture (CPT) based on a 2001 visit. The CPT report made recommendations concerning the use of force and means of restraint during involuntary movement of prisoners, but noted that the Government had already taken measures to reduce risks to prisoners. The report's principal concerns were violence among prisoners at Andenne Prison, chronic overcrowding at Antwerp Prison, and the operation of the psychiatric care system in prisons. In response to the report, the Government adopted specific articles in the Criminal Code prohibiting torture and inhumane treatment and prohibited the use of plastic handcuffs and the use of immobilization techniques that could result in asphyxiation. Other Government actions to implement the CPT recommendations included closure of a psychiatric ward at Lantin prison; new measures to combat prison violence; and a more liberal policy for allowing prisoners access to medical treatment. Following the July 2003 death of a prisoner at Lantin penitentiary, a judicial inquiry began into the actions of two prison guards. The investigation continued and was still pending at year's end.

Prison conditions varied: Newer prisons generally met international standards, while some older facilities nearly met international standards despite their austere physical conditions and limited resources. During the year, the U.N. Human Rights

Committee on the implementation of the International Covenant on Civil and Political Rights expressed concern over the level of prison populations. Overcrowding remained a problem: The prison system, which was designed to hold 8,133 prisoners, held on average 9,000 prisoners in 2004, according to government figures. Projects to expand the prison system by approximately 200 persons were not completed by year's end. To reduce overcrowding, the Government adopted alternative sentencing, electronic surveillance at home for about 350 prisoners nearing the end of their sentences, and entered into agreements with several countries to return foreign prisoners to their home countries to complete their sentences. During the year, the psychiatric prison ward capacity was expanded following criticism of inmate treatment by the International Prison Observatory. In December, the Government passed a bill on the fundamental rights of prisoners. Legislation was also enacted and implemented abrogating legal incapacity status for certain categories of convicts, such as repeat criminal offenders.

Men and women were held separately. Juvenile prisoners were not held in adult prisons. However, a juvenile court judge can determine whether to release or imprison those over age 16. Convicted criminals and pretrial detainees were not held in separate facilities.

The Government permitted visits by independent monitoring and human rights groups, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Federal Police Council, an anticorruption unit, and the Federal Interior Ministry manage the operations of the Federal police forces. An independent oversight committee monitors police activities and compiles an annual report for Parliament. The Federal Police were responsible for internal security and nationwide law and order. The local police operated branches in all 196 police districts responsible for local law enforcement. Corruption was not a problem with local or Federal police, although a parliamentary oversight committee noted an increase in reported wrongful use of force, racism, and verbal abuse by police at all levels during the year.

Arrested persons must be brought before a judge within 24 hours. Pretrial confinement was subject to monthly review by a panel of judges, which could extend detention based on established criteria, for example, if the court deemed the arrested person likely to commit further crimes or attempt to flee if released. There were instances where lengthy pretrial detention was a problem. The law provides for bail, but it was not a prevailing practice and was only occasionally granted. During the year, 39 percent of the prison population consisted of pretrial detainees. Arrested persons were allowed prompt access to a lawyer of their choosing or, if they could not afford one, to an attorney appointed by the State.

Fehriye Erdhal, a Kurdish woman accused of involvement in a 1996 terrorist attack in Turkey, remained under house arrest pending trial at year's end. Following the Council of State's March 2003 reversal of a 2000 expulsion order, Erdhal renewed her application for political asylum, and her asylum case was pending at year's end. By year's end, the federal prosecutor sought to indict Erdal for arms possession and membership in a criminal organization.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The criminal judicial system is composed of civil and criminal courts and their respective courts of appeal. The Courts of First Instance (district courts) are responsible for civil and commercial litigation for matters that exceed the jurisdiction of a justice of the peace. There are five appeal courts and one Supreme Court of Appeal. The latter verifies that the law has been correctly applied and that no procedural errors have been committed. When the Supreme Court overturns a ruling, the case is referred to one of the appeals courts to reexamine the facts. The criminal courts consist of the magistrate's court, correctional courts, and the criminal chambers of the court of appeal. Each province has a Court of Assize, with a public jury judging the cases. These courts have jurisdiction over all the most serious crimes and political crimes. The Courts of Assize are courts of first and last instance and their rulings cannot be appealed.

The High Council on Justice supervises the appointment and promotion of magistrates. The Council serves as a permanent monitoring board for the entire judicial system and is empowered to hear complaints against individual magistrates.

The Federal Prosecutor's Office prosecutes crimes involving nuclear materials, human trafficking, arms trafficking, human rights violations, terrorism, crimes against the security of the State, as well as any case involving foreign perpetrators, victims, or territory.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Charges are stated clearly and formally, and there is a presumption of innocence. All defendants have the right to be present, to have counsel (at public expense if needed), to confront witnesses, to present evidence, and to appeal.

The courts rarely used the Summary Trial Act, which allows for the immediate arrest and summary appearance of criminals caught in the act of committing a crime.

Peacetime use of military tribunals was abolished on January 1.

Each judicial district has a labor court, which deals with litigation between employers and employees regarding wages, notice, competition clauses, and social security benefits. There is also a magistrate in each district to monitor cases involving religious groups (*see* Section 2.c.).

A law adopted in 2003 amended the controversial “universal competence” law, and authorizes jurisdiction over alleged war crimes and crimes against humanity committed outside the national territory only when the victim or perpetrator is a citizen or resident of the country.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The law accords “recognized” status to Roman Catholicism, Protestantism (including evangelicals and Pentecostals), Judaism, Anglicanism, Islam, and Orthodox Christianity (Greek and Russian), and these groups received government subsidies. Nonconfessional philosophical or secular organizations served as a seventh recognized “religious” group, and their organizing body, the Central Council of Non Religious Philosophical Communities of Belgium, received funds and benefits similar to those of the six recognized religions.

By law, each recognized religion has the right to provide teachers at government expense for religious instruction in public and private schools. For recognized religions, the Government paid the salaries, lodging, and retirement expenses of clergy members and also subsidized the construction and renovation of houses of worship. The lack of recognized status generally did not prevent nonrecognized religious groups from freely practicing their religions, and citizens generally practiced their religion without official harassment or impediment.

During the year, the Justice Minister decided to create a committee to assist in preparing the Muslim representative body, the Muslim Executive Council, for new elections after an impasse was reached on how to elect a general assembly and executive council. The Muslim Executive Council is responsible for appointing religious teachers (imams) and for the secular administration of cemeteries, buildings, and food preparation. Continued organizational disputes within the Muslim community and with the Ministry of Justice associated with the preparation for these elections have postponed formation of this council.

Some groups continued to complain that their inclusion on a 1998 parliamentary commission’s list of groups that may pose a threat to society or individuals caused discriminatory action against them. While the list has no official status, the groups continued to state that the prominence of the list, and governmental funding of the Center for Advice on Harmful Sects to monitor some groups from the list, caused negative assumptions and guilt by association.

In 2002, an independent judge completed his 5 year criminal investigation into allegations against the Church of Scientology, clearing the way for a prosecutor to take the case to trial. The charges related to alleged financial irregularities by some local church officials, bribery, violation of privacy legislation, and unlawful exercise of the medical profession. The trial had not started by year’s end.

There is no provision in immigration law for foreign members of religious groups to enter the country to conduct religious work or for them to obtain work permits for that purpose. However, various religious groups, including the Church of Jesus Christ of Latter-day Saints, continue to receive visas for members from abroad temporarily to conduct missionary activities.

Political leaders avoided parliamentary debate over the use of religious symbols in public schools and allowed individual schools to continue to determine such matters.

Jewish advocacy groups noted 21 anti-Semitic incidents during the first half of the year and Muslim organizations reported 6 anti-Islamic incidents. In July, in the most serious incident involving the Jewish community of Antwerp, a Jewish youth was stabbed. No arrests had been made by year's end.

In the June 2003 failed car bombing of the synagogue in Charleroi, a suspect was arrested, declared mentally incompetent, and was detained at year's end.

In July, three men attacked the asylum center of Ranst (Antwerp Province), leaving one Muslim asylum seeker hospitalized and two more injured. Three youths were convicted and sentenced to an institution for juvenile delinquents until they turn 18 or a judge decides otherwise, and one 18-year-old youth was given conditional release. Following the incidents during the year, the Federal Government adopted an action plan to step up the fight against racism and to protect more effectively the Jewish community, asylum centers, and mosques. The Center for Equal Opportunities and Opposition to Racism (CEEOR) (Anti-Racism Center) and federal authorities have created a monitoring unit to follow these cases.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law includes provisions for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. From January to October, 12,374 asylum applications were submitted, continuing the downward trend begun in 2000. Approximately 40 percent of applicants were permitted to continue processing their applications, having received a stay from the immigration office. Of the 18,817 requests received in 2003, 1,201 applicants obtained political refugee status.

From January to November, 5,850 persons were repatriated. During the year, 2,007 non-nationals were stopped at the border (including the airport). From January to November, there were 396 forced repatriations. Joint repatriations were organized between the Government of the Netherlands and the Government of Luxembourg.

The Government, in partnership with the International Organization for Migration (IOM), provided relocation assistance to unsuccessful asylum applicants who agreed to repatriate voluntarily to their country of origin. Unsuccessful applicants who did not leave voluntarily were subject to forced repatriation. From January to November, there were 2,964 voluntary repatriations.

There are five detention centers for aliens who entered the country illegally. The detention of minors in these facilities remained controversial, and the Government indicated that it was exploring new means for handling underage asylum seekers.

The Government also provided temporary protection to certain individuals who fall outside the definition of the 1951 U.N. Convention/1967 Protocol. Undocumented asylum seekers arriving by air, whose claims did not appear legitimate as determined by immigration officials, were not allowed to enter but were held in a closed detention center at the airport while awaiting forced or voluntary repatriation. The children of such asylum seekers did not attend school. Those applicants whose claims appeared to be legitimate were released to a system of 39 reception centers for shelter and assistance. The Federal Government, the International Committee of the Red Cross, and municipalities had a combined 15,375-bed capacity. Use of these reception centers was provided to 86.6 percent of those persons who had legitimate claims. The remaining applicants found private means of support.

Authorities rejected the applications of many refugees from Iran and Afghanistan. In 2003, approximately 300 Afghan asylum seekers took refuge in a church to pro-

test the rejection of their applications. Many also went on a hunger strike. The Interior Minister allowed all of the protesters to remain in the country for part of the year, some with families until as late as June, before they had to leave, or they could file for asylum to have their cases individually reviewed. Since the law permits a family of asylum seekers resident in the country for at least 3 years to apply for regularization (4 years for an individual), the extension meant that many of the 300 would be able to remain in the country permanently; however, these cases were still pending at year's end. Fourteen Iranian asylum seekers also went on a hunger strike to protest the rejection of their applications and were also granted a temporary stay while their cases were re-examined. These cases also were still pending at year's end. In 2003, 87 Iranians voluntarily returned to Iran under IOM auspices.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens ages 18 and older exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting in all elections is compulsory, with failure to vote subject to a nominal fine. Direct popular elections for parliamentary seats (excluding some Senators elected by community councils and others elected by Senate members) are held at least every 4 years. Opposition parties operated freely. During the year, legislation was enacted allowing long-term non-European Union (EU) immigrants to vote in municipal elections.

The existence of communities speaking Dutch, French, and German created significant complexities for the Government. Most major institutions, including political parties, are divided along linguistic lines. National decisions often take into account the specific needs of each regional and linguistic group. With three official languages, the country had a complex linguistic regime, including language requirements, for various elective and appointive positions. The law prohibits the official financing of any racist or xenophobic party or any party that does not respect human rights.

After two lower courts ruled that they were not competent to hear the case of charges brought against three nonprofit organizations linked to the Vlaams Blok party, the prosecutor and the CEOOR, an autonomous governmental entity, appealed to the country's Supreme Court of Appeals, which remanded the case to the Ghent Court of Appeals. In April, the Ghent Appellate Court ruled that the three non-profit organizations, which constituted the Vlaams Blok, violated the country's anti-racism and anti discrimination legislation. In November, the Supreme Court of Appeals upheld the verdict of the Ghent Appellate Court. As a result, the Vlaams Blok changed its name to the Vlaams Belang to avoid further legal action. The Vlaams Blok, which received public funds from both the Federal and Flemish regional parliaments under its original name, is now receiving funding under its new name.

There were 52 women in the 150-seat Chamber of Representatives and 26 women in the 71-seat Senate; 5 of the 21 Federal Cabinet ministers were women, and there were 11 female ministers out of 43 regional ministers. In 2002, Parliament adopted legislation that requires an equal number of male and female candidates on party tickets for all future regional and federal elections.

There was one minority federal cabinet member, six minorities in the Federal Senate, four in the Federal Chamber, and two in the regional governments.

The Government provides free access to citizens and noncitizens to government information; however, there were exceptions, such as material involving national security.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these laws.

*Women.*—Domestic violence against women remained a problem. In March, the Government initiated a national plan to prevent domestic violence that attempted to increase awareness through educational campaigns; however, the results were not evident by year's end. The law defines and criminalizes domestic violence with the aim of protecting married and unmarried partners. The law allows social organiza-

tions to represent victims of domestic violence in court with the victim's consent. It allows police to enter a home without the consent of the head of household when investigating a domestic violence complaint. According to the law's proponents, the police did not use it enough in practice. By year's end, the Government had not implemented provisions of the law that required it to establish and maintain a database of statistics on domestic violence. Spousal rape is illegal, but no data was available on the number of persons charged or convicted of spousal rape.

A number of government-supported shelters and telephone help lines were available across the country. In addition to providing shelter and advice, many offered assistance on legal matters, job placement, and psychological counseling to both partners. One of the three regional governments provided approximately 80 percent of these organizations' budgets. The law also allows the victim of domestic violence to claim the family dwelling.

The law prohibits organizing prostitution or assisting immigration for the purpose of prostitution, but not prostitution itself.

Sexual harassment is illegal. The Government has implemented procedures to monitor sexual harassment claims. The law provides victims of sexual harassment the right to sue their harassers. The law also prohibits discrimination in hiring, working conditions, promotions, wages, and contract termination. Most cases of sexual harassment were resolved informally.

The Constitution and the law provide for the equal treatment of men and women. The Government actively promoted a comprehensive approach to the integration of women at all levels of decision making. The Institute for the Equality of Men and Women is authorized to initiate lawsuits if it finds that equality laws have been violated.

In 2002, the gross average salary for a woman was 85 percent of the national gross average salary. Almost 51 percent of working age (age 15 to 60) women were gainfully employed, 36.8 percent of these were part-time.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and health care and provided free compulsory education from ages 6 to 18. The Francophone and Flemish communities each subsidized an official children's rights organization headed by a commissioner.

The Constitution provides that every child has the right to respect for his or her moral, physical, mental, and sexual integrity. The Federal Police has a specialized unit dedicated to investigating child pornography complaints and there are comprehensive child protection laws. The law provides for severe penalties for child pornography and persons possessing pedophilic materials. It permits the prosecution of residents who commit such crimes abroad and provides that criminals convicted of the sexual abuse of children cannot be paroled without first receiving specialized treatment and must continue counseling and treatment upon their release from prison. The law provides for the protection of youth against sexual exploitation, abduction, and trafficking.

In June, Marc Dutroux was convicted and sentenced to life imprisonment by the Luxembourg Province Court of Assize for rape, drug trafficking, and forceful detention of six girls and the murder of three of them. His accomplices, including his wife, were also convicted. The investigation into these high profile crimes lasted 8 years, was the subject of public outrage and a parliamentary investigation, and caused a general overhaul of the police and numerous changes to the criminal code. It also led to the formation of nongovernmental, governmental, and quasi-governmental organizations focused on child protection.

There were some reports of abuse of children, although there was no societal pattern of abuse directed against children.

Child prostitution was a problem but was not widespread, and in September, the Federal Government initiated a new campaign to prevent it.

Government and private groups provided shelters for runaways and counseling for children who were physically or sexually abused. Child Focus, the government-sponsored center for missing and exploited children, reported that it handled 2,954 cases in 2003, a nearly 30 percent increase since 2000. Approximately 42 percent of the reported cases concerned runaways, 23 percent involved abduction by parents, 23 percent were reports of disappearance, and nearly 8 percent were pedophilia cases. The most marked increase was in the reports of disappearances. Child Focus also noted that 67 percent of the reported runaways were girls.

*Trafficking in Persons.*—The law criminalizes trafficking in persons; however, the country was both a transit and a destination point for trafficking in women and children. Despite laws that offer protection and continued residence in the country to foreign victims of trafficking who come forward, both governmental and nongovern-

mental sources indicated a continuing rise in trafficking of women and minors for sexual exploitation.

The law provides that persons convicted of violating the anti trafficking law are subject to 1 to 5 years of imprisonment and substantial fines. Members of trafficking "organizations" and persons committing offenses that include aggravated circumstances may be punished by 10 to 15 years of hard labor and higher fines. Penalties for trafficking of children are more severe and include possible life imprisonment if the victim is less than 10 years of age.

In July, the Government incorporated the existing trafficking laws into the criminal code. Death of a trafficking victim can now result in 20 years of imprisonment and a \$195,000 (150,000 euro) fine.

An interdepartmental committee provided coordination and communication between the various agencies and ministries involved in combating trafficking. This committee met several times annually under the auspices of the CEOOR. A magistrate was designated in each judicial district to supervise cases involving trafficking. The Federal Prosecutor's Office is in charge of coordinating the various anti-trafficking initiatives. In March, the Government set up a new Information and Analysis Center on Trafficking. The new center coordinates data from the CEOOR, Child Focus, several ministerial departments, the college of prosecuting magistrates, and the office of the federal prosecutors.

There are anti-trafficking units in both the Federal and local police forces. The CEOOR identified 330 human trafficking related cases in the courts in 2001 and 2002: 160 cases involved alien smuggling, 80 were prostitution-related, and 30 concerned labor exploitation. Sentences for persons convicted under the law ranged from approximately 2 to 10 years' imprisonment and fines of approximately \$2,970 to \$33,750 (2,200 to 25,000 euros). However, at least some of the convictions were related only indirectly to trafficking.

Trafficking victims continued to come primarily from sub-Saharan Africa (particularly Nigeria), Central and Eastern Europe (particularly Albania), Chechnya, Iran, and Asia (particularly China). Nigerian and Albanian victims usually were women between the ages of 21 and 30 trafficked for prostitution. Victims of sexual exploitation were increasingly women under age 18. Gangs that controlled the trade sometimes threatened victims with violence, including retribution against the victims' families in their home countries. Chinese victims often were young men trafficked for manual labor in restaurants and sweatshops.

Most cases of trafficking were the work of organized gangs from Central and Eastern Europe, particularly from Albania. While a growing number of victims came forward, this rarely led to the identification or capture of the traffickers. Traffickers not only moved their victims frequently from city to city within the country, but also used the EU's open borders to move victims from country to country. Freedom of movement also made it easy for traffickers to evade arrest if one of their victims went to the authorities.

The law provides that victims of trafficking who provide evidence against their trafficker may be granted temporary residence and work permits and are eligible to receive significant financial assistance from government-funded reception centers managed by nongovernmental organizations (NGOs). In each of the country's three regions, the Government designated and subsidized a nonprofit organization to provide such assistance. At the conclusion of legal proceedings against their traffickers, victims generally were granted permanent residence status and unrestricted work permits. The rights of victims generally were respected in practice, and they were not treated as criminals. The CEOOR did not maintain statistics on how many victims of sexual exploitation were sheltered and assisted.

Anti-trafficking liaison officers were assigned to the country's embassies in some countries of origin, including Albania, Cote d'Ivoire, the Democratic Republic of Congo, Guinea, Kazakhstan, and Ukraine. These officers gathered information about local conditions and trafficking trends and assisted in establishing anti-trafficking information campaigns for the local population.

The Government worked closely with the IOM to develop programs to combat trafficking and to assist its victims. For example, the Government provided funding for information campaigns in countries of origin to warn women of the dangers of trafficking. It also provided funding to the IOM to assist the voluntary return of victims to their home countries and to assist them in readjusting once they had returned home. The Government worked closely with and supported NGOs that combated trafficking.

The Federal Police increased their activity in the port of Zeebrugge to stem the flow of persons transiting by boat to the United Kingdom. During the year, the Federal Police intercepted more than 6,000 persons and arrested 26 persons suspected of alien smuggling.

*Persons With Disabilities.*—The law provides for the protection of persons with disabilities from discrimination in employment, education, access to health care, and the provision of other state services. There were no reports of societal discrimination against persons with disabilities. The Government mandated that public buildings erected after 1970 be accessible to such persons and offered subsidies to encourage the owners of other buildings to make necessary modifications. However, many older buildings were not accessible.

The Government provided financial assistance to persons with disabilities. It gave special aid to parents of children with disabilities and to parents with disabilities. Regional and community programs provided other assistance, such as job training. Persons with disabilities were eligible to receive services in any of the country's three regions, not just in their region of residence.

*National/Racial/Ethnic Minorities.*—In the country's pluralistic society, individual differences, particularly linguistic preference rights, were respected. Approximately 60 percent of citizens were native Dutch speakers, 40 percent French speakers, and less than 1 percent German speakers.

The law prohibits the incitement of discrimination, hate, or violence based on race, ethnicity, or nationality. It is illegal for providers of goods or services (including housing) to discriminate on the basis of any of these factors or for employers to consider these factors in their decisions to hire, train, or dismiss workers; however, immigrant communities complained of discrimination, particularly in the job market. The law also expanded the mandate of the CEOOR to encompass other discrimination, such as discrimination based on gender, age, and disability.

Members of the Muslim community, estimated at 350,000, and principally of Moroccan and Turkish origin, claimed that discrimination against their community, notably in education and employment and especially against young men, was greater than that experienced by other immigrant communities. Only 30 percent of working-age, non-EU immigrants were employed.

In 2003, the CEOOR, which was tasked with investigating complaints of discrimination based on race, handled 779 complaints, only 45 of which led to court action by the Center. Of these, only 17 resulted in civil claims for damages. One fifth of the complaints were job-related.

During the year, there was an increase in ethnic/religious incidents, primarily directed towards Muslims and Jews (*see* section 2.c.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers the right to associate freely, including the freedom to organize and to join unions of their own choosing, and workers fully and freely exercised this right in practice. Approximately 60 percent of employed and unemployed workers were members of labor unions.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The right to organize and bargain collectively was recognized and exercised freely, and the Government protected this right in practice. The law provides for the right to strike, and workers exercised this right in practice. During the year, trade unions and employers generally respected the gentlemen's agreement of 2002 in which both sides pledged to honor the right to strike; employers would avoid court action against strikes provided that workers and unions undertook to respect the required notification period. At year's end, employers expressed concern about a short plant occupation, which occurred when management announced plans for a mass layoff. In addition, trade union elections were held during the year for representatives to the workers council's safety and health committees. The International Labor Organization has complained that the absence of specific criteria for the selection of employer and trade union representatives to the National Labor Council left broad discretionary power to the Government. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age of employment for children was 15. Youths between the ages of 15 and 18 could participate in part-time work/study programs and work full-time during school vacations. The labor courts effectively monitored compliance with national laws and standards. There were no industries where any significant child labor existed.

*e. Acceptable Conditions of Work.*—The monthly national minimum wage for workers over 21 years of age was approximately \$1,678 (1,243 euros); 18-year-olds must

be paid at least 82 percent of the minimum, 19-year-olds 88 percent, and 20-year-olds 94 percent of the minimum. The national minimum wage, coupled with extensive social benefits, provided a decent standard of living for a worker and family.

As of January 2003, the standard workweek could not exceed 38 hours. Many collective bargaining agreements (negotiated by sector) set standard workweeks of fewer hours and prohibited work on Sundays. The law requires overtime pay for hours worked in excess of the standard. Work done from the 9th to the 11th hour per day or from the 39th to 50th hour per week are considered allowable overtime. Longer workdays are permitted only if agreed in a collective bargaining agreement. The Ministry of Labor and the labor courts effectively enforced these laws and regulations.

There are comprehensive provisions in the law for worker safety. In some cases, collective bargaining agreements supplemented these laws. Workers have the right to remove themselves from situations that endanger their safety or health without jeopardy to their continued employment, and the law protects workers who file complaints about such situations.

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## BOSNIA AND HERZEGOVINA

The 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Accords) created the independent state of Bosnia and Herzegovina (BiH), previously one of the constituent republics of Yugoslavia. The Agreement also created two multiethnic constituent entities within the state: The Federation of Bosnia and Herzegovina (the Federation) and the Republika Srpska (RS), along with the independent District of Brcko. The Federation has a postwar Bosnian Muslim (Bosniak) and Croat majority, while the RS has a postwar Bosnian Serb majority. The Constitution (Annex 4 of the Dayton Accords) established a federal democratic republic and assigned many governmental functions to the two entities, which have their own governments. The Accords also provided for the Office of the High Representative (OHR) to oversee implementation of civilian provisions. The OHR has the power to impose legislation and remove officials who obstruct the implementation of the Dayton Accords. Candidates of the three main nationalist parties, the Bosniak Party for Democratic Action (SDA), the Serb Democratic Party (SDS), and the Croatian Democratic Union (HDZ), won seats to the tripartite BiH Joint Presidency in elections in 2002 that were regarded as generally free and fair; Bosnian Croat Dragan Covic, Bosnian Serb Borislav Paravac, and Bosniak Sulejman Tihic make up the BiH Presidency. In the Federation, the President, Niko Lozancic, appointed the Prime Minister, Ahmet Hadzipasic, subject to parliamentary approval. In the RS, the President, Dragan Covic, and vice presidents were directly elected, while the RS National Assembly selected Prime Minister Dragan Mikerevic. On December 17, Mikerevic resigned from his post in reaction to international community-sponsored sanctions against the RS for its failure to arrest indicted war criminals, notably wartime Bosnian Serb leaders Ratko Mladic and Radovan Karadzic. The RS National Assembly had not approved a new prime minister-designate by year's end. The law provides for an independent judiciary; however, it remained subject to influence by nationalist elements, political parties, and the executive branch.

The Constitution gives the Government of each entity responsibility for law enforcement. The Stabilization Force (SFOR), led by NATO, continued to implement the military aspects of the Dayton Accords and to provide a secure environment for implementation of the nonmilitary aspects of the settlement. On December 2, SFOR transferred the stabilization mandate to a European-led force (EUFOR). NATO headquarters in Sarajevo retained responsibility for overseeing defense reform, counter-terrorism efforts and cooperation with the U.N. International Tribunal for the Former Yugoslavia (ICTY). The smaller European Union Police Mission (EUPM) succeeded the U.N. International Police Task Force (IPTF). EUPM's mission is to monitor, mentor, inspect, and raise standards of the local police. In addition to locally recruited police forces, the entities maintained separate armies. The armies are under state-level Presidential authority. Entity governments generally maintained control of security forces. Some members of the police and security forces in both entities committed a number of human rights abuses.

The economy remained in the early stages of transition to a market economy, and a large percentage of the economy remained in the public sector. The country, with a population of approximately 4.1 million, had significant levels of both industrial and agricultural production. The projected economic growth rate for the year was 5 percent. Wages and benefits were not diminished by inflation, since the country

had an inflation rate of less than 1 percent during the year. Although statistics varied, unemployment was estimated at 40 percent.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Police continued to abuse and physically mistreat detainees and other citizens; however, police accountability for individual abuses improved. Overcrowding and antiquated facilities continued to be a problem in prisons. The judiciary in both entities remained subject to influence by dominant political parties and by the executive branch. Enforcement of judicial decisions by local authorities improved during the year; however, obstacles remained due to lack of administrative capacity in the enforcement courts to handle this caseload. Infringement of privacy rights occurred and was particularly targeted towards minority returnees.

Pressure and harassment of the media by authorities and dominant political parties continued. Incidents included bureaucratic harassment, intimidation, published insults, and character attacks, and threatening behavior; however, threats of violence diminished. Academic freedom was constrained by ethnic favoritism and politicization of faculty appointments. Both entities Governments' and private groups continued to restrict religious practice by minorities in majority areas; religious discrimination remained a problem. Although there were some restrictions on freedom of movement, the situation continued to improve. The rate of returns of refugees and displaced persons declined during the year. The security situation in sensitive return areas and police responsiveness to incidents targeting minority returnees did not improve. The RS continued its de facto refusal to take action against any Serbs indicted by the ICTY; the Federation generally cooperated with the ICTY, although it did not facilitate any new transfers. Noncompliance with ICTY obligations continued to undermine the rule of law in the country.

Isolated instances of political, ethnic, or religious violence continued. Discrimination against ethnic minorities continued. The political leadership at all levels continued to obstruct minority returns in certain localities. Trafficking in women and girls was a serious problem, which the Government took considerable steps to address.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The investigation into the 2002 killing of Zeljko Markovic, Police Chief of Serb Sarajevo, was ongoing at year's end and police still had not identified the perpetrator.

On January 15, the Federation Supreme Court upheld the Cantonal Court's 2003 acquittal of six defendants charged in the 1999 bombing that killed former Federation Deputy Interior Minister Jozo Leutar.

Domestic courts and the ICTY continued to adjudicate cases arising from crimes committed during the 1991–95 conflicts (*see* Sections 1.e. and 4).

During the year, 16 persons were killed in landmine incidents and 27 were injured. The BiH Mine Action Center cleared 1,658 square miles of mined territory during the year; 3,016 anti-personnel mines, 210 anti-tank mines, and 1,523 pieces of unexploded ordnance were found and destroyed.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

An estimated 15,000 to 20,000 persons remained missing from the wars in 1991–95. During the year, the Federation Commission for Missing Persons and RS Office for Detained and Missing Persons carried out 454 exhumations of mass or illicit gravesites with the technical forensic support of the International Commission on Missing Persons (ICMP). The exhumations recovered 997 sets of human remains and 767 partial remains. In August, officials uncovered one of the largest gravesites, containing 240 complete bodies and 209 partial remains believed to be those of Bosniak victims of the notorious Omarska prison camp operated by Serb militia in the summer of 1992.

In October, the new State Law on Missing Persons created the national Missing Persons Institute (MPI); however, it was not fully functional by year's end. The Institute was tasked with absorbing the entity-level missing persons commissions and continuing the search for missing persons of all ethnic groups in partnership with the ICMP. The law also established a statewide central database on the missing and provides for social benefits to families of missing persons.

During the year, ICMP's DNA laboratory generated 2,588 matches that may lead to the identification of 1,754 individuals. ICMP also collected 18,428 blood samples from surviving relatives to assist in the future identification of the 7,789 missing persons represented by these samples.

The International Committee of the Red Cross (ICRC) reported that, since 1995, it had received requests from family members to trace 21,415 persons missing from the war years. By December 31, a total of 5,590 persons had been accounted for (400 of whom were found alive). The ICRC chairs the Working Group on Persons Unaccounted For, which encompasses participants or observers involved in tracing missing persons. The ICRC and the Red Cross Society of BiH also initiated a country-wide campaign to gather ante mortem data on missing persons, which was available to aid in the identification of remains.

The RS government established an independent Srebrenica Commission in order to comply with March 2003 Human Rights Chamber decision which ordered the RS Government to inform families of the fate of their missing relatives from the Srebrenica massacre and to investigate thoroughly the events giving rise to the massacre and report on the results of the investigation. The Commission issued an interim report in June, in which RS authorities took responsibility for the massacre for the first time. On November 15, the Commission released the final portion of its report. The Commission found that there were 7,806 confirmed victims. A classified annex of documents implicating an unknown number of war crimes suspects was turned over to the RS authorities for investigation. Former RS Prime Minister Mikerevic and RS President Cavic acknowledged publicly for the first time that large-scale war crimes took place in Srebrenica and apologized to the relatives of the victims on behalf of the RS government. The families' associations reiterated their desire to see the perpetrators of the massacre brought to justice as soon as possible.

By year's end, 1,438 victims of the Srebrenica massacre had been buried; 1,304 of them were interred at the Srebrenica-Potocari Memorial and Cemetery.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, physical mistreatment of prisoners by police still occurred. According to the EUPM and the RS and Federation Professional Standards Units (PSUs), the number of complaints against police officers remained at approximately the same level during the year as in 2003. Investigations and accountability into police misconduct improved during the year (see Section 1.d.).

Reports of violence against minority communities continued in several areas, particularly in the eastern RS and Herzegovina; however, police investigation of these incidents and police protection in general remained at the same level as in 2003 (see Sections 2.d. and 5).

There continued to be numerous violent incidents directed at returning refugees (see Sections 2.d. and 5). Violence against journalists, including physical assaults, continued (see Section 2.a.).

Prison standards for hygiene and access to medical care met prisoners' basic needs; however, overcrowding and antiquated facilities remained chronic problems. Conditions were worse in police detention facilities, where overcrowding and inadequate food and hygiene were chronic problems. Corruption among prison officials continued to be problematic. Unlike in previous years, there were no reports of prison riots; however, there were some incidents of ethnically motivated violence in prisons. There were no separate prisons for female or juvenile inmates. Adult and juvenile female inmates were held together in separate wings of facilities for adult males. Male inmates under 16 were held separately, while male juveniles aged 16 to 18 were housed with adult male inmates. Pretrial detainees were held separately from convicted criminals. Some prisoners were regularly granted weekend furloughs to visit their families.

The Government permitted visits by independent human rights observers; international community representatives were given widespread and generally unhindered access to detention facilities and prisoners in both entities as well.

*d. Arbitrary Arrest or Detention.*—The Constitutions of both the entities and the country prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

Both the Federation and the RS maintain their own police forces, as does the District of Brcko, and there are three primary levels of law enforcement in the country: The state-level BiH Ministry of Security (MOS), which does not maintain a police force but is supported by the State Investigation and Protection Agency (SIPA) and the State Border Service; the Federation Ministry of Interior (FMUP); and the RS Ministry of Interior (RSMUP). The RSMUP has a centralized structure with five public safety centers (PSCs) throughout the RS that report directly to the RSMUP. The structure of the FMUP is not centralized; each of the 10 cantons has its own cantonal ministry of interior that functions autonomously from the FMUP. Neither the FMUP nor the RSMUP are required to report to the MOS. Although they share

information, these structures function quasi-independently of one another because each structure has jurisdiction over different offenses. For example, the MOS has responsibility for state-level crimes, such as terrorism and trafficking in persons, where the RSMUP and FMUP have responsibility for local crimes like homicide.

On June 15, the State Parliament passed the Law on the State Investigation and Protection Agency, giving SIPA executive authority to investigate serious crimes, including terrorism, trafficking, narcotics, organized crime, war crimes, and money laundering. By year's end, SIPA had hired 281 of its projected 800 employees.

Police in the RS generally did not meet target standards of ethnic representation, as mandated by various agreements; however, the number of minority police officers in each entity police force increased slightly.

The EUPM acted in an advisory capacity to entity police forces, with a limited mandate. Professional Standards Units (PSUs) functioned as internal affairs investigative units in each of the entity MUPs and Brcko District. The presence of these units led to the processing of complaints of police misconduct and discipline of police in accordance with standard procedures. The FMUP police internal affairs units investigated 91 complaints regarding excessive use of force during arrest, and found 7 to be grounded. The investigators concluded that the amount of force used was appropriate in all cases. There were no other reported cases of physical mistreatment of detainees or other citizens by police during the year.

During the year, the RS PSU investigated 951 cases—724 citizen complaints, 221 supervisor complaints, and 6 cases treated as others. A total of 69 complaints were determined to be well founded; 23 were dismissed (4 agreed terminations, 18 statutory limitations and 1 complaint was dropped). In 57 cases assessed as major violations of duty, initiatives for disciplinary procedures were forwarded to appropriate prosecutors.

During the year, the Federation PSU investigated 152 cases, 8 less than in 2003. PSU investigators concluded that 67 complaints were well founded; 29 were unfounded and 50 were dropped. The 56 cases that were deemed to be major violations of duty were forwarded to prosecutors for appropriate disciplinary action.

There were continued reports of corruption at the highest levels. Investigations conducted by local police in cooperation with the international community, including the EUPM and SFOR, resulted in several ministers and police officials being fired or prosecuted (*see* Section 3).

The Criminal Procedure Code (CPC) specifically delineates the manner in which warrants are to be issued and judges, prosecutors, and police received training on these procedures. The process of obtaining search and arrest warrants became more routine during the year.

The CPC requires that persons suspected of committing a crime must be taken before a prosecutor within 24 hours after detention. This requirement was observed in practice. The prosecutor has an additional 24 hours to determine whether the person should be released or to bring the person before a judge to decide if they should remain in pretrial custody. Police are also authorized to detain individuals for up to 6 hours at the scene of a crime for investigative purposes. Detainees are allowed to request a lawyer of their own choosing (if they are indigent, a lawyer will be provided for them) and to inform family members of their detention. In practice, indigent defendants were not always provided with lawyers, particularly for minor offenses. There was a functioning bail system. There were no reported cases of arbitrary arrest or detention during the year.

An individual in pretrial detention has the right to be informed of all charges against him or her once an indictment has been handed down. Under the CPC, a trial must be undertaken in a speedy manner and normally occurs within 3 months of the indictment being issued. However, a substantial backlog of cases from the old system existed in all jurisdictions.

Prior to the enactment of the CPC in 2003, prolonged pretrial detention was a problem. However, under the CPC, pretrial detention cannot last longer than 1 month after the individual is taken into custody. Custody may be extended no longer than 6 months in exceptional cases.

In 2002, the Human Rights Chamber ordered the State and Federation Governments to pay compensation to each of the six Algerian terrorism suspects who were transferred to a foreign government's custody. By year's end, the State Government paid \$3,333 (5,000 KM) to the families of all six suspects; however, the Federation government did not pay any compensation.

*e. Denial of Fair Public Trial.*—Both the Federation and RS Constitutions provide for an independent judiciary; however, the executive branch and political parties exercised some influence over the judicial system. The judiciary was not always able to protect the rights of victims and defendants. The internationally supervised re-

appointment process of judges and prosecutors was completed to help curb the influence of political parties on the judiciary. Some judges and prosecutors who showed independence were sometimes subject to intimidation, and at times local authorities refused to enforce their decisions. Judges and prosecutors were reluctant to pursue actively some serious or politically controversial cases in order to avoid potential conflict with political leaders or organized crime figures. Both the Federation and RS Constitutions provide for open and public trials and provide the accused with legal counsel.

The High Judicial Prosecutorial Councils (HJPC) had the sole authority to appoint and discipline judges and prosecutors to all courts. The Office of Disciplinary Counsel oversaw complaints against judges and prosecutors and recommended punishment or removal as necessary.

Some politicians and other powerful figures continued to exert influence on cases. Judicial reform efforts have somewhat reduced the impact of intimidation efforts by organized crime figures and political leaders. Despite efforts to streamline court procedures, a large backlog of unresolved cases remained a problem.

Enforcement of civil judgments remained weak; however, there was sufficient cooperation from local officials and police in implementing court decisions. Enforcement problems persisted due to organizational inefficiency and a large backlog in the enforcement courts. Decisions of the Constitutional Court were generally respected and implemented in practice.

Since April, when restructuring of courts and prosecution agencies in the entities was completed, judicial and prosecutorial posts have been filled by open competition.

The State-level Court is the highest court in the country. The court and prosecutor's office are responsible for investigating and prosecuting crimes enumerated under the Criminal Code in accordance with the CPC. Both entities have separate Supreme Courts and Prosecutor's offices, as well as cantonal courts in the Federation, district courts in the RS, and the municipal courts, which are the lowest courts in both entities.

Trials are public and the defendant has the right to present his own defense or to defend himself with the professional aid of an attorney of his choice. If the suspect or accused does not have a defense attorney, the CPC stipulates that an attorney shall be provided if the accused is charged with a crime for which long-term imprisonment is prescribed. The CPC and Criminal Code provide the defendant with the right to confront or question the witnesses and to present witnesses and evidence on his behalf. All defendants have the right to appeal. Due to limited court budgets, defense attorneys were not always appointed for indigent defendants in cases where the maximum possible sentence was less than 10 years.

Implementation of decisions of the Human Rights Chamber, and its successor institution, the Human Rights Commission of the Constitutional Court, by local authorities improved somewhat in the RS; however, both the Federation and the RS failed to comply with a number of Chamber decisions, especially decisions regarding welfare compensation and return of real property to lawful prewar owners.

In general, the judicial system as a whole remained unprepared to prosecute war crimes cases domestically; however, the creation of the Special Chamber for War Crimes in November significantly improved its ability to prosecute and adjudicate war crimes at the state level. The legal framework establishing the Special Chamber and changes to the CPC and Criminal Code necessary to try war crimes in the country were also adopted in November.

The local prosecution of war crimes cases proceeded slowly due to political interference and lack of experience; however, authorities made some progress during the year with the arrest and trial of suspects in the domestic courts. The lack of witness protection also hampered prosecution of organized crime and trafficking in persons.

In January 2003, the Banja Luka District Court Prosecutor issued an indictment against 11 Prijedor police officers who had detained members of the Matanovic family. In 2001, police discovered the bodies of Catholic priest Tomislav Matanovic and his parents, who disappeared from Prijedor in 1995, in the well of their family residence in Rizvanovici. The ICTY approved the transfer of this case to the domestic judicial system. After a number of procedural delays, the RS Supreme Court ultimately rejected all the defendants' objections in October and remanded the case to the RS District Court. RS Prosecutor Branka Milosevic claims that the slow progress in the case was attributable to the large number of witnesses and the fact that the procedure was being conducted in accordance with the old CPC. At year's end, the trial continued in Banja Luka District Court.

There were no reports of political prisoners.

The mandate of the Commission for Real Property Claims (CRPC), an institution created by Annex VII to process claims for property wrongfully taken during the 1992-95 war, ended in 2003. The CRPC was unable to resolve approximately 50,000

private property claims because they involved conflicting documentary evidence and required a hearing, which was beyond the CRPC's mandate. Municipal housing authorities subsequently decided most of these cases, although an estimated 1,300 cases remained unresolved by year's end. These cases were transferred to municipal authorities for adjudication in December. The necessary memorandum of understanding (MOU) for the transfer of responsibilities to the domestic CRPC (DCRPC) was signed in May, 5 months after the end of the CRPC's mandate. The DCRPC Commissioners began reviewing cases in mid-October.

The Government had almost completed the implementation of property law, which requires that all property that was wrongfully taken during the recent war be returned to its rightful owners. By year's end, the overall property law implementation rate was 92.95 percent, and 128 out of 129 municipalities had completed their caseload of claims. The Federation, the RS and Brcko District returned between 92.8 and 96.1 percent of the property. In an additional 6 percent of cases, municipal authorities ruled against the claimant, so no repossession took place. At year's end, Banja Luka was the last municipality still processing claims.

During the year, the Human Rights Commission of the Constitutional Court issued 49 decisions on the merits, including cases regarding violations of property rights, employment discrimination and procedural violations of the CPC.

During 1998, the Federation army unlawfully took control of approximately 4,000 abandoned apartments owned by the former Yugoslav military (JNA). Federation authorities encouraged postwar illegal occupants of these apartments to purchase them. In the meantime, the prewar owners of the apartments (former JNA officers, mostly Bosnian Serbs) began filing claims to return to their property. After inadequate action by local authorities, several of these cases were brought before the Human Rights Chamber, which decided that apartments owned by JNA officers should be returned. Federation authorities continued to refuse to evict the current residents or to allow prewar owners to regain possession, in violation of the Dayton rules for property implementation. The Constitutional Court ruled in September that the Federation's legislation that prohibits ownership of property in the Federation by anyone who served in the JNA after May 19, 1992 (effectively disenfranchising all Bosnian Serbs with claims to these properties) is constitutional. Because most claimants to these apartments have been allocated apartments elsewhere (mostly in Serbia), the Court held that the Federation has the right to uphold the legal principle applied in the former Yugoslavia, which holds that citizens cannot have tenancy rights to more than one apartment at the same time. The MOU authorizing the transfer of responsibilities to the DCRPC specifies that the appeals shall be decided in accordance with international law except where it conflicts with Bosnian law. The Constitutional Court's decision suggests that the DCRPC will have to rule in favor of the current occupants of the JNA apartments, a position inconsistent with international legal principles; however, until the DCRPC rules on these cases, the situation remains unresolved.

The Constitutional Court received 1,150 new cases during the year and processed all but 1 of the 7,065 old cases filed between 1999 and 2003. By year's end, the Court had approximately 840 cases still pending. Enforcement of Constitutional Court decisions improved significantly during the year; the relevant government authorities enforced the Court's orders in all but five cases during the year.

Roma displaced from their property during the war had difficulty repossessing their property because of discrimination and lack of adequate information on the necessary procedures (*see* Section 5). In many cases, Roma families also lacked documents proving ownership or had never registered their property with local authorities. This lack of documentation prevented them from applying for reconstruction assistance. The legal status of informal Roma settlements also remained unresolved.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, authorities in some areas infringed on citizens' privacy rights.

In the RS, police routinely conducted searches of private homes without obtaining search warrants, citing emergency provisions in the law even in routine cases. While this problem was not as common in the Federation, it occasionally occurred.

There were forced evictions that required police involvement in during the year, especially in Banja Luka municipality; however, the overall number of forced evictions was less than in previous years. Police and local authorities generally understood that property laws needed to be implemented in a prompt and fair manner. In some politically sensitive cases, police delayed their intervention in order to avoid conflict. For example, in Banja Luka, police gave members of an extremist organization of Croatian Serbs additional time to move out of the apartments they had been

illegally occupying, but ultimately carried out a number of forcible evictions during the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government has not always respected these rights in practice. Laws safeguarding freedom of the press were delegated to the cantons in the Federation, and to the central authorities in the RS.

The constitutional right to freedom of speech is generally respected in practice. Individuals can criticize the Government without fear of reprisal and frequently did so.

There were some restraints of freedom of the press and instances of open threats from government officials still occurred. Unlike in previous years, media outlets were more commonly subject to less overt pressure, such as the loss of advertising opportunities and limitations on access to official information.

The RS adopted the Defamation Law in 2001 and the Federation adopted it in 2002. The Defamation Law prohibits criminal cases against journalists for defamation, although they can still be sued in civil court. The Defamation Law meets international standards for media legislation; however, courts did not always have sufficient experience and training to interpret the Defamation Law correctly.

Many independent, privately owned newspapers were available. Several printing houses operated, precluding the formation of a publishing monopoly. Dnevni Avaz, whose editorial policy strongly reflects Bosniak interests, remained the largest circulation daily. In the RS, the influence of the government-owned printing company and newspaper, Glas Srpski, has declined from a near monopoly. The independent, Banja Luka-based newspaper, Nezavisne Novine, ran its own print shop, which provided printing facilities to other newspapers as well.

The largest television broadcasters were Federation Television (FTV) in the Federation and Radio Television of Republika Srpska (RTRS) in the RS, both entity-level Public Broadcasting System (PBS) stations. In August, Bosnia and Herzegovina Television launched its program for the entire country. In addition to a local commercial network of five stations in both entities (Mreza Plus), there were dozens of small independent television stations located throughout the country. Radio broadcasting in the Bosniak-majority areas of the Federation, particularly in Sarajevo, Zenica, and Tuzla, was similarly diversified. Opposition viewpoints were fully reflected in the news programs of independent broadcasters. Independent or opposition radio stations broadcast in the RS, particularly in Banja Luka. One of these, Nes Radio, reported a wide variety of political opinions. During the year, many radio stations broadcasting in Croat-majority areas distanced themselves from hard-line nationalistic views and covered opposition viewpoints.

Politicians and government officials also pressured the media by accusing them of opposing the interests of a given ethnic group, or betraying the interests of their own ethnic group. Given the communal tensions in the country, these accusations are used as a form of intimidation. During the year, members of leading nationalist parties (SDA and HDZ) accused FTV of being both anti-Bosniak and anti-Croat. In addition, a popular talk show host was accused of working against Bosniaks and his family fell victim to verbal harassment several times during the year (*see* Section 2.c.).

According to independent media analysts, BiH media outlets supported or criticized political parties and policies by choice rather than under coercion. Nevertheless, government officials, particularly in the RS, occasionally exerted economic pressure by directing the advertising business of government-owned companies away from media critical of officials or official policies.

In August, the RS Police Director publicly labeled the journalists of RTRS and Nezavisne Novine as members of “a group dedicated to discrediting him” and “a dangerous lobby and domestic enemy.” The BiH Coordinating Committee for Journalist Associations (CCJA) strongly condemned the police director’s behavior and demanded his resignation. The police director ultimately resigned, but for reasons unrelated to the CCJA’s statement.

During the September pre-election campaign in the RS, one of the candidates for mayor of Banja Luka publicly accused editors of several independent and public media outlets in this entity of being financed and influenced by foreign countries. The candidates alleged that a Banja Luka-based independent newspaper was a branch of the CIA in the RS, and that the director of public broadcasting was appointed by the international community to destroy the RS.

The CCJA immediately reacted to these allegations, labeling them a “call to lynch journalists,” and making a formal complaint to the Election Commission of BiH. The Banja Luka representative of the CCJA said that the journalist in question did not

plan to bring a lawsuit against this candidate. As a result of the complaint, the Election Commission revoked his candidacy and fined his party approximately \$7,000 (10,500 KM) (*see* Section 3).

Another “lynching call” occurred in October, when unknown persons put up posters with a photograph of the owner of a Sarajevo-based independent political magazine, along with his email address and the address of the magazine. These posters claimed the owner slandered the head of the Islamic community in the country by characterizing him as immoral, and called on all those disturbed by this to contact the owner. According to the magazine, this was the first time in the history of independent Bosnian journalism that a public “warrant” was issued against a journalist.

Independent media investigating ordinary and organized crime received several anonymous threats after publishing stories. A journalist investigating a murder in Sarajevo was verbally attacked in the street, while another editor received a cell-phone text message that he would be killed after a suspected criminal, mentioned in the editor’s newspaper, was released from prison. In July, another editor approached a foreign Embassy with a similar concern. He had been warned, after publishing a story on local crime, that the criminals might target him.

In February in the RS, the editor-in-chief of *Nezavisne Novine* and the head of the RS Helsinki Committee for Human Rights received anonymous telephonic death threats. This occurred after *Nezavisne Novine* printed a statement by the non-governmental organization (NGO) criticizing the work of the RS Ministry of Interior. The Ministry of Interior reacted by issuing a press release, denying any connection with the threats.

On September 6, a Mostar daily published a story by Nevres Dedic about Muamer Topalovic’s request to leave prison temporarily to visit his family. In March 2003, Topalovic was sentenced to 35 years in prison for murdering three persons and wounding a fourth in a religiously motivated crime. Angered by the story, Topalovic called Dedic from prison, demanded a denial and a published apology, and threatened to murder the journalist. Dedic informed the police about the threat. An investigation was ongoing at year’s end.

Journalists were subject to harassment as a result of a government wiretapping scandal. The journalists’ phones were not tapped; however, doctored transcripts of conversations they held with a minister and former BiH President who were under surveillance were published in newspapers, resulting in threats to the journalists. The BiH Parliament investigated and concluded that the surveillance was unjustified, of questionable legality and had resulted in human rights violations. Parliament made a series of recommendations to the State Government to prevent such abuses in the future.

During 2003, the Media Helpline was transferred to the CCJA from under the auspices of international organizations (OSCE and OHR). Beginning March 1, the Committee functioned as a local organization, receiving numerous calls from journalists and ordinary citizens from all parts of the country. On average, it addressed four to five violations of journalist rights per month. The help line maintains a web page and published press statements on these violations.

In March, journalists from FTV Gorazde asked for assistance from the Media Help line because of pressure from the station’s director by restricting their right to report freely and objectively.

The Public Broadcasting Law (passed in 2002) established the PBS with both entity-level broadcasters as components and codified the regulatory responsibilities of the state-level Communications Regulatory Agency (CRA). Additional legislation is needed to clarify ownership of PBS assets, as well as the licensing and regulatory relationship between public broadcasters and the CRA.

The CRA functioned effectively under a locally selected Director, and undertook the selection process to fully nationalize the CRA Council. In general, the presence of the CRA, and the effectiveness of its complaints procedure and enforcement provisions, considerably reduced the level of inflammatory and hate language in the electronic media. Electronic media operated in a more transparent and properly regulated broadcast environment than they had previously.

Despite these improvements, the CRA’s independence continued to be hampered by government interference with its budget; however, the CRA claimed that there was growing recognition within the Government that the CRA’s independence should be respected. Access to revenue from broadcast license fees was blocked for much of the year in a dispute with the Council of Ministers, although this was resolved satisfactorily in August.

Since the adoption of the Defamation Law in 2002, approximately 300 cases were tried in cantonal and district courts in the Federation and RS. This was three times higher than the number of charges brought in the 2 years prior to the adoption of the law. Approximately 240 charges were brought in Federation courts, 170 of them

before Sarajevo's cantonal court. In contrast to 2003, when only 3 cases were concluded in the Federation, 35 first-degree convictions and 5 second-degree convictions were handed down in the first 7 months of the year. In the RS, less than 5 of approximately 50 pending cases have been decided, leaving a total of about 250 cases undecided.

Although the incidence of defamation charges remained high in the first 3 months of the year, with some 30 cases filed in Sarajevo Canton alone, the number filed dropped substantially in the following 3 months, to less than 20. Public figures, politicians most of all, tended to initiate charges. Journalists also frequently accused colleagues of defamation.

The compensation sought by those filing charges continued to be very high. However, in the 40 cases where courts reached decisions, 14 demands were totally rejected, while in most other cases the compensation awarded was below \$5,000 (7,500 KM).

The Government did not restrict access to the Internet. However, for economic reasons, only about 5 percent of the population had Internet access.

The Government did not restrict academic freedom; however, academic freedom was constrained by ethnic favoritism and politicization of faculty appointments. In Sarajevo, Serbs and Croats complained that members of the Bosniak SDA party and Bosniaks generally received special treatment in appointments and promotions at the University of Sarajevo. The University of Banja Luka continued to limit faculty appointments almost exclusively to Serbs. The University of Mostar remained divided into eastern and western branches, reflecting the continued ethnic divide in the city.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government generally respected this right in practice.

The Constitution provides for freedom of association; however, authorities imposed some limits on this right, and indirect pressure constrained the activities of some groups. A wide range of social, cultural, and political organizations functioned without interference.

Although political party membership was not forced, many viewed membership in the leading party of any given area as the surest way for residents to obtain, regain, or keep housing and jobs in the government-owned sector of the economy.

The Law on Associations and Foundations allowed NGOs to register at the national level and therefore to operate throughout the country without administrative requirements. Some NGOs or associations of NGOs experienced difficulties at the Registry Office of the Ministry of Civil Affairs and Communications. If the registration requests were unusual or complicated, the Registry Office often rejected them without explanation, forcing organizations to resubmit their requests.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, adherents of minority religions in non-ethnically mixed areas had their right to worship restricted, sometimes violently. The new state-level Law on Religious Freedom, passed in both Houses in January, also provides comprehensive rights to religious communities and confers upon them a legal status not previously held in the country.

The RS Government, local governments, and police forces frequently allowed or encouraged an atmosphere in which abuses of religious freedom could take place, although there was improvement from previous years. For example, two Islamic burial ceremonies took place at the Srebrenica-Potocari Memorial and Cemetery in March and July without incident. In late December, all the leading bishops of the Catholic and Serb Orthodox Churches appeared at a joint press conference in Sarajevo where they emphasized the need for tolerance, reconciliation and forgiveness among the members of the two Churches. However, on a daily basis, the absence of a police force willing to protect religious minorities and a judicial system willing to prosecute crimes against them, were major obstacles to safeguarding the rights of religious minorities.

Ethnic symbols, clerics, and religious buildings were often targets of ethnically motivated religious violence. Local police did not conduct a serious investigation into several incidents.

In previous years, RS authorities frequently did not intervene to prevent the violent obstruction of efforts to rebuild some of the 618 mosques and 129 churches in the RS that were destroyed or significantly damaged during the 1992–95 war. However, approximately 30 mosques have been rebuilt and reopened without incident in sensitive return areas, such as Srebrenica in the eastern RS. Administrative and financial obstacles to rebuilding religious structures continued to impede the ability of minorities to worship and constrained their return in many areas.

Under the new state Law on Freedom of Faith and Legal Position of Churches and Religious Communities, passed in January, religious communities must register with the state MHRR; however, the four major established religious communities in the country (Muslim, Serb Orthodox, Catholic and Jewish) were not required to re-register. Any new religious group can register itself if it can prove it has at least 300 adult members. Two churches, which existed before the law went into effect, applied for re-registration during the year and their applications were pending at year's end. There were no new registration requests by religious groups during the year.

Parties dominated by a single ethnic group remained powerful and tended to identify themselves closely with the religion associated with their predominant ethnic group; however, some political parties were multi-ethnic. Some clerics characterized hard-line nationalist political sympathies as part of "true" religious practice.

The Constitution provides for proportional representation for each of the three major ethnic groups in the Government and military. Because of the close identification of ethnicity with religious background, this principle of ethnic parity in effect resulted in the reservation of certain positions in the Government and military for adherents or sympathizers of certain faiths. The military in the RS was staffed overwhelmingly by ethnic Serbs and only had Serb Orthodox chaplains. The Federation military was composed of both separate Bosniak (Muslim) and Croat (Roman Catholic) units, and integrated units; Muslim and Catholic chaplains were represented.

Public schools offered religious education classes, which were mandatory for Serbs in the RS and, in theory, optional in other parts of the country; however, in practice, they were offered only for students of the majority religion in that area, amid pressure on the parents to consent that their children attend religious instruction. In some cases, children who chose not to attend the religion classes were subject to pressure and discrimination from peers and teachers. Public schools in Sarajevo offered only Islamic religion classes. In Croat-majority West Mostar, minority students in practice did not have the option to study non-Catholic religions as part of the formal school curriculum. Orthodox symbols were present in public schools throughout the RS.

The small Jewish community had approximately 1,000 believers and was 1 of the 4 recognized religions under the law. Isolated acts of anti-Semitic vandalism were reported. For example, in September, several tombstones in the Jewish cemetery in Sarajevo were vandalized. Jewish leaders alleged that there was a growing tendency for citizens to mix anti-Israeli sentiment with rare acts of anti-Semitism.

In some communities, local religious figures contributed to intolerance and an increase in nationalist feeling through public statements and, on occasion, in sermons. For example, in September, Cardinal Puljic, the leader of the Catholic Church in the country, described some elements of the international community as "anti-Catholic" and said that they would like to see Bosnian Catholics immigrate or assimilate. In November, during Ramadan, a Sarajevo-based local TV station broadcast the sermon of an imam who belittled the religious beliefs of non-Muslims in the country.

During Easter, the Catholic Church seminary in Sarajevo was stoned. In April, unknown perpetrators vandalized a Catholic cemetery in Banja Luka.

On April 13, unknown perpetrators broke into the Travnik Parish church in Ovcavero and stole approximately \$4000 (6,000 KM).

In May, Federation authorities ordered the removal of crosses that had been illegally constructed on public land in Stolac; however, they had not been removed by year's end.

In September, construction materials on the site where a mosque was being rebuilt in Visegrad were destroyed. Also in September, there was open conflict between Bosniak returnees and Serbs who had come to attend mass in an Orthodox church that was illegally constructed on land belonging to a Bosniak returnee.

In October, gravestones in a Muslim cemetery near Prijedor were desecrated. In November, two Bosniak minors from Mostar damaged gravestones in the Catholic cemetery in Potoci.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, some limits remained in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

Accurate statistics on internally displaced persons (IDPs) from the 1992–95 war remained difficult to obtain. According to the UNHCR, between the end of the war in 1995 and the end of November, 1,004,564 persons who left the country had re-

turned. Of these, 447,767 were returnees to areas where they represent an ethnic minority. The UNHCR registered only 15,470 returns through November, of which 13,561 were minority returns. These numbers are substantially lower than in 2003. The difficult economic situation in the country remained the most significant factor inhibiting returns, with many rural areas experiencing unemployment rates in excess of 60 percent. This coincided with a marked decrease in available reconstruction assistance. The security situation for returnees did not improve during the year, and a hostile atmosphere still existed in many areas. Many returnees cited the failure to apprehend war criminals as a disincentive to return, as they did not want to live in the same communities with persons who committed war crimes and who have not been held accountable for them. As more time elapsed since the end of the war, many refugees and displaced persons were creating permanent lives for themselves away from their prewar homes, and only those with few other options (including a large number of elderly pensioners) tended to return.

Additionally, the needs for housing continued to outweigh available resources. Municipal administration taxes on documents that are necessary for return, such as birth or land certificates, remained high. Minority returnees often faced societal violence, employment discrimination, lack of access to health care in the place of return, and denial of utility services such as electricity, gas, and telephone by publicly owned utility companies. All of these problems decreased from previous years, yet continued to persist in hard-line areas. On December 2, Hrustan Suljic, President of the local Bosniak returnee community near the central Bosnian town of Teslic, was killed in front of his family home. Adil Osmanovic, the Vice President of the RS, and other high-level RS government officials called for an investigation that was ongoing at year's end.

Serbs continued to return in greater numbers to the Federation than Croats did to the RS. Croat returns to the RS were low, as only 150 Croats returned to the entire RS during the year. During the year, 780 Bosniaks returned to Srebrenica, the site of the July 1995 massacre of approximately 8,000 Bosniak men and boys. A total of 117 Bosniaks returned to Visegrad and Bosnian Serbs in Visegrad continued to return to the Federation, particularly to Sarajevo, Mostar and Konjic.

In the RS, the Refugee Ministry provided support to Bosniaks and Croats returning to the RS and to Bosnian Serbs returning to the Federation. The Federation Ministry for Refugees assisted Croats and Serbs returning to the Federation and Bosniaks returning to the RS. Both entity-level Ministries for Refugees provided limited reconstruction assistance to returnees and also committed part of their budgets to be implemented through joint projects to be determined by the BiH State Commission for Refugees (SCR). In October, the SCR agreed that 30 priority municipalities should receive reconstruction assistance through the newly established Joint Reconstruction Fund (JRF). By year's end, the State Government, the RS Ministry for Refugees and Displaced Persons and Brcko District had paid into the JRF. However, the Federation Ministry of Refugees and Displaced Persons did not make its contribution by the December 31 deadline.

In January, the MHRR took over responsibility for implementation of Annex VII of the Dayton Accords from the international community. Annex VII provides for the return of property or adequate compensation to lawful prewar owners. The administrative structure necessary to implement Annex VII was in place but progress remained slow. For example, the State Commission on Returns' ability to make decisions on reconstruction and return priorities was hindered by nationalist parties, who were unable to reach agreement on many issues. After many months of discussions, the SCR compiled a list of 30 priority municipalities in need of assistance; however, beneficiaries of this assistance were not selected by year's end.

Some areas of Croat-controlled Herzegovina and some towns in eastern RS remained resistant to minority returns. This was most often expressed through official obstruction of returnees' access to local services (i.e. municipal power and water, education, and health care). For example, the government-owned RS electric company was obliged to connect residents who live within 50 meters of an existing power line. Despite repeated requests, they consistently failed to connect many eligible returnee households, especially in the Srebrenica-Bratunac area.

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In June, the MOS enacted the necessary bylaws for implementation of the asylum law. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution.

The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees. As a result of the conflict in the former Federal Republic of Yugoslavia (FRY) in 1999, approximately 6,000 citizens fled FRY and

came to the country; half came from Kosovo, while the other half came from other parts of FRY. In June, the Council of Ministers extended the temporary refugee status of Kosovo refugees until June 2005; however, the status of all other refugees expired on June 31. Refugees with pending asylum applications, regardless of national origin, may remain in the collective centers until their cases can be decided. According to the latest UNHCR statistics, 635 refugees from Serbia and Montenegro, including refugees from Kosovo, remained in 3 collective centers in the country.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, the use of coercive tactics by some nationalist parties precluded full citizen participation without intimidation. In October 2002, the country held general elections, which were the first since the Dayton Peace Agreement to be administered and conducted by state-level authorities. The OSCE judged them to be largely in line with international standards; however, problems cited by observers included numerous voters unable to find their names on voter registers, group voting, and intimidation in a few cases. Voter apathy and low turnout were also problems. The nationalist SDA and HDZ parties remained powerful, particularly in Bosniak and Croat majority areas. The Serb-controlled SDS remained ideologically committed to Serb cultural and religious authority in the territory of the RS, where it won a significant plurality in the 2002 elections.

In October, domestic authorities held the first fully-funded and locally administered elections throughout the country, including the Brcko District, that were judged free and fair by OSCE and international observers. The Election Commission removed one candidate from contention after he made threatening remarks against journalists during his campaign (*see* Section 2.a.). In some municipalities, registered voters were not on voting lists, while some names of deceased persons were improperly retained. Voter turnout was low, particularly among voters under 30.

In the Federation, the President appoints the Prime Minister subject to approval from the bicameral Parliament. Serious ethnic and political rivalries continued to divide Croats and Bosniaks. In the RS, the President and Vice Presidents are directly elected, while a Prime Minister selected by Parliament heads of the Government. The Parliament, called the RS National Assembly, is elected on a proportional basis, and the Council of Peoples has the power to review laws vital to national interest issues of any of the constituent peoples. The Constitution allows Bosniak, Croat, or Serb representatives in the RS Council of Peoples to block legislation they believe threatens their group's vital national interest. In the city of Brcko, which is a "self-governing neutral district," an internationally appointed supervisor with executive authority is empowered to address such issues as taxation, law enforcement, district management, and composition of the district assembly.

The State Prosecutor questioned one member of the country's tripartite Presidency regarding his possible involvement in financial crimes when he was serving as Federation Minister of Finance. The investigation against him was ongoing at year's end (*see* Section 1.d.). In February, state authorities arrested the local Interpol Deputy Director on corruption charges. His trial in State Court was ongoing by year's end. The 2003 Law on Civil Service bars citizens from holding positions of public responsibility if they have pending criminal indictments against them; however, there were no removals of persons from office during the year. There was a widespread public perception that corruption was common among members of Parliament and other senior officials.

Although the Law on Freedom of Access to Information provides for citizen access to government records and complies with international standards for this type of legislation, many government agencies experienced difficulties in complying with the Law due to lack of sufficient staff and financial resources. For example, some agencies have not yet prepared the required registry of documents available and guidelines for access to them. According to the law, the Government must provide an explanation for any denial of access. Citizens may appeal denials in the court system or to the Ombudsmen's offices. There are no fees associated with access requests, although requestors must pay photocopying costs for documents longer than 10 pages. Public awareness of the law's provisions (except among journalists) remained low.

The Election Law requires that at least 30 percent of political party candidates be women. These provisions increased the number of female representatives from 2 percent at the state and entity level and 5 percent on the municipal level in 1996 to approximately 25 percent of all elected positions after the October municipal elections. There were 7 women in the 42-seat House of Representatives (lower house).

Of 15 delegates to the state House of Peoples (upper house), all of which were appointed by entity legislatures, none were women. In the Federation legislature, there were 21 women in the 98-seat House of Representatives. In the RS, there were 15 women in the 83-seat National Assembly.

Under the Dayton Agreement, only constituent persons—Serbs, Croats, and Bosniaks—are eligible to be selected for government positions. There was only one minority in a high government position: Jacob Finci, a Jewish man who was the Director of the Civil Service Agency. While other minorities can hold these offices, the law does not compel their appointment and therefore they remained underrepresented.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Domestic NGOs have become more active. For example, the Helsinki Committee of BiH was active in monitoring the local elections and drawing attention to hate speech by candidates and religious leaders during the pre-election campaign.

While NGOs enjoyed relative freedom to investigate human rights abuses, they rarely were successful in persuading the authorities to respond to their recommendations. NGOs' interventions were often met with delays or categorical refusal by government authorities.

The Government cooperated fully with international organizations such as the OHR, which has special powers over the Government as well as other international organizations such as the UNHCR, ICRC, OSCE, and ICMP.

Although the RS National Assembly passed a law on cooperation with the ICTY in 2001, the RS made no effort to arrest indictees. In the eastern RS, Foca and Pale remained under sanctions for their noncooperation with the ICTY. The two most wanted Bosnian war crimes suspects, wartime commander of the RS Army Mladic and wartime RS President Karadzic, remained at large.

Many, if not most, of the perpetrators of killings and other brutal acts committed in previous years remained unpunished, including war criminals indicted by the ICTY, persons responsible for the approximately 8,000 killed by the Bosnian Serb Army after the fall of Srebrenica, and those responsible for approximately 15,000 to 20,000 others still missing and presumed killed as a result of "ethnic cleansing" in the country (*see* Section 1.b.).

During the year, police transferred 10 persons indicted for war crimes to the ICTY for prosecution. In addition to the ICTY, 21 arrest warrants were issued against accused persons who remained at large, and 37 accused persons were transferred and released following the completion of legal proceedings. Also, eight Bosnian Serbs were arrested in October for war crimes against Muslims and were transferred in November from the RS to Sarajevo Cantonal Court where they await prosecution. The ICTY held 52 accused in custody, while 11 accused have been provisionally released.

The case in the ICTY against Slobodan Milosevic, the former President of Serbia and Montenegro (FRY) who was charged with 66 counts of crimes against humanity in Croatia and Kosovo and genocide in Bosnia and Herzegovina, remained ongoing at year's end. In February, the ICTY rendered decisions against Bosnian Serbs Miroslav Deronjic and Ranko Cesic for war crimes committed in 1992 at the Luka prison camp near Brcko. Deronjic was sentenced to 10 years in prison and Cesic to 18 years. Also in February, the ICTY also began the trial of Momcilo Krajisnik, a senior military official in the wartime Bosnian Serb army. He was charged with two counts of genocide and five counts of crimes against humanity. His trial was ongoing at year's end. In July, the ICTY concluded its case against Bosnian Muslim Generals Enver Hadzihasanovic and Amir Kubura, both charged with war crimes against Bosnian Serbs and Croats in Central Bosnia in 1993–94. At year's end, the two were awaiting sentencing in The Hague. The war crimes trial of Naser Oric, Commander of the Bosnian Army in the Srebrenica area, began in October and was ongoing at year's end.

The Constitutional Court handles all human rights cases filed after January 1. The backlog of the Human Rights Chamber, whose mandate ended in December 2003, was transferred to the Constitutional Court in January. The Human Rights Commission (HRC), consisting of five judges from the Human Rights Chamber, was appointed to address this backlog. By year's end, the HRC had resolved 3,235 of the 8,807 cases it received. Of the 5,572 cases transferred to the HRC, approximately

2,500 were cases seeking the return of foreign currency accounts stemming from a series of bank failures in the immediate post-war period.

The country has nine Human Rights Ombudsmen, three at the state level, and three each representing the Federation, the RS and Brcko. In January, three citizens replaced the international Ombudsman at the state level. Of the three Ombudsmen institutions, the Federation Ombudsmen were the most active during the year. The Federation and RS Ombudsmen investigated citizens' complaints of human rights violations and issued recommendations. The Government rarely implemented their recommendations, especially in employment discrimination cases. Cooperation between the entity Ombudsmen and the State Ombudsmen was not well established. Citizens' remedies for human rights violations included filing civil suits or seeking assistance from the Ombudsmen. However, the Ombudsmen's recommendations were not followed in many cases, and the civil court system had major backlogs.

The Federation, RS and State Parliaments had Human Rights Committees and Committees for Gender Equality. Although their reports and recommendations were considered to be independent and unbiased, they were ignored in practice at all levels of government.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and the entities' Constitutions broadly prohibit discrimination in accordance with the principles of international law; however, discrimination against minorities, women, gays and lesbians, persons with disabilities and others was pervasive.

*Women.*—Violence against women, including spousal abuse and rape, remained a widespread and underreported problem. The Helsinki Committee for Human Rights in the country estimated in 2003 that 25 percent of all families have experienced some form of domestic violence. Based on local surveys, other local NGOs reported incidence of domestic violence of up to 60 percent. Prevalence was generally higher in rural areas, and appeared to have increased during the year due in part to the worsening economic situation in many parts of the country. In a study conducted by one local NGO, respondents cited alcoholism and poverty as the two most common triggers for domestic violence against women and children. Spousal rape and spousal abuse also are illegal in the Federation and the RS; however, domestic violence usually was not reported to the authorities. A sense of shame reportedly prevented some victims of rape from coming forward to complain to authorities. There was an increased police presence in the field, and NGOs working on women's issues were active and appealed to the Government and to the public numerous times to raise public awareness of the issue.

Police received specialized training to handle cases of domestic violence. Several local NGOs operated the S.O.S. Phone Service, a 24-hour hotline open to victims of domestic violence for assistance and counseling. There were five shelters that provided assistance to women and children who were victims of domestic violence, located in Mostar, Tuzla, Banja Luka, Sarajevo and Modrica.

Trafficking in women for purposes of sexual exploitation was a serious problem (see Section 5, Trafficking).

Prostitution is illegal. Pimping is considered a major crime, but working as a prostitute or solicitation are minor offenses punishable by a fine only. Police raids on bars and brothels have driven prostitution underground and it frequently took place in private apartments or on an incall and outcall basis. More local women were working as prostitutes, and single mothers or other vulnerable women, particularly from economically depressed rural areas, were at higher risk for recruitment by pimps during the year. NGOs who work on women's rights issues oppose the legalization of prostitution, which was proposed by some politicians but never approved in Parliament.

The law does not prohibit sexual harassment and the media reported that sexual harassment was a very serious problem that was poorly understood by the general population. There are no accurate statistics available on the incidence of sexual harassment, but many women surveyed by NGOs reported experiencing events in their workplaces that meet the definitions of sexual harassment. Victims of sexual harassment almost never filed complaints, largely because they did not recognize their experiences as sexual harassment, often considering them a normal part of employment for women.

Discrimination against women remained a serious problem. The 2003 state Law on Gender Equality prohibited gender-based discrimination. In April, the State Government decided to establish a state-level Agency for Gender Equality; however, it was not functioning by year's end. Women served as judges, doctors, and professors, although few women held positions of real economic or political power. Women have

been discriminated against in the workplace in favor of demobilized soldiers. A small but increasing number of gender-related discrimination cases were documented. Anecdotal accounts indicated that women and men generally received equal pay for equal work at government-owned enterprises but not always at private businesses. Women in all parts of the country encountered problems with regard to the nonpayment of maternity leave allowances and the unwarranted dismissal of pregnant women and new mothers. Many job announcements openly advertised discriminatory criteria such as age (typically under 35) and physical appearance of female applicants.

Women remained underrepresented in law enforcement agencies, although progress continued. According to guidelines for accreditation, police forces should allocate 10 percent of their positions for qualified female candidates. Most units had about 4 percent, although some had as many as 20 percent. Overall, the FMUP had 8.5 percent women police officers and the RSMUP had 19.5 percent women police officers, mostly in administrative positions. Among the authorized police officials and crime police in the RS (personnel with powers to investigate crimes and make arrests), 4.6 percent were women. Several recent graduating classes from the country's police academies contained up to 80 percent women. Recent classes also had a larger number of ethnic minorities compared with past years.

*Children.*—The Government was generally committed to the rights and welfare of children. The U.N. Convention on the Rights of the Child is incorporated by reference in the Dayton Accords and has the effect of law in both entities. Nevertheless, social services for children were extremely limited. Children with disabilities lacked sufficient medical care and educational opportunities.

Education was free and compulsory through the age of 15; however, a lack of reliable statistics as to attendance and level of school completed hindered efforts to ensure that all school-age children received an education.

The presence of Roma in schools was sporadic and Romani children were often absent from the later grades of primary and secondary schools. Some NGOs reported that Romani girls often did not attend school after the fifth grade of primary school, and some of them were married at 12 to 14 years old. According to the country's yearly Helsinki Committee Human Rights Report, up to 70 percent of Romani children did not attend school regularly. Many Romani children were unable to attend school due to extremely poor living conditions, lack of proper clothing and the inability to purchase the necessary schoolbooks. These factors, often combined with verbal harassment from other students, language problems, and the costs and requirements of registration, were the most common reasons leading to the exclusion of Roma from schools, despite a willingness of many parents to enroll their children. During the year, the OSCE organized a campaign to encourage Romani parents to legally register their children's births and to enroll them in school.

Medical care for children in the Federation was controlled solely at the canton level. Therefore, whether or not children received any medical care from the Government depended on the budget of the canton in which they lived. Medical care for children in the RS was controlled by the RS Ministry of Health. Children up to 15 years of age were entitled to medical care free of charge under the law; however, in practice, unless they had medical insurance paid for by their parents, children often did not receive medical care. There was no discrimination between boys and girls concerning medical care.

Family violence against children was a problem, but there was no societal pattern of abuse against children. Police investigated and prosecuted individual cases of child abuse; however, no statistics on the prevalence of the problem were available. Children continued to suffer disproportionately from the societal stress of the post-war era. Some NGOs estimated that one in four families experienced some form of domestic violence, including physical, mental or sexual abuse of children.

Trafficking in girls for the purpose of sexual exploitation was a problem (see Section 5, Trafficking).

According to statistics released in 2002 by the MHRR, 118,785 of the 553,419 displaced persons from the country were children. At year's end, the UNHCR and the entity refugee ministries launched a re-registration campaign for displaced persons and refugees.

During the year, five children were killed and one child was injured in landmine incidents.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons remained a serious problem. There were reports that police and other officials were involved in trafficking.

Under the new Criminal Procedure Code passed in March 2003, trafficking in persons is a State-level crime with a sentence of up to 10 years' imprisonment. The

Federation and the RS harmonized their criminal codes and the State-level MOS is responsible for coordinating anti-trafficking law enforcement activities at all levels of Government.

Authorities intensified their efforts to combat trafficking during the year. The State Prosecutor's Office has exclusive jurisdiction over all trafficking cases and can decide which cases to prosecute at the State level, and which cases to send to the entity levels. The National Anti-Trafficking Coordinator, whose mandate includes coordination of victim protection efforts among NGOs, police, and government institutions, as well as coordination of law enforcement initiatives, reports directly to the MOS. By year's end, the National Anti-Trafficking Coordinator's office completed its update and revision of the National Action Plan and strategy for implementation for 2005 through 2007.

The Government's major anti-trafficking initiatives, overseen by the National Coordinator's Office, included the adoption of the new rulebook on the Protection of Alien Victims of Trafficking in Persons in April and the new asylum bylaws in June.

The anti-trafficking strike force, a nationwide interagency investigative task force to combat trafficking in persons, was chaired by the chief State Prosecutor and includes prosecutors, police, and financial investigators. It specifically targeted trafficking and illegal migration. There were four major strike force investigations that resulted in prosecutions during the year. Since its inception in 2002, the strike force has concluded 209 investigations. These cases have led to 16 indictments, 2 acquittals and 3 dismissals for lack of evidence.

The anti-trafficking actions of local authorities were coordinated within this centralized State level framework for fighting trafficking. For example, the IPTF-initiated Special Trafficking Operations Program was replaced by an initiative led by local authorities in coordination with the EUPM, called the Fight and Intervention Against Human Trafficking (FIGHT) initiative. In August 2003, the owner of Club Edo in Kiseljak was arrested for trafficking, and 13 of the women working in his bar were taken to the Forum of Solidarity, a local NGO that sheltered trafficking victims. However, none of the 13 women were identified as trafficking victims by the Government and were deported from the country 2 months later. In July, the club owner was convicted of international procuring for prostitution and sentenced to 15 months in prison.

Local police involvement was primary, with EUPM involvement in actual operational and organizational issues limited to an advisory capacity. Under the FIGHT team initiative, each local government unit had a dedicated trafficking officer, and these officers were coordinated through their respective entity MUP. Each entity MUP was represented on the BiH State level Anti Trafficking strike force, allowing state-level strike force investigations to regularly benefit from local, on the ground investigation and intelligence work.

In March, a major trafficking investigation resulted in the conviction of five traffickers from the Prijedor area. Milorad Milakovic and three co-conspirators pled guilty to charges including organized crime, human trafficking and recruitment of foreign citizens for prostitution. They received sentences ranging from 2 to 9 years in prison and 14 associates were also charged and placed in detention. In another major trafficking case in Sarajevo, a bar owner, his wife and another employee were charged with procuring, pandering and tampering with evidence. The trial was ongoing at year's end.

The country was a destination and transit point, and, to a lesser extent, a country of origin for women, girls, and in a few cases, teenage boys trafficked for sexual exploitation. There were allegations of corruption and official involvement in trafficking. There were no reliable current estimates on the number of trafficked women and previous estimates varied considerably. Because police raids have forced trafficking activities further underground, useful estimates of the true scope of the problem are difficult to formulate. During the year, IOM assisted 65 victims, of whom 45 were repatriated. Of the 65 victims, 12 were citizens.

Over 90 percent of trafficked women in the country came from Moldova, Romania, and Ukraine. A significant number may have transited on to Western Europe, but no reliable estimates were available. According to the IOM, most victims reported being lured by false job offers, such as advertisements offering work in Italy or Germany as dancers, false marriages, waitresses, and domestic servants. Some NGOs reported that trafficking victims have been lured into the country by promises of marriage to traffickers or their associates, while others knowingly entered into false marriages to obtain work and residence permits. Most trafficked women entered the country through Serbia-Montenegro. Those who transited the country continued on via Croatia. The IOM reported Bosnian victims in other parts of Europe and local NGOs observed some Bosnian victims within the country.

The perpetrators of trafficking came from a variety of backgrounds, including freelance operators, local crime gangs, and large international organized crime syndicates. Some employment, travel, and tourist agencies also fronted for traffickers.

Victims reported working in conditions akin to slavery, with little or no financial support. They were coerced to remain in these situations by intimidation, seizure of passports, withholding of food and medical care, and even physical and sexual assaults.

There continued to be reports of police and other official involvement in trafficking, particularly at the local level. In October, border police arrested a member of the RS MUP's elite special unit near Bijeljina while he was attempting to cross into the country from Serbia with two suspected trafficking victims in his car. He was immediately suspended from duty. The investigation was ongoing at year's end. There were no PSU investigations related to official involvement in trafficking during the year.

Although the presence of international civilian and military personnel has contributed to the trafficking problem, the local population actively sustained it. Anecdotal evidence provided by trafficking victims suggested that their clientele is now about 70 percent locals and 30 percent internationals, a reversal of the situation just a few years ago.

During the year, local NGO Forum of Solidarity took over operating the main shelter in Sarajevo and ran one safe house in Doboj where victims received medical care, counseling, repatriation assistance and limited vocational training. Other NGOs ran four additional safe houses, located in Sarajevo, Banja Luka, Mostar and Bijeljina. Police provided protection for the shelters. Despite these programs, the IOM and other sources reported that fewer victims sought assistance during the year, and that shelters were not fully utilized. NGO employees reported that women told them that they did not trust local police and feared traffickers would not hesitate to pursue them if they left. With international assistance, local authorities and NGOs cooperated more to assist and protect victims.

There were three primary trafficking NGOs in the country: Lara in Bijeljina, La Strada in Mostar, and Forum of Solidarity in Tuzla and Sarajevo. During the year, NGOs assisted 46 victims of trafficking. These women were provided basic shelter, medical, psychological, and legal assistance. The Office of the U.N. High Commissioner for Human Rights (UNOHCHR) trained local attorneys to provide legal advocacy to trafficking victims on a range of criminal and civil issues, including their legal options regarding their immigration status (asylum, repatriation or resettlement in a third country) and their legal rights if they choose to testify against their traffickers.

During the year, cantonal prosecutors arranged the issuance of the first humanitarian visa given to a trafficking victim. The new provision for humanitarian visas for victims allowed rehabilitation and protective services to be provided to them.

The IOM and government authorities initiated a preventative information campaign against human trafficking geared towards at-risk youth and victims of trafficking. For the first time, the Government and IOM also targeted potential consumers of services provided by trafficked women, namely Bosnian men between 18 and 49. The campaign defined trafficking and provided information about services available to trafficking victims, including a national toll-free hotline. Other NGOs continued to be actively engaged in similar campaigns.

The media focused attention on the human costs of trafficking, as well as the responsibility of the authorities to combat the problem. Newspapers reported frequently on law enforcement actions against traffickers, as well as on allegations of involvement by police. In November, the AIDS-related death of a Ukrainian trafficking victim in Mostar prompted national media coverage. Most of the initial coverage blamed the victim for spreading disease and failed to distinguish adequately between prostitution and trafficking, but the case raised awareness of the trafficking problem in the country. Some commentators criticized the Government and police authorities for not doing more to fight trafficking in persons.

*Persons With Disabilities.*—The law in both entities prohibits discrimination against persons with disabilities; however, there was discrimination against persons with disabilities in employment, education, access to health care and in the provisions of other state services. Throughout the country, there was clear discrimination between different categories of persons with disabilities and the vast majority of persons with disabilities were unemployed. For example, persons with disabilities resulting from the war were given a de facto privileged status that the civilian war disabled and persons who were born with disabilities did not have. Children with disabilities were often hospitalized in residential institutions or confined to their homes and they rarely had opportunities to attend school; however, with UNICEF

assistance, there were 23 classrooms throughout the country for special needs children, allowing them to receive individualized education in regular primary schools.

In the Federation, the law mandates that all existing buildings must be retrofitted to provide access to persons with disabilities by November 2007. In February, the Federation passed bylaws mandating that all new buildings must be accessible for persons with disabilities; however, in practice, buildings rarely were accessible to persons with disabilities. For example, one NGO for disabled war veterans conducted an informal survey and found that only two shops in downtown Sarajevo were wheelchair accessible.

The RS had comparable legal requirements for access, but progress on retrofitting older public buildings was extremely slow due to lack of funding and the complexity of the required renovations. Officials from the RS Ministry of Urbanism, Construction and Ecology met several times during the year with the Association of Paraplegics and other disability rights NGOs to inform them about implementation of these new legal requirements.

*National/Racial/Ethnic Minorities.*—Ethnic differences remained a powerful political force in the country; however, mixed communities existed peacefully in a growing number of areas. To a limited extent, nationalist Bosnian, Serb and Croat politicians sought to increase the ethnic homogeneity of the population in areas they controlled by discouraging IDPs of their own ethnicity from returning to their pre-war homes if they would be in the minority there (*see* Section 2.d.). The RS Government was increasingly supportive of Bosniak and Croat returns to the RS, and Bosniak returns to the Srebrenica area increased; however, the RS continued to support integration of displaced Bosnian Serbs within the RS using the war veterans' budget and at the municipal level, land allocations.

While the incidents of violence decreased overall in the country, follow-up investigations in a number of cases were problematic. Police conducted investigations but consistently failed to apprehend and charge perpetrators of ethnically motivated hate crimes.

On June 25, assailants broke windows in an elementary school in Novi Seher that serves both Bosniak and Croat students. Only the area of the school serving the Bosniak returnees was affected in the incident.

In September, there were a number of incidents involving an illegally constructed Serb Orthodox church on the land of a Bosniak returnee in the town of Konjevic Polje, in the eastern RS. On September 11, Serbs seeking to celebrate mass in the church were prevented from doing so by a group of Bosniaks, and a physical fight ensued. The landowner was injured in this incident. A few days later, the RS Ministry of Urban Planning agreed that the building was illegal and should be relocated; however, the church had not been moved by year's end.

In a related September incident, two Serb men angry over the decision regarding the church threatened Refik Begic, the Bosniak Speaker of Bratunac municipality. Local police quickly intervened and prevented the incident from escalating to physical violence.

Harassment and discrimination against minorities continued throughout the country, often centering on property disputes, despite improvements in some areas. These problems included desecration of graves, arson, damage to houses of worship, throwing explosive devices into residential areas, harassment, dismissal from work, threats, assaults, and even murder.

Discrimination in employment and education remained key obstacles to sustainable returns. Widespread firing of ethnic minorities during and after the war has not been reversed in most cases, and members of the ethnic majority in a region often were hired over minorities in places where they had been employees. Favoritism was also shown to veterans and families of those killed during the war. Although privatization of large state-owned enterprises was conducted under the supervision of the international community, many smaller enterprises have been sold to politically well-connected individuals, usually members of the majority group in their communities. These enterprises generally did not employ minorities. For example, none of the Croat-owned businesses in Stolac employed Bosniaks.

The Roma population, estimated to be 40,000 to 80,000, faced serious difficulties in exercising the full range of fundamental human rights provided to them under the Constitution. Of particular concern were issues regarding property rights and access to personal documents. Roma displaced from their property during the war had difficulty repossessing it because of discrimination and lack of adequate information on the necessary procedures. Individuals who were allocated social housing before the war often remained without housing. Those living in informal settlements were left in a precarious situation as local authorities could reallocate the land on which they resided at any time. Lack of ownership documents also hampered repos-

session of property and the provision of reconstruction assistance in cases where housing was destroyed during the war. Lack of personal documents caused many Roma to be excluded from public life because they lacked birth certificates, identification cards or a registered residence. Many Roma also could not access health care or register to vote. Only a small number of Romani adults were in full time employment and Roma were often denied social support; many relied on begging to subsist, particularly Romani children.

Roma continued to lack access to education. While Romani children were permitted to attend schools in all areas of the country, their attendance was often low due to both pressures from within their own community and from local non-Roma communities discouraging Romani children from attending their schools.

Students in minority areas frequently faced a hostile environment in schools that did not provide an ethnically neutral setting. Obstruction by nationalist politicians and government officials slowed international efforts to remove discriminatory material from textbooks, abolish school segregation, and enact other needed reforms. At the elementary and secondary school level, cantonal governments in the Federation, and the entity Ministry of Education in the RS politically pressured school directors. Several schools were directed by hard-line political figures. A lack of financial resources led to teacher strikes in the RS and in individual cantons in the Federation.

Administration and legal unification of the 52 cases of “two schools under one roof,” with separate classes for Bosnian Croats and Bosniaks, did not lead to integrated classrooms, although shared extra-curricular activities, school entrances and recreation facilities often resulted. Segregation and discrimination were entrenched in many schools, particularly in the teaching of national history and religious education. In the RS, non-Serb teaching staff at elementary and secondary school levels remained below 5 percent of all teaching staff. In the Federation, minority teachers comprised between 5 and 8 percent of all teachers, depending on the Canton.

During the year, the Inter-Entity Textbook Review Commission continued to review textbooks from the so-called national group of subjects that were in use in all primary and secondary schools in the country in order to remove any discriminatory or objectionable material. However, there were textbooks in use outside the so-called national group of subjects that were not subject to the review process but contained material that was inappropriate. For example, the textbooks on politics and economics used in schools following the curriculum in Bosnian Croat majority cantons were produced in Croatia and contained material considered slanderous and hurtful to Serbs. Other cases were less explicit but were recognized as inappropriate or controversial.

*Other Societal Abuses and Discrimination.*—While the Constitution prohibits discrimination on the basis of sexual orientation, this was not enforced in practice and homosexuals were frequently discriminated against. Attempts by gay and lesbian organizations to conduct a pride march in Sarajevo were met with verbal abuse and physical violence in which the police were reluctant to intervene. Homosexuals who were open about their sexuality were frequently fired from their jobs. In some cases, the dismissal letters explicitly stated that their sexual orientation was the cause of their termination, making it extremely difficult to find another job. Some gay teens were harassed at school and were kicked out or ran away from home after coming out to their parents.

Media depictions of homosexuality were often very negative. For example, on September 7, the host of a popular TV talk show stated that homosexuality is a disease, and that Bosniaks who are homosexual are “un-Islamic traitors” who give the world a bad image of Bosniak people.

According to unreliable government statistics, there were only 64 cases of HIV/AIDS in the country. However, the number was likely higher as the country lacks any comprehensive testing program. Because testing was neither anonymous nor confidential and there was great stigma attached to the diagnosis, very few persons would consider being tested voluntarily. HIV/AIDS infection was a problem among prostitutes and victims of trafficking. In November, the AIDS-related death of a trafficking victim attracted national media attention and prompted a number of local men to seek testing. Some NGOs reported that several trafficking victims assisted in their shelters tested HIV-positive during the year (see Section 5.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The entity Constitutions and labor laws allow workers (except members of the military) to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. In the Federation, the Confederation of Autonomous Trade Unions of Bosnia and Herzegovina (SSSBIH) represented most unionized workers. In the RS, the Confed-

eration of Trade Unions of the Serb Republic (SSRS) represented most unionized workers.

The law in both entities prohibits discrimination by employers against union members and organizers, in accordance with ILO standards; however, this kind of discrimination continued. Practical barriers existed for employees to bring complaints against employers, such as high unemployment, a backlogged court system, and the large number of workers in the gray economy. As a result, protections against retaliation for union activity were not strong.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize; however, sanctions against employers who obstruct union organizing were not imposed in practice. Rates of unionization were lower in private companies, including newly privatized companies. Some unions reported that employees of private companies were threatened with dismissal if they joined a union. Collective bargaining is provided for in the Law on Working Relations in the RS and in a comprehensive collective bargaining agreement in the Federation. However, collective bargaining in both entities does not take the form of voluntary direct negotiation between a union and individual employers. Rather, collective bargaining agreements largely apply as work agreements between the Government and workers in the public sector. In the Federation, there were no collective bargaining agreements between private employers and unions. In the RS, the general collective bargaining agreement applies to all workers and is negotiated between unions, the government, and employers. This general agreement applies to private companies whether or not their workers are union members. In the District of Brcko, the labor law requires a separate law for collective agreements; however, no law on collective agreements has yet been passed, so workers there effectively did not have the right to collective bargaining.

The law provides for the right to strike and workers exercised this right in practice.

In April in the Federation, the SSSBiH staged a protest by several thousand workers in front of the Federation Government building, calling for more social protection for workers in the face of new bankruptcy legislation. In August, workers at a metalworking company went on strike over non-payment of back wages. In November, workers at a shoe factory and at a foundry also went on strike over non-payment of social contributions.

In the RS, the SSRS did not call any strikes. However, sector strikes did occur. For example, in July, workers at a pipe-producing factory went on strike over low wages and non-payment of social contributions.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment of children in the Federation and in the RS is 15 years and minors between the ages of 15 to 18 must provide a valid health certificate in order to work. (In Civil Service Laws, the minimum age is 18). The law prohibits children from performing hazardous work, such as night work. Although child labor was not known to be a problem, children sometimes assisted their families with farm work and odd jobs. Romani children often begged on the streets, particularly in larger cities.

There were no social programs to prevent the engagement of children in exploitative child labor besides programs designed to combat trafficking in persons (see Section 5, Trafficking).

Entity governments are responsible for enforcing child labor laws. Neither entity has inspectors that are dedicated solely to child labor inspections; rather, violations of child labor laws are investigated as part of a general labor inspection. Both entities' labor inspectorates reported that they have not found significant violations of child labor laws in the workplace, although they did not conduct any reviews of children working on family farms.

*e. Acceptable Conditions of Work.*—The monthly minimum wage in the Federation was \$184 (295 KM) and in the RS the "minimum price of work" used as a base for the salary scale of government employees was \$51 (82 KM); however, neither provided a decent standard of living for a worker and family. Many workers have outstanding claims for payment of salaries and pensions. Employers are required by law in both entities to make mandatory contributions to social funds; in total, the contribution paid on each monthly salary was 68 percent in the Federation and 52

percent in the RS. Employers often did not officially register their employees in order to avoid paying high social welfare benefits. Workers whose employers did not pay health insurance contributions were not entitled to public health care.

The legal workweek is 40 hours; however, seasonal workers may work up to 60 hours per week. The laws require that employers pay overtime to employees. Overtime is limited to 20 hours (10 mandatory and 10 voluntary) in the Federation. In the RS, overtime is limited to 10 hours, although an employee may volunteer for an additional 10 hours in exceptional circumstances.

The authorities failed to adequately enforce regulations related to acceptable work conditions, because of the uncertain legal status of an overwhelming number of workers. While the labor inspectorates made some effort to enforce registration of employees, they essentially limited most elements of labor inspections to the officially registered workforce. In addition, the courts served as the ultimate recourse for complaints for a registered worker, and the labor inspectorate in the RS had to submit fines and penalties for court approval. Given the backlog in the court system, this recourse was likely not effective. As a result, many workers essentially worked without protections.

The law provides workers with the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment; however, this right was not enforced effectively in practice.

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## BULGARIA

Bulgaria is a parliamentary democracy ruled by a coalition government headed by Prime Minister Simeon Saxe-Coburg Gotha. The Government took office in 2001 following the victory of his National Movement Simeon II (NMSS) party in parliamentary elections that were deemed generally free and fair despite some media irregularities. Following presidential elections in 2001, Georgi Parvanov, former leader of the Bulgarian Socialist Party (BSP), began his 5-year term in 2002. The Constitution provides for an independent judiciary; however, the judiciary suffered from corruption and wide-ranging systemic problems.

The Ministry of the Interior (MOI) is responsible for internal law enforcement. The National Investigative Service (NIS), which provides investigative support to prosecutors on serious criminal cases, is a judicial branch agency and therefore not under direct executive branch control. While civilian authorities generally maintained effective control of law enforcement officers, there were some instances in which law enforcement officers acted independently of government authority. Some law enforcement officers committed serious human rights abuses.

The country has a market-based economy that was primarily service based and a population of approximately 7.8 million. At year's end, gross domestic product growth was estimated at 5.3 percent, and cumulative inflation was 6.1 percent. While official unemployment in November was 11.9 percent, down 1.6 percentage points from the beginning of the year, the National Statistical Institute (NSI) reported that long-term unemployed persons accounted for over 60 percent of total unemployment.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Law enforcement officers beat and mistreated suspects, prison inmates, and members of minorities. Arbitrary arrest and detention were problems. Problems of accountability persisted and inhibited government attempts to address police abuses. Conditions in some prisons and detention facilities were harsh. The executive and judicial branches continued to struggle with wide-ranging systematic problems and suffered from serious corruption.

There were restrictions on freedom of the press. The Government restricted freedom of religion for some religious groups and societal discrimination and harassment of nontraditional religious minorities persisted but were much less frequent than in previous years. Societal violence and discrimination against women were problems. Conditions for children in state institutions were poor, and because of a lack of funds, the social service system did not assist homeless and other vulnerable children adequately, notably Roma and children with mental disabilities. Trafficking in persons was a serious problem, which the Government took some steps to address. There was some discrimination against persons with disabilities and a serious problem of discrimination against Roma. Child labor was a problem.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, on March 27, a police officer shot and killed a 25-year-old Rom in Plovdiv after he reportedly refused to cooperate with police and ran away during a routine traffic check. The MOI initiated an investigation and temporarily suspended two officers from duty. The investigation was ongoing at year's end.

There were no developments in the case against the forest guard charged with murdering Stoyan Lazarov in August 2003, near Kyustendil.

On November 4, the Sofia Appellate Court heard the appeal of the five defendants (three Bulgarians and two Ukrainians) sentenced to life imprisonment in November 2003 for the 1996 murder of former Prime Minister Andrey Lukanov.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police commonly beat criminal suspects, particularly during initial interrogations.

Criminal suspects in police custody run a significant risk of being mistreated, most often during initial interrogation. According to the Bulgarian Helsinki Committee (BHC), the number of complaints of police abuse during detention decreased from 50 percent of detainees in 1999 to 30 percent during the year. In July 2003, the MOI issued instructions for medical personnel in all detention centers to investigate and document all injuries and traumas suffered by detainees. Medical examinations were conducted in areas where nonmedical personnel were not permitted access; prosecutors were informed if medical personnel believed injuries or traumas were a result of torture or maltreatment. However, human rights groups claimed that allegations of police abuse were very seldom properly investigated, nor were offending officers consistently punished.

On January 16, two police officers unleashed their dog on Assen Zarev, a Rom, in Sofia, after questioning him about the whereabouts of some other men. The officers reportedly beat Zarev and threatened to shoot him. The police released Zarev after firing warning shots to disperse the gathered crowd and later, the police officers stated that some of the Roma had assaulted them. Zarev reportedly obtained a forensic medical certificate, describing injuries consistent with the allegations of ill treatment.

On March 22, police from the Second Police Station in Plovdiv handcuffed and beat 22-year-old Boris Daskalov after he was summoned for questioning. The BHC reported that Daskalov was beaten on the soles of his feet with rubber truncheons and a piece of cloth placed in his mouth to silence him. He was released the following day. After obtaining a forensic medical certificate for the injuries, he filed a complaint with the military prosecutor. In April, the MOI Inspectorate confirmed that the police officers exceeded their powers; as a result, two police officers were dismissed, and their direct supervisor was demoted.

Under the criminal code, any complaints about police beatings are required to be heard by judges. Human rights monitors reported that they received many complaints from persons who were too intimidated to lodge an official complaint with the authorities. Human rights observers charged that police sometimes handled minor offenses by arresting suspects, beating them, and releasing them within a 24-hour period, so that no judicial involvement was required (*see* Section 1.d.).

Conditions in some prisons remained harsh and included overcrowding, inadequate lavatory facilities, and insufficient heating and ventilation. All prisons were more than 70 years old. The Government expected that the introduction of a probation system in 2005 would partially alleviate the problem of overcrowding in prisons. At the end of June, the average prison density was 122.2 percent, with overcrowding at the prison in Bourgas being the worst (208.4 percent density); only the youth labor correction hostel in Boichinovtsi, the women's prison in Sliven, and the prison in Pazardjik were not overcrowded. The amount and type of food served was based on a table approved by the Ministry of Justice (MOJ) in coordination with the Ministry of Health and the Ministry of Finance. To meet the minimum caloric consumption, the average cost of food per day per prisoner was approximately \$0.79 (1.18 leva); however, only two-thirds of that amount was allocated for food in the prisons budget. Nongovernmental organization (NGO) prison monitors reported that brutality by prison guards against inmates continued to be a problem, despite MOI instructions in August 2003 on detention procedures that were intended to reduce abuses. There were also reports of brutality among inmates. The process for prisoners to complain about substandard conditions or mistreatment did not function ef-

fectively. A new detention center opened during the year in Turgovishte and 13 other detention centers were closed due to poor and inadequate conditions, bringing the total number of detention centers to 52. Two more new detention centers (in Elhovo and Bourgas) were under construction. The MOJ reported that, at year's end, there were 858 charged persons in the country's detention centers and 10,871 persons (of whom 348 were arraigned, 1,640 were in trial phase, and 8,883 were convicted) in the country's 12 prisons.

Men and women were held in separate prisons; the prison in Sliven was reserved for women. In all prisons, pretrial detainees were held separately from convicted prisoners. The MOJ also reported that there were 90 minors in the labor correction hostel in Boichinovtsi, which was used to hold persons under age 18 and was less restrictive than prisons.

The Government generally permitted requests by independent observers to monitor conditions in most prisons and detention facilities.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, there were some restrictions on these rights.

The MOI is responsible for oversight of internal law enforcement including activities of the National Police, the National Service for Combating Organized Crime (NSBOP), the National Security Service (civilian domestic intelligence), the National Gendarmerie Service (paramilitary police), and the Border Police. Public order services, such as the National Intelligence Service and National Bodyguard Service, were not subject to adequate judicial, executive, or legislative oversight of their activities or budgets. Impunity remained a problem; problems of accountability inhibited government attempts to address police abuses.

The MOI reported that 37 complaints of corruption by police officers were filed with the Military Prosecution Service between January and October. During the same period, 69 police officers were fired for corruption.

In March, all police officers received a copy of the 2003 Police Code of Ethics, which was also included in the training curricula at the Police Academy and in continuing education programs for police officers. The curricula at the Police Academy and the Officers' Schools also included human rights-related training in their mandatory courses. Training in combating trafficking and assisting trafficking victims was also offered to active-duty officers (*see* Section 5, Trafficking).

Although warrants are not always required for arrest, police normally obtained them from a prosecutor prior to apprehending an individual. If the person was released within 24 hours without being charged, there was no judicial involvement in the case (*see* Section 1.c.). Persons could be detained for no more than 24 hours at the request of an investigator or police officer; however, detention could last for up to 72 hours if ordered by a prosecutor.

The law provides for bail, and it was widely used.

The Constitution provides for access to legal counsel from the time of detention. In 2002, the MOI instituted a standard declaration process for detainees to indicate their need for access to legal counsel, medical attention, and family members.

While there were some continuing violations, the Government generally observed the statutory limit of 1-year for pretrial detention or 2 years in the case of the most serious crimes. In the event of a conviction, the time spent in pretrial detention was credited toward the sentence.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, problems in the judiciary remained, including a lack of transparent and neutral standards for assigning cases, poor coordination between magistrates (prosecutors, investigators, and judges), corruption, and cumbersome procedures. Human rights groups complained that magistrates sometimes failed to pursue crimes committed against minorities. There were complaints that the Supreme Cassation Prosecution led by the Chief Prosecutor failed to vigorously prosecute serious criminal cases. In addition, the Supreme Cassation Prosecution refused to cooperate with international observers that advocated for judicial reform and spoke out against judicial corruption.

Crime and corruption remained primary concerns of the Government. The inter-ministerial anticorruption commission, established in 2002, coordinated the efforts of each government agency's internal inspectorate in fighting public corruption and engaged in public awareness campaigns. During the year, the commission received 196 complaints of corruption, of which 11 were referred to the prosecution service for further action. In addition, the commission referred 40 complaints against magistrates to the Supreme Judicial Council's anticorruption commission.

While the Government implemented several measures in the fight against corruption, the European Union (EU) reported that it remained a problem and said that renewed efforts were needed to combat it, including tackling high-level corruption.

The European Commission's regular report on Bulgarian accession to the EU, released in October, cited the need for significant further efforts to fight against organized crime and corruption, including further reforms of law enforcement and the judiciary. Few major organized crime figures have been prosecuted to date and only two have been convicted. According to the NSBOP, approximately 110 organized crime groups operated in the country.

Many observers believed that reforms were essential to establish a fair, impartial, and efficient judicial system. In March, regulations were enacted to implement the 2003 constitutional amendments limiting magistrates' immunity and increasing their accountability. Additional amendments to the constitution and the Judicial Systems Act, particularly addressing the role of investigators, were prerequisites to EU accession. During the year, the SJC replaced a large number of court chairs, head prosecutors, and head investigators at all levels of the judiciary in response to calls for judicial reform.

Observers noted modest improvement in the efficiency of moving cases through the criminal system, although many serious systemic flaws remained. Long delays in trials were common, and investigators and police continued to struggle with a large backlog of outstanding investigations.

The court system consists of regional courts, district courts, appellate courts, military courts (on the district and appellate levels), the Supreme Court of Cassation, and the Supreme Administrative Court. The Constitutional Court, which is separate from the rest of the judiciary, is empowered to rescind legislation that it considers unconstitutional, settle disputes over the conduct of general elections, and resolve conflicts over the division of powers between the various branches of government. Military courts handle cases involving military personnel (including MOI personnel) and some cases involving national security matters. As a part of the judiciary, military courts are independent from the military.

Judges are appointed by the 25-member SJC and, after serving for 5 years, cannot be removed except under limited, specified circumstances. The 12 justices on the Constitutional Court were chosen for 9-year terms; one-third were selected by the National Assembly, one-third appointed by the President, and one-third selected by judicial authorities. The internal mechanisms that inhibit corruption in the judiciary were inadequate.

The Constitution stipulates that all courts shall conduct hearings in public unless the proceedings involve state security or national secrets, and authorities generally respected this provision. Defendants have the right to know the charges against them and are given ample time to prepare a defense. Defendants have the right to family visits and to examine evidence. To enable a speedy trial, investigations must last no more than 2 months under normal circumstances, although the head district prosecutor may extend this to 6 months, and the Chief Prosecutor may extend this to 9 months. Defendants in criminal proceedings have the right to confront witnesses; they also have a right to legal representation in all cases. Romani Baht, a Roma advocacy NGO, provided legal counsel, particularly in cases of discrimination and police abuse. When punishment of 10 years' imprisonment or more could be imposed or when the defendant was a juvenile, a foreigner, had mental or physical disabilities, or was not present, the participation of a defense attorney is mandatory. The right of appeal is provided for and was used widely.

During the year, an NGO appealed the 2003 increase in fees levied on claimants in civil courts, and the Supreme Administrative Court overturned the increase. The practice of plea-bargaining had not yet effectively lightened the caseload for prosecutors. In addition, plea-bargaining was perceived by many citizens as a way for the wealthy to buy their way out of charges.

During the year, the Act to Combat Juvenile Antisocial Behavior was amended to improve due process procedures. The amendments introduced the right to an attorney during hearings and also transferred local commissions' competence for imposing stricter measures (i.e. detention in social or pedagogical boarding schools and educational reform boarding schools) to regional courts. The amendments also ensure the right to appeal all decisions of the local commission to the regional court; regional court rulings for internment in social or pedagogical and educational reform boarding schools can be appealed to the district court.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these provisions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights and did not

restrict academic freedom. Some NGOs reported that significant numbers of journalists continued to feel constrained in their reporting because of media outlet management, political influence, and outside pressure.

In an open letter to the Prime Minister in June, 266 judges criticized the manipulation of the media by MOI officials. Domestic organizations cited politically motivated intimidation and dismissal of journalists as a major problem.

A variety of newspapers were published freely by political parties and other organizations representing the full spectrum of public opinion.

There were no formal restrictions on programming and both television and radio provided a variety of news and public interest programming. State-owned media presented opposition views; however, media observers believed that the inadequacy of existing legislation left it vulnerable to government pressure. Despite this vulnerability, Bulgarian Telegraph Agency (BTA), the state-owned news agency, was highly regarded as being unbiased, and the state-owned Bulgarian National Radio (BNR) was often one of the most outspoken critics of the Government and its policies.

The state-owned Bulgarian National Television (BNT) broadcast Turkish-language newscasts, and local affiliates of BNR broadcast limited Turkish-language programming in regions with ethnic-Turkish populations. The state-owned Radio Bulgaria increased its Turkish-language broadcasting from 30 minutes to 3 hours per day and introduced an hour of Roma-language programming per week. The state-owned Radio Hristo Botev dedicated over 2,000 hours of its annual 7,800 broadcast hours to minorities, ethnic issues, and a wide range of religious affairs. Foreign government radio programs had good access to commercial radio frequencies.

There were three reported cases of violence or threats of violence against journalists. On January 16, the editor-in-chief of the Lovech-based newspaper *Naroden Glas*, Tsvetan Todorov, reportedly received death threats for reporting that former Socialist prime minister Zhan Videnov worked for a local meat processing plant. In mid-February, the Romani news agency *De Facto* closed its Sofia office for a week following a number of anonymous threats. On September 1, following a small explosion the previous night in front of its offices, the second largest circulation national daily newspaper *24 Hours* received telephone threats that it could expect even greater explosions if its journalists continued their investigative reporting about organized crime groups.

Amendments passed in 2002 to the Radio and Television Act (RTA) require the Council for Electronic Media (CEM) to issue radio and television programming licenses only in accordance with the Strategy for Developing Radio and Television Activities, which was developed by the CEM and Communications Regulation Commission jointly and submitted to the National Assembly; however, the National Assembly still had not approved the Strategy by year's end. As a result, the CEM could not promulgate new licensing procedures, and it was not clear when the Government would resume licensing electronic media. While the CEM could not initiate new tenders for television and radio programming licenses, it was still able to transfer, amend, revoke, and terminate such licenses and regulate programming.

In March, the CEM voted five to four to fire BNT Chairman Kiril Gotsev for his decision over 2 years earlier not to allow the airing of a rebuttal to comments made in a political talk show. The four dissenting CEM members said that the motives for dismissal would not hold up in court and walked out of the meeting after the vote. On October 14, the Supreme Administrative Court overturned the CEM decision.

During 2003, the CEM imposed 77 fines against television operators and 13 fines against radio operators for violations of the RTA. In November 2003, the CEM revoked the license of Union Television, owner of the satellite channel Den, citing grave violations of the RTA for allegedly broadcasting a television show that impaired morals. Union Television appealed the decision, and in July, the Supreme Administrative Court overturned the CEM's revocation of Union Television's license.

Defamation is punishable under the criminal code. In most cases the courts defined libel and interpreted the law in a manner that favored journalistic expression. Fines for libel ranged from approximately \$2,000 (3,000 leva) to approximately \$6,670 (10,000 leva); fines for slander ranged from approximately \$3,335 (5,000 leva) to \$10,000 (15,000 leva). While these fines remained a heavy penalty in the context of the country's economy, a report issued by the BHC claimed that most damages and fines assessed in defamation cases were of a reasonable nature. Amendments to the criminal code in 2002 eliminated imprisonment as a penalty for defamation. The amended provisions also removed the need for a prosecutor to file an indictment for slander or libel by changing the nature of the offense to a private one where complaints are filed directly by the party subject to slander or libel. According to the BHC, the number of defamation suits brought against journalists increased slightly over the past 3 years; however, the BHC found that only a small

number of cases concluded with the journalist being fined. The majority of defamation cases were brought against reports about corruption or mismanagement, and the most frequent plaintiffs were government officials or other persons in public positions.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

The law prohibits groups that endanger national unity or promote and incite racial, national, ethnic or religious hatred, violate the rights of citizens, or seek to achieve their objectives through violent means. The Government undertook to respect the rights of individuals and groups to establish freely their own political parties or other political organizations. Although the Constitution prohibits the formation of political parties along religious, ethnic, or racial lines and prohibits citizens' associations from engaging in political activity, in practice ethnic minority political parties operated during the year and were active on the local and national level (*see* Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government restricted this right in practice for some religious groups. The Constitution designates Bulgarian Orthodox Christianity (BOC) as the “traditional” religion and the Government provided financial support to it, as well as to several other religious communities perceived as holding historic places in society, such as the Muslim, Roman Catholic, and Jewish faiths.

All religious groups, with the exception of the BOC, must register with the Sofia City Court before they can practice their beliefs in public. Since the Court took over responsibility for registering religious groups in 2003, the number of registered denominations has increased, reaching 46 by year's end. The BHC has expressed concern at the requirement for groups to submit a statement of beliefs when applying for registration or re-registration, stating that this constituted an infringement on their freedom of religion. There were initial fears regarding the exclusive right of Religious Denominations Directorate of the Council of Ministers to give “expert opinions” to the court regarding registration matters; however, in practice the Directorate only provides an opinion upon request by the court. Such opinions have resulted in the rejection of registration for only one denomination, the Achmadi Muslim Organization of the Muslim Achmadi Community. However, all applicants have the right to appeal the denial of registration through the Court of Appeals, where “expert opinions” from other sources can be submitted and taken into account. An appeal by the Achmadi Muslim Organization of the Muslim Achmadi Community was pending at year's end. Some local branches of nationally registered denominations experienced problems with local authorities who insisted that the branches be registered locally; for example, mayors in the towns of Lovech, Troyan, and Vakarel exceeded their powers by demanding that local branches of religious organizations provide documentation not required by law. The law does not require local registration of denominations, although some municipalities have claimed that it does.

For most registered religious groups there were no restrictions on attendance at religious services or on private religious instruction. A Jewish school, three Islamic schools, the university-level Islamic Higher Institute, a Muslim cultural center, a multid denominational Protestant seminary, and university theological faculties operated freely. Bibles, Korans, and other religious materials in the Bulgarian language were imported or printed freely, and religious publications were produced regularly. The law prohibits the public practice of religion by groups that are not registered.

On July 19, the Sofia City Court appointed Fikri Sali, Ridvan Kadiov, and Osman Osmailov as interim representatives of the Muslim community pending a civil court settlement of a leadership dispute. On November 5, the Sofia Appellate Court overruled the appointment of the triumvirate, stating that the Muslim community's leadership could only be appointed on its own initiative and not by the Sofia City Court. At year's end, the Muslim community was still without a legally registered leadership awaiting the outcome of other court cases filed by opposing factions in the ongoing leadership dispute. The dispute was a result of the December 2003 election of two different chief muftis by bodies each claiming to represent the Muslim community.

On July 20, prosecutors and police intervened in the BOC's 12-year schism, taking the side of Patriarch Maxim and his “Holy Synod.” In a nationwide operation, priests from the “Alternative Synod” were forcibly evicted from around 250 churches and other properties, which the “Holy Synod” claimed they were illegally occupying. The operation resulted in several clerics being temporarily detained and police closing and securing the properties. Following the operation, clerics from the “Alternative Synod” continued to hold religious services outside of the churches from

which they had been evicted, and a number of the synod's supporters staged protests against what they viewed as illegal State intervention in an internal church dispute.

A number of religious groups complained that foreign missionaries and religious leaders experienced difficulties in obtaining and renewing residence visas in the country. The Law on Foreign Persons has no visa category explicitly applied to missionaries or religious workers, and rules for other categories of temporary residence visa (such as self-employed or business-owner) have been tightened in ways that reportedly make it more difficult for religious workers to qualify.

The Jewish Community, the Muslim community, the Catholic Church, and some Protestant denominations claimed that a number of their properties confiscated under the Communist government were not returned. A central problem facing all claimants was the need to demonstrate that the organization seeking restitution was the same organization—or the legitimate successor of the organization—that owned the property prior to 1944. This was difficult because Communist hostility to religion led some groups to hide assets or ownership and because documents had been destroyed or lost over the years.

Relations between the major religious communities generally were amicable; however, discrimination, harassment, and general public intolerance of nontraditional religious groups remained an intermittent problem. Human rights groups reported that societal discrimination against nontraditional religious groups gradually lessened over the last few years.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of refugee or asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and the Government has established a system for providing protection to refugees. The Government provided some protection against refoulement, the return of persons to a country where they fear persecution; however, the U.N. High Commission for Refugees (UNHCR) and NGOs, including the BHC, expressed concern over the Government's handling of claims for refugee and humanitarian status and reported that there may have been cases in which possible bona fide refugees were turned away at the border. The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The Government also provided temporary protection ("humanitarian status") to persons who may not qualify as refugees under the 1951 Convention/1967 Protocol.

Persons entering the country legally are required to request and file applications for refugee status within 72 hours of entering the country, except in extraordinary situations. The law allows applicants for refugee status to be interviewed immediately and, within 3 days of the interview, applications are reviewed by a competent authority, who determines whether they merit further processing. The law also provides for the detention of foreigners who are deemed by the MOI to pose a threat to national security, or who have committed serious crimes.

The UNHCR, in cooperation with the International Organization for Migration (IOM), operated three transit centers near the Greek, Turkish, and Romanian borders used to interview refugee applicants and assisted the Government with a small reception center in Banya.

From January through November, the State Agency for Refugees received requests for refugee status from 1,025 persons. During the same period, refugee status was granted to 17 persons and humanitarian status given to 234. The leading countries from which applicants originated were Afghanistan, Iraq, Armenia, Algeria, Iran, and Nigeria. There is an appeal process.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In October 2003, local elections were held nationwide and the opposition Bulgarian Socialist Party and Union of Democratic Forces gained more electoral positions than the ruling NMSS. Ethnic minority candidates, as well as the primarily ethnic-Turkish Movement for Rights and Freedom (MRF), also fared better than in previous local elections. The elections were deemed generally free and fair.

There was widespread public perception of corruption in all branches and levels of government.

While freedom of information laws provide for public access to government information, there were restrictions to such access in practice. The NGO Access to Information Program reported approximately 140 cases where government institutions denied access to information throughout the year.

There were no legal restrictions on the participation of women in government and politics. There were 63 women in the 240-seat National Assembly. A number of women held elective and appointive office at high levels in the Government, including one Deputy Prime Minister (who also was Minister of Economy) and four other ministers. Women also held key positions in the National Assembly, including one Deputy Speaker and the chairs of three standing committees and two ad-hoc committees. The leaders of three of the seven parliamentary groups were women.

There were no legal restrictions on the participation of minorities in politics; however, the Constitution prohibits ethnically, racially, or religiously based parties (see Section 2.b.). Despite the constitutional prohibition, the primarily ethnic-Turkish MRF was represented in the National Assembly and was the NMSS's junior coalition partner. Despite the MRF's influential position in local and national politics, there was increased criticism of the party from both within the ethnic-Turkish population and from political commentators for portraying itself as the only guarantor of ethnic peace and stability while using corruption and intimidation to maintain its powerful position.

There were 24 minority members of parliament (M.P.s) in the 240-seat National Assembly and 2 ethnic-Turkish ministers in the Cabinet. The ethnic-Turkish community's popularly elected representation of 20 ethnic-Turks in the National Assembly roughly corresponded to its size. There were also two Romani M.P.s and two ethnic-Armenian M.P.s in the National Assembly; however, while the ethnic-Turkish minority was well-represented, Roma were underrepresented in appointed government positions, particularly leadership positions.

In the October 2003 local elections, 3 percent of municipal councilors elected were Roma, and, according to Romani groups, a considerable number of Romani mayors also were elected. The National Association of Municipalities reported that Muslim candidates accounted for 12.5 percent of municipal mayors and 15.2 percent of municipal councilors elected in 2003. Over 300 political parties were registered, including a number of predominantly ethnic-Romani and ethnic-Macedonian parties.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Human rights observers reported uneven levels of cooperation from various national and local government officials during the year.

In general, human rights observers reported continued receptivity and dialogue on the part of the Government and law enforcement officers toward human rights concerns; however, law enforcement practices at the working level had not changed noticeably.

Despite the passage of the Ombudsman Act in 2003 establishing an autonomous ombudsman, the National Assembly failed to fill the position by the year's end.

The Parliamentary Committee on Human Rights was active in highlighting areas of concern throughout the year and introducing legislation to combat abuses of human and civil rights.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for individual rights, equality, and protection against discrimination; however, societal discrimination existed against women and ethnic minorities, particularly Roma.

The law prohibits discrimination on the grounds of race, sex, religion, disability, age, and sexual orientation and provides for the establishment of a nine-member antidiscrimination commission with powers to receive and investigate complaints, issue rulings, and impose sanctions. However, the National Assembly had not appointed the commission members by year's end. A number of cases were lodged for breaches of the Protection Against Discrimination Act, and in July, a Romani woman was awarded damages on the grounds of racial discrimination for being refused service in a shop.

*Women.*—Domestic violence against women was a serious problem; however, there were no concrete statistics on its occurrence. In assault cases resulting in minor bodily injury, the law requires the victim to initiate criminal proceedings; however, victims often felt constrained from doing so. Victims also often felt constrained from

reporting other cases of assault, limiting the number of assault cases prosecuted by the judiciary. Courts and prosecutors tended to view domestic abuse as a family matter rather than a criminal problem; as a result, police often were reluctant to intervene in cases of domestic abuse, even if a woman called them seeking protection or assistance.

The Government did not provide shelter or counseling for women. In Sofia, the NGO Nadya Center provided shelter to battered women, and the NGO Animus Association Foundation (AAF) operated a crisis center that provided short-term emergency shelter for female victims of violence. There were also 15 crisis centers around the country operated by local NGOs that provided assistance to female victims of violence. The AAF reported that it periodically received client referrals from the police. During the year, the IOM reported sheltering 74 women and 9 girls, and the AAF sheltered approximately 50 women.

While the law does not specifically address domestic abuse, the Parliamentary Committee on Human Rights approved legislation to address and combat the problem. The legislation was awaiting final parliamentary approval at year's end.

The AAF operated a 24-hour hotline for women in crisis, including victims of trafficking, with trained volunteers as well as professional therapists to counsel victims. The hotline also provided volunteers who would assist victims in obtaining other necessary services including medical exams and treatment, reissued identity documents, and information on housing and employment opportunities.

Rape is a crime and was prosecuted, although it remained an underreported crime because of the stigma that society attached to the victim. Spousal rape, though not specifically addressed in the penal code, can be prosecuted under the general rape statute; however, in practice it was rarely prosecuted. Sentences for rape range between 2 and 8 years' imprisonment; sentences increase to between 3 and 10 years if the victim is a descendent relative. In cases where rape results in serious bodily injury or suicide of the victim, sentences range between 10 and 20 years.

Prostitution is not prohibited by law; however, a variety of activities often associated with prostitution, such as pimping, are illegal. Forced prostitution is illegal and remained a serious problem. Poor socio-economic conditions contributed to a disproportionate number of Romani women drawn into organized prostitution.

Trafficking in women was a serious problem (*see* Section 5, Trafficking).

The law prohibits sexual harassment; however, it was a widespread problem. A survey conducted by the Agency for Social Research (ASR) in 2002 found that approximately 40 percent of women had suffered sexual harassment in the workplace.

The Constitution prohibits privileges or restrictions of rights on the basis of gender, and women were not impeded from owning or managing businesses, land, or other real property and do not suffer from discrimination under inheritance laws; however, women faced some discrimination in terms of job recruitment. The Protection Against Discrimination Act prohibits and provides sanctions against gender-based discrimination.

The Ministry of Labor and Social Policy (MLSP) had a number of programs to address economic discrimination and integrate women into the mainstream of society and the economy; much NGO activity also was focused on these areas. Of the women's organizations that existed mainly to defend women's interests, the two largest were the Women's Democratic Union in Bulgaria and the Bulgarian Women's Association.

*Children.*—The Government generally was committed to protecting children's welfare; however, government efforts in education and health were constrained by serious budgetary limitations and by outmoded social care structures. The Constitution mandates school attendance until the age of 16. Public education was free, but children were required to pay for books, which was a problem for poor families. Although female and male primary enrollment rates have evened, overall enrollment has decreased.

Romani children and ethnic-Bulgarian children generally attended separate schools, partly due to self-imposed segregated neighborhoods, although several localities instituted integration programs. Romani children received an inferior quality of education. Additionally, the Government was largely unsuccessful in attracting and keeping many Romani children in school; the NSI and education experts estimated that between 8 and 9 percent of Romani children have completed secondary education. Many Romani children arrived relatively unprepared for schooling; many were not proficient in the Bulgarian language.

The Government and NGOs undertook initiatives to address these problems. They included free lunches, subsidized textbooks and tuition costs, teacher's assistants in schools with Roma and ethnic-Turkish students, and busing programs.

Conditions for children in state institutions were poor. Social attitudes towards children with disabilities led families to institutionalize their children if they had disabilities. In 2002, there were 11,834 children in specialized institutions; however, in September 2003, the Council of Ministers adopted a National Action Plan for Reducing the Number of Children in Institutions, and by the end of 2003, the number of children in institutions had decreased by 9 percent to 10,769. Human rights monitors were sharply critical of the serious deficiencies in government-run institutions for children, including orphanages, educational reform boarding schools, facilities for children with mental disabilities, and shelters for homeless children. Inadequate budgets, poorly trained and unqualified staff, and inadequate oversight plagued these facilities. Access to medical care and proper hygiene was poor.

Violence against children was a problem.

During the year, the Act to Combat Juvenile Antisocial Behavior was amended to improve due process procedures for juveniles when they were detained in educational reform boarding schools run by the Ministry of Education and Science (*see* Section 1.e.). According to NGOs, living conditions at these reform schools remained poor, offering few medical, educational, or social services. At most of these institutions, residents' needs for food, clothing and teaching materials remained largely unsatisfied. Mixed-age classes and low levels of staff motivation considerably impaired the teaching process.

Because prostitution is not illegal, children involved in prostitution were not officially registered with the MOI's unit for juvenile crime. However, they were viewed by the MOI as children at risk. In 2003, there were 543 child prostitutes on file with the MOI. Child prostitution reportedly was particularly common among Romani youth.

Trafficking in children was a problem (*see* Section 5, Trafficking).

Unlike in previous years, there were no reports that Romani children were targets of arbitrary police detention. Widespread poverty led many Romani children to turn to begging, prostitution, and petty crime on the streets.

As part of the National Strategy for the Children of the Street, the State Agency for Child Protection (SACP) introduced a number of programs to address the situation of street children. One of these programs included putting street children in protective custody. In December, the SACP reported that 625 children were known to be either living or working on the streets and were primarily involved in begging, prostitution, or car window washing; approximately 400 of these children were believed to be exploited by adults.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking was a serious problem, and the country remained primarily a transit country, and to a lesser extent a country of origin. There was no evidence of a pattern of official complicity in trafficking, although a number of individual law enforcement officers and other government authorities were involved in trafficking.

In March, the National Assembly passed regulations implementing the 2003 Antitrafficking Act, which supplemented the 2002 amendment to the penal code that made trafficking in persons a criminal offense. The package of antitrafficking legislation provides protection and assistance to trafficking victims and promotes cooperation between the central government, municipal authorities, and NGOs for the development of programs to combat trafficking. The National Antitrafficking Commission, the primary coordination and policy-making body for trafficking issues, was convened and held its first meeting in December.

The punishment for trafficking in persons may include 1 to 8 years in prison and fines up to approximately \$5,300 (8,000 leva). If aggravated circumstances exist—for example, a minor or kidnapping was involved—penalties increase to 2 to 10 years in prison and fines of up to approximately \$6,670 (10,000 leva). Penalties for trafficking persons across borders increase to 3 to 10 years' imprisonment and fines of up to approximately \$10,000 (15,000 leva). If the act of trafficking in persons was carried out in connection with organized crime or constituted a serious repeat offense, penalties increase to 5 to 15 years' imprisonment and fines of up to approximately \$13,340 (20,000 leva), and the court could confiscate the traffickers' assets. A variety of additional laws could be used to prosecute persons for activities often associated with trafficking. Inducement to prostitution is punishable by up to 3 years' imprisonment, and the penalty rises to 10 to 20 years if the crime was performed by or through an organized crime group, if the victim was a minor under age 18 or legally incompetent, if two or more persons were induced into prostitution, or if the offense was repeated. Law enforcement officers complained that because the minimum penalty was less than 5 years' imprisonment, they were not permitted to use special investigative techniques, such as wiretapping, to deal with traffickers.

There were two police units, one within the National Border Police and the other within the NSBOP, that specifically addressed the problem of trafficking in persons. The Government investigated cases of trafficking, and prosecutors filed 24 indictments against a number of suspected traffickers during the year. The Supreme Court of Cassation upheld the November 2003 conviction of rapper Vanko 1 and two of his accomplices.

Victims overwhelmingly were women and girls trafficked for the purposes of prostitution. Government authorities and NGO observers reported that there were approximately 275 confirmed victims of trafficking in 2002 that involved either internal trafficking or domestic victims trafficked internationally; however, the actual number of cases may be much higher. Women working in the sex industry formed a high-risk group for trafficking, and it was not possible to determine the number of prostitutes who were trafficking victims. According to the IOM and AAF, there were also cases of trafficking in male children.

Girls and young women were often approached by persons who gained their trust, frequently other young women and acquaintances or persons introduced by mutual friends, who described glamorous work opportunities abroad. Some were sold into bondage to traffickers by relatives. Victims of trafficking ranged from those who were deceived into believing that they would have good and respectable employment to those who expected to work as prostitutes but were unprepared for the degree of violence and exploitation to which they would be subjected. Unaccompanied young women trying to cross the border into Macedonia, Romania, or Turkey reportedly could be at some risk of being abducted into trafficking. Organized crime groups were responsible for trafficking, although they used various front companies to pose as employment agencies or tour operators.

According to AAF, the process of transforming girls into prostitutes generally took place before they left the country. The women typically were taken to a large town, where they were isolated, beaten, and subjected to severe physical and psychological torture. Some victims from other countries were kept in the country for several weeks where they were subjected to psychological and physical abuse to make them more submissive before they were transported to their destination points. Once the women left the country, their identity documents were taken away, and they found themselves forced to work as prostitutes in cities across Europe. Victims routinely reported that traffickers took away their passports and visas and forced them to stay illegally in countries. The women could be required to pay back heavy financial debts to the agency that helped them depart the country, leaving them in virtual indentured servitude. Traffickers punished women severely for acts of disobedience and threatened the women's families and family reputations to ensure obedience.

It was widely believed that some law enforcement officers or other government authorities were complicit in human trafficking, including local authorities and customs officials. The bulk of involvement appeared to consist of accepting bribes to look the other way, although some officers could have been more involved. Those involved in facilitating trafficking overwhelmingly were low-level, low-paid officials in the provinces and border regions.

On November 9, the National Assembly adopted witness protection legislation. That includes special protection measures available to witnesses, victims, defendants, suspects, convicts, and experts providing essential testimony, explanations, or information in trafficking cases, as well as their close relatives. Victims of crimes associated with trafficking, including participation in an organized crime scheme, are also covered by the legislation. Protective measures for witnesses range from being provided a personal guard and temporary placement in safe houses to changing residence or workplace to changing identity in extreme cases. The legislation also provides for witnesses to be transferred abroad if there are not sufficient security guarantees in country. Victims generally were not jailed, although they could be detained for brief periods for questioning until referred to an NGO for assistance and, if necessary, repatriation. The law provides victims, not in legal immigration status, with the possibility of special residency status if they are willing to cooperate with law enforcement personnel.

The AAF operated a 24-hour hotline for women in crisis that received 116 calls regarding trafficking of women and children during the year.

In association with NGOs, the Government conducted trafficking awareness programs for consular officers posted to Bulgarian embassies and law enforcement personnel on the legal provisions relating to trafficking in persons as well as the operational and psychological treatment for trafficking victims. The IOM continued its trafficking awareness campaign that began in 2000. The IOM has developed several regional network groupings of police, prosecutors, and concerned NGOs to raise awareness of trafficking and offer a referral mechanism that provides protection and assistance to returning victims. The Government has made available to the IOM

several local shelters and safe houses (some free of charge, others for a nominal fee) where IOM provides housing, protection, and reintegration assistance to victims, including those willing to testify in the prosecution of traffickers.

*Persons With Disabilities.*—The law provides for a range of financial assistance for persons with disabilities, including free public transportation, reduced prices on modified automobiles, and free equipment such as wheelchairs; however, budgetary constraints limited the availability of assistance in practice. A survey in 2002 by the Center for Independent Living (CIL) found that approximately 82 percent of public buildings were inaccessible to persons with disabilities. Societal discrimination against persons with disabilities persisted. Persons with disabilities had access to university training (students with disabilities were required to pay the university's initial application fee but were exempt from tuition fees if accepted), to housing, and to employment; however, architectural barriers were a great hindrance in many older buildings, including schools and universities.

Conditions in institutions for persons with disabilities were poor. NGOs reported that staffing problems, particularly on night shifts in institutions for adults, posed significant risk to residents. On February 24, Yoncho Filipov Lazarov, a resident in the Govezhda facility, died after he was reportedly pushed by an agitated resident. The facility reportedly did not conduct an internal inquiry to establish the factors involved in the incident.

There were no developments during the year in the March 2003 case of a patient beaten to death at the Bastoshevo social institution for adults with mental disabilities, near the city of Sevlievo. There were also no further developments in the April 2003 case of a patient strangled to death by another patient at the Podgumer social institution for adults with disabilities, near Sofia.

Labor laws intended to protect the interests of persons with disabilities and create employment opportunities had mixed results. While the law provides incentives for small firms to hire persons with disabilities and requires larger businesses to hire a set quota of persons with disabilities, enforcement of the law was low and other laws—for example, requiring shorter working hours for workers with disabilities—often led to discrimination against persons with disabilities in the hiring process. High unemployment and a poor economy also undermined initiatives aimed at advancing equal opportunity for persons with disabilities; the great majority of persons with disabilities were unemployed.

Persons with mental and physical disabilities, including very young children, were often separated from the rest of society; the effective segregation of children with disabilities into special schools lowered the quality of their education. According to the MLSP, over 2,500 children with disabilities did not attend school; however, according to the CIL, the number may have been twice as high, despite new by-laws adopted by the Ministry of Education and Science to provide for the integrated education of children with disabilities in schools. Many children with disabilities were institutionalized. The MLSP operated 30 institutions for children and youths with disabilities throughout the country; 9 of the institutions were for children aged 3 to 10 with mental disabilities; 20 of the institutions were for children and youths aged 3 to 18 with mental disabilities; the remaining institution was for children and youths aged 3 to 25 with physical disabilities.

The law requires improved structural access for persons with disabilities, and public works have taken this into account; however, enforcement of this law lagged in existing, unrenovated buildings.

*National/Racial/Ethnic Minorities.*—According to a 2001 census, ethnic Bulgarians made up 86 percent and ethnic Turks 9 percent of the population. Ethnic-Roma were estimated officially to comprise 4.6 percent of the population; however, their actual share was likely between 6 and 7 percent. A Council of Europe report issued in 2002 estimated that there were 600,000 to 800,000 Roma in the country; official statistics estimated the number of Roma at 371,000. Ethnic-Bulgarian Muslims, often termed Pomaks, are a distinct group of Slavic descent whose ancestors converted from Orthodox Christianity to Islam; they constituted 2 to 3 percent of the population.

There were no reports of lethal police assaults on Roma; however, police harassed, physically abused, and arbitrarily arrested some Roma, and reports of police harassment and torture were documented (*see* Section 1.d.). Little progress was made in resolving cases of police violence against Roma.

Romani activists and NGOs continued to criticize the Government's lack of progress in implementing its 1999 Program for Social Integration of Roma; however, there were projects that sought to improve economic and educational opportunities for Roma, as well as to address the problem of ineffectual political leadership among the Roma. One program was the Ethnic Integration and Conflict Resolution project

in Vidin, Kyustendil, and Lom, which provided limited funds to small enterprises that employed Roma, undertook activities to reduce Romani drop-out rates, provided tutoring for university enrollment exams, and created an Institute for Roma Leaders where young Roma could develop leadership and conciliation skills. The Government and the European Bank for Reconstruction and Development continued to fund the construction of new apartments in Sofia for Roma who were displaced in 2001, and additional construction was carried out in Plovdiv.

Severe unemployment and poverty among the Roma, combined with generally unfavorable attitudes toward Roma among ethnic Bulgarians and Turks, contributed to strained relations between the Roma and the rest of society.

As individuals and as an ethnic group, Roma continued to face high levels of discrimination. During the summer, in the first of a series of discrimination cases under the 2003 Protection Against Discrimination Act, the Sofia City Court found in favor of a Romani woman who had been refused service in a clothing shop due to racial discrimination. Romani Baht reported that five of the six cases it filed during the year under the Act were successful.

During the year, NGOs reported an increased number of racially motivated assaults on Roma in Sofia. Youths belonging to skinhead groups, aged between 16 and 23, usually perpetrated the assaults. On April 30, two men reportedly brutally beat Georgi Angelov, a Rom, and cut off his ear with a razor blade. Human rights groups reported that the police failed to effectively investigate this and similar incidents.

NGOs reported that Roma encountered difficulties applying for social benefits, and local officials discouraged rural Roma from claiming land to which they were entitled under the law disbanding agricultural collectives. Many Roma and other observers made credible allegations that the quality of education offered to Romani children was inferior to that afforded most other students. Workplace discrimination against minorities continued to be a problem, especially for Roma. Employers justified such discrimination on the basis that most Roma only had elementary training and little education. Roma continued to suffer from inadequate access to health care.

There were no places reserved for minority candidates at the Police Academy; however, there was a special Office for Romani Training Programs, and bilingual training manuals were published. Ethnic Turks and Roma held no senior law enforcement positions.

Pomaks remained in an ambiguous position. In the town of Yakoruda, local officials refused to recognize Pomak identity, and those calling themselves Pomaks or Bulgarian Muslims alleged discrimination by government officials.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of all workers to form or join trade unions of their choice, and workers exercised this right in practice.

Approximately 18.2 percent of the workforce was unionized; according to individual trade unions and the Democratic Trade Unions Association, the percentage of the workforce that was unionized continued to decrease.

The Labor Code prohibits antiunion discrimination and includes a 6-month period for redress against dismissal as a form of retribution; however, there was no mechanism other than the courts for resolving complaints, and the burden of proof in such cases rested entirely on the employee.

A report by the International Confederation of Free Trade Unions (ICFTU) found that unions reported frequent cases of discrimination and harassment against trade union activists and members, who were relocated, downgraded, or fired. In the private sector, some employers had a policy of illegally prohibiting trade union membership within their enterprise. There were credible reports that some private employers also forced newly employed workers to sign declarations that they would not establish or join trade unions. Although such declarations were not legally binding, such employers reportedly responded to failure to sign or to honor them by not hiring, dismissing, or otherwise punishing the employee, and legal recourse available to employees was neither swift nor sufficient to deter this practice effectively.

There were reports of cases of employers deducting dues from workers' salaries but not passing them on to the unions.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code provides an adequate legal structure for collective bargaining, which was practiced nationally, regionally, and on the local level; however, labor unions alleged that many employers failed to bargain in good faith or to adhere to agreements that were concluded.

The ICFTU reported that collective bargaining was not always effective in practice. Private employers reportedly often refused to negotiate collective agreements,

delayed negotiations unnecessarily or refused to sign agreements; in other cases, private employers signed agreements but did not apply them.

The Labor Code provides for the right to strike, and workers exercised this right in practice; however, key public sector employees (primarily military and law enforcement personnel) were subject to a blanket prohibition against striking.

There are no special laws or exemptions from regular labor laws in the country's six export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5, Trafficking). Children were sometimes forced to work due to economic conditions, family members, or criminal organizations (*see* Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code sets the minimum age for employment at 16 years and the minimum age for dangerous work at 18 years; employers and the MLSP were responsible for enforcing these provisions. Child labor laws generally were enforced well in the formal sector, but NGOs reported that children were exploited in certain industries (especially small family-owned shops, textile factories, restaurants, family farms, construction, and periodical sales) and by organized crime (notably for prostitution and distribution of narcotics).

On March 16, the National Assembly passed amendments to the Criminal Code criminalizing and providing sanctions for illegal employment of children. The sanctions for employers who hire a child less than age 18 without proper work permits include imprisonment for 6 months and a fine of approximately \$335 (500 leva). If the violation concerns children less than 16 years of age, sanctions are increased to 1-year imprisonment and a fine of approximately \$670 (1000 leva). During the first 9 months of the year, the MLSP's General Labor Inspectorate (GLI) found 130 violations of child labor regulations.

The Government also approved regulations implementing the 2003 Child Protection Act, the 2003–05 Action Plan against Commercial Sexual Exploitation of Children, and the National Strategy for Children on the Street.

There were no official statistics on child labor. The ILO estimated in 2000 that 14 percent of children ages 5 to 17 years were working. Children were engaged in paid work outside of the home in the commercial and service sectors, agriculture, forestry, transportation, communications, industry, and construction. According to the GLI, there was an almost 50 percent increase in the number of applications to employ children, which the GLI attributed to the criminalization of child labor violations. According to the ILO, children's workdays often exceeded the 8-hour maximum set by the Labor Code, and sometimes children did not receive overtime pay for hours worked. Local NGOs reported that children worked on non-family-owned farms for meager monetary or in-kind wages such as food, and that institutionalized children often hired themselves out for agricultural labor for a modest income during periods when they were allowed out of residential facilities.

"Worst forms" of child labor were infrequent, but continued to include hired heavy physical labor and health hazards on family tobacco farms, particularly among the ethnic-Turkish minority. During the year, the Government started participation in a regional ILO program to eliminate worst forms of child labor, including educational campaigns about the effects of child labor and implementing interventions aimed to protect, withdraw, rehabilitate, and reintegrate children engaged in the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of approximately \$80 (120 leva) did not provide a decent standard of living for workers and their family.

The Labor Code provides for a standard workweek of 40 hours with at least one 24-hour rest period per week. The MLSP was responsible for enforcing both the minimum wage and the standard workweek. Premium pay for hours worked over 40 per week was supposed to be negotiated between employers and employees. The Labor Code stipulates that premium pay for overtime could not be less than 150 percent during workdays, 175 percent during weekends, and 200 percent during official holidays. The Labor Code prohibits overtime for children less than age 18, pregnant women, and women with children up to age 6. During the year, amendments adopted to the Labor Code required a minimum 24-hour rest period, in addition to premium compensation, for overtime hours worked during the weekend. Enforcement generally was effective in the state sector but was weaker in the private sector.

There was a national labor safety program, with standards established by the Labor Code. The Constitution states that employees are entitled to healthy and non-

hazardous working conditions, and the MLSP was responsible for enforcing these provisions. However, conditions in many cases continued to worsen due to budget constraints and the growth of a private sector that labor inspectors did not supervise effectively. Protective clothing often was absent from hazardous areas. The law requires joint employer and labor health and safety committees to monitor workplace conditions; however, implementation was slow and these committees remained in developmental stages at year's end.

Under the Labor Code, employees have the right to remove themselves from work situations that present a serious or immediate danger to life or health without jeopardy to their continued employment; however, in practice, refusal to work in such situations could result in the loss of employment.

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## CROATIA

The Republic of Croatia is a constitutional parliamentary democracy with an independent presidency. The President, Stjepan Mesic, formerly of the Croatian People's Party, but now independent, serves as head of state and commander of the armed forces, oversees foreign policy and the intelligence service, and nominates the Prime Minister who leads the Government. The November 2003 parliamentary elections were generally free and fair, despite some irregularities. The Constitution provides for an independent judiciary; however, the judiciary continued to suffer from political influence at the local level.

The Ministry of Interior (MUP) oversees the civilian national police, and the Ministry of Defense oversees the military and military police. The national police has primary responsibility for internal security; in times of disorder, the Government and President may call upon the military to provide security. Civilian authorities maintained effective control of the security forces. Some members of the security forces committed isolated human rights abuses.

The Government worked towards creating a market-based economy. The population of the country was approximately 4.4 million and real gross domestic product increased by 3.7 percent. According to the International Labor Organization (ILO), the average unemployment rate was 13.8 percent. Wages kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Twenty-five ethnic Serbs remained incarcerated after being convicted in nontransparent politicized trials in past years. Lower courts were occasionally subject to political influence, and the judicial system suffered from bureaucratic inefficiency, insufficient funding, and a severe backlog of cases. The Government made efforts to address the problem of witnesses sometimes changing their testimony due to intimidation and an often-hostile local public. The Courts largely discontinued the practice of pursuing mass and in absentia trials. Restitution of occupied property to refugees (mostly ethnic Serbs) returning to the country improved during the year, with most (all but 54) illegally occupied properties vacated; however, while significant progress occurred, property restitution remained a problem. The Government did not interfere in the editorial decisions of the print media; however, electronic media was susceptible to political pressure and attempts were made to influence reporting on the two national television stations. Governmental interference in the formation and operation of associations and nongovernmental organizations (NGOs) was limited. Restitution of nationalized property from the Second World War era remained a significant unresolved problem for all religious communities. There were some incidents of violence and harassment of religious minorities. Cooperation with the International Tribunal for the former Yugoslavia (ICTY) improved noticeably, although questions remained regarding the Government's ability to apprehend and deliver a prominent Croatian indicted for war crimes. Violence and discrimination against women occurred. Occasional violence continued toward ethnic minorities, particularly Serbs and Roma; some faced serious discrimination. Ethnic tensions in the war affected areas were less pronounced than in previous years, and abuses, including ethnically motivated harassment and assaults, occurred less frequently. Trafficking in women was a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Domestic courts continued to adjudicate cases arising from the 1991–95 conflict in the country and Bosnia and Herzegovina (BiH) (*see* Section 1.e.).

During the year, 14 persons were killed, 13 of whom were civilians, in landmine incidents in the regions of Karlovac, Sisak, Vukovar, Osijek, Slavonski Brod, and Zadar.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

Government figures during the year showed that 1,176 persons, mostly ethnic Croats, and 820 ethnic Serbs remained missing in unresolved cases from the 1991–95 military conflict. Of the 3,999 victims that have been exhumed from mass and individual graves since the war, 3,187 have been positively identified. The International Commission on Missing Persons (ICMP) assisted in the recovery and identification of individuals' remains and helping families of missing persons.

During the year, the bodies of 74 persons missing from the 1991–95 war were exhumed from mass and individual graves. The Government handled all exhumations and identifications, with the ICTY and international experts serving primarily as monitors.

In November, the Bureau for Missing Persons collaborated with the ICMP on a project to take blood samples from approximately 750 family members of persons who were missing in BiH, Serbia and Montenegro (SaM) and in the country. The European Union (EU) funded the procedure. The Bureau also signed an agreement on a joint longer-term project with the ICMP to exchange blood samples of the missing persons' families.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

NGOs and individuals reported sporadic police abuse and discriminatory treatment demonstrated toward ethnic minorities. For example, in March, three special police members beat an ethnic Serb trainee at the Zagreb Police Academy sports facility. In July, the police issued a report against the perpetrators for physical assault in a public place, but no disciplinary measures were undertaken pending the misdemeanor court ruling on the case.

In April, a young man reported to the Croatian Helsinki Committee (HHO) that that police in Rijeka beat him and pressured him to withdraw power of attorney. The Internal Control unit of the police confirmed that coercive measures were used but stated that it was because he resisted arrest and attacked police officials. The man reported the incident to the HHO which followed the case; however, after receiving the response from police, no further action was taken by any party. In July, two policemen in Varazdin beat a young man during questioning, causing internal bleeding that required surgery. The case was widely publicized, and the media reported that the police took 1 week to identify the officers responsible. The trial of the suspected officers was ongoing at year's end.

In December, two police officers from Vinkovci reportedly physically harassed and injured two men during an interrogation. The officers were disciplined for failure to report to their superiors on the interrogation. The Vukovar County police issued an apology, but denied that the injuries could have been inflicted during the interrogation. In December, the head of the opposition party sent an open letter to the Minister of Interior complaining about police violating human rights, overstepping their authority, and sanctioning those responsible only after the media reported the incidents. The police officially denied the allegations as a result of lack of information.

OSCE follow-up failed to confirm anecdotal reports of poor police performance during eviction proceedings and court-ordered action.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Men and women, juveniles and adults, and pretrial detainees and convicted prisoners were held separately.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention and the Government generally observed these prohibitions in practice; however, there continued to be isolated reports that judges issued arrest warrants in war crimes cases on ethnic grounds.

There are approximately 21,000 police officers under the authority of the MUP. The intelligence service is under the authority of the Government and President. An independent oversight board monitors intelligence service performance.

Some tension continued at reduced levels between ethnic Serb and Croat police officers, particularly in the Danube region. The Government appeared to fulfill its obligation under the 1995 Erdut Agreement to maintain proportionality in the numbers of ethnic Serb and Croat police officers in Eastern Slavonia; however, minority representation in the police outside Eastern Slavonia remained negligible, and the

Government had not fully implemented provisions in the Constitutional Law on National Minorities that require the hiring of minorities by year's end. Approximately 3 percent of the force were minorities. Of the 277 police recruits that completed training during the year, 20 percent were women and ethnic minorities.

International observers and human rights organizations generally praised the police for their integrity; however, corruption was believed to be a lingering problem among some police officers. In September, two senior police officers in Zagreb were arrested by authorities on corruption charges. The Ministry of Internal Affairs continued to update and codify rules of ethical police conduct and improve the capabilities of the police internal control section. Reforms were needed in the Ministry of Finance, to which the Customs Service reports, to improve ethical standards and internal control capabilities.

Weak police performance, including poor investigative techniques, insensitivity to ethnic issues, indecisive middle management, and susceptibility to pressure from hard-line local politicians, remained a problem, despite Government efforts to address it. These factors impeded development of local police capability. Throughout the year, the Ministry of Internal Affairs in coordination with the Organization for Security and Cooperation in Europe (OSCE) expanded a comprehensive program of police reforms, in part to extend community policing pilot programs to all regions of the country. In July, the Police Academy graduated its first training class under a completely redesigned basic police school developed with international assistance. During the year, the Police Directorate of the Ministry of Internal Affairs expanded on programs to provide in-service training for all active police officers; the goal of these programs was to ensure that every individual police officer received some form of advanced or refresher training at least once a year.

Police normally obtain arrest warrants by presenting evidence of probable cause to an investigative magistrate; however, police can make arrests without a warrant if they believe a suspect might flee, destroy evidence, or commit other crimes. The police have 24 hours to justify an arrest to a magistrate.

Detainees must be given access to an attorney of their choice within 24 hours of their arrest; if they have none and are charged with a crime for which the sentence is over 10 years' imprisonment, the magistrate appoints counsel. The Government generally enforced this in practice. The magistrate must decide whether to extend a detention for further investigation within 48 hours of an arrest. Investigative detention generally lasts up to 30 days; however, trial courts could extend the period up to 12 months in certain cases. Detainees may be released on their own recognizance pending further proceedings; however, most criminal suspects were held in custody pending trial. The option of posting bail after an indictment is available, but was not commonly exercised. Detainees are also allowed visits by family members.

On occasion, government officials failed to inform individuals of their rights. For example, in October, Intelligence Service counter-intelligence agents interrogated a freelance reporter without fully informing her of her rights. The Parliamentary Committee on Human Rights found that the Intelligence Service had violated her civil rights and, as a result, the head of the Counter-Intelligence Agency was removed in December.

There were several war crimes cases in which suspects were held in pretrial detention for several months on weak evidence.

The failure of some courts to issue timely written verdicts infringed on the appeals process and was a major cause of extended detention. Between January and October, the Constitutional Court issued 165 judgments finding unreasonable delays in lower and Supreme Court rulings and ordered the Government to pay \$272,000 (202,000 euros) in damages. This constituted nearly four times the number of similar rulings issued in 2003.

Arrests of ethnic Serbs for war crimes continued, but decreased throughout the year. Of the 23 Serbs arrested during the first 10 months of the year, 21 were subsequently released. In most cases, the Government dropped charges against the accused or granted amnesty. Prosecutors generally moved more quickly than in previous years to initiate criminal proceedings or drop charges altogether and free suspects, although delays still occurred at all stages of the judicial process. In some cases, lower courts failed to issue written verdicts in a timely manner, delaying the appeals process. Some courts also failed to promptly recommence proceedings when the Supreme Court called for a retrial. The Supreme Court also exceeded the 3-month period in which it must consider appeals when the defendant is in detention. In most cases of arrest on war crimes charges, the subject was released a few days after charges were dropped; however, in other cases, persons were detained for longer periods.

Although international observers noted some improvements during the year, several ethnic Serb defendants convicted in absentia or at nontransparent trials continued to be held in detention for extended periods while their appeals progressed slowly through the overburdened judicial system (see Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary continued to suffer from some political influence a backlog of approximately 1 million cases, and funding and training shortfalls.

Although the Constitution provides for the right to a fair trial and a variety of due process rights in the courts, the Constitutional Court determined that at times citizens were denied these rights and took corrective action. Excessive delays remained a problem; increasingly, the Constitutional Court awarded damages to persons whose trial had continued for numerous years without a decision. During the year, the European Court for Human Rights (ECHR) sanctioned the Government twice for unreasonable delays in property repossession cases. Additionally, the Government at times ignored Constitutional Court decisions, particularly with regard to the privatization of property. The ECHR adjudicated 22 cases against the Government and found violations in 20 cases. Most lawsuits were filed for lengthy trials, inaccessibility to the courts and damages caused by terrorist acts committed by the army and police. Out-of-court settlements were reached in an additional 44 cases.

The judicial system consists of municipal and county courts, commercial and misdemeanor courts, an administrative court, and the Supreme Court. The independent Constitutional Court determines the constitutionality of laws, governmental acts, and elections. Justices of the Constitutional Court are elected for 8-year terms by Parliament, while all other judges are appointed for life after a 5-year interim term. A parallel commercial court system adjudicates commercial and contractual disputes. The State Judicial Council (which consists of 11 members, including 7 judges, who serve 8-year terms) is independent of both the judiciary and the Ministry of Justice and is charged with the appointment and disciplinary of judges, including removal. The Chief State Prosecutor is appointed by Parliament and appoints the chief state attorneys at the county and municipal level; Deputy Prosecutors are appointed and disciplined by the High Prosecutorial Council.

Serb leaders continued to express concern about discrimination in the appointment of judges and reported that, on occasion, the State Judicial Council has either refused candidates or left positions vacant rather than appoint ethnic Serbs.

There continued to be isolated reports of political influence at the local level. Some judges made decisions in a nontransparent manner seemingly at odds with the evidence or the law. In August, the Supreme Court voided the not-guilty verdict and ordered a retrial in the Lora Prison war crimes case. Split County Court judge Slavko Lozina was criticized by the Court for his performance as presiding magistrate in the case against ethnic Croat prison guards charged with abuse and murder of ethnic Serb prisoners of war.

The inexperience and lack of systematic training programs, management standards, and systems for new judges, continued to be problematic. In March, the Ministry of Justice invested additional resources into the Judicial Academy (opened originally as the Center for the Professional Development of Judges and Other Justice Officials), which began implementing a continuing education program for judges.

Contributing to the judiciary's case backlog was the regular appointment of judges to serve on ad-hoc electoral commissions, reducing their time in the courtroom by as much as 20 percent. By year's end, the Government had not taken action on an OSCE recommendation to establish a permanent electoral commission.

Domestic courts continued to adjudicate cases arising from the 1991–95 war. Despite the increased number of war crime cases opened against police officers and members of the armed forces, questions remained about the criminal justice system's ability to conduct fair and transparent trials in these complex and emotionally charged cases. Observers blamed inadequate training, shortcomings in the legal code, frequent witness intimidation, and an often-hostile local public for hampering the war crimes adjudication process. In cooperation with the ICTY, the Ministry of Justice held a series of seminars from May to October to help prepare the judiciary to take on war crimes cases transferred from the ICTY.

International observers noted some improvement in the objectivity in war crimes decisions, but continued to express concern that the system was ethnically biased. Although improvements occurred in 2003, the OSCE concluded that war crimes prosecutions continued to be motivated more by ethnic considerations than by the impartial administration of justice.

Although the number of individuals facing war crimes prosecution during the year decreased compared to 2002 and 2003, the majority of defendants remained ethnic

Serbs. There was still a significantly different rate of conviction and acquittal depending on the ethnic identity of the defendant; 67 percent of all ethnic Serbs were found guilty, whereas only 25 percent of Croats were found guilty. In addition, from January to October, Serbs represented 23 of 27 persons arrested, 3 of 3 indicted, 85 of 105 on trial, 9 of 12 acquitted, and 18 of 20 convicted. In absentia proceedings, despite some efforts to curtail the practice, were applied almost exclusively to ethnic Serb defendants.

During the year, the Parliament adopted amendments to the criminal code to bring legal definitions of war crimes into line with international conventions, ensuring the admissibility of ICTY evidence in the courts and introducing provisions covering command responsibility and assistance to perpetrators of war crimes. At year's end, it remained unclear whether these changes could be applied retroactively to cases stemming from the 1991–95 conflict.

In 6 of 20 war crimes convictions during the year, the county courts issued sentences below the 5-year minimum sentence. Two-thirds of all appeals during the year resulted in reversal of trial verdicts and remand for a new trial, primarily for the failure of the lower court to establish facts properly. There were no reported instances of court verdicts containing inflammatory and derogatory remarks about ethnic minorities, an improvement from the previous year.

In August, the Supreme Court overturned the Split County Court acquittal in the high profile Lora war crimes case, noting that the lower court had incompletely established facts and excluded crucial evidence. A new trial of the eight Croatian soldiers accused of the torture and murder of ethnic Serb prisoners was pending at year's end. While the panel of judges changed, the Split County Court continued to show bias in favor of the defendants, ruling in September against pretrial detention of the suspects, despite their previous failure to appear in court. When the Supreme Court overturned this decision in October, police were only able to apprehend four of the eight suspects. At year's end, the Supreme Court directed the State Prosecutor to broaden the indictment to include criminal acts committed against prisoners of war.

In March, the Supreme Court affirmed the 20-year prison sentence of Bosnian Fikret Abdic for the deaths of 121 civilian detainees and 3 military prisoners between 1993 and 1995.

In April, Lieutenant Nikola Ivankovic was sentenced to 12 years in prison in the Paulin Dvor case for participation in the 1991 killing of 19 ethnic Serb civilians. A second defendant, Sergeant Enes Viteskic, was acquitted. The victims were killed in Paulin Dvor in Eastern Slavonia and buried at a military warehouse. In 1997, their remains were secretly transferred to a mass grave near Gospic, where they were discovered by ICTY and Government investigators. The court had not issued a written verdict by year's end, delaying Ivankovic's appeal. The Government has not pursued any case regarding the transfer of the remains.

In June, Stanislov Gavron, a former member of the Croatian special police unit, was acquitted by the Sisak County Court in the killing of a Serb civilian in 1992.

In July, the Vukovar County Court convicted six Serbs in the Borovo group for war crimes against civilians, sentencing them from 7 to 15 years in prison. The Humanitarian Law Center, a Belgrade-based NGO, monitored the proceedings and concluded that the procedures met the standards of a fair trial; however, there were some irregularities regarding the atmosphere in the courtroom.

In September, the second retrial of Mihajlo Hrastov, a former Croatian member of the Karlovac Police Special Forces, for the murder of 13 unarmed Yugoslav National Army prisoners of war near Karlovac in 1991, began at the Karlovac County Court. The Supreme Court overturned two previous acquittals of Hrastov.

Although OSCE observers reported that Hrastov supporters in the courtroom continued to create an atmosphere of intimidation for prosecution witnesses and court officials, the Supreme Court denied the Prosecutor's request to relocate the trial.

In October, the Gospic County Court acquitted Serb Nikola Cvjeticanin for war crimes against civilians after 33 months of detention. While his 2002 conviction was overturned by the Supreme Court in 2003, the County Court did not begin his retrial until May.

The appeal of the acquittal of four retired Croatian soldiers, charged with killing two elderly Serb civilians near Sibenik in 1995, remained pending before the Supreme Court.

Bilateral legal discussions on the arrest and extradition from Australia of former policeman Antun Gudelj, who was convicted and then improperly amnestied in 1997 for the 1991 murder of Osijek police chief Josip Reihl-Kir, continued at year's end.

The 1996 Law on General Amnesty does not apply to war crimes. When investigations failed to substantiate original charges of war crimes, courts have lowered charges and convicted defendants, allowing them to grant defendants amnesty. This

resolves the case for the court without further investigation and allows the defendant to go free, but disregards the future repercussions this criminal record may have on potentially innocent defendants, particularly in seeking employment.

In October, the chief State Prosecutor completed a case-by-case review of open war crimes investigations. Approximately 2,000 cases were dropped as a result of the 2-year review, while 1,900 remain pending.

Most courts discontinued the practice of convicting persons in mass in absentia trials, in part due to efforts by the chief State Prosecutor and the Minister of Justice. In cases monitored by the OSCE during the year, five convictions were in absentia, all ethnic Serbs. Defendants convicted in absentia regularly made use of their guaranteed right for a retrial.

In September, the Gospić County Court acquitted ethnic Serb Dane Serdar in a retrial of his in absentia war crimes conviction in 1994. Serdar spent 11 months in detention after returning to the country in 2003, leading the State Judicial Council to fine County Court President Pavle Rukavina for delays in calling a retrial.

The Vukovar County Court trial against 18 former members of a Serb paramilitary unit who were charged with genocide and war crimes in the 1991 attack and subsequent occupation of the town of Lovas in Eastern Slavonia continued at year's end. Only one of the accused was present during the trial.

In October, the Zadar County Court acquitted Milenko Radak, former commander of a Serb rebel unit, for war crimes against civilians in the village of Skabrnja in 1991. Although the court determined Radak participated in the attack on the village, testimony indicated that he had not played a role in the execution of civilians. Radak spent 15 months in detention.

At year's end, approximately 21 individuals remained incarcerated on war crimes or related charges based on politicized or nontransparent trials. For those who had exhausted their appeal procedures, there was no mechanism to review their cases other than seeking pardons. There were no other reports of prisoners incarcerated in politicized trials.

In cases regarding property claims, the laws implicitly favor ethnic Croats over ethnic Serbs. Approximately 1,750 mostly ethnic Serb property owners, who fled homes that were later occupied by ethnic Croats, were unable to access their property. The Government estimated that 54 houses remained illegally occupied, while the majority are legally occupied until the Government can provide a suitable alternative to the temporary occupant. Damage and looting of property prevented habitation of returned properties. Backlogs in the judicial system were a further impediment to timely resolution of housing disputes.

In March, the Government established a commission to expedite implementation of an agreement with the ethnic Serb party to resolve refugee returns issues. During the year, the Government intensified its refugee return efforts, particularly in the areas of reconstruction and repossession of illegally occupied homes.

During the year, the Government made significant progress in providing reconstruction assistance, with approximately 80 percent going to ethnic Serbs; however, the Government did not implement its plan to facilitate the return of largely ethnic Serb refugees by making available state housing to those who previously enjoyed occupancy and tenancy rights outside war-affected areas in the former Socialist Republic of Croatia. The Government began a public information campaign in September and extended the deadline for applications from potential beneficiaries for areas outside war-affected areas until September 2005.

In July, the ECHR determined that termination of one holder's occupancy or tenancy rights did not violate the right to a home or to peaceful enjoyment of possessions. Despite that decision, the Government reconfirmed its interest in providing a housing solution for all who seek one. In December, the ECHR accepted the case for referral to the Grand Chamber at the applicant's request.

The 2002 amendments to the Laws on Areas of Special State Concern (LASSC) introduced measures designed to facilitate property restitution, in practice the law continues to subordinate the rights of private property owners to those of temporary users. The Government has evicted most illegal occupiers of private property. In cases of legal occupancy, physical repossession of a property by its rightful owner occurred only when the occupier decided that he or she no longer needed the property.

The State Attorney is responsible for conducting the eviction process against those who are illegally occupying houses; however, prosecutors on occasion did not initiate lawsuits against individuals who refused to vacate occupied premises.

The LASSC obligated the Office of Displaced Persons and Refugees to make administrative decisions on repossession. The amended law further obligates the Government to pay compensation to the legitimate owners if it failed to return their

properties physically by December 2003; however, approximately 1,500 of 4,000 eligible owners received a compensation payment.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Police were sometimes unwilling to intervene in housing disputes, which occasionally involved attack against property, looting, and arson (*see* Section 5). There were allegations that the police did not always remain impartial and uphold the law when it came to housing disputes between ethnic Croats and ethnic Serbs. For example, in Vojnic, police did not intervene on any occasion, despite requests from the original owner that the property was being damaged and that an illegal occupant renovated the property without proper permits. He continued to use it for business purposes and was offered alternative housing, but refused to vacate. Also, near Hrvatski Kostajnica, when a woman whose home was being looted called police, they took no action, indicating that they would not take action unless the incident became violent.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, government officials attempted to influence national television.

The privately owned Tisak distributed approximately 75 percent of the print media. Foreign newspapers and journals were available in urban areas throughout the country; however, they remained largely inaccessible to many persons due to their high cost. The Government owned and operated the national television and radio network (HRT), which produced the daily newspaper of record. Political parties, private companies (some foreign-owned), and the Government owned or influenced various newspaper and magazine outlets.

Print media were becoming increasingly susceptible to promoting media owners' political and business interests. Media experts indicated that while political pressure on the media was decreasing, the public was increasingly subject to reporting described as contrary to the law, to morals and ethics. These same experts also reported that money was increasingly controlling and influencing media impartiality, making journalists vulnerable to pressure by owners and editors.

Despite the 1-year old media law, transparency in media ownership has not been fully achieved.

The Government did not interfere in the editorial decisions of the print media; print media were more susceptible to media owners' political and business interests, and increasingly became tools of various interest groups. In July, the HHO reported that political pressure on the media continued to decrease, but that unethical reporting remained a problem. During the year, one media expert also expressed concern because of the lack of transparency in media outlets, for example in ownership structures and financial resources.

Independent television and radio stations existed in the country. Two out of three national television stations are private television stations. The first commercial television station, Nova TV, was sold to Central European Media Enterprises (CME) in July. RTL TV started broadcasting in April. They, along with public HRT, broadcast on the national level and broadcast daily independent news programs.

There were reports of incidents involving Government officials who tried to influence reporters of the national television service, HRT. In May, a cabinet minister and one of two vice presidents called HRT during broadcast and demanded that the program editor immediately deny a story that was being aired and threatened to impose a value-added tax on the national television subscription fee. In a July television interview, the same official hinted that the HRT television journalist was an ethnic Serb and thus inimical to Government projects. There were also reports of the other Government vice president calling a HRT television editor and asking them to change a story. In July, a Deputy Prime Minister phoned a HTV journalist before the airing of a story claiming that the Government had failed on its promise to establish an alimony fund. The Deputy tried to convince the journalist to change the story, although she did not threaten the journalist.

According to HRT's own opinion poll in October, approximately 35 percent of the population relied on the Government-owned evening news program (HTV). While both privately-owned national television stations, Nova TV and RTL, were primarily entertainment stations with limited news offerings, more persons started watching their news programs, draining viewers from HRT/HTV.

In September, the Speaker of the Parliament expressed dissatisfaction with HRT's television news programs and announced that the legislation governing HRT should

be changed so that it would result in personnel changes at HRT's television news services. The leadership met with HTV representatives to convey numerous objections to HRT's television coverage, and threatened to abolish HRT's subscription fee if the situation did not improve. The HHO Media Council and the Association of Croatian Judges (UHS) condemned the meeting as attempted political interference in television programming. The press did not report any such condemnation, but the HHO leader and UHS President said in separate phone interviews that they held the Speaker of Parliament responsible for what happened.

Local electronic media was susceptible to political pressure since most outlets were at least partially owned by local Government. Approximately 70 percent of the media was partly or fully owned by local government authorities and, depending on ownership share, was susceptible to pressure. Approximately 46 percent of local radio stations depended financially on the support of local authorities and their annual conference, journalists expressed belief that some of their colleagues practiced self-censorship as a result.

In August, a Slobodna Dalmacija journalist claimed to have received death threats from the head of the Lovinac town branch of the ruling political party, HDZ. The official allegedly threatened her with bodily harm because he was displeased with her article that said that he belonged to the committee that decided to erect a monument in a nearby town to the World War II Ustasha official Mile Budak. Police filed charges against the official, who denied the allegations. The national-level deputy speaker of HDZ announced that the official would face political consequences if the charges were proven.

Parliament passed a new media law on April 30, which aims to ensure independence of the media, protect the source of information and copyrights, and limit concentration of ownership in the print media market. However, the new law does not include sanctions against journalists who refuse to reveal their sources.

Despite a 2001 amendment to the Criminal Code aimed to decriminalize it, libel remained a criminal offense. A large number of libel cases from previous years remained unresolved due to the inefficient judicial system. In recent years, there were no reports of politically motivated verdicts in libel cases; however, in July, the OSCE expressed concern that a journalist was sentenced to prison for libel. The Split Municipal Court sentenced journalist Ljubica Letinic to a 2-month suspended prison term. In another case, the editor-in-chief of the former Novi Brodski List refused to pay a fine for libel and thus was required to serve a prison term.

The Croatian Journalists' Association (HND) agreed in part, that slander and libel should be eliminated from the Criminal Code and instead be regulated by the Civil Code. However, the Government took no steps to decriminalize it during the year.

Although the Croatian News Agency (HINA) became a public institution in 2001, by year's end, the Government still provided most of its funding, making it parastatal, even though the Government did not control its news content.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

The law permits assembly for registered demonstrations at approved locations; while the process for approving or denying the registration of an assembly was not transparent, there were no reports that it was used discriminatorily. During the year, there were several peaceful demonstrations and marches throughout the country organized by labor groups and farmers' opposed to government policies.

The Constitution provides for the right of association, and the Government generally respected this right in practice.

Although the Law on Associations provides for these rights, the Law on Funds and Foundations grants discretionary power to the Ministry of Justice over the establishment and internal governance of foundations. While the law was applied equally to all, the law itself is restrictive and controlling. For example, the law provides that organizations will not be entered into the registry if their statutory goals are deemed trivial or if their property is not deemed sufficient to carry out their statutory activities. The Government also is permitted notable influence in the appointment of the organization's management body. According to the Ministry, registration of a foundation takes up to 6 months, provided that all submitted documents were in order. Currently, 71 foundations are registered.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There is no official state religion; however, the Roman Catholic Church enjoyed a historic relationship with the State that was not shared by other religious groups. Other religious groups also have agreements with the State, that grant benefits similar to those enjoyed by the Catholic Church. State financing of salaries of reli-

gious workers; provision of spiritual counseling in state institutions such as the army, police, and prisons; and the recognition of religious marriages were among the main points of the agreements. The Government offered a similar agreement to the Jewish community; however, its signing fell through in 2003 over the key issue of return of nationalized property and remained unresolved by year's end.

In 2003, the Government approved a regulation on the registration of religious communities, granting them the status of a legal person. The Government reported that it registered 10 religious communities during the year, which brought the overall number of those registered to 38.

The Government required that religious training be provided in schools, although attendance was optional. Eighty-five percent of the population was Roman Catholic. As stipulated in all agreements signed with religious communities, schools that met the necessary quota of seven students of a minority faith per class offered separate religion classes for the students. In cases where there were not sufficient numbers of students of a minority faith to warrant separate classes, students could exercise the option of receiving religious instruction through their religious community.

Little progress was made in the restitution of nationalized property to most major religious communities. The Bishopric Conference reported that the joint sub-commission for property restitution to the Catholic Church was active during the year and, while the Government acted in good faith, results varied in different bishoprics. In June, in exchange for nationalized property, the Church took over a former hospital building in Osijek. In September, Rijeka University provided the Church with a building to compensate for the church-owned property that it has been using.

The Serbian Orthodox Church, the second largest claimant of property after the Catholic Church, reported that its joint restitution sub-commission with the Government had not met with the Government during the year. In June, it reported one restitution, that of a building that houses County offices in Karlovac. According to sources, the current Government made no progress in reconstruction of some 25 churches that the previous Government approved and for which it had begun project documentation. However, the Government approved funding in November for reconstruction of the St. Nicholas church in the center of Karlovac. Reports indicated continued improvement of the general atmosphere and cooperation with the Government, but noted a lack of concrete results. Similarly, the Jewish community has not recovered a synagogue in Bjelovar, properties in Zagreb, or holiday resort buildings in Ravna Gora and Crikvenica. In June, the Jewish community of Osijek repossessed land in Vukovar where a synagogue was once located. In June, a member of the municipal council in Dubrovnik commented on a potential Jewish hotel investor that when "choosing between Serbs and Jews, Jews were still a greater evil." Local authorities and the Government condemned the comments; the local branch of the ruling HDZ party took no disciplinary action against the party member.

Despite overall reports of increasing tolerance towards Orthodox Serbs, sources reported that the climate in the Dalmatia region had generally deteriorated throughout the year. In addition to threats from the local population, they reported a lack of responsiveness and protection from police. For example, in the village of Kistanje, there were reports of persistent harassment of the Orthodox clergy and the ethnic Serb population.

In June, the Orthodox priest in Kistanje was forced to move to a nearby village after repeated threats and after his house was pelted with stones. Police did not investigate. Local Orthodox Serb children who attend religious classes were frequently harassed and beaten by other students.

In July, Orthodox parish priests in Sibenik and Zadar were harassed in the city streets and complained of insufficient police response.

In August, unidentified perpetrators overturned five tombstones at an Orthodox cemetery in Podum. In two separate incidents in August and September, unidentified perpetrators sent threatening letters and set on fire Muslim-owned cars in the village of Gunja in Eastern Slavonia.

In September, a fascist Ustasha symbol was sprayed on the new door to the church in Kistanje. Police identified no suspects. In Knin, individuals on several occasions, including in September, shouted phrases such as "Kill the Serb" at the Orthodox clergy outside the church of St. Pokrov, but police reportedly declined to take action.

The Muslim Community faced harassment and discrimination on isolated occasions. The Muslim Community reported that local authorities were slow in approving plans and issuing permits for building a mosque in Rijeka. Leaders partly ascribed the stalling to a renewed pressure in December from the local population, which wrote letters opposing construction in that location. The Islamic Community accepted a project plan by in September and submitted the plan to the city in November.

In June, a Muslim flag was burned at the entrance to the Muslim cemetery in Osijek. In July, unknown perpetrators desecrated 24 tombs at the same cemetery. They set fire to wreaths on the grave of the recently deceased wife of the local Imam and sprayed swastikas and fascist messages on 24 graves. Police investigated; preliminary indications were that a group of local youths was behind the incident.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. All persons must register their residence with the local authorities and, under exceptional circumstances, the Government legally may restrict the right to enter or leave the country if necessary to protect the “legal order, health, rights, or freedoms of others.”

Freedom of movement continued to be constrained for returning refugees and internally displaced persons (IDPs), who lost tenancy rights and experienced difficulties in regularizing their status because they had no permanent residence (domicile), which is a precondition for acquisition of a civilian ID.

International observers remained concerned that fear of arrest of ethnic Serbs for war crimes, often based on weak evidence, dissuaded some refugees from returning. Of the 25 ethnic Serbs arrested on war crimes charges, 20 were returnees. The Constitution prohibits forced exile of citizens, and the Government did not employ it.

The Government’s procedures to verify and document citizenship improved during the year; however, there were some reports of obstruction by some local officials. Some local officials applied procedures inconsistently, for example, refusing applicants who listed their permanent address as a collective center. Cases existed in which Serb returnees experienced difficulties in obtaining identity cards and other forms of documentation that would allow them to verify their citizenship status.

The law distinguishes between those who have a claim to Croatian ethnicity and those who do not and requires non-Croats to satisfy more stringent requirements. These requirements prevented some ethnic Serbs from obtaining citizenship, which led to discrimination in other areas, such as housing return. While their citizenship applications were pending, applicants were denied social benefits, including medical care, pensions, free education, and employment in the civil service.

An ongoing impediment to the return and reintegration of ethnic Serb refugees was the frequent failure of the Government to recognize or “convalidate” their legal and administrative documents from the period of the 1991–95 conflict. Without such recognition, citizens (almost exclusively ethnic Serbs) remained unable to resolve a wide range of problems, including pensions, disability insurance, and the ability to establish work experience.

The new Law on Foreigners entered into force on January 1. The law’s transitional provisions enabled former habitual residents to return and regularize their status. The law states that if they return within 12 months, they will be reinstated into their pre-war status as former habitual residents without any further requirements, such as meeting housing and financial criteria, and could subsequently apply for citizenship. During the year, the MUP issued 160 identity cards to foreigners and conducted a review of 76 permanent residency documents of Croatian Serb returnees who were habitual residents of the country prior to 1991. However, international monitors reported that the Ministry followed different procedures and varied its interpretation of its own internal guidelines from case to case. In December, the Government extended the deadline for applications to regularize status. Due to a lack of information, many potential claimants were unaware of the possibility to regulate their status. The Ministry initiated a procedure to cancel the permanent residency status of 2,700 persons.

A significant number of IDPs remained in the country, although not all were under the Government’s direct care (approximately 1,698 ethnic Serb IDPs in the Croatian Danube Region did not hold official IDP status). In December, the U.N. High Commissioner for Refugees (UNHCR) reported that there were 7,540 IDPs in the country (mostly ethnic Croats originating from the Danube region) and 3,656 refugees (mostly from BiH). These numbers did not fully reflect an additional 140,000 former refugees (nearly all ethnic Croats from BiH) who have become citizens and residents of the country.

President Mesic and the Prime Minister continued to make public statements encouraging the return and reintegration of all citizens to their prewar homes.

Despite an ongoing government program to reconstruct thousands of homes damaged in the 1991–95 war, government officials, NGOs, and international observers assessed that the returns process was nearing its completion with significant changes in the ethnic composition of most communities. The return of ethnic Croats

to their prewar domiciles was virtually complete. An OSCE survey indicated that the majority of Croatian Serb refugees did not want to return to their prewar domiciles. While ethnic tensions continued in the Danube region and parts of Dalmatia, the overall security situation was stable (*see* Section 5). The largest disincentive to returns was the poor state of the regional economy and the absence of a concrete solution that provides housing to former tenancy rights holders.

The restitution of occupied private property to (mostly ethnic Serb) refugees returning to the country significantly accelerated the process of reconstructing damaged housing. The Government worked on reconstructing 9,000 housing units during the year. Property restitution improved, although the Government continued to give preference to the rights of temporary occupiers, mostly ethnic Croats, over those of the legal owners.

Looting of occupied properties remained a problem; an estimated one-fifth such houses were looted before being returned to the legal owner. The number of legally occupied properties decreased from approximately 3,500 in January to approximately 1,197 in September. The problem of illegal occupancy cases was reduced from approximately 500 cases in January to approximately 54 in December; however, the process did not always result physical repossession or return of refugees as the Government often purchased the refugees' homes at favorable prices. The issue of former-tenancy rights holders of socially-owned property remained largely unaddressed, preventing these persons (mostly ethnic Serbs) from returning to their prewar apartments (*see* Section 1.e.).

The Government allowed free access to all displaced persons by domestic and international humanitarian organizations and permitted them to provide assistance.

The Government cooperated with the UNHCR and other humanitarian and international organizations in assisting refugees and returnees. By the end of December, in returns organized by the UNHCR and the Government, 12,478 persons who were refugees in the former Yugoslavia were repatriated to the country. According to the Government, approximately 115,148 refugees (mostly ethnic Serbs) have returned to the country since 1995.

A new asylum law entered into force in July and provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year, the Government did not grant asylum to any asylum seeker.

Asylum seekers also have access to a judicial review with the Administrative Court, which was limited to procedural issues. In May, the Government approved funding for construction of a state asylum reception center, scheduled to open in late 2005. In July, the Government entered into an agreement with the Croatian Red Cross that covers the maintenance costs of the interim asylum center, pending opening of the Government center. In August, the Government appointed an appeals commission to conduct a substantive review of cases of asylum seekers who were rejected in the first instance. UNHCR expressed concern that the commission appointments were under Government influence. The UNHCR closely followed up on individual cases that were deported or returned by government authorities to BiH and SaM.

### *Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage; the OSCE judged the 2003 parliamentary elections to be free and fair, however, it expressed a few concerns including the legislative framework for elections, the short timeframe available for election administration, the accessibility of out-of-country voting (particularly for refugees in SaM and BiH), and the lack of transparency in campaign financing.

The Citizenship Law and electoral legislation grant citizenship, and thereby the right to vote, on purely ethnic grounds to ethnic Croats abroad with no genuine link to the country; however, in 2000, the Government failed to ensure that many Croatian Serbs, who fled in 1995 and who wished to assume the responsibilities of citizenship, could document their citizenship in order to vote and ultimately to return. At year's end, the law still had not been amended to rectify this problem and create equal citizenship conditions regardless of ethnicity.

Corruption was perceived to be widespread; however, the Government took steps to address it. NGO surveys and anecdotal evidence indicated that for citizens, two areas of most common corruption were in health service and land registration. The

Ministry of Justice, with help from the international community, began to make progress in the latter area.

Early during the year, several nominations for assistant minister posts were withdrawn after allegations of corruption were raised. A new parliamentary Commission for the Prevention of Conflict of Interest was formed during the year; however, political infighting and an overly broad mandate limited its effectiveness. For the first time officials had to publicly declare their assets.

During the year, an increasing number of allegations of corruption by senior government or ex-government officials were investigated, including cases against former Foreign Minister Mate Granic and Nevenka Tudjman, the daughter of late-President Franjo Tudjman. However, at year's end, prosecutors had failed to secure a conviction in a high-level corruption case.

The powers of the Government's Office for the Prevention of Corruption and Organized Crime ("USKOK") were strengthened during the year to close gaps in its authority to manage criminal investigations. However, the country's institutional ability to combat corruption remained unproven. The failure of USKOK to secure more than a few indictments demonstrated the immaturity of the judicial system to handle corruption investigations, stemming in part from the lack of a common definition of what constitutes corruption. The investigation of a former foreign minister (and president of one of the parties in the ruling coalition) highlighted the failings of the investigative and judicial systems, but was ostensibly free of political interference.

A new, more comprehensive judicial reform program implemented by the Justice Ministry early in the year includes reform and specialization of the judiciary to improve the efficiency and raise the level of expertise of the court system.

Government transparency was addressed in a 2003 law that guarantees the right to access government information. In September, several international organizations recommended improved education of and implementation by public authorities of the law, which is unevenly applied.

There were 33 women in the 152-seat Parliament, including 2 women in positions of Deputy Speaker. There were 4 women in the 15-seat cabinet, including the Deputy Prime Minister and the Minister of Justice. There were 4 women out of 13 Constitutional Court Justices and 20 women out of 40 Supreme Court Justices.

The electoral law reserves up to eight parliamentary seats for ethnic minorities. There were 11 members of minorities in the 152-seat Parliament, of which 8 were elected as minority representatives. Minority participation in the November 2003 elections was mixed, but generally stronger than in 2000, as voters elected three M.P.s to represent the country's Serb minority, and one each for the Italian and Hungarian communities.

The law stipulates that ethnic minorities must be represented in local government bodies, provided the census shows that a minority group constitutes at least a specified percentage of the local population. This provision of the law was generally implemented following an agreement in December 2003 between the Government and the Independent Democratic Serb Party (SDSS).

In 2003, the SDSS signed an agreement with the Government in exchange for a commitment from the Government on the full return of refugees, the restitution of illegally used Serb property within 6 months, and compensation for destroyed property outside of areas covered by the existing Reconstruction Act. The agreement also committed the Government to fulfill, within 3 months, provisions within the Constitutional Law on National Minorities that guarantee minority representation in local and regional Government units. This commitment was generally carried out by local and regional elected representative bodies; however, the Government's commitment to ensure proportional representation in the police, judiciary and public services was not systematically addressed.

During the year, the Government established the National Minorities Council and supported training for local minorities councils, which were designed to advise local government bodies on policy issues of interest to minority communities. However, these local minority councils remained under-funded and not fully engaged.

In November, Prime Minister Sanader signed with his Serbian counterpart Kostunica an agreement on mutual protection of ethnic minorities. The agreement binds the governments to preserve the current level of minority rights protection and domicile countries are bound financially to assist preservation of respective minorities' cultural identity.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials were often cooperative and responsive to their views.

There were no reports of Government harassment of NGOs. The Government's Office for Cooperation with NGOs and other Government ministries and offices were active in coordinating and promoting NGO and Governmental efforts on human rights and civil society.

The Government generally cooperated with the ICTY but at year's end, one of the most wanted ICTY indictees remained at large. The ICTY liaison office in Zagreb reported that the Government's cooperation with the court has markedly improved. The Government complied with all outstanding requests for information and evidence. In July, the Government transferred former Croatian Army General Mirko Norac, already serving a 12-year sentence on domestic war crimes charges, to The Hague to stand trial for the murder of civilians in the 1993 Medak Pocket operation. Former General Rahim Ademi voluntarily surrendered to the tribunal to face the same charges. In May, six Bosnian Croats turned themselves in and were subsequently transferred to ICTY. The Government facilitated their transfer to ICTY and provided guarantees for their pre-trial release. Questions remained about the Government's diligence in tracking down 2001 indictee former General Ante Gotovina. The lack of progress in locating Gotovina called into question the seriousness of the Government's efforts to fulfill its legal and political commitments to the ICTY.

The parliamentary Ombudsman for human rights received and acted on individual citizens' complaints; however, its authority to order compliance from Government ministries was limited. In December, the Parliament unanimously appointed the new Ombudsman. Aside from the Ombudsman's office, Parliament maintained an independent human rights committee tasked with human and minority rights and a separate gender equality committee. Both committees, in cooperation with ministry and other experts, were effective in drafting and recommending laws, in establishing relevant committees at the local level, and in raising awareness of their issues.

The Government's Office for Human Rights is the primary office responsible for developing, coordinating, and implementing the Government's human rights policies. The Office was generally effective in cooperating with NGOs and the international community. It launched awareness-raising campaigns to promote general tolerance and care for disadvantaged and elderly persons and coordinated activities to prevent trafficking in persons.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on gender, age and race; however, discrimination against women, ethnic Serbs, and Roma continued.

*Women.*—Police statistics showed that domestic violence against women was on the rise with over 50 percent more cases registered in the first 3 months of the year than in the same period of the previous year. The number of registered victims in that period was 3,426, of which women comprised over 66 percent. Alcohol abuse, the psychological consequences of war, and poor economic circumstances were generally considered aggravating factors. The law provides that a domestic violence case may be initiated by persons other than the victim, including by the police. Under this law family violence is treated as a misdemeanor; penalties range between \$166 to \$1,660 (1,000 to 10,000 Kuna) or up to 60 days in prison. Under the Criminal Law, for the same acts, perpetrators can face up to 3 years in prison. NGOs complained that the courts were slow to schedule first hearings, issued few convictions, and administered only minimum prison sentences and fines. NGOs specializing in domestic violence criticized the police rulebook that left discretion to police to assess the threat levels when administering restraint orders and other measures. The law requires that witnesses or those with knowledge of domestic violence or child abuse—such as teachers, counselors, or health workers—report their suspicions to relevant authorities.

In December, the Government adopted a 2-year strategy on protection from family violence consisting of short- and long-term measures. The measures focused on family violence prevention, including amending present legislation to bring it in line with international standards and training of all relevant agencies and the judiciary.

The OSCE reported that it had not received any complaints regarding police performance in handling domestic violence cases. During the year, NGOs actively participated in drafting the national strategy on protection against family violence, but complained that no budget for its implementation was attached. Their cooperation with state institutions was mixed; they received reduced levels of state funding, but commended the police for better handling of domestic violence cases.

Four shelters existed for victims of domestic violence (one in Karlovac, and Caritas operated shelters in Rijeka, Osijek, and Sibenik). In addition, there were

hotlines, counseling, and legal assistance programs targeting victims of domestic violence.

Rape and spousal rape are illegal under the Penal Code; however, NGOs reported that many women did not report rape or spousal rape. According to a survey conducted by Autonomna Zenska Kuca in 2003, 34 percent of women have experienced unwanted sexual relations at least once in their lifetime.

Prostitution is illegal but occurred.

Trafficking in women for the purposes of sexual exploitation remained a problem (see Section 5, Trafficking).

The law prohibits sexual harassment in the workplace; however, it was a problem. According to a survey conducted during the year by Poslovni Forum, over 17 percent experienced sexual harassment in the workplace at some point in their career. According to trade unions, the problem was most pronounced in the textile and leather, trade, and catering industries. The Ombudsman and unions reported that they were working on sexual harassment cases, although many women were reluctant to take action for fear of reprisal.

The labor law prohibits gender discrimination; however, in practice, women generally held lower paying positions in the work force. Government and union statistics showed that women constituted an estimated 45 percent of the formally employed work force and, in August, they represented 58 percent of those registered as unemployed. The average women's wages were 10 percent below men's wages; even in the trade and textile processing industry, where women constitute the majority of the workforce, they were paid significantly less. In March, the Croatian State Institute for the Protection of the Family, Maternity, and Youth released a study that showed half the companies surveyed did not have a single woman in a senior managerial position and less than 3 percent of companies had more than four women in such positions. Anecdotal evidence gathered by NGOs suggested that women held the preponderance of low-level clerical, labor, and shop-keeping positions. Women constituted a larger proportion of the unemployed—54 percent—and pension statistics indicated that women's salaries averaged 26 percent less than those of their male counterparts. Women often were among the first to be laid off in times of corporate restructuring.

The office of the Gender Ombudsman became fully functional during the summer and focused on monitoring the implementation of the Gender Equality Law including the submission of mandatory action plans for state institutions and public companies. The Government's Office for Gender Equality, established in March, was responsible for the implementation of the Gender Equality Law and drafting the state gender policy. During the year, the office focused on building the institutional network and assisting in the establishment of gender equality commissions in counties where they were still absent. It also organized seminars to assist these commissions in drafting gender equality action plans required by the new law. Parliament's Gender Equality Committee drafted amendments to several laws that affect women and children and criticized relevant ministries including the Ministry of Family, for their failure to draft projects, resulting in funds going unused.

The Croatian Women's NGO Network supported the activities of 50 NGOs from across the country. There were several NGOs that had an impact nationally on women's issues.

*Children.*—The Government was generally committed to the rights and welfare of children. Education was free and mandatory through grade eight (generally age 14). The majority of students continued their education until the age of 18, with Roma being the only notable exception. Romani children faced serious obstacles in continuing their education, including discrimination in schools and a lack of family support. An estimated 10 percent of Romani children begin primary school, and only approximately 10 percent of these go on to secondary school. Schools provided free meals for children, and subsidized daycare facilities were available in most communities, even for infants. Medical care for children was free.

NGOs operating hotlines for sexual abuse victims reported numerous cases of child abuse, although there was no societal pattern of child abuse. The Ministry of Health and Social Care reported that there were 62 cases of criminal acts against children in 2003 and noted a steady increase of such criminal activities since 2001. Of these criminal acts, 56 were related to child abuse and pornography, and 6 to international prostitution. Amnesty International reported on the inability of authorities to prevent violence among children in social care institutions and expressed concern that minors were placed in institutions with adults. In October, the U.N. Committee on the Rights of the Child voiced concern about the violation of children's right to privacy in the media. The committee recommended that authorities take necessary measures to ensure that the media fully respect a child's right to

privacy. In response, the State Prosecutor instructed the media on domestic legislation that prohibits publication of information revealing a child's identity if it endangers the child's well-being.

*Trafficking in Persons.*—The law prohibits trafficking in person; however trafficking in women was a problem. The amended Criminal Law became effective in October. It contains an article that defines trafficking in persons as a crime separate from slavery and provides penalties between 1 and 10 years for traffickers. The minimum penalty for trafficking crimes committed against a minor is 5 years' imprisonment. In addition, if the crime was committed by a criminal organization and resulted in a death, the penalty is 5 years to life imprisonment. During the year, no persons were prosecuted under the new law, although there was one trafficking-related conviction under the law against slavery.

According to the Office of the State Prosecutor, one person was charged and three reported for trafficking in persons during the year. One person was convicted and three were reported for establishing slavery; eight persons were either reported or indicted for organized prostitution. The MUP reported 19 persons as victims of trafficking during the year, mostly foreign citizens from SaM, BiH, Ukraine and Russia.

Police awareness of the problem has improved significantly; however, failure to identify trafficked women among illegal aliens smuggled into the country was a serious problem that resulted in a significant underestimate of the trafficking problem in the country. In 2003 and during the year, the police academy provided comprehensive training for border police and organized crime police. Trafficking in persons training was added to the academy's curriculum.

The country was primarily a transit country for women trafficked to other parts of Europe for prostitution, as well as a lesser but increasing, source and destination country for trafficked women. Women from Hungary, Ukraine, Romania, Bulgaria, Slovakia, and other countries reportedly were trafficked through BiH and SaM to the country, where some remained to work as prostitutes or were trafficked to other destinations. Women were transported through the country by truck or boat. In addition, women from Albania, BiH, Bulgaria, Hungary, Macedonia, Moldova, Romania, Slovenia, and SaM were detained in incidents of illegal entry into the country; some of these women were believed to be victims of trafficking. Refugees, displaced persons, and young persons are most at risk of being trafficked. Anecdotal information indicated that international organized crime groups, local groups, and travel or marriage agencies were responsible for trafficking. The average age of reported victims was 24 years. Victims were subject to violence, intimidation, withholding of documents, and threats by traffickers.

There were no confirmed reports that government officials were involved in trafficking.

There were support services available for trafficking victims. The Government provided shelter for trafficking victims and either deported them or provided residency documents. In 2003, the Government established a shelter for victims; local NGOs and the IOM, in cooperation with the Ministry, provided services to the shelter. In addition, three reception centers were established, in cooperation with the Croatian Red Cross—in Western, Central, and Southern Croatia—to accommodate victims temporarily. The Government also assisted an NGO to operate a hotline.

In January, a witness protection law entered into force that defined the conditions under which state protection is granted when a witness' life, health, freedom, or property are threatened; however, it was not used in any trafficking-related case during the year.

On December 15, the Government adopted a national action plan that was created by an independent working group of government, civil society, and international organization members. The plan is supposed to be implemented starting in 2005.

*Persons With Disabilities.*—There was isolated discrimination against person with disabilities in employment, education, access to health care and in the provision of other state services.

The law mandates access to buildings for persons with disabilities; however, the Government did not always enforced these provisions and the law did not mandate that facilities be retrofitted. As a result, access to public facilities was limited.

*National/Racial/Ethnic Minorities.*—Constitutional protections against discrimination are applied to all minorities; however, in practice, a pattern of open and sometimes severe discrimination continued against ethnic Serbs and Roma. There was some discrimination against minorities in schools. For example, textbooks used derogatory adjectives in reference to minorities.

Local and international NGOs reported a tangible improvement in the atmosphere for ethnic minorities during the year, attributed in part to the 2003 agreement with the ethnic Serb party. On several occasions, the Prime Minister and members of his

cabinet visited the homes of ethnic Serb returnees and expressed the Government's commitment to ensuring returns of ethnic minorities and their equal treatment. However, violence against Serbs occurred occasionally. In March, two persons physically assaulted an elderly Serb in his house in Zemunik Gornji, injuring his shoulder, destroying furniture and stealing several household items. The police investigated and identified three minors from the nearby village of Skabrnja. The local population protested against the investigation; however, the perpetrators were charged.

In June, a group of Croatian soccer fans physically attacked a Serb family in the village of Sotin in Eastern Slavonia. A woman sustained a head injury and two other family members were slightly injured. Police charged the attackers with disturbing public order.

In July, a young ethnic Serb was physically attacked in a cafe in the coastal town of Vodice. Four ethnic Croats verbally abused him and hit him with bottles and ashtrays causing injuries that required hospitalization. The police initially fined perpetrators for a misdemeanor charge and disturbing public order.

The OSCE reported on several ethnically related incidents where the perpetrators were charged with misdemeanor offenses, such as disturbing public order, rather than criminal offenses. In a majority of the cases, police and prosecutors were reluctant to identify the cases as ethnic discrimination.

In several areas, including in administration of justice, employment, housing, and freedom of movement ethnic Serbs were discriminated against (*see* Section 1.e. and 2.d.). Ethnic Serbs in war-affected regions continued to be subject to harassment and discrimination.

In August, a plaque honoring a Government minister from the fascist Ustasha regime was placed by members of the diaspora outside a church in the Lika region. The incident drew immediate condemnation from the President and Government and, in the presence of police, the Government removed the monument. In addition, several municipalities removed street names honoring the same individual. Also in August, the Government removed another monument in the town of Slunj commemorating a fascist military leader.

In December, police pressed charges against seven persons who displayed Ustasha insignia at the gathering of the local guard association from the Second World War. Fifty persons participated in the event during which photos of Ustasha leader Ante Pavelic and the fugitive general Ante Gotovina were displayed in a hall and then carried through the town. The Speaker of Parliament and the Mayor of Zadar, (where the demonstration was held) condemned the incident.

In August, an ethnic Serb hoisted a flag with a Chetnik coat of arms and a slogan on the roof of his house in Borovo Selo near Vukovar. The police confiscated the flag and pressed charges against the house's owner.

Vandalism and looting of Serb property, including ethnic Serb housing, was also a problem. There was also one report of destruction of ethnic Serb housing. On two occasions during the year, a Serb NGO headquarters was broken into and data regarding Serb returnees, a camera and a computer were stolen. In the past 5 years, the organization has experienced eight break-ins and believes they were politically motivated. Police identified no suspects.

In February, local NGOs registered a series of incidents involving Serb returnees in the Zadar hinterland area. In most cases, police conducted investigations, but rarely discovered perpetrators or made arrests. The newly reconstructed house of a Serb returnee in the village of Biljane Donje, which was repeatedly vandalized, looted and subjected to arson, was set on fire again in February accompanied by the note that there was no return for Chetniks. In May, OSCE and government representatives visited the village drawing widespread media attention and the house was subsequently reconstructed. The police investigated, but did not identify the perpetrators.

In February, an ethnic Serb returnee reported that the windows in his reconstructed house in the village of Gornja Obrizej in Western Slavonia were shot at.

A newly reconstructed house belonging to an ethnic Serb in Lisane Tinjske was damaged and looted on several occasions during the year.

Violence, harassment, and discrimination against Roma continued. The 2001 census counted only 9,463 Roma in the country, but officials and NGOs agreed that the true number may be between 30,000 and 40,000.

Roma faced many obstacles, including language (many Roma, particularly women, had only limited Croatian language skills), lack of education, lack of citizenship and identity documents, high unemployment, and widespread societal discrimination. Romani NGOs estimated that 25 percent of Roma did not have citizenship documents and thus could not obtain papers necessary to acquire social benefits, employment, voting rights, and property restitution.

In December, the Government adopted an action plan aimed at integrating Roma into the society in the next 10 years. The plan complements the national program for Roma adopted in 2003. The MUP formed mobile teams to educate Roma on the procedure for obtaining citizenship and other documents. In March and May, the Government organized a training seminar for Romani youth on participation in state- and local-level decision-making processes with support of the OSCE and Council of Europe. A local NGO began a pilot project for Roma and other vulnerable children with the goal of integrating them into society and educating teachers and parents. According to the Council of Europe only 1.8 percent of Roma had temporary employment and only 6.5 had permanent jobs. It was estimated that 21,000 Roma live on social assistance.

International organizations and local NGOs continued to report the practice of holding separate classes (allegedly of lower quality) for Romani students in the northern part of the country. A 2003 case regarding segregation of primary school classes in the northern Medjmurje region remained pending before the Constitutional Court at the year's end. In December, the European Center for Roma Rights (ECRR) and HHO filed a lawsuit against the country with ECRR in Strasbourg seeking justice for 15 Roma children who were allegedly subjected to racial discrimination in elementary schools. HHO complained that the Ministry of Education ceased to fund pre-school education for Roma children, which existed in six schools in Medjmurje in 2003.

The HHO noted that at least four primary schools included in the indictment continued the practice of segregated classes during the year. The schools failed to organize mixed primary school classes after receiving pressure from parents; they cited a lack of social and psychological skills of Romani children as grounds for their failure. In January, several dozen residents of the village of Drzimurec-Strelec protested against the building of a new wing of a primary school for Romani children, who constituted a majority in the first four grades. Ministry of Science, Education and Sports and County authorities renovated the building, and the school opened for the start of the school year. HHO commended schools in Drzimurec Strelec and Orehovica for continuing to employ Roma assistants who were helping students to overcome the language barrier.

*Other Societal Abuses and Discrimination.*—There was some societal discrimination against homosexuals. In November, four youths attacked the home of the president of a gay rights group, throwing a garbage can against his house and a brick through the window. The victim was able to identify the perpetrators; the police brought charges against the perpetrators for damaging property but not criminal charges for threatening the victim.

A recent survey of employers showed that one-third would not willingly employ workers who declared themselves to be homosexuals. Another third answered that they would employ homosexuals in their companies as long as they fulfilled all the criteria for the position. The remaining third claimed that sexual preference played no factor whatsoever in their employment policies.

Societal discrimination against people with HIV/AIDS remained an issue. In November, the media carried sensationalist articles on a trafficking victim in Mostar who died from AIDS.

In December, a man from Split was publicly accused of intentionally spreading HIV; though the allegations were later rescinded, the man claimed he was forced to close his business due to public pressure.

In September, HIV-infected sisters Ela and Nina began the school year without incident, in contrast from the previous year, when parents protested that their children might attend classes with an HIV-infected student and withdrew their children from the school.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are entitled by law to form or join unions of their own choosing, and workers exercised this right in practice. Approximately 64 percent of workers were members of unions. Unions generally were independent of the Government and political parties.

The Labor Code prohibits antiunion discrimination and expressly allows unions to challenge firings in court and, unlike in previous years, there were no reports of antiunion discrimination. In general, citizens' attempts to seek redress through the legal system were seriously hampered by the inefficiency of the court system, where cases often languished for months or years before reaching a final resolution (*see* Section 1.e.).

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining and the right to organize are protected by law, and workers exercised this right in practice.

The Constitution provides for the right to strike with some limitations. Members of the armed forces, police, government administration, and public services were not permitted to strike. Workers may only strike at the end of a contract or in specific circumstances mentioned in the contract after they have gone through mediation. Both public and private sector workers conducted strikes during the year. When negotiating a new contract, workers are required to go through mediation before they can strike over a new contract. Labor and management must jointly agree on a mediator if a dispute goes to mediation.

If a strike is found to be illegal, any participant may be dismissed and the union held liable for damages.

Following mediation in a labor dispute at Agrokombinat "Belje" in June 2003, unions played a positive role in promoting transparency of the firm's purchase during the year, criticizing the interference of local officials in the privatization process.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits all forced or compulsory labor, including by children; however, there were reports that it occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment of children is 15 years, and it was enforced by the Ministry of Economy, Labor, and Entrepreneurship in connection with the ombudsman for children and the state inspectorate. Workers under the age of 18 are prohibited from working overtime, at night, or under dangerous conditions. During the year, the Ombudsman for Children began operation and for the first time opened investigations on two possible cases of child labor.

The law proscribes the worst forms of child labor. Recent changes to the criminal code have criminalized trafficking in children for purposes of sexual exploitation and labor. A national ombudsman for children coordinates the country's efforts to prevent the exploitation of children and to assist in removing children from exploitative situations.

Since April 2003, in which five violations over the previous 16 months of child labor laws were found, no new data has been released.

*e. Acceptable Conditions of Work.*—The national minimum monthly net wage of \$276 (1,850 Kuna), which applies to all workers, did not provide a decent standard of living for a worker and family. The average monthly net wage was \$757 (4,352 kuna), which does not meet the minimum cost of living as calculated by the country's largest trade unions.

Nonpayment and late payment of wages continued to be a serious problem. According to the Croatian Federation of Independent Trade Unions, in 2002, out of a workforce of 1.8 million, 48,400 employees did not get paid for their work, down from 165,000 in 1999.

The labor law provides for a standard workweek of 40 hours and workers are entitled to receive time-and-a-half pay for any work beyond that. Workers are entitled to a 30-minute daily break, a 24-hour rest period during the week, and a minimum of 18 days of paid vacation leave annually. The Labor Code stipulates conditions for overtime work, and limits overtime to 10 hours per week. The Government's Labor Inspectorate must be notified if overtime work for an individual employee continues for more than 4 consecutive weeks, or more than 12 weeks during a calendar year, or if the overtime work of all employees of a certain employer exceeds 10 percent of the total working hours in a particular month. Overtime by minors is prohibited. Pregnant women, mothers of children under 3 years of age, and single parents of children under 6 years of age, may work overtime only if they freely give their consent in writing to perform such work.

Health and safety standards are set by the Government and were enforced by the Ministry of Health; however, in practice industries often do not meet the standards for worker protection. The State Inspectorate (an independent governmental inspection and compliance agency) had jurisdiction over enforcement of health and safety laws at the workplace and annually compiled data on injuries and health and safety code violations. In 2003, the Inspectorate received 162 reports of employers violating work safety regulations. According to 2002 statistics, an average of 25,500 persons annually suffered injuries at work, of which 40 resulted in death. Under the law, workers may remove themselves from hazardous conditions at work and have recourse through the courts if they believe that they have been dismissed wrongfully for doing so; however, according to the State Inspectorate, workers did not exercise this right in practice and normally only reported employers after they had left their job.

## CYPRUS

Since 1974, the southern part of Cyprus has been under the control of the Government of the Republic of Cyprus, while the northern part has been ruled by a Turkish Cypriot administration, which proclaimed itself the “Turkish Republic of Northern Cyprus” (“TRNC”) and has not been recognized by any country except for Turkey. A substantial number of Turkish troops remained on the island. A buffer zone or “green line” patrolled by the U.N. Peacekeeping Force in Cyprus (UNFICYP) separated the two parts.

On May 1, the Republic of Cyprus joined the European Union (EU). EU laws and regulations were not enforced in the territory under the control of the “TRNC.”

### REPUBLIC OF CYPRUS

The Republic of Cyprus is a constitutional republic and multiparty presidential democracy. Tassos Papadopoulos was elected president in February 2003. There is clear separation of the executive, legislative and judicial branches. The judiciary is generally independent and well-respected.

Police are responsible for law enforcement and are under the authority of the Ministry of Justice. The civilian authorities maintained effective control of the security forces. Some members of the police committed human rights abuses.

The economy operated on free market principles, although there were significant administrative controls. Approximately 718,000 persons lived in the government-controlled area. The economy had a robust, service-oriented sector (including tourism) with a declining manufacturing base and a small agricultural sector. For the year, inflation was estimated at 4.1 percent and economic growth at 2 percent. Wages and benefits kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police abuse of detainees continued to be a problem. Violence against women persisted. Trafficking in women for sexual exploitation remained a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings by the Government or its agents; however, there was one death of a person in police custody.

On May 12, 29-year-old Ionis Ambrosiades died in custody at the Limassol police station. Authorities reportedly determined that the death was a suicide. Police conducted a disciplinary investigation and found the officers on duty guilty of neglect of duty.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The Government participated in the autonomous, tripartite (U.N., Greek Cypriot, Turkish Cypriot) U.N. Committee on Missing Persons in Cyprus (CMP) as it continued its efforts to account for persons who remained missing after the intercommunal violence beginning in 1963–64 and the events beginning in July 1974. After years of inactivity, the CMP began meeting again in August. During the year, no remains of Greek Cypriots were identified. According to the Government, 1,493 Greek Cypriots remained missing.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the Government generally respected these provisions in practice; however, there were reports that police abused detainees. Following the January 2003 report of the European Committee for the Prevention of Torture (CPT) regarding police ill-treatment and torture of detainees, police officers participated in vocational and educational training at home and abroad, including conferences dealing with human rights, xenophobia, and discrimination, some of which focused on arrest, interrogation, and detention.

There continued to be reports that police engaged in heavy-handed tactics and degrading treatment of suspects. In the two cases of police abuse in 2003 brought before the courts, one officer was convicted of common assault and fined \$445 (200 pounds) and the other convicted of assault causing bodily harm and fined \$3,340 (1,500 pounds). Both officers kept their jobs.

The nongovernmental organization (NGO) Amnesty International reported that on several occasions in April and May, Greek Cypriot police stripped and searched Turkish Cypriots crossing the green line at the Ledra Palace checkpoint and on two occasions beat Turkish Cypriots. There were no charges filed and no reports that

police investigated the incidents. At least two Turkish Cypriot newspapers reported that a Turkish Cypriot woman was strip-searched at a checkpoint.

The press reported additional instances of police abuse. On June 21, two police officers arrested and allegedly beat a member of the ethnic minority Greek Pontian community in Paphos. The following day, a demonstration against alleged police brutality turned violent, and police used tear gas to disperse the crowd. Four police officers and four Pontians were injured in the incident. On July 1, the press reported that a disciplinary probe had been ordered following allegations that a Nicosia police acting sergeant beat a teenage suspect while he was in custody. The officer was not on duty that day but was present during the interrogation of the suspect who had been brought in on suspicion of abducting and “defiling” a minor. The Chief of Police ordered an investigation and suspended the officer from duty; the acting sergeant was formally charged with common assault, and the case was before the Nicosia District Court for trial at year’s end.

On July 28, the office of the Ombudsman released its annual report that included citizens’ complaints of ill-treatment by police. The report called for the establishment of a watch-dog organization to monitor the police consisting of government officials and representatives from NGOs. The report noted that foreigners had filed complaints of police mistreatment and suggested that foreigners therefore undergo medical exams upon their arrest and release. The report also recommended that police be allowed to interrogate detainees only in the presence of the detainee’s lawyer.

Charges dating from 2003 that police in Limassol beat a then 17-year-old and his father were withdrawn.

On February 28, an officer at Limassol police headquarters allegedly raped a Moldovan woman in her cell. The woman had been in detention following her arrest for working illegally on the island. The chief of police ordered the officer’s immediate arrest and suspension and opened a disciplinary investigation against him. The committee appointed for the trial demanded the officer’s resignation and he was charged with rape. Criminal proceedings against him were pending at court at year’s end.

Prison conditions generally met international standards, although there were some problems.

In January, journalists toured the Nicosia Central Prison and reported that overcrowding was one of the prison’s biggest problems. Although the prison’s capacity was 274 inmates, it held 433 inmates at the time of the visit. Approximately half of the inmates were foreigners, approximately 80 percent of whom were imprisoned for entering or living in the country illegally. Overcrowding forced inmates to sleep in corridors and television rooms, and some juvenile detainees were forced to share cells with convicted criminals. The Government provided no assistance for the rehabilitation of drug abusers or support for inmates reintegrating into society following incarceration. The National Organization for the Protection of Human Rights (Ethnopad) called on the Government to instigate reforms to address these and other serious problems in the prison system and to stop imprisoning debtors and illegal immigrants.

On February 12, the Council of Europe published a report on the June 2003 visit by its Commissioner for Human Rights which noted that the new construction and renovation at Nicosia’s main prison helped address the problem of overcrowding but that the imprisonment of debtors and illegal immigrants remained a concern.

In July, there were several press reports that police and prison officials subjected Turkish Cypriots and foreigners imprisoned in Nicosia’s Central Prison to discriminatory treatment. Some inmates alleged that the police, prison wardens, and Greek Cypriots regularly beat and abused them. They claimed that the authorities did not answer their calls for protection and prevented some inmates from reporting mistreatment without prison officials present. The prisoners also alleged authorities denied them bail and speedy trials.

Women prisoners were held separately from men. Juveniles were generally held separately from adults, although there were press reports of exceptions due to overcrowding. Pretrial detainees were held separately from convicted criminals.

The Government permitted prison visits by independent human rights observers and the CPT visited prisons in December.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police are the responsibility of the Ministry of Justice and Public Order. The President appoints the chief of the police. The police force is divided into headquarters (with six departments), six district divisions (including one inactive district located in the area under the Turkish Cypriot administration), and seven police units that provided specialized services. Although there were individual cases of

misconduct reported during the year within the police force, there were no serious cases of police corruption or bribery. The assistant chief of police for administration typically handled investigations into such cases and recommended appropriate disciplinary measures to the chief of police.

Judicially issued arrest warrants were required. Persons may not be detained for more than 1 day without referral of the case to the courts for extension of the period of detention. Most periods of investigative detention did not exceed 8 to 10 days before formal charges were filed. Attorneys generally had access to detainees; bail was permitted. The Government claimed the right to deport foreign nationals for reasons of public interest whether or not they had been charged with or convicted of a crime.

There were no reports of political detainees.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

Most criminal and civil cases begin in district courts, from which appeals may be made to Supreme Courts. There are no special courts for security or political offenses.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

During the year, Greek Cypriots continued to pursue property suits against the Government of Turkey in the European Court of Human Rights (ECHR) for the loss of property located in the area under Turkish Cypriot administration since 1974. On September 3, the ECHR held a hearing on the admissibility of a property case brought by Greek Cypriot Xenides-Arestis against Turkey. The purpose of the hearing was to determine whether domestic remedies had been exhausted, given that the “TRNC Assembly” had enacted legislation and set up a committee to deal with Greek Cypriot compensation claims in June 2003. A decision on admissibility was pending at the end of the year. There were no developments on any of the other 500 cases that the Government estimated Cypriots had filed against Turkey at the ECHR or on any of the approximately 45 property cases in which the Government had exercised its right to intervene.

On September 24, the Supreme Court ruled in favor of Turkish Cypriot Arif Mustafa who sought the return of property in the south, which he abandoned in 1974 and which was seized but not expropriated by the Government under the authority of the so-called Caretaker law. The Attorney General appealed the case, but a hearing date was not set by the end of the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

Opposition newspapers frequently criticized the authorities. Independent newspapers and periodicals proliferated. There were seven major daily newspapers, one weekly, and six major magazines. Several private television and radio stations competed effectively with government-controlled stations. International broadcasts were available without interference throughout the island, including telecasts from Turkey and Greece.

In the weeks leading up to the April 24 referendum on the Annan settlement plan, there were reports that the Government had pressured the media to support its position on the plan. In the week immediately before the referendum, two major Greek Cypriot media outlets refused to give the U.N. Special Envoy and the EU Commissioner for Enlargement programming time on their broadcasts. The head of the single major party that supported the Annan plan filed a protest with the Council of Europe alleging manipulation of the media in the pre-referendum period.

The Government imposed significant restrictions on Turkish (as opposed to Turkish Cypriot) journalists crossing the green line to cover news events in the government-controlled area.

In July, the vice chairman of the Turkish Cypriot Advertisers Association alleged that Greek Cypriot newspapers had refused to carry advertisements for businesses located in north Cyprus. During the year, a few newspapers briefly carried Turkish Cypriot advertisements, but dropped them after readers and editorial board members complained.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution specifies that the Greek Orthodox Church of Cyprus, which was not under the authority of the mainland Greek Orthodox Church, has the exclusive right to regulate and administer its internal affairs and property in accordance with its holy canons and charter. The Constitution also states that the Turkish Cypriot religious trust, the Vakf (the Muslim institution that regulates religious activity for Turkish Cypriots), has the exclusive right to regulate and administer its internal affairs and property in accordance with Vakf laws and principles. No legislative, executive, or other act may contravene or interfere with the Orthodox Church or the Vakf. The Armenian Orthodox Church, Maronite Christians, and “Latins” (Roman Catholics) are also recognized by the Constitution.

The Government did not require other religious groups to register unless they desired to engage in financial transactions, such as maintaining a bank account, in which case they had to register as a nonprofit company.

Missionaries have the legal right to proselytize, but the Government closely monitored missionary activities. It is illegal for a missionary to use physical or moral compulsion to make religious conversions. The police may investigate missionary activity based on a citizen’s complaint. Police could also open an investigation if missionaries might be involved in illegal activities threatening the security of the Government, constitutional or public order, or public health and morals. In the past, there were occasional apprehensions but no arrests under these laws; however, no detentions were reported during the year.

The Government required children in public primary and secondary schools to take instruction in the Greek Orthodox religion. Parents of other religions may request that their children be excused from such instruction. While these children were exempted from attending religious services, some Jehovah’s Witnesses parents reported that their children were not excused from all religious instruction.

In September, the Turkish Cypriot authorities permitted a group of worshippers to attend a religious ceremony at Agias Mamas Church near Morphou, north Cyprus. Days before the ceremony, a bomb went off in the empty church, set allegedly by Turkish Cypriot nationalists seeking to disrupt the event. The Government strongly discouraged pilgrims from attending the event, ostensibly on safety grounds.

Although Turkish Cypriots reported that unused mosques in the south were vandalized, the Government routinely carried out maintenance and repair of mosques in the area under its administration.

While members of Jehovah’s Witnesses reported some difficulties in claiming conscientious objector status and exemption from compulsory reserve military service in the National Guard in the past, there were no reports of such problems during the year. While the law provides for exemption from active military service for conscientious objectors, it does not provide for an exemption from reserve duty. Legal proceedings against several members of Jehovah’s Witnesses for failure to appear for reserve duty were suspended in 2002 pending a revision of the law. There were no new legal cases during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Government did not restrict Greek Cypriots from traveling to north Cyprus, but generally discouraged them from staying at former Greek Cypriot-owned properties, gambling in the north, or buying or developing property there. The Government prohibited Turkish nationals from crossing from the north to the south.

For part of the year, the Government did not permit foreigners who had entered the country via ports in north Cyprus to cross into the government-controlled area. On June 3, the Government revised its policy regarding green line crossings to allow EU citizens and citizens of other countries not subject to a visa requirement entering Cyprus from ports in north Cyprus to cross the green line into the government-controlled areas. However, the Government continued to block any effort by Turkish Cypriot authorities or international parties to open Ercan Airport or any port in north Cyprus for travel to destinations other than Turkey.

An investigation ordered by the Council of Ministers into the July 2003 denial of entry at Larnaca Airport to a foreign citizen of Turkish Cypriot origin resulted in

two immigration officers from the Aliens and Immigration Unit being found guilty of neglect of duty and punished with a "strict reprimand."

In April 2003, the Government announced measures to facilitate Turkish Cypriot movement to and within government-controlled areas and access to Government services. However, it did not implement key aspects of the measures. On July 30, the Government announced a new "Green Line Regulation" that included measures to facilitate movement of vehicles such as trucks, taxis, and coaches across the buffer zone. Since April 2003, Greek Cypriot checkpoint police have not required Turkish Cypriots to give advance notice of their intent to travel to the south or their planned itinerary and return date. The Government did not limit the length of their stay, although most did not stay overnight. Turkish Cypriots could drive their personal vehicles, provided they had arranged insurance with a provider in the Greek Cypriot community.

Turkish Cypriots have increasingly obtained Republic of Cyprus passports; during the year, the Government issued 14,908 passports to Turkish Cypriots.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year, the Government recognized 14 applicants as refugees and granted them asylum status.

During the year, the Government's asylum unit received asylum applications for 9,284 individuals and processed approximately 5,000 cases. As of June, there were approximately 8,628 pending cases, including some from the previous year, and 370 persons with official refugee status. At year's end, nine cases were under consideration for humanitarian reasons. Qualifying refugees were permitted to stay and were given temporary work permits; however, they were generally not granted permanent resettlement rights. The Government generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR). During the year, the UNHCR received fewer than 10 cases from north Cyprus and none from the south. The law provides for temporary protection for those persons who do not meet the definition of a refugee or asylee.

During the year, a local NGO reported several complaints from asylum seekers who alleged they were physically and psychologically abused by police; the complaints were directed to the Ombudsman and the Ministry of Justice. At year's end, neither the Ombudsman nor the Ministry had taken any publicly announced action on the complaints.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. On May 1, the country joined the EU.

In February 2003, President Tassos Papadopoulos was elected in generally free and fair elections to a 5-year term with the support of the AKEL (Restoration Party for the Working People), EDEK-Socialist Movement (United Central Democratic Union), and DIKO (Democratic Party) parties. Elections for the House of Representatives are held every 5 years or less and were last contested in 2001.

On April 24, Turkish Cypriots and Greek Cypriots voted in separate, simultaneous referenda on the plan proposed by U.N. Secretary General Kofi Annan (the "Annan Plan") to reunify the island after 30 years of division. The plan was not adopted because, although 65 percent of Turkish Cypriots voted to accept it, 76 percent of Greek Cypriot voters rejected the proposal.

In the weeks leading up to the referendum, the Government sent letters to public servants, Central Bank employees, and police telling them that their rights and pensions would not be safeguarded under the Annan plan, an interpretation of the plan's provisions that was not shared by U.N. mediators.

There were also numerous press reports that some Greek Cypriot supporters of the Annan plan were verbally and physically harassed for their political views by opponents of the plan. Some supporters were reportedly intimidated to the point that they would not publicly identify themselves as plan proponents. "Yes" stickers in favor of the plan were removed from public and private properties and replaced with "no" stickers, and some "yes" billboards and information kiosks were vandalized. In one incident, a threat was made against a teenager at his school in the form of graffiti that reportedly identified the student by name and stated that "the 'no' [to the Annan plan] would be written in your blood." After reporting the incident,

one newspaper received a phone threat that the teenager would be “the first victim after the referendum.”

Under the Constitution, voting takes place on a communal basis; separate electoral rolls are required for Greek and Turkish Cypriots. The Government has concluded that Turkish Cypriots living in the government-controlled area were constitutionally barred from voting in Republic of Cyprus elections, although they may travel to the north to vote in elections. Greek Cypriots and Maronites living in the north were eligible to vote in elections but must travel to the south to exercise that right.

On June 22, the ECHR ruled that the Government had violated the right of a Turkish Cypriot living in the government-controlled area to free elections and to freedom from discrimination when it refused his request to be added to the electoral registry ahead of the 2001 parliamentary elections. The ECHR awarded him approximately \$4,725 (3,500 euros) for incurred expenses. The Court also required the Government to enact legislation to prevent future violations of the same articles of the European Human Rights Convention; the Government had not enacted such legislation by year’s end.

On June 17, the media reported that one of the country’s newly elected representatives to the European Parliament had allegedly exported historical artifacts and solicited a bribe of approximately \$22,250 (10,000 pounds) from a police officer to ensure that the officer would be acquitted of attempted manslaughter charges. There were reports that the Government attempted to cover up the incident until a newspaper published a confidential police report detailing the alleged exchanges between the pathologist and the police officer. On September 16, the Attorney General requested the European Parliament to lift the official’s parliamentary immunity to enable the police to investigate the charges against him.

There are no laws providing public access to government information. Civil servants were not allowed to give access to government documents without first obtaining permission from the relevant minister. During the year, there were no reported cases of persons being denied access to government information.

Women held 9 seats in the 56-seat House of Representatives, and some held cabinet-level, judicial, and other senior positions.

There were no members of minorities among parliamentarians in the 56-seat House of Representatives. In addition to their political voting rights, the small Maronite, Armenian, and “Latin” communities also elected special nonvoting representatives from their respective communities who sat in the House of Representatives.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international independent human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

A number of NGOs considered themselves human rights groups; however, they generally were concerned with alleged violations of the rights of Greek Cypriots by Turkish Cypriots or Turks. NGOs with a broader human rights-related mission included groups promoting awareness of domestic violence, migrant support, and those concerned with allegations of police brutality.

The U.N., through the autonomous tripartite CMP, continued its efforts to account for persons missing after the intercommunal violence beginning in 1963–64 and the events beginning July 1974 (*see* Section 1.b.).

During the year, the government Ombudswoman received complaints from citizens and foreigners living on the island and conducted independent investigations. Her office enjoyed generally good cooperation with other government bodies. Following a Council of Ministers decision in July 2003, the Office of the Ombudswoman took on responsibility for two new EU-mandated authorities, the Racism and Discrimination Authority and the Equal Rights in Labor Authority. The Ombudswoman released a wide-ranging annual report and a limited number of single-issue reports.

The House of Representatives’ Committee on Human Rights is made up of 10 House members who serve 5-year terms. The committee discusses wide-ranging human rights issues, including trafficking in persons, prison conditions, and the rights of foreign workers. The executive branch does not exercise control over the committee, which can help formulate policy by introducing some types of legislation; it can also recommend amendments and approve or reject Government-proposed legislation.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides for protection against discrimination based on sex or national, racial, or ethnic origin, and the Government generally enforced such laws; however, there were problems in the treatment of Turkish Cypriots living in the government-controlled area.

*Women.*—Spousal abuse was a problem and continued to receive attention. An NGO working with domestic abuse victims reported that, during the year, the number of telephone calls to its hotline had increased 15.8 percent. The NGO reported that 614 individuals, of whom 85 percent were women, 7 percent children, and 8 percent men, called claiming to be victims of domestic violence. The NGO also operated a shelter for victims of domestic violence in Nicosia that served 25 women and 18 children during the year.

The law establishes clear mechanisms to report and prosecute family violence and provides that the testimony of minors and experts such as psychologists may be used as evidence to prosecute abusers. The law also provides for prison terms for the abuse of family members; however, very few court cases resulted in convictions. Doctors, hospital workers, and education professionals are required to report all suspected cases of domestic violence to the police. Many victims refused to testify in court, and, under the law, spouses cannot be compelled to testify against each other. In cases where a spouse was the victim and only witness, and she refused to testify, the courts were forced to drop the case.

The law criminalizes rape and spousal rape with a maximum sentence of life in prison. Most convicted offenders received considerably less than the maximum sentence.

The law does not prohibit “voluntary” prostitution; however, it is illegal to live off the profits of prostitution, and police routinely arrest pimps and prostitutes under this section of the criminal code. Procuring a woman for prostitution is a misdemeanor. Sexual exploitation and trafficking of adults and children is a felony. There were credible reports that women continued to be trafficked for sexual exploitation (see Section 5, Trafficking).

The law prohibits sexual harassment in the workplace; however, such incidents largely were unreported.

In June 2003, a senior editor at the semi-governmental news agency Cyprus Broadcasting Corporation (CyBC) was found guilty of sexual harassment and actual bodily harm charges stemming from a 2002 incident involving a female television reporter and presenter. The courts fined the defendant approximately \$2,225 (1,000 pounds). In June, the Supreme Court ordered CyBC to lift its employment suspension of the defendant. The defendant’s appeal of the fine was pending at year’s end.

Women generally have the same legal status as men. Women married to foreigners have the right to transmit citizenship automatically to their children. Laws requiring equal pay for men and women performing the same work were enforced effectively at the white-collar level.

*Children.*—The Government was strongly committed to children’s rights and welfare. It funded public education and health care for those who could not afford it. There was no difference in the health care and educational opportunities available to boys and girls. Free education was available at all levels through the age of 18. Education was compulsory up to the age of 15 or 9 years of education. Approximately 85 percent of the population was eligible to receive free public health care.

Child abuse was a problem. During the year, there were 46 cases of child abuse reported to the Welfare Department. The Government policy is to prosecute all cases of reported child abuse that are backed with substantial evidence; however, prosecution statistics were not available at year’s end. During the year, the court for the first time handed down a decision in a child abuse case in which taped victim testimony was admitted as evidence. In that case, the court convicted and sentenced the defendant to 7 months in prison.

*Trafficking in Persons.*—The law criminalizes trafficking in women and children for the purpose of sexual exploitation, and women trafficked into the country for the purpose of prostitution was a problem. The law is gender-specific and does not address internal or labor trafficking. There were allegations of police corruption.

It is a felony to engage in the sexual exploitation and trafficking of adults, with or without their consent, and children. The court may order persons convicted of trafficking to pay part or all of the expenses incurred for the provision of protection, temporary shelter, medical care, and psychiatric care for victims. The court may also order persons convicted to pay compensation to the victim, including repatriation expenses. Responsibility for combating trafficking was shared by the Ministries of Justice, Labor, and the Interior and the Attorney General’s office.

It is a misdemeanor to procure a woman for prostitution.

During the year, police opened investigations in 91 cases involving 194 persons for crimes related to prostitution and sexual exploitation. Of these, the courts found persons in 9 cases guilty of living off the earnings of prostitution and had 24 cases pending trial at the end of the year. The courts acquitted the defendants or dismissed charges in eight cases; in another four cases, charges were dropped for lack of evidence. At the end of the year, there were 4 cases pending with the Attorney General's office and 22 cases still under investigation. The police charged 20 persons with trafficking in persons and sexual exploitation; all of their cases were pending at the end of the year.

In a November 2003 report on trafficking, the Ombudsman stated that the country was both a destination and transit point for women being channeled into the sex industry and that immigration authorities were fully aware and, to a great extent, tolerant of the situation. However, the Ombudsman's annual report, released in July, did not assert that the country was a transit point for trafficking victims.

The November 2003 report concluded that "essentially nothing had been done" by the Government to combat trafficking. The report found the legal framework for combating trafficking to be generally satisfactory but made recommendations for improving implementation of existing regulations. The report also recommended that trafficking and sexual exploitation of minors be addressed by separate legislation. Since release of the report, the police have formed an antitrafficking unit and the Government has established an interagency working group and a ministerial group to address the problem.

The country was a destination for women trafficked from Eastern Europe, primarily Ukraine, Romania, Moldova, Russia, Belarus, and Bulgaria. There were no reliable statistics on the number of trafficking victims; however, 62 victims reported pressed charges during the year. Some East European women entered government-controlled areas of the country on temporary 3-month "artiste" visas (renewable for an additional 3 months, but then requiring at least a 6-month absence from the island) to work at a specific cabaret or nightclub. The Government issued 2,933 such visas during the year. Additionally, some East European women entered the country on work visas as barmaids with set contracts and terms of employment, while others entered on tourist visas and worked illegally.

Foreign women working as "artistes" or barmaids were vulnerable to trafficking and exploitation. In some cases, women reportedly were forced to surrender their passports, perform sexual services for clients, or were not paid their full salaries. In one case, a 28-year-old Russian woman reported that an acquaintance arranged for her to work as a barmaid. Employment conditions were agreed by phone before she left Russia. When the victim arrived in the country, she found the living conditions her employer provided unsanitary and completely inadequate, and a bar employee constantly watched her. Her boss forced her to give him her passport and did not pay her. Besides serving drinks, the victim was forced to clean the bar and drink with clients. One night, her boss forced her to go with a client, who raped her. A Russian man helped her escape and locate a shelter for trafficking victims. The victim chose to return home after spending some time at the shelter.

There was also evidence of a new category of female victims coming from China on student visas who then engaged in prostitution or in some cases found themselves victims of sexual exploitation.

There have been allegations of corruption in the Police Immigration Unit. While not admitting corruption was a problem, the Ministry of Justice changed the unit's entire staff in 2003 and advocated regularly reassigning the unit's personnel to prevent corruption.

The law obligates the Government to provide protection and support for trafficking victims by allowing them to remain in the country to press charges or by facilitating their return home. Of the 62 victims who pressed charges against their traffickers, 47 asked for police protection. The law also requires the Government to provide shelter, medical, and psychiatric care to trafficking victims until they have recovered from the trauma of their experience. The Government may appoint a guardian for victims to advise and give counsel and to represent the victim with the appropriate government agency. Victims may sue traffickers for damages.

The Government maintained that most women who qualified as trafficking victims chose to return to their home countries voluntarily without testifying in court. There were reports that cabaret owners and "artiste" agents pressured women to withdraw complaints made about their situations or not to follow through with their intention to testify in court.

NGOs that protect the rights of women and immigrant workers were available to assist trafficking victims and reported that they received one to two requests for assistance per month.

In January, the Russian Orthodox Church in Limassol opened a shelter for trafficking victims funded in part by the Orthodox Church of Cyprus. A Russian psychiatrist was available to assist victims. During the year, a total of 27 trafficking victims stayed in the shelter. Of these, 5 returned to their home country without filing charges; 6 were already witnesses in police cases when they came to the shelter and later found employment in different clubs; 12 had cases pending; 3 were in the shelter but refused to file charges; and 1 returned to the nightclub from which she had originally fled. There was no formal referral process between the police and the shelter, and the police typically housed victims in government-subsidized homes for the elderly.

*Persons With Disabilities.*—There was generally no discrimination against persons with disabilities in employment, access to healthcare, or in the provision of other state services. Persons with disabilities who apply for public sector positions are entitled to preference if they are deemed able to perform the required duties and if their qualifications are equal to those of other applicants. The law mandates that new public buildings and tourist facilities be accessible to all; however, enforcement of the law was weak.

On May 1, an amended People with Disabilities Law based on EU directives came into force; however, it had not been fully implemented by year's end. The new law extends the Ombudsman's authority to cover discrimination based on disabilities in both the private and public sector.

*National/Racial/Ethnic Minorities.*—Constitutional or other legal mechanisms prohibit discrimination. The 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Turkish Cypriots living in the south. The Government effectively enforced the agreement, which provides for the voluntary transfer of populations, free and unhindered access by the UNFICYP to Turkish Cypriots living in the south, and facilities for education, medical care, and freedom of religion.

The Government no longer keeps statistics on the number of Turkish Cypriots living in the government-controlled areas due to the free movement of persons fostered by the April 2003 opening of the checkpoints and the fact that Turkish Cypriots are not required to report to the Government when they settle in the south. Some of the Turkish Cypriots living in the government-controlled area reportedly faced difficulties in obtaining identification cards and other government documents, particularly if they were born after 1974. There were no reports of Turkish Cypriots subjected to surveillance by the Greek Cypriot police during the year. Turkish Cypriots made few formal complaints to UNFICYP about their living conditions in the south. Complaints most often concerned the lack of affordable accommodation.

*Incitement to Acts of Discrimination.*—The Government continued to use textbooks, particularly on history, at the primary and secondary school level that included inflammatory language derogatory of Turkish Cypriots and Turks. The Government has complained about language used in Turkish Cypriot textbooks that is derogatory of Greek Cypriots.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers, except for members of the police and military forces, have the legal right to form and join unions of their own choosing without prior authorization, and workers did so in practice. Police officers were permitted only to join associations that have the right to bargain collectively but not to go on strike. More than 70 percent of the workforce belonged to independent unions.

Unions maintained their independence from the Government; however, the major trade unions were affiliated closely with the AKEL, EDEK and DISY political parties.

Antiunion discrimination is illegal; however, union leaders contended that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic and penalties for anti-union practices were minimal. Parties to a dispute could request mediation by the authorities.

*b. The Right to Organize and Bargain Collectively.*—By law, unions and confederations are free to organize and bargain collectively. This right was generally observed in practice, and most wages and benefits were set by freely negotiated collective agreements; however, Greek Cypriot collective bargaining agreements were not enforceable. In the rare instances in which persons claimed that such agreements were infringed upon, the Ministry of Labor was requested to investigate. If the Ministry was unable to resolve the dispute, the union could call a strike to support its demands.

All workers have the right to strike. Authorities have the power to curtail strikes in “essential services,” although this power was used rarely in practice. There were several major strikes during the year.

There are no special laws or exemptions from regular labor laws in the export processing zone (EPZ) in the port of Larnaca.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, including by children; however, there were reports that it occurred (see Section 5). There were also reports that foreign maids and illegal foreign workers were subject to the nonpayment of wages and the threat of deportation (see Section 6.e.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment in an “industrial undertaking” is 16. Labor inspectors enforced the law effectively.

*e. Acceptable Conditions of Work.*—The legal minimum wage, reviewed each year, was approximately \$725 (345 pounds) per month for shop assistants, practical nurses, clerks, hairdressers, and nursery assistants. The wage rose to approximately \$770 (367 pounds) after 6 months’ employment. Neither amount provided a decent standard of living for a worker and family. All other occupations, including unskilled workers, were covered under collective bargaining agreements between unions and employers within the same economic sector. The wages set in these agreements were significantly higher than the minimum wage.

The legal maximum workweek was 48 hours, including overtime. Actual working hours were determined by collective agreements between the unions and employers. In the private sector, the workweek was typically 39 hours for white-collar workers and 38 hours for blue-collar workers. In the public sector, the workweek was 38 hours during the winter and 35 hours in the summer. Labor inspectors effectively enforced these laws.

There were press reports of the mistreatment of maids and other foreign workers. Such reports usually involved allegations that maids, often from East or South Asia, were mistreated by their employers or fired without cause in violation of their contracts. The law protects domestic workers who file a complaint with the Labor Ministry from being deported until their cases have been adjudicated; however, many women did not complain to authorities out of fear of deportation.

In July, the media reported that following the country’s EU accession, the Ministry of Labor experienced a substantial increase in the number of complaints of labor exploitation. Foreign workers, primarily from Eastern Europe, reportedly were forced to work up to 13 hours a day, 7 days a week, for very low wages.

The law requires employers to provide insurance liability coverage for work-related injuries. Workers may remove themselves from dangerous work conditions without risking loss of employment. According to labor union officials, these laws were enforced effectively. Factory inspectors processed complaints and inspected businesses to ensure that occupational safety laws were observed.

#### NORTH CYPRUS

Since 1974, the northern part of Cyprus has been governed by a Turkish Cypriot administration that proclaimed itself the “Turkish Republic of Northern Cyprus” (“TRNC”) in 1983. The “TRNC” is not recognized by any country except Turkey. Rauf Denktaş was declared “president” of the TRNC in 2000. “Parliamentary” elections in December 2003 were generally free and fair and resulted in the formation of a multiparty coalition government that elevated Mehmet Ali Talat to the position of “prime minister.” The judiciary is generally independent. The “TRNC” “constitution” is the basis for the basic laws that govern north Cyprus.

Police are responsible for law enforcement. They are under the jurisdiction of the “prime ministry” but operate under the authority of the armed forces. There were instances in which civilian authorities did not maintain effective control of the police, but rather police took their orders from military officers. Members of the police committed one reported case of human rights abuse.

The economy operated on free market principles, although there were significant administrative controls. Approximately 220,000 persons lived in north Cyprus. The economy was handicapped by restrictions imposed by the Republic of Cyprus and by international institutions and relied heavily on subsidies from Turkey. It was basically service-oriented, with a smaller tourism and trade base but a larger agricultural sector than the Republic of Cyprus. For the year, inflation was estimated at 24.6 percent and economic growth at 5.4 percent. Wages and benefits were generally adjusted in line with the rate of inflation.

Authorities generally respected the human rights of citizens living under their control; however, there were problems in some areas. Police reportedly abused some suspects and detainees. After September, military courts no longer tried civilians unless they committed a military offense. The authorities reportedly subjected members of the Greek Cypriot community living in the north to surveillance. The authorities filed criminal charges against journalists for their reporting. Authorities' cooperation with the UNHCR was uneven. Turkish Cypriot authorities took some steps to improve the conditions of Greek Cypriots and Maronites living in the territory under their control, but these groups remained subject to discriminatory treatment.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life by the government or its agents.

During the year, there were no developments in the ECHR investigation into the 1996 killing of Kutlu Adali.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Authorities continued to participate in the autonomous, tripartite (U.N., Greek Cypriot, Turkish Cypriot) U.N. Committee on Missing Persons in Cyprus (CMP) as it continued its attempts to account for persons who remained missing after the intercommunal violence beginning in 1963–64 and the events beginning in July 1974.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The basic law prohibits such practices, and authorities generally respected this in practice; however, there were reports that police abused detainees.

During the year, there was one credible report of police abuse. In September, police beat a Turkish Cypriot during an arrest; police did not investigate the case because the victim did not file a complaint.

Unlike the previous year, police did not prevent any demonstrations.

Prison conditions generally met international standards, although there were some problems. Inmates complained of poor prison conditions, particularly overcrowding.

Women were held separately from men; however, there were no separate cells for juveniles in prison. Pretrial detainees were held separately from convicted criminals.

Authorities permitted prison visits by independent human rights observers, although no such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—The basic law prohibits arbitrary arrest and detention; however, at times police did not observe these prohibitions.

The Chief of Police reports to the Turkish Cypriot general holding the “security portfolio,” and the general is under the supervision of the “prime ministry.” The police are divided into eight functional divisions and five geographic divisions. While there were no serious corruption or bribery cases within the police, there were individual cases of misappropriation, and officers were punished and discharged from the force. The office of the “Attorney General” worked in conjunction with an officer from the Inspection Division (or occasionally the Criminal Investigative Division) to conduct investigations into allegations of police misconduct. During the year, no investigations resulted in the prosecution of officers for the abuse of detainees.

Judicially issued arrest warrants were required. No person could be detained for more than 1 day without referral of the case to the courts for extension of the period of detention. However, for a serious crime, one could be held without being charged. Most periods of investigative detention did not exceed 8 to 10 days before formal charges were filed. Attorneys generally had access to detainees; bail was permitted.

Police at times did not observe legal protections, particularly at the time of arrest. In some instances, suspects were not permitted to have their lawyers present when testimony was taken, in contravention of the basic law. Suspects who demanded the presence of a lawyer were sometimes threatened with stiffer charges or physically intimidated. A high percentage of cases were closed based on confessions or written testimonies taken during initial police interrogation under these conditions. Such cases generally did not reach the courts.

There were no developments in the 2001 ECHR case brought by Greek Cypriot Panicos Tziakourmas. The case was still pending at year's end.

*e. Denial of Fair Public Trial.*—The basic law provides for an independent judiciary, and authorities generally respected this provision in practice.

Most criminal and civil cases begin in district courts, from which appeals are made to Supreme Courts. There were no special courts for security or political offenses, although civilians could be tried in military courts until September.

There were no reports of political prisoners.

In December 2003, the Government of Turkey paid Titina Loizidou approximately \$1.5 million (1.12 million euros) following an ECHR decision to provide restitution and compensation to Loizidou for the loss of the use of her property. The issue of returning Loizidou's house was pending with the COE at year's end.

In July 2003, the ECHR ruled against Turkey in two separate but similar cases involving the loss of Greek Cypriot property in north Cyprus. The Republic of Cyprus estimated that Greek Cypriots had filed approximately 500 cases against Turkey at the ECHR. By year's end, the ECHR had not reached a decision on any of the approximately 45 similar cases in which the Republic of Cyprus had exercised its right to intervene.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The basic law prohibits such actions; however, there were reports that police subjected Greek Cypriots and Maronites living in the north to surveillance (see Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The basic law governing north Cyprus provides for freedom of speech and of the press, and Turkish Cypriot authorities generally respected these rights in practice and did not restrict academic freedom; however, authorities continued to pursue criminal charges against a number of journalists.

There were 12 newspapers that operated independent of government control; however, most had a political party affiliation or bias. There were two television channels operated by Turkish Cypriot authorities and four private channels. In addition to three small, university-run radio stations, eight private radio stations operated. Authorities operated three radio stations and security forces ran one radio station. International broadcasts were available without interference throughout the island, including telecasts from Turkey and Greece.

In November 2003, authorities filed criminal charges against five journalists with the daily newspapers *Kibris* and *Ortam* for insulting the army in their reports about police actions against demonstrators in the village of Doganci in March 2003. The journalists faced possible prison sentences of 21 to 81 years and were informed that they would be summoned to appear before a Turkish military court. However, in September, the "National Assembly" enacted a law that prevents civilians from being tried in military courts. Authorities have not scheduled a trial for the five journalists, and the charges remained pending at year's end.

At year's end, charges of libel and defamation filed in 2002 against several journalists from the opposition newspaper *Afrika* remained pending in Turkish Cypriot district and military courts.

On February 17, authorities withdrew criminal charges pending against a Turkish Cypriot history teacher and individual members of a union who had protested on her behalf. In 2001, the teacher published an article critical of Turkey and its military. In response, the authorities charged her with defamation and suspended her from her teaching position. Supported by the union, the teacher reported to her job despite the suspension, and authorities charged her and several others with trespassing on school property.

Authorities at times restricted the ability of journalists to cross the buffer zone to cover news events. The "Press Information Office's" policy was to provide escorts for Greek Cypriot journalists covering events in the north during business hours and to provide escorts for groups of Greek Cypriot journalists and for journalists covering important meetings regardless of the time of day. This policy was not strictly enforced, and Greek Cypriot journalists reported that they were permitted to cover some events in the north without an escort. Authorities required Greek Cypriot journalists to wear yellow jackets with a "TRNC" flag on them to cover official visits, such as those of Turkish officials.

On June 23, police refused to allow a Turkish journalist to enter the north from the government-controlled area. Police at a buffer zone checkpoint reportedly told the journalist that he had entered the island illegally when he used the Larnaca airport, and therefore he would not be permitted to cross the green line.

Authorities did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The basic law provides for freedom of assembly and association, and the authorities generally respected these rights in practice. Unlike in the previous year, there were no reports that the police blocked or dispersed demonstrations.

Charges against organizers of the March 2003 demonstration in the village of Doganci remained pending at year's end.

*c. Freedom of Religion.*—The “TRNC constitution” provides for freedom of religion, and authorities generally respected this right in practice. There are also “constitutional” and legal prohibitions against religious discrimination. Non-Muslims were allowed to practice their religions.

The “TRNC constitution” permits the Turkish Cypriot religious trust, the Evakf (the Muslim institution that regulates religious activity for Turkish Cypriots), to regulate and administer its internal affairs and property in accordance with Evakf laws and principles.

Following the April 2003 decision by authorities to relax crossing restrictions, Greek Cypriots and Maronites reported relatively easy access to most religious sites in north Cyprus but were still prohibited from visiting religious sites located in military zones.

On August 27, a bomb exploded in the doorway of Agias Mamas Church near the town of Guzelyurt/Morphou. No one was hurt in the incident. Although no one claimed responsibility, it was widely believed that Turkish Cypriot nationalists planned the attack to disrupt a Greek Cypriot religious ceremony, which was to be held several days later. In the end, the church was repaired, and the ceremony took place on September 1 and 2. This was the first time in 30 years that Greek Cypriots had been able to hold services in the church; however, Turkish Cypriot authorities did not allow the Greek Cypriot organizers to ring the church bell as part of the ceremony.

Greek Cypriots reported that vacant Orthodox churches had been vandalized and religious icons removed. Missionaries have the legal right to proselytize, but authorities closely monitored missionary activities.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The basic law provides for these rights, and they were generally respected in practice.

In April 2003, authorities relaxed many green line crossing restrictions and abolished both the \$2.15 (1 pound) crossing fee and the requirement of advance permission. Authorities opened two additional checkpoints to facilitate the flow of personal vehicles across the buffer zone. Since April 2003, Turkish Cypriots traveling to the south have not needed prior permission from authorities nor have they had to provide an itinerary and the purpose of their travel.

Authorities required Greek Cypriots to obtain a “visa” to visit the north, although this was relatively easy after April 2003.

For part of the year, Greek Cypriots were required to present their passports at the checkpoints along the buffer zone, something many were reluctant to do. On May 26, authorities stopped requiring Greek Cypriots to show their passports, although identification cards were still required, and travelers had to fill out a “visa form.” Authorities did not accept identification written only in Greek. Greek Cypriots were permitted to drive their personal vehicles in the north, provided they arranged insurance with a provider in the Turkish Cypriot community. They were allowed to spend up to 3 nights in the north as long as they stayed in a hotel and provided receipts; however, this was not strictly enforced. Turkish Cypriots flew in and out of Larnaca Airport in the south without obstruction.

Authorities maintained restrictions on the 403 Greek Cypriots and 140 Maronites living in enclaves in north Cyprus. During the year, the authorities limited overnight stays by child relatives of enclaved Greek Cypriots and Maronites to a “reasonable period,” with extensions possible. Immediate relatives of enclaved Greek Cypriots were exempt from the requirement that they stay at a hotel and instead could stay with their relatives.

At year's end, Turkish and Turkish Cypriot forces continued to operate a checkpoint adjacent to the Greek Cypriot village of Strovilia and the British eastern Sovereign Base Area that restricted UNFICYP movement.

Turkish Cypriots had difficulty traveling to most countries because only Turkey recognizes travel documents issued by the “TRNC,” and most Turkish Cypriots used Turkish travel documents instead. Since April 2003, Turkish Cypriots increasingly obtained Republic of Cyprus passports from the Government.

The basic law prohibits forced exile, and the authorities did not employ it.

The basic law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 protocol. Authorities have not established a system for providing protection to refugees. In practice, authorities did not provide protection against refoulement, the

return of persons to a country where they feared persecution. Individuals who requested asylum were directed to the UNHCR; however, there were reports that not all individuals who wished to seek asylum were permitted to do so.

Authorities' cooperation with the UNHCR was uneven. During the year, working with the assistance of a local NGO, the UNHCR continued examination of the asylum claims of 4 persons who entered north Cyprus in accordance with official procedures. Their cases remained pending at year's end. Authorities arrested 172 illegal immigrants who arrived in north Cyprus without proper documentation and subsequently deported them to their countries of origin without the opportunity to apply for asylum through the UNHCR.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The basic law provides Turkish Cypriots the right to change their government peacefully, and they exercised this right in practice through periodic, democratic elections held on the basis of universal suffrage.

On April 24, Turkish Cypriots and Greek Cypriots voted in separate, simultaneous referenda on the settlement plan proposed by U.N. Secretary General Kofi Annan (the "Annan plan") that would have reunified the island after 30 years of division. While 65 percent of Turkish Cypriots voted to accept the Annan plan, 76 percent of Greek Cypriot voters rejected the proposal.

Turkish Cypriots choose a leader and a representative body every 5 years or less. In December 2003, "parliamentary" elections resulted in an even 25–25 split of seats in the "National Assembly" between parties favoring a solution to the division of the island based on the Annan plan and parties favoring the status quo. A coalition "government" formed shortly thereafter elevated Mehmet Ali Talat, one of the leading figures supporting a settlement, to the position of "Prime Minister." There were numerous reports that the parties in power before the December 2003 election misused public resources in support of their campaigns. They reportedly distributed public-sector jobs to supporters, exerted control over the publicly owned media, used monetary incentives to pressure Turkish-origin voters to vote for the status quo, and engaged in other similar activities. By year's end, the new "government" was investigating three cases of the previous "government's" alleged practice of distributing land and bogus "citizenships" in an attempt to sway election results. The previous "government's" role in a banking sector bankruptcy case was also under investigation.

Greek Cypriots and Maronite residents were prohibited from participating in Turkish Cypriot elections; they were eligible to vote in Greek Cypriot elections, but must travel to the south to exercise that right. Officials in the north representing Greek Cypriots and Maronites were appointed by the Republic of Cyprus and were not recognized by Turkish Cypriot authorities.

Corruption, cronyism, and lack of transparency were perceived to be serious problems in the legislative and executive branches, although no high profile cases came to light. During the year, the Republic Turkish Party (CTP)-Democratic Party (DP) coalition made significant improvements over past administrations in dealing with these problems.

Women held three seats in the 50-seat "National Assembly" and some cabinet-level, judicial, and other senior positions. There were no minorities represented in the "National Assembly."

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international independent human rights groups generally operated without restriction from the authorities, investigating and publishing their findings on human rights cases. Officials generally were cooperative and responsive to their views.

Human rights groups were generally only concerned with alleged violations of Turkish Cypriot rights by Greek Cypriots.

The U.N., through the autonomous tripartite CMP, continued its efforts to account for persons who remained missing after the intercommunal violence beginning in 1963–64 and the events beginning July 1974 (see Section 1.b.).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The basic law provides for protection against discrimination based on sex or national, racial, or ethnic origin. While the authorities generally respected such laws, serious problems remained concerning the treatment of Greek Cypriots and Maronites.

*Women.*—Domestic violence was a problem, but there was little discussion of it in public. The law prohibits domestic violence; however, cases were rare in the legal system, since they were typically considered a family matter.

The basic law provides for no minimum sentence for individuals convicted of rape, including spousal rape; the maximum sentence is life imprisonment. The authorities and police effectively handled and prosecuted rape cases, including cases of spousal rape. There were no NGOs to support rape victims.

There were some reports that women were trafficked to north Cyprus for the purposes of sexual exploitation (*see* Section 5, Trafficking).

The basic law contains no provision specific to sexual harassment; however, victims could pursue such cases under other sections of the criminal code. Sexual harassment was not discussed widely, and any such incidents largely were unreported.

Women generally have the same legal status as men. Women married to foreigners have the right to transmit citizenship automatically to their children. The law on marriage and divorce provides for relatively equal treatment of husbands and wives. In cases of divorce, the court decides on a fair distribution of the family's assets, with each partner assured a minimum of 30 percent.

Laws requiring equal pay for men and women performing the same work were enforced effectively at the white-collar level; however, women working in the agricultural and textile sectors were routinely paid less than their male counterparts.

*Children.*—Authorities were strongly committed to children's rights and welfare; they funded public education and health care for those who could not afford it. There was no difference in the health care and educational opportunities available to boys and girls. Education through the age of 15 was free and compulsory. Publicly funded health care was available to the entire population; however, patients faced long waits for services in public medical facilities.

On August 4, the U.N. brokered an agreement between the Government of Cyprus and the Turkish Cypriot authorities to reopen the Rizokarpasso Gymnasium, a high school for enclaved Greek Cypriot students located in the largest Greek Cypriot village in the Karpas peninsula. Until the Rizokarpasso Gymnasium reopened in September, parents had been forced to choose between keeping their children with them and sending them to the south for further education. Authorities did not permit children or families who moved south to return to live permanently in north Cyprus.

Authorities screened all textbooks sent to Greek Cypriot elementary schools from the south, which caused lengthy delays in their distribution and shortages of up-to-date textbooks.

There were no reported cases of child abuse; however, as with domestic violence, there were social and cultural disincentives to seeking legal remedies for such problems.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking, and there were some reports that women were trafficked to north Cyprus for the purpose of prostitution.

Procurement for prostitution is a misdemeanor, and a law designed to regulate the hiring of women in nightclubs provides penalties for women and employers who engage in prostitution.

Turkish Cypriot authorities issued "artiste visas" to women, primarily from Eastern Europe, permitting their entry into north Cyprus to work in nightclubs. There were credible reports that these women engaged in prostitution and that some women were coerced. Authorities denied the existence of trafficking during most of the year but later admitted the problem was a concern and began to allocate resources to combat it. In December, Turkish Cypriot authorities took action in response to specific information about a named victim of trafficking. After interviewing the woman and determining that she did not wish to remain on the island, authorities repatriated her to her country of origin.

There were no NGOs available to provide assistance to trafficking victims.

*Persons With Disabilities.*—The "TRNC constitution" prohibits all forms of discrimination, including against persons with disabilities, and there were no reported restrictions on access to employment, education, health care, or government services. The law does not mandate access to public buildings and other facilities for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The "TRNC constitution" prohibits discrimination. The 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Greek Cypriots and Maronites; however, the authorities' noncompliance with some of the agreement's provisions made daily life difficult for the 403 Greek Cypriots and 140 Maronites residents.

Greek Cypriots and Maronites in the north alleged that they were routinely subject to surveillance. Representatives of both communities complained that their phones were tapped and that Turkish Cypriot authorities occasionally broke into their homes.

UNFICYP access to Greek Cypriots and Maronites remained limited. Although the Vienna III Agreement provides for medical care by a doctor from the Greek Cypriot community, only care provided by Turkish Cypriot doctors registered with authorities was permitted. Greek Cypriots and Maronites were still unable to leave property to heirs residing in the south.

*Incitement to Acts of Discrimination.*—School authorities continued to use textbooks at the primary and secondary levels that included inflammatory language derogatory of Greek Cypriots. Beginning in March, the “Ministry of Education” began revising the history syllabus and textbooks used in schools after concluding that the existing text encouraged students to view Greek Cypriots as enemies and the EU as a “rotten apple.”

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers, except members of the police and military forces, have the legal right to form and join unions of their own choosing without prior authorization, and workers did so in practice. Approximately 50 to 60 percent of private sector workers and all public sector workers belonged to labor unions.

Some companies established company-led unions then pressed workers to join them. Officials of independent labor unions stated that authorities created rival public sector unions to weaken the independent unions.

In 2003, there were press reports that public sector authorities discriminated against members of pro-solution labor unions who participated in political activities, including demonstrations. In some cases, individuals were passed over for promotion or were reassigned to undesirable jobs or locations.

The law does not prohibit antiunion discrimination. Union leaders contended that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic and penalties, such as reassignment to an undesirable location or denial of promotion, for antiunion practices were minimal.

*b. The Right to Organize and Bargain Collectively.*—By law, unions and confederations are free to organize and bargain collectively, and they did so in practice. Authorities did not compile the number of persons covered by collective bargaining agreements; however, union officials informally estimated that 98 percent of workers in the public sector and 1 percent of workers in the private sector were unionized.

A special commission composed of five representatives each from organized labor, employers, and the authorities reviewed wage levels several times a year for both private and public sector workers and established corresponding cost-of-living wage increases.

The law provides for the right to strike; however, employers have an unrestricted right to hire replacement workers in the event of a strike, thereby limiting the effectiveness of the right. In addition, authorities have the power to curtail strikes in “essential services,” although this power was used rarely in practice.

There are no special laws or exemptions from regular labor laws in the export processing zone in the port of Famagusta.

*c. Prohibition of Forced or Compulsory Labor.*—The authorities prohibited forced or compulsory labor, including by children; however, there were reports that illegal migrant workers were subject to the nonpayment of wages and the threat of deportation (see Section 6.e.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment in an “industrial undertaking” is 16 years, and children may be employed in apprentice positions at the age of 15. There were labor inspectors who enforced the law effectively; however, it was common in family-run shops for children to work after school, and the press reported that children as young as age 11 worked in orchards during school holidays.

*e. Acceptable Conditions of Work.*—The minimum wage of \$447 (627 million Turkish lira) per month was subject to frequent review because of high inflation and did not provide a decent standard of living for a worker and family.

The legal maximum workweek was 38 hours in the winter and 36 hours in the summer. Labor inspectors effectively enforced these laws.

The authorities enforced occupational safety and health regulations sporadically. Factory inspectors processed complaints and inspected businesses to ensure that oc-

cupational safety laws were observed; however, workers who filed complaints did not receive satisfactory legal protection and could face dismissal.

A significant percentage of the labor force consisted of illegal migrants, mainly from Turkey. There were frequent allegations that such workers were subject to mistreatment, including the nonpayment of wages and threats of deportation. In September, the "National Assembly" approved a measure, aimed at persons of Turkish origin, requiring foreigners who entered the north to have passports and to register their documents if they planned to work.

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## CZECH REPUBLIC

The Czech Republic is a constitutional democracy with a bicameral Parliament, led by a parliamentarily elected President as head of state, and a presidentially appointed Prime Minister as head of government. In 2003, Parliament elected Vaclav Klaus as President. Free and fair elections held in June 2002 resulted in a coalition government under Prime Minister Vladimir Spidla. In July, the Government fell, and the same three coalition parties formed a new government under former Deputy Prime Minister Gross. As the leader of the strongest party, Gross was appointed Prime Minister by the President, and he then selected a Cabinet, which was accepted through a vote of confidence in the Chamber of Deputies. There were no irregularities in the process of forming the new Government. The judiciary is independent.

The Ministry of the Interior oversees the police. The civilian internal security service, known as the Security and Information Service, reports to the Parliament and the Prime Minister's office through the Interior Minister. The civilian authorities maintained effective control of the security forces and military. A few members of the security forces committed human rights abuses.

The country's economy was market-based, and its population was approximately 10.2 million. The economy grew by 2.5 percent through September. Inflation held steady at 0.1 percent, while wages grew by 6.3 percent. The workforce was employed primarily in industry, retail, and construction.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Occasional police violence and use of excessive force remained a problem. Long delays in trials were a problem. There was some violence and discrimination against women and children. Occasional skinhead violence and discrimination against Roma, particularly regarding housing, remained problems. Romani children continued to be sent to special remedial schools at a disproportionate rate. Trafficking in persons was a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearances.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were reports that police used excessive force, particularly against Roma.

In August, charges of police brutality filed jointly by two expatriates, one Briton and one New Zealander, were dismissed due to lack of evidence. The men claimed that, after they were detained for not paying their bill at a Prague bar on April 9, Municipal Police officers initially took them to the local police station, but later drove them to an abandoned area, where they kicked and beat the men repeatedly with truncheons. Both received hospital treatment following the incident. Their lawyer filed an appeal in the case, which was pending at the end of the year.

Five officers, who allegedly broke into a Romani family's home while off duty in May 2003 and racially insulted and beat the family members, were tried during the year. Three of the officers were found not guilty, and all charges against them were dismissed. The other two officers were dismissed from their positions, and their trial remained ongoing at year's end.

There were reports that police and prosecutors increasingly recognized that there were ethnic or racial motives for crimes; however, some observers criticized the police for their ineffectiveness in investigating such crimes (*see* Section 5).

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. However, there was overcrowding in many prisons, and as of June of this year, the prison system was at 115.6 percent of capacity.

A July 1 amendment to the Criminal Code that requires half of an inmate's earnings from prison work to be returned to the state to pay for damages, prison costs, or court costs spurred protest by roughly one-third of the 1,000 inmates at Vinarice prison.

Women and men were held separately, juveniles were held separately from adults, and pre-trial detainees were held separately from convicted prisoners.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The State Police are responsible for enforcing the law and were generally effective in doing so, although some instances of police corruption were reported. The Ministry of Interior oversees the police. The Inspectorate of the Ministry of Interior is responsible for investigating allegations of police misconduct. During the year, the Government continued an active effort to recruit Roma to serve in law enforcement and improve police relations with the Romani community (see Section 5).

According to the Ministry of Interior, the number of investigated cases of abuse of authority by police and Ministry officials declined during the year to 129 from 252 in 2003. In 2003, 110 public officials were convicted of abuse of authority; this year, only 1 was convicted. In 2003, there were 104 investigated cases of bribery; 75 public officials were convicted, and of these, 45 were given suspended sentences, 14 were fined, and 4 received unconditional sentences. During the year, there were 210 investigated bribery cases and 97 convictions; of these convictions, 54 were given suspended sentences. Cases of corruption were most prevalent in traffic and insurance fraud investigations.

Persons suspected of crimes were apprehended openly, with warrants based on sufficient evidence and issued by a prosecutor, and brought before an independent judiciary. Police may hold persons without charge for up to 48 hours, during which time they have the right to counsel, although they may not contact family members. After 48 hours, police must have determination from a judge and prosecutor that the suspect will be charged before they can hold the suspect further. When the judge and prosecutor decide to charge the suspect, the suspect may contact family members.

The law allows bail except for certain serious crimes.

Under the law, pretrial detention may last no longer than 4 years and then only for cases considered "exceptionally grave" under the Criminal Code. Lengthy pretrial detention and long delays in trials were problems and were primarily due to judicial inefficiency, financial constraints, and staff shortages. In practice, the average length of pretrial detention during the first half of the year was 143 days, few pretrial detainees were held for longer than 2 years. A suspect may petition investigating authorities at any time for release from detention.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, structural and procedural deficiencies, as well as a lack of training and resources, hampered the effectiveness of the judiciary. There were allegations of judicial corruption, particularly surrounding bankruptcy and commercial courts.

The court system consists of district, regional, and high courts. The Supreme Court is the highest court of appeal. The separate Constitutional Court has final authority for cases concerning the constitutionality of legislation. Judges are nominated by the Minister of Justice and appointed for life by the President. The Senate must confirm Constitutional Court judges.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. There was a large backlog of cases. Approximately half of appealed cases were returned to lower court for retrial. During the year, the European Court for Human Rights (ECHR) ruled against the Government in 24 cases related to the slow pace of court proceedings; at year's end, approximately 70 cases concerning the country were being processed by the ECHR, most of which are related to the excessive length of court proceedings. In April, the Government offered compensation to 25 persons with cases at the ECHR against slow court proceedings in an attempt to lessen the overall number of disputes.

In January, a new hotline at the Ministry of Justice was established, via which citizens can report on suspected corruption. Within the first 8 months of the year, the hotline received 277 calls; of these, 46 were accusations towards judges, 17 against prosecutors. These cases were reviewed, and 12 were fully investigated by police; none of the accusations were proven.

The Office for the Documentation and Investigation of the Crimes of Communism continued to investigate actions taken by government authorities and Communist Party members during the 1948–1989 Communist regime. During the year, the case regarding Pavel Minarik, who allegedly plotted an attack on the Munich headquarters of Radio Free Europe in the mid-1970s, was sent back to police and prosecutors for further investigation. In October 2003, the High Court sentenced Karel Hoffmann to 6 years in prison for his role in halting radio broadcasts during the 1968 Warsaw Pact invasion; the 80-year-old Hoffmann began serving his 4-year sentence in August but was released after 3 weeks on health grounds. Petr Zak, a former senior state security official who in 2003 received a 3-year sentence for participation in antidissident raids, successfully appealed the court's decision and, as a result, had the sentence overturned.

There were no reports of political prisoners.

There were no instances in which the Government failed to enforce court orders with respect to restitution or compensation for takings of private property under domestic law.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were some allegations of forced sterilization of Romani women and that municipal governments forced Roma to relocate (see Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction.

The law calls for prison terms of between 6 months and 3 years for persons who publicly deny the Nazi Holocaust or the Communist genocide had taken place. The law also prohibits publishing information that incites hatred based on race, religion, class, nationality, or other group affiliation.

In January, the Prague Municipal Court re-imposed an overturned 3-year sentence on Michal Zitko for supporting a movement aimed at suppressing human rights. In 2000, Zitko was arrested on charges of slandering a race, nation, or belief for publishing an edition of Hitler's book "Mein Kampf." The re-imposition of Zitko's original sentence followed expert testimony that his publication could have influenced Neo-Nazi groups in the country.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected this right in practice; however, it may legally restrict assemblies that promote hatred and intolerance, advocate suppression of individual or political rights, or otherwise jeopardize the safety of participants. Permits normally are required for demonstrations, but police rarely interfered with spontaneous, peaceful demonstrations.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Organizations, associations, foundations, and political parties were required to register with local officials or the Interior Ministry, but there was no evidence that this registration was either coercive or arbitrarily waived.

The law prohibits political parties from conducting activities of any kind at universities; however, students were allowed to form their own political groups.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Ministry of Culture oversees a voluntary, two-tiered registration process for religious groups. For the first tier, groups must have 300 adult permanent resident members. If a group wishes to attain the second tier registration level, at which they can have special rights (such as teaching religion in state schools, delegating persons to perform clerical activities in the military, qualifying for government financial subsidies, and being entitled to perform marriages and establish church schools), a religion must have been registered for 10 years and obtain signatures equal to 1 signature per every 1,000 citizens as per the last census. Very few small or less established religions were able to obtain the required signatures to obtain second tier registration.

Several unregistered religious groups have criticized the law as prejudicial against smaller religions. Some critics also argued that completing registration at the second tier level necessary for government subsidies would be difficult to attain due to the 10-year observation period. If a church wishes, it can register as a civic asso-

ciation rather than go through the above process to be permitted to perform fund-raising activities. There were 26 officially recognized groups, one of which, the Association of Muslim Centres, registered during the year, the first time a Muslim organization was officially registered as a religious entity in the country.

All religious groups officially registered with the Ministry of Culture are eligible to receive limited tax benefits or government subsidies, depending on the size of their membership and length of presence in the country. Unregistered religious groups may not legally own communal property but often formed civic-interest associations for this purpose. Unregistered religious groups otherwise were free to assemble and worship as they chose, and their members issued publications without interference.

A small but persistent and fairly well organized extreme rightwing and anti-Semitic movement still existed. The Ministry of Interior continued a forceful effort to counter the movement, which included monitoring of its activities, cooperating with police units in neighboring countries, and concentrated efforts to shut down unauthorized concerts and gatherings of neo-Nazi groups.

In January, police detained Denis Gerasimov, a member of a Russian neo-Nazi band, at the Prague airport after police found Nazi propaganda in his bag. He was charged with supporting and propagating a movement to suppress human rights, and his case was pending at year's end. In August, approximately 80 tombstones were found toppled by unknown vandals at a Jewish cemetery in the eastern town of Hranice. In October, vandals damaged a memorial to victims of the Holocaust for the second time since it was erected in July in the town of Bohumin. Both incidents were reported to the police. Parliament approved a law on February 10 designating January 27 as Holocaust Remembrance Day in the country.

Plans to build a mosque in Teplice were withdrawn during the year due to protests from the town's residents. A petition against the mosque, noting recent incidents of Arab terrorism, garnered 4,500 signatures from a population of 53,000. Teplice is popular among Arab tourists for its medicinal spas; in 2003 the town had approximately 2,850 visitors from Arab countries.

In March, plans for a mosque to be built in Orlova were cancelled when funding fell through. A spokesman for the Islamic Foundation, a Czech-registered non-governmental organization (NGO), noted he had never heard of the Islamic Union, the supposed firm backing the project, and that Orlova's Islamic community was too small to warrant the planned mosque.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. During the year, 5,152 persons applied for asylum in the country; 121 were ultimately granted asylum, and many others remained in the country at year's end awaiting a decision on their asylum application.

A law on asylum establishes a list of "safe countries of origin" from which applicants are unlikely to be granted refugee status. While the law is meant to discourage applicants from countries that observe human rights and democratic institutions, it does not prevent applications or the granting of asylum. Applicants whose cases are denied may appeal to the relevant regional court and the Government must abide by the court's decision.

The Government funded an integration program to assist refugees in locating housing and receiving social assistance. Two reception centers, six camps, and six integration centers were provided for recognized refugees. Conditions at the refugee camps were good, and NGOs noted overall conditions at detention centers for illegal migrants in Balkova and Velke Prilepy improved. A new center was opened to care for unaccompanied minors.

The case of Palestinian refugee Ibrahim Ziyad, who spent approximately 6 months in the transit area of Prague's Ruzyně Airport, was dissolved in February when

Ziyad illegally entered Germany. Ziyad asked for asylum after landing in Prague in August 2003 on a flight from Turkey but was denied and returned to Istanbul. Turkey refused to re-admit Ziyad, and he was returned to Prague, where he remained in the transit area. In January, a refugee advocate was able to meet with Ziyad and appeal his asylum case. Czech courts failed to act on his appeal within 30 days and thus forced the Interior Ministry to take custody of Ziyad.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country joined the European Union (EU) in May.

The November Senate elections were widely considered free and fair.

Prime Minister Stanislav Gross's Government, which was formed in July, consisted of the Prime Minister's left-of-center Social Democrat Party, the centrist Christian Democrat Party, and the center-right Freedom Union Party. The "Lustration" (vetting) Law prohibited many former Communist Party officials, People's Militia members, and suspected secret police collaborators from holding a wide range of elected and appointed offices, including senior positions in state-owned companies, academia, and the media. The law was scheduled to expire in January but was extended for an indefinite period of time. In August, the newly-appointed Head of the Government Office under the Gross Government, Pavel Příbyl, was found to have commanded a police unit that attacked anti-communist protesters in 1989 and was ultimately forced to resign. In June, Finance Minister Šobotka likewise dismissed his deputy, Jaroslav Sulc, when it was revealed he was a former member of the Communist secret service.

Allegations that a bribe was offered to a Member of Parliament (M.P.) to bring down the Government led to an effort by M.P.s to pass a Code of Ethics. Legislation to establish a Code for all government officials was under discussion at year's end.

During the year, corruption remained a problem. In April, the police anticorruption unit charged 19 customs officials working at the south Moravia border with taking bribes from truck drivers. According to a police spokeswoman, the customs officers received bribes of between \$6 and \$13 (151 to 302 CZK) from truck drivers crossing the border; approximately 800 trucks pass through the border daily. The crime was part of an on-going investigation, and the officers involved faced criminal charges.

The Justice, Interior, Agriculture, and Finance Ministries all have hotlines citizens may call to report instances of corruption by ministry employees; the Labor Ministry established an anticorruption hotline in September.

The law guarantees public access to government information. The Government provided such access in practice for citizens and noncitizens, including foreign media. No prohibitive fees were used, and applicants may appeal a decision about information release within 15 days of a decision or if the time limit for processing a request is exceeded.

There were 33 women in the 200-seat Chamber of Deputies and 8 women in the 81-seat Senate. The Government had two female Cabinet members.

There were no members of minorities in the 200-seat Chamber of Deputies, the 81-seat Senate, or the Cabinet; one justice on the Constitutional Court was an ethnic Slovak. Most of the estimated 150,000 to 175,000 Roma were not fully integrated into political life (see Section 5). Few Roma served in local government, although some were appointed to advisory positions in government ministries.

*Section 4. Governmental Attitude Regarding International Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, gender, disability, language, or social status; however, societal discrimination against women and Roma persisted.

*Women.*—The extent of violence against women was unknown; however, some studies indicated that it was more common than publicly acknowledged. In 2003, the Czech Academy of Science conducted a survey entitled International Violence Against Women, according to which 59 percent of respondents have experienced vio-

lence at least once during their lives, 38 percent while in a partner relationship. Very few women reported incidents to the police, but those who did said that police recommended specialized treatment and legal advice in addition to writing a required police report. The survey showed that most victimized women report incidents only to friends; 23 percent did not tell anyone.

The Government amended its Criminal Code to recognize domestic violence as a distinct crime. According to the new law, those who commit violence against relatives or domestic partners may receive up to 3 years in prison; if the extent of the domestic violence is severe, prolonged, or involves multiple victims, the prison sentence is 2 to 8 years. If domestic violence is committed against a person under the age of 18, a pregnant woman, the elderly, or the seriously ill or handicapped, the sentence may be longer. Since the law took effect in June, 17 cases of domestic violence were reported to the police; 10 cases were investigated. No prosecutions were made by year's end.

The police trained some specialized personnel to handle cases of domestic violence. The police did not work regularly with welfare and medical services; however, NGOs reported this situation was improving. However, training materials to help police officers improve the identification and investigation of domestic violence and sexual abuse cases and to help sensitize them in the treatment of victims of abuse continued to be used. A local NGO provided police with pamphlets to give victims informing them of their rights, options, and organizations that provide assistance.

According to Elektra, a crisis center for abused women, rape victims and victims of abuse could seek psychological counseling through a number of hotlines and crisis centers. According to NGOs, there were 107 state-supported shelters located in most major cities and towns that took in women who were victims of rape or abuse. NGOs also provided medical and social assistance to women on a local level. NGOs reported that there were not enough spaces available in shelters to meet the demand. Although there were no laws specifically addressing spousal rape, spousal rape falls under the definition of rape covered in the Criminal Code. Police investigated 432 rapes during the year. According to the Ministry of Justice, there were 183 convictions for rape throughout the country during the year, compared with 158 convictions in 2003. According to experts, rape was greatly underreported. Gender studies experts reported that women were ashamed to report or even speak about rape. Police training on working with victims improved through cooperation with NGOs.

Prostitution is legal, while pimping is prohibited by law; however, local communities have the right to regulate prostitution and enforce restrictions on it. Prostitution and sex shops were prevalent, particularly in regions bordering Germany and Austria where international vehicular traffic was heaviest. However, border prostitution decreased significantly during the year due to EU entry and subsequent decline in vehicles awaiting border crossing.

Trafficking in women was a problem (*see* Section 5, Trafficking). The labor law continued to prohibit sexual harassment and, as of March 1, an amendment put the burden of proof on the person accused of sexual harassment; however, sexual harassment remained a problem. Those found guilty of sexual harassment can be fined up to approximately \$2,750 (70,000 CZK), dismissed from work, or sentenced. In February 2003, a survey found that one-tenth of respondents felt they had been subject to sexual harassment. Thirteen percent of female respondents reported having dealt with sexual harassment, as opposed to 4 percent of male respondents.

Other studies have concluded that approximately one-half of all women have experienced sexual harassment in the workplace.

Women and men are equal under the law, and in principle, women enjoyed equal property, inheritance, and other rights. By law, women receive equal pay for equal work. Although women constituted approximately half of the labor force, they were employed disproportionately in professions with a lower median salary than were men. Women's median wages lagged behind those of men by almost 25 percent. The unemployment rate for women exceeded that for men (11.3 percent to 7.7 percent), and a disproportionately small number of women held senior positions. The Council for Equal Opportunities for Men and Women monitored gender issues and advised the Government on its efforts to enforce equal gender rights.

Changes to the Labor Code effective October 1 make it illegal for employers to ask potential employees personal questions during job interviews. The legislation's main goal is to better protect female applicants against discrimination by employers who do not want to hire someone who has plans to have children. There were allegations this year of forced sterilization of Romani women (*see* Section 5, Minorities).

*Children.*—The Government was committed to children's welfare; it funded programs for health care and basic nutrition, and provided free and compulsory edu-

cation through age 15 (through age 14 in special schools for slower learners). Public education was available through the university level. Girls and boys enjoyed equal access to health care and education at all levels. Language and cultural barriers frequently impeded the integration of Romani children into mainstream schools.

While the Government reported that most children attend school, they acknowledged it was difficult to estimate the number of Romani children attending school. Romani students continued to attend special schools at higher rates.

From January through November, there were 853 cases of child neglect and welfare reported, and from January through June, there were 283 convictions, under sections of the law covering endangering the morale of juveniles and abandonment of a child. The Fund for Endangered Children estimated that the total number of children suffering from physical, psychological, or sexual abuse was between 20,000 and 40,000. NGOs estimated that fewer than 50 children died each year from domestic violence.

Laws criminalize family violence, physical restraint, sexual abuse, and other forms of abuse of minors. There was a government-supported Children's Crisis Center. As of January 1, there is a juvenile court system in place for criminal offenders 15 years and younger.

Dissemination of child pornography is a criminal act; laws against child pornography were generally enforced. During the year, the police took measures to prevent sex tourism involving children more effectively, maintaining patrols in high-risk areas, enforcing curfew-type policies more actively, and raising public awareness of the problem through the media.

Despite increased police efforts, press reports still indicated that, in many border regions, sex tourism involving adolescent minors continued and trafficking in children continued to be a serious problem (see Section 5, Trafficking). Convictions of sexual abusers of children were reported routinely in the media. In October 2003, the German UNICEF office published a report that characterized the region along the German border as a "haven for pedophilia." While both German and local officials disputed the scope of the problem and the veracity of data used in the report, the country and Germany formed a liaison group to increase communication and exchange information on vice crimes.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking to, from, and within the country primarily for the purpose of sexual exploitation was a problem. There were some cases of forced labor. The Ministry of Interior and the Organized Crime Division of the State Police had responsibility for combating trafficking. The penalties for trafficking, including for the purpose of forced labor, are generally commensurate with those for rape and sexual assault. Convicted traffickers can receive prison sentences of up to 12 years. Organizing prostitution and pimping are punishable by a prison term of up to 12 years if the victim is under the age of 15. The Government investigated and prosecuted cases of trafficking in persons, although conviction rates were low. According to police statistics, there were 13 reported cases of trafficking in persons from January through November. Additional convictions were made under pimping laws.

The Government cooperated extensively with other Central and East European countries, the EU, and other foreign countries in the investigation and prosecution of trafficking cases.

In September, an owner of three brothels in the border town of Cheb, Jiri Marinc, was found guilty of procuring and trafficking in persons and sentenced to 5 years in prison. Marinc's wife, Romana Nemcova, was sentenced to 4 years for the same crime. According to the courts, Marinc and Nemcova trafficked over 50 women from Ukraine and Slovakia to work as prostitutes in the country; most were required to give all their earnings to the pair.

The country was increasingly a transit and destination country rather than a source for trafficking in persons, primarily women and girls for sexual exploitation. Women and girls from the former Soviet Union (in particular, Russia, Belarus, Ukraine, and Moldova), Eastern Europe, the Balkans, and Asia were trafficked into the country and onward to Western Europe and the United States for prostitution. Czech women and girls were trafficked to other European countries. There was some evidence of a small amount of internal trafficking primarily of women, especially Romani women, and children for prostitution from areas of low employment to areas bordering Germany and Austria. Press and government reports indicated that the country, particularly the border areas, remained a popular destination for pedophiles due to its location and the common misperception of a low risk of sexually transmitted disease. The Government established police assistant positions in two border regions to help combat such problems; assistants were recruited from the

local Romani community to facilitate cooperation between the Romani minority and the police.

Local victims were generally young women between 18 and 22 years of age, from areas of high unemployment. Girls raised in state-run homes were at particular risk. A small number of men were trafficked to the United States for coerced labor. Trafficked women were frequently offered jobs as models, maids, waitresses, and dancers through employment agencies, and then forced into prostitution. Once in a destination country, traffickers withheld the victims' travel documents and used isolation, violence, threats of violence, and the threat of arrest and deportation to ensure compliance.

Most traffickers were members of organized crime groups, often from Russia, Bulgaria, Ukraine, the former Yugoslavia, and East Asia and worked in cooperation with individual citizens, Slovaks, and, less often, Austrians and Germans. Traffickers often served as a link between Russian and Ukrainian traffickers and Western European procurers.

There was no evidence of government complicity in, or tolerance of, trafficking in persons; however, NGOs suspected individual members of the border police of assisting illegal border crossings related to trafficking.

The Government did not provide direct assistance, but cooperated with the International Organization for Migration (IOM) and NGOs in order to provide services to trafficking victims and provided funding to some of these NGOs. La Strada was the primary domestic NGO providing services to victims and conducting awareness campaigns for girls and women at risk of being trafficked. Returnees frequently were hesitant to go to their families or public social service providers for help because of the stigma attached to having been trafficked.

The Government funded and implemented nationwide a victim assistance program first piloted in 2003. Under this program, a victim is provided with psychological and social assistance for 30 days; the victim must decide within that period whether or not she would like to cooperate with authorities. Victims who choose not to assist police with prosecution are offered voluntary return to their home country; victims who choose to cooperate are eligible for residency visas for the period of criminal proceedings. If upon the end of cooperation with police a victim would like to stay in the country rather than return to their home country, they are eligible to apply for permanent residency on humanitarian grounds.

NGOs working with the Government to implement the program criticized the limited opportunities trafficking victims who cooperate with the police have to obtain permanent residency. NGOs pointed out that it was much easier and more desirable for trafficking victims to apply for asylum, which grants them legal status to remain until a ruling is made on their asylum case (which can take years), rather than cooperate with authorities under the program and generally be returned to their home country once proceedings are concluded. Though victims have the opportunity to apply for permanent residency under the program at the conclusion of their cooperation with the police, it is not automatically granted. Only one victim was awarded such residency last year. The Interior Ministry accepted this criticism and recognized the need to change the model to more readily offer permanent residency to victims under the program.

The Crime Prevention Division of the Interior Ministry continued to implement a national strategy against trafficking. The Interior Ministry screened films in police schools around the country as an educational tool to help police recognize trafficking victims and hosted a regional conference in October regarding forfeiting the proceeds of human trafficking. As part of the Government's national strategy against trafficking, a new manual on identifying trafficking victims was prepared for use in police training. The EU continued a series of training sessions about trafficking and victim identification for police officers. The Ministry of the Interior translated and published materials on identification of trafficking victims. The Government also cooperated with the IOM to deliver school curriculum targeted for students 13 to 14 years of age on the dangers of trafficking.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in access to healthcare, education, or in the provision of other state services. However, persons with disabilities suffered disproportionately from unemployment. Businesses in which 60 percent or more of the employees were persons with disabilities qualified for special tax breaks, and the Government provided transportation subsidies to citizens with disabilities.

The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Although access did improve during the year, many buildings and means of public transportation remained inaccessible. In Prague, 26 of the 50 metro stations were wheelchair-accessible; how-

ever, the majority of stations in the city center remained inaccessible. A growing number of bus lines were accessible to persons with disabilities. Tramlines in Pilsen were wheelchair-accessible. Children with physical disabilities lacked barrier-free access to most public schools, although there was at least one barrier-free school in each district.

During the year, amendments to the Criminal Code were made to stipulate that if domestic violence is committed against the seriously ill or handicapped, the sentence may be longer than the otherwise maximum 8 years.

The Government Council for Disabled Citizens, a permanent advisory body of the Government for the support of disabled citizens, was responsible for protecting the rights of persons with disabilities. The Council participated in drafting the Government's national plan to aid persons with disabilities.

On July 13, Minister of Health Jozef Kubinyi responded to international pressure from human rights groups by abolishing the use of cage beds in psychiatric wards and promising to remove the use of all net beds by the end of the year. According to authorities, of 9,657 beds in the country's psychiatric facilities, roughly 100 were net beds, and only an estimated 20 were cage beds. The abolition of cage beds brought praise from NGOs, although President Klaus criticized the reaction as a hasty step.

*National/Racial/Ethnic Minorities.*—After ethnic Slovaks, the largest minority was the Romani population, unofficially estimated at between 150,000 and 175,000. Roma suffered disproportionately from poverty, unemployment, interethnic violence, discrimination, illiteracy, and disease. Despite constitutional prohibitions against discrimination, a framework to implement those provisions in civil law was not incorporated to address specific offenses under the Criminal Code. The Government worked towards replacing existing laws that make discrimination illegal with one blanket antidiscrimination law.

Members and sympathizers of skinhead organizations were the most frequent perpetrators of interethnic violence, particularly against Roma and other "dark-skinned" persons. An estimated 7,000 skinheads were active in the country, although some observers believed the actual figure was higher.

On April 20, three men attacked two Romani women at a restaurant in Ostrava. The men slapped and kicked the women while shouting Nazi slogans. The case was under investigation at year's end.

On April 12, three men verbally assaulted a Romani family in Broumov. According to the police, the men cursed the family's ethnicity and threatened to kill them while standing outside the gate of the family home and beating it with baseball bats. Local police apprehended two of the men and an investigation was underway at year's end.

On May 7, according to press reports, a group of youths from Opava attacked three Roma, including a pregnant woman, in Krnov. Seven individuals were charged in connection with the attack.

Reports to police of racially motivated or extremist crimes have continued to increase in recent years, and police and prosecutors increasingly recognized that there were ethnic or racial motives for many crimes. Some observers still cited judicial inconsistency in dealing firmly with racially and ethnically motivated crimes; however, there was an effort to recruit Romani police officers and employ Romani police assistants to better interact with that community.

In August, two youths received suspended sentences regarding an attack against Roma at a bus terminal in Jeseník. The case provoked public outcry from the Romani community and was sent back for retrial, which was pending at year's end. There were three youths involved in the attack, all of whom reportedly had histories of perpetrating violent attacks. One of the perpetrators involved in the attack was sentenced to 16 months' imprisonment because of previous attacks he had committed against Roma.

In the 2003 case of a Romani couple from Jeseník who were attacked in their home by drunken youths (the same perpetrators involved in the bus terminal attack during the year), the perpetrators were given 3-year suspended sentences. The judge ruled there was insufficient evidence to conclude that racism was behind the attack. Romani activists and the country's Human Rights Commissioner criticized the sentence. One of the youths involved in the attack, Martin Stiskala, was subsequently involved in further harassment of the family as well as two other violent attacks against Roma, one of them against a youth with mental handicaps. In June, Stiskala received a 2-year suspended sentence for his assault on the young Roma with mental handicaps.

Roma who wished to integrate into mainstream society faced practical difficulties in the areas of employment and education. Precise figures for unemployment among

Roma were unavailable, but the rate was disproportionately high, with many unemployed Roma subsisting on government support or earnings from illegal activities. Some employers refused to hire Roma and asked local labor offices not to send Romani applicants for advertised positions. The law prohibits hiring and employment discrimination based on ethnicity. No enforcement statistics were available, though there were instances of decisions and settlements in favor of Romani complainants.

In March, a Romani woman won a court case of job discrimination against a German drugstore chain, despite the continued lack of a formal antidiscrimination law. A court awarded Renata Kotlarova \$1,850 (50,000 CZK) compensation and an apology from the drugstore chain. The NGO Counseling Center for Citizenship, Civil, and Human Rights said that Kotlarova's case was the first in which a court awarded compensation on the basis of discrimination during a job interview. A subsequent appeal by the drugstore chain was unsuccessful.

Roma also faced discrimination in housing and other areas of everyday life. Some restaurants, bars, and other public places refused service to Roma and posted signs prohibiting their entry. In 2003, there were seven such cases; three were settled in the Roma's favor. Human rights groups reported that many municipalities attempted to force Romani families to leave, employing such tactics as eviction from municipally-owned homes for alleged lapses in rent payments or coercion of Roma to sign agreements that they did not understand that were then used to curtail existing housing contracts. While the Human Rights Commissioner criticized such practices publicly, the law allows municipalities substantial autonomy in such actions.

On June 2, a regional court ruled in the favor of a Romani woman in her case against a private firm that had refused to rent her an apartment on the basis of her ethnicity. The company was ordered to pay approximately \$2,140 (50,000 CZK) and send a written apology.

The law provides that every citizen is entitled to government provided health care, either as a salary deduction or free of charge for the unemployed. Despite this, reports indicate a higher than average percentage of Roma suffered from health problems. In addition, some Romani parents refused to allow their children to receive compulsory vaccinations due to traditional beliefs. Intransigence on the part of local authorities sometimes impeded NGOs and health and education professionals work to improve living conditions for the Roma.

In September, the European Roma Rights Center (ERRC) accused the Government of the continued coercive sterilization of Romani women. The former Communist regime made a policy of sterilizing Roma women from the 1970's until the regime fell, in order to reduce their high birth rate. According to investigations by the ERRC and partner organizations, there were significant concerns that this policy continued to the present day in some regions of the country. The ERRC reported several cases in which the consent for sterilization was either not provided at all prior to the operation, secured while a woman was in labor, obtained without the woman understanding the terminology involved, or obtained through the use of financial incentives or threats. The law allows for sterilization only if a woman is over 35 years of age or has four children already, or when a new pregnancy would present a threat to the woman's life. In all cases, the woman must explicitly consent to the operation beforehand. The State Ombudsman was investigating the issue, and the Health Minister established a special commission to examine possible cases of forced sterilization since 1990. According to the country's Human Rights Commissioner, a physician himself, the situation is indicative of a larger problem in the health system due to parochial attitudes of physicians towards their patients and overall lack of choice and information for users about the healthcare system.

In a continuation of its Plan for Roma Integration, the Government allocated several million dollars (tens of millions of CZK) at various times throughout the year for projects designed to promote integration of the Romani community. Allocations supported construction of community centers and educational assistance to minorities, including support for kindergarten programs and Roma teaching assistants in schools.

Roma continued to face discrimination in education. According to unofficial estimates for the academic year 2001-02, over 90 percent of students in so-called special schools were of Romani origin. Graduates of these schools were not restricted from attending secondary schools; however, special school curriculum did not prepare students to pass the requisite entrance examinations of mainstream schools. Human rights organizations condemned the practice of placing Romani children in special schools as perpetuating their marginal position in society. Some Romani parents did not send their children to school regularly due to fear of violence and the expense of books and supplies. The Government provided funds to assist with a va-

riety of school-related expenses for Romani families who cannot afford to send their children to secondary schools.

Many districts with high concentrations of Roma held yearlong kindergarten programs to prepare Romani children for their first year in school; these programs were funded by the Government and administered by local school districts. The Ministry of Education estimated that 90 to 94 percent of the children in these programs were Roma; according to Ministry statistics, 87 percent of children who attended in 2003 went on to successfully attend basic school and continue their education in normal schools.

Romani teaching assistants were placed in primary and special schools to help teachers communicate with Romani pupils and encourage cooperation between schools and Romani parents. Bilingual language textbooks were used in elementary schools countrywide to help overcome the cultural and language differences between Romani children and non-Romani-speaking teachers.

Textbooks commissioned by the Ministry of Education that discuss the cultural and historical roots of the Romani minority and on successful members of the Romani community were used in schools. Local NGOs supported additional studies and private initiatives to prepare Romani children for mainstream schools.

The Inter-ministerial Commission for Roma Community Affairs, which included 12 government and 14 Romani representatives, as well as the Commissioner for Human Rights and his deputy, continued to take an active role in resolving disputes between Romani communities and their non-Romani neighbors. The Commission also promoted positive initiatives in housing, education, and discrimination. Due to the large numbers of Slovak Roma who regularly migrated to the country, the Commission established a bilateral committee to monitor Slovak Roma community migration. The committee was headed by the Deputy Interior Ministers of both countries.

The Ministry of Foreign Affairs' Roma Affairs Coordinator continued to function as the Ministry's liaison with Romani groups, NGOs, and the diplomatic community.

During the year, the Government continued an active effort to identify, train, and recruit qualified Roma to serve in law enforcement. During the year, special training and preparation courses were held for 16 Roma to become police officers; 3 candidates ultimately joined the police. Over the past 5 years, 107 Roma took the special preparatory course, 29 of whom became police officers; however, these preparation courses were not to continue after January 2005, due to a new law regulating police employment that will require police officers to have at least full secondary education, without exceptions. If Roma apply to the police force without a secondary education, the police will continue to train them via a specialized program with the Ministry of Education, designed to help Romani children whose families could otherwise not afford to send their children to secondary schools.

In October, all police schools began teaching a course entitled "Multicultural education—Extremism—Racism" to instruct officers in human rights, professional ethics, and protection of and respect for minorities. During the year, a minority liaison program and activities under regional police action plans for the integration of minorities continued. Police in two regions also established police liaison positions to help combat specific local problems such as usury and profiteering, and prostitution. Assistants were recruited from the Romani community and to help police establish cooperation with the local Romani minority with regard to prevalent local problems.

The Human Rights Commission's "Project Tolerance" continued its annual national campaign against xenophobia and racism. The campaign promoted diversity, monitored right-wing extremist groups to better guide government antiracism efforts, and furthered education against discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions of their own choice without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 25 percent of the workforce was unionized. Most workers were members of unions affiliated with the Czech-Moravian Chamber of Trade Unions, a national umbrella organization. The law prohibits antiunion discrimination; however, union discrimination occurred. Common discriminatory practices included firing union leaders, denying union members entry to meetings between employees and management, refusing to provide office space for unions, forcing union members to cancel their memberships, offering financial incentives to dissolve union organization within a company, disparaging unions in statements to employees, monitoring union members, and refusing to withhold union dues. Employers are required to reinstate workers fired for union activity if found guilty of antiunion discrimination, though the court procedure was generally slow. The entry into force of a law that would allow employers to dismiss

trade union officers without prior authorization from the union was postponed until January 1, 2007.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, which generally was carried out by unions and employers on a company basis. The scope for collective bargaining was more limited for civil servants, whose wages were regulated by law. However, during the year, the International Confederation of Free Trade Unions reported that some employers attempted to prevent workers from organizing by means of direct and indirect pressure and attempted to render collective agreements null and void.

Workers have the legal right to strike if mediation efforts fail, with the exception of those in critical sectors such as health care, nuclear energy, oil and gas pipelines, air traffic control, fire fighting, and telecommunications. Workers in these industries have access to mediation. The law requires unions to provide employers with a list of strikers at least one day before a strike. There were no major strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking). According to press reports, 50 North Korean women were forced to work under close guard in a textile factory and remit the bulk of their earnings to the North Korean government. The North Korean embassy told the press the women's situation was an internal matter. The Government was reportedly investigating the allegations at year's end.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code stipulates a minimum working age of 15 years, although children who completed school could work at the age of 14 years. A previous clause in the labor law that allowed children under the age of 15 to work in family-owned businesses and farms expired. Employment conditions for children aged 15 to 18 were subject to strict safety standards. These regulations were enforced in practice under the purview of the Ministry of Labor and Social Affairs.

*e. Acceptable Conditions of Work.*—The Labor Ministry sets and enforces minimum wage standards. The national minimum wage was approximately \$262 (6,700 CZK) per month and provided a decent standard of living for a worker and family. The law provides for a 40-hour workweek and requires a paid break of at least 30 minutes during the standard 8-hour workday and between 4 and 8 weeks of paid vacation, depending on profession. Subject to the consent of the employee, employers may establish mandatory overtime not to exceed 8 hours per week, although the local employment office may permit additional mandatory overtime. The Labor Ministry enforced standards for working hours, breaks, and paid vacation.

The Office of Labor Safety was responsible for enforcing health and safety standards. Workers had the right to refuse work endangering their life or health without risking the loss of their employment. The law treats foreign workers the same as other workers in terms of wages and working conditions, although in practice undocumented foreign workers generally did not receive equal treatment.

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## DENMARK

Denmark is a constitutional monarchy with democratic parliamentary rule in which citizens periodically choose their representatives in free and fair multiparty elections. Queen Margrethe II is head of state. The Government, which is accountable to the unicameral Folketing (Parliament), is headed by the Cabinet. A minority center-right coalition government led by the Liberal Party has remained in power since elections in 2001. The judiciary is independent.

The national police have sole responsibility for internal security. The civilian authorities maintained effective control of the security forces. There were two allegations that members of the security forces committed isolated human rights abuses.

The market-based industrial economy provided residents with a high standard of living. The population was approximately 5.4 million. Nearly one-quarter of the work force was employed in the public sector. The key industries were food processing and metalworking; a broad range of industrial goods was exported.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Domestic violence against women was a problem, but the Government took steps to

address it. Trafficking in women for prostitution remained a problem, but the Government took a significant step to address trafficking.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. A 2002 study by the Council of Europe's (COE) Committee for the Prevention of Torture (CPT) found that police establishments and prisons met the CPT criteria. The committee recommended a few improvements including limiting periods of solitary confinement to shorter periods and confining women in the same area as men only when they expressly agree to the conditions and when the areas are supervised adequately. The CPT study also found no allegations of mistreatment at psychiatric hospitals, but recommended that the use of physical immobilization be reviewed.

In 2003, 19 inmates died in prison, 6 of whom were ruled suicides. There were no indications of wrongdoing by the Government or its officials.

Men and women were held separately except for some voluntary gender integration. Juveniles were held separately from adults. The number of detained juvenile offenders was extremely low since only those juveniles convicted of the most violent crimes were incarcerated. The law provides that "violent" juvenile offenders between the ages of 15 and 17 may be sent to adult correctional facilities, but they were segregated from adult inmates.

Pretrial detainees were held in remand centers, which also held nonviolent convicted criminals serving sentences of 30 months or less. In October, a new high-security detention unit opened to house pretrial detainees as well as convicted prisoners who have been designated as "negatively strong" (prisoners deemed to have a strong tendency to engage in violence or intimidation against fellow inmates or prison staff.)

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The national police, under the Ministry of Justice, have sole policing authority in the country. There are 54 police districts (plus the Faroe Islands and Greenland) and a National Commissioner's Office. The Minister of Justice, with the approval of the Folketing, appoints the police chiefs of each district and the National Commissioner. The National Commissioner manages eight departments with responsibilities that include personnel, finances, vehicles, buildings, equipment, intelligence, forensics, the Crime Prevention Council, and the Police College.

A criminal action is initiated by a police arrest or by charges or indictments filed by public prosecutors with the courts. The court may either summon the accused to appear or order that police arrest the accused based upon an application filed by a public prosecutor. If an individual is taken into custody, the Constitution provides for an initial appearance before a judge within 24 hours. Authorities generally respected the right to a prompt judicial determination. Arrestees have the right to counsel at the initial hearing, and the Government provided counsel for those who could not afford representation.

The vast majority of arrestees were released immediately upon being informed of the charges and notification of any further court action. Pretrial detention is generally reserved for those charged with offences that are punishable by penalties greater than fines or mitigated imprisonment. If pretrial detention is deemed necessary, the Constitution requires that the court issue an order within 3 days of the defendant's initial appearance justifying the basis of the pretrial detention. The Constitution allows for the immediate appeal of detention orders. There were no reports that persons were detained arbitrarily or secretly.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of a series of local and regional courts, with the Supreme Court as the highest court; there are no military courts or tribunals. A military criminal code exists, but its enforcement is in the public judicial system.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law provides for defendants' right to timely

consultation with an attorney, at public expense if needed. Defendants and their attorneys have access to government evidence relevant to their case. Defendants have the right to question witnesses against them and to present their own witnesses; they are presumed innocent until proven guilty; and the right of appeal encompasses both procedural matters and sentences imposed. Trials are public. Juries are required for criminal cases in which the maximum penalty is greater than 4 years' imprisonment.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*g. Excessive Force/Violations of Humanitarian law in Internal and External Conflicts.*—In August, military authorities charged one active reserve member of its armed forces in Iraq with dereliction of duties related to her allegedly improper interrogation of detainees. Military authorities also charged the commanding officer of the unit with dereliction of his duty for failing to provide supervision. Both cases were pending at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respected this right in practice.

The Constitution provides for an official state religion, the Evangelical Lutheran Church, which was subsidized by the Government. The Government does not require that religious groups be licensed; however, the State's permission is required for religious ceremonies, such as weddings, to have civil validity.

The Evangelical Lutheran faith was taught in public schools, but students may withdraw from religious classes with parental consent.

From January through June, there were five incidents of anti-Semitic vandalism, primarily graffiti, and one incident of an anti-Semitic mailing, which the Government condemned and investigated. The law prohibits publicly disseminated statements, which threaten, insult, or degrade persons based on their religion. In November 2003, the Government launched an Action Plan to Promote Equal Treatment and Diversity and Combat Racism (Equal Treatment Plan). The Equal Treatment Plan included initiatives to facilitate access to the education system, promote public awareness about diversity and equal treatment, initiate an outreach campaign to young ethnic minorities, initiate a dialogue with ethnic minorities on issues such as diversity and political participation, increase ethnic minority access into the labor market, and promote integration in housing districts. The Government allocated \$416,000 (2.5 million kroner) during the year to the Equal Treatment Plan.

Although not exclusively directed at anti-Semitism, the goal of the Equal Treatment Plan was to insure protection for all citizens, regardless of their beliefs. The Government's efforts included the publication in October of a report on Somalis in the national workforce, which profiled Somali success stories and gave guidance to Somali immigrants on how to best access the labor market. In September, the Government launched a program aimed at combating the "ghettoization" of several minority-dominated neighborhoods in the country plagued by high unemployment, crime rates, and social isolation. Efforts included the establishment of an interministerial steering committee, identification of target communities, and a framework designed to increase opportunities for affected community members in education, employment, and integration.

From January to June, there were two incidents of harassment directed at Muslims. For example, one incident involved vandalism and the other involved a letter expressing anti-Muslim statements. In addition to the Equal Treatment Plan, the law provides protection against discrimination against religious minorities.

Societal discrimination against religious minorities was difficult to distinguish from discrimination against ethnic minorities. Differences in language and ethnicity could be at least as important for religious minorities in explaining unequal access to well-paying jobs and social advancement. Overall, minority group unemployment tended to be higher, and allegations of discrimination on the basis of religion some-

times were raised. The integration of immigrant groups from Islamic countries has become an important political and social topic of discussion. In September, the International Helsinki Federation for Human Rights concluded in a report that the overall political climate for Muslims in the country has been deteriorating since 2001.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. From January through November, the Government received 2,981 initial applications for asylum and granted temporary residency to approximately 9 percent of the applicants (additional persons were granted refugee or other status during the year and received temporary residency on the basis of humanitarian grounds, international conventions, etc.) In 2003, the Government received 4,593 first time applications for asylum and granted temporary residency to 22 percent of the applicants. The number of applications during the year decreased from 2003 and was significantly lower than the 6,068 applications received in 2002. The appreciable drop in applications from 2002 may be attributed to fewer refugees and asylum seekers coming from Iraq and Afghanistan, as well as to the tightening of asylum and refugee policy. The law provides that refugees traveling to their countries of origin on holiday will automatically have their cases reassessed. If it is determined that they are not persecuted in their country of origin, they will be returned after residency is revoked.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens could freely choose and change the laws and officials that govern them.

The territories of Greenland (whose population is primarily Inuit) and the Faroe Islands (whose inhabitants have their own Norse language) have democratically elected home-rule governments whose powers encompass all matters, except foreign and national security affairs, police services, the judiciary, and monetary matters. Greenlanders and Faroese are citizens with the same rights as those in the rest of the country. Each territory elects two representatives to the Folketing. Parties and candidates can be freely nominated by various elements in the society.

The Law provided public access to government information. The Access to Public Administrations Files Act, enacted in 1985, provides guidelines for access to government records. Individuals can request documents contained in an administrative file of any public agency; however, certain classes of documents containing sensitive or confidential information are excluded. The Government provided such access for citizens and noncitizens, including foreign media.

There were 68 women in the 179-seat Folketing, and 6 of 19 ministers in the Cabinet were women. Women also accounted for 44 percent of the newly elected public council boards and committees. There were two Muslim in the Folketing, who were elected in general, nonreserved districts; there were no members of minority groups in the Cabinet.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and the law prohibit discrimination on the basis of sex, creed, or ethnicity. The law also prohibits discrimination on the basis of race, national, or

ethnic origin, or faith. The Government protected the rights of the country's indigenous people. The Government's operations and extensive public services do not discriminate on the basis of any of these factors.

In November 2003, the Government launched the Equal Treatment Plan. According to legislation passed in July 2003, individuals who have not resided legally in the country for at least 7 of the last 8 years receive lower social benefits payments than other citizens and residents. The Danish Center for Human Rights cited this policy as indirect discrimination against foreigners.

*Women.*—Violence against women was a problem, which the Government took the following steps to combat with a 2002 action plan that included: A pilot project offering violent family members therapy in the form of dialogue with their victims and health care professionals; a law that sets minimal living standards for shelters; increased funding for shelters; and authorization for the police to remove the violent person from the household. In November 2003, the Government initiated a new phase of the action plan that included hanging informative posters and signs about violence against women in buses and trains and distributing brochures on how to get help in doctors' offices, pharmacies, and other public places. During the year, the Government distributed 1 million flyers nationwide concerning female victims of violence and the resources available to them and increased its efforts to reach women of ethnic minorities living in the country. For example, it created education materials related to violence against women for use by Danish language training centers for immigrants. The Government also provided education for crisis center volunteers on how to more effectively assist women of ethnic minorities who were victims of domestic violence. An umbrella nongovernmental organization (NGO) reported that, in 2003, women's crisis shelters were contacted 9,195 times, compared with 9,420 times in 2002. A total of 2,008 women stayed at shelters during 2003, compared with 1,935 women in 2002.

There were 472 reported rapes in 2003 and 265 during the first 6 months of the year. The Institute for Public Health estimated that at least 64,000 women were exposed to domestic violence in 2003, and that domestic violence affected approximately 30,000 children. Rape, spousal abuse, and spousal rape are criminal offenses, and the Government effectively prosecuted those accused of such crimes. Statistics were not available regarding the numbers of abusers who were prosecuted, convicted, and punished. The Government also took steps to combat forced marriage among immigrant groups by providing information and counseling and setting up crisis centers to support young women who were victims or potential victims of forced marriage.

Prostitution was legal, but pimping, coercion into prostitution, solicitation of prostitution from a minor, and trafficking were illegal.

Sexual harassment is prohibited by the 2002 Gender Equality Act and provides for awards of monetary compensation for victims of sexual harassment. The Government effectively enforced the law concerning sexual harassment, and there were few reported cases during the year.

The law requires equal pay for equal work, but, in practice, female workers earned about 14 percent less than their male counterparts. The law prohibits job discrimination on the basis of sex and provides recourse, such as access to the Equal Status Council, for those affected. Women held positions of authority throughout society, although they were underrepresented in senior business positions and as university professors. In December 2003, the Government distributed 7,000 leaflets to private employers which highlighted the need for increased numbers of women in management and informed them of a website created to assist employers in their efforts. In February, the Ministry of Gender Equality published a magazine about female managers directed at executives and Human Resources staff seeking to employ women in an executive capacity. The Government also initiated an interagency gender-mainstreaming project, which promoted gender equality in government agencies by establishing an interagency steering committee of managers which oversaw gender mainstreaming initiatives, provided administrators with education and tools related to gender mainstreaming, and published individual ministry projects on the Ministry of Gender Equality's website. Women's rights groups lobbied the Government on matters of concern, such as wage disparities and parental leave. Only 40 percent of women from ethnic minority groups were active in the labor market, compared to 76 percent of other women. In October, the Government took further steps to bring more minority women into the labor market by holding a conference that featured successful businesswomen from ethnic minority backgrounds speaking to young ethnic minority women about gaining access to the employment market, and establishing a mentor program for ethnic minority women.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. Education was compulsory through the ninth grade and free through the university level; school attendance was nearly universal. The Ministries of Social Affairs, Justice, and Education oversee implementation of programs for children. According to the Organization for Economic Cooperation and Development, 95 percent of students graduated from high school and other youth education programs. Boys and girls were treated equally. Slightly more women than men completed postsecondary education.

There were some reports of child abuse, although there was no societal pattern of such abuse. The law prohibits the physical punishment of children by adults, including their parents.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to the country. The law criminalizes trafficking and provides for a maximum prison term of 8 years of those convicted of trafficking in persons. The legal definition of trafficking in women includes essential components of force, fraud, or coercion.

In September, six East European men were convicted of trafficking in persons in the first case prosecuted under the 2002 trafficking law. The six men received sentences between 1 to 3 years for trafficking women into the country from Eastern Europe and forcing them into prostitution. The conviction was the culmination of a lengthy investigation in 2003.

The Government undertook efforts to combat trafficking in all forms, but since prostitution was well compensated and not illegal, the legal tools available were limited. The National Commissioner for Police maintained an internal task force on trafficking in persons, assisted local police constabularies with investigations, and trained its officers to recognize and investigate trafficking cases. The Government cooperated with international investigations of trafficking and exchanged information with neighboring countries.

The country was both a destination and a transit point for women and children who were trafficked from the former Soviet Union, Eastern Europe, Thailand, and Africa for the purposes of sexual exploitation. Traffickers lured victims with the prospect of higher wages and a better life, then forced them into prostitution, often withholding their passports. Authorities suspected traffickers had ties to organized crime, specifically in Russia and the Baltic countries, and subjected them to police investigations and prosecutions.

The Government did not directly provide medical or legal assistance to victims; however, it funded an NGO that provides legal services to trafficking victims. The Government also funded several NGO hotlines to support victims, prevent trafficking, and gather data on the extent of the problem. Although the Government had no formal witness protection program, it provided safe surroundings with access to professional, social, medical, and psychological support to those waiting to testify in court for a period of 15 days; however, an extension was available upon a police request if necessary for investigatory purposes or due to court proceedings. An inter-agency working group on trafficking (with members from the Ministries of Justice, Social Affairs, Gender and Equality, Employment, and Education, as well as from NGOs) met monthly to share information. In 2002, the Government allocated \$1.6 million annually (10 million kroner) for a 3-year program (2003–06) to combat trafficking. The Ministries of Social Affairs and Gender Equality conducted an anti-trafficking advertising campaign in all major newspapers, subsidized a hotline and website, and funded an NGO program to identify trafficking victims and provide them with information on how they can get help. During the year, government efforts included establishing an outreach program to benefit foreign prostitutes, funding a new women's shelter, increasing cooperation with source-country embassies, and collecting additional data. The police and NGOs established a close working relationship, which resulted in police referrals of trafficking victims to NGOs in conjunction with criminal investigations.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Building regulations require special facilities for persons with disabilities in public buildings built or renovated after 1977 and in older buildings that come into public use. The responsibility for the protection of the rights of persons with disabilities is shared by all of the Government ministries. The Danish Disability Council, a government-funded organization, monitored the status of persons with disabilities in the country and advised the Government and the Folketing on issues relating to disability policy. The Equal Opportunities Centre for Disabled Persons is a government-funded

entity, which alerts the Government to and documents, inequalities in society related to persons with disabilities. In 2003, the Government launched an action plan designed to increase access for persons with disabilities into job markets and for adequate housing by focusing on five priority areas: improving housing conditions for persons with disabilities; increasing opportunities for education and employment; improving public access for persons with disabilities to administrative government services; improving general access to public places; and overall quality of life. During the year, the Government's efforts included construction of disability accessible housing as part of the action plan.

*National/Racial/Ethnic Minorities.*—The inflow of ethnically and racially diverse refugees and immigrants (mostly Iraqis, Palestinians, Pakistanis, Sri Lankans, Somalis, and refugees from the former Yugoslavia) caused some tension between citizens and immigrants, which was reflected in press reports on the failure of the immigrants to integrate and on the correlation between immigration and crime levels. According to the Police Intelligence Services, during the year, there were 24 cases of racial discrimination or racially motivated violence reported to the authorities. Other incidents went unreported. Reported cases involved graffiti, vandalism, theft, and racist Internet and written messages. The victims were Jews and “people of an ethnic origin other than Danish” (usually meaning Muslim or African). Minority group members were also sometimes the perpetrators of the incidents. The Government effectively investigated and dealt with cases of racially motivated violence.

In 2003, the Government initiated the Equal Treatment Plan to combat discrimination and racism directed against ethnic minorities.

There are approximately 15,000 to 20,000 German-speaking citizens who resided in the southwestern part of the country bordering Germany. A May report by the COE's Committee of Ministers recommended that the Government implement a policy to protect and promote German as a minority language in the fields of administration, justice, and media in accordance with the European Charter for Regional or Minority Languages.

*Indigenous People.*—The law protects the rights of the inhabitants of Greenland and the Faroe Islands. Greenland's legal system seeks to accommodate Inuit customs, and it provides for the use of lay persons as judges and sentences most prisoners to holding centers (rather than to prisons) where they were encouraged to work, hunt, or fish during the day. Education in Greenland is provided to the native population in both the Greenlandic and Danish languages.

In 1999, a Danish court ordered the Government to compensate Greenlanders (and their descendants) whom the Government forcefully resettled in 1953 from a village adjoining a foreign military base. The Greenland plaintiffs appealed that decision, seeking greater compensation and the return of their former properties. In February 2003, the Government returned the area adjoining the base to Greenland control. In November 2003, the Supreme Court upheld the lower court's 1999 decision in full. In May, the Greenlanders filed an appeal of the Supreme Court's decision with the European Court of Human Rights (ECHR). The ECHR had not taken any action on the case at year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law states that all workers, including military personnel and the police, may form or join unions of their choosing. Approximately 85 percent of wage earners belonged to unions that were independent of the Government and political parties.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. The law provides for the right to strike, and workers exercised this right in practice. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Laws and policies prohibit the exploitation of children in the workplace, including the prohibition of forced or compulsory labor, and the Government effectively enforced these laws and policies in practice. All forms of child exploitation were investigated and prosecuted. In 1996, the Government enacted the Action Plan for Clean Working Environment by 2005, which currently provides a framework for a safe working environment for children and preventative measures aimed at protecting children.

The minimum legal age for full-time employment is 15 years. The law sets a minimum age of 13 years for any type of work. The law contains provisions that limit work hours and sets occupational health and safety restrictions for children. The law is enforced by the Danish Working Environment Service (DWES), an autonomous arm of the Ministry of Labor. Export industries did not use child labor. The Government devoted adequate resources and oversight to child labor policies.

*e. Acceptable Conditions of Work.*—The law does not mandate a base national minimum wage, but national labor agreements effectively set a wage floor. The average net wage including pension benefits of adult workers in 2003 was \$29 (177 kroner) per hour, which was sufficient to provide a decent standard of living for a worker and family. Workers generally worked a 37-hour workweek, which was established by contract, not by law.

The law also prescribes conditions of work, including safety and health; the duties of employers, supervisors, and employees; work performance; rest periods and days off; and medical examinations. The DWES ensures compliance with labor legislation. Workers may remove themselves from hazardous situations without jeopardizing their employment, and legal protections cover workers who file complaints about unsafe or unhealthy conditions. Similar work conditions were found in Greenland and the Faroes, except that the workweek was established by contract at 40 hours. Foreign workers with residence and work permission enjoy the same rights as citizens.

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## ESTONIA

Estonia is a constitutional parliamentary democracy with a unicameral legislature (Parliament), a prime minister as head of government, and a president as head of state. Free and fair parliamentary elections were held in March 2003. A coalition government, comprised of the Res Publica, Reform, and People's Union Parties, took office in April 2003. The judiciary is independent.

The police, security police, tax and customs board, and national border guard have responsibility for law enforcement and maintenance of order. The police, security police, and national border guard are subordinate to the Ministry of Internal Affairs. The tax and customs board is subordinate to the Ministry of Finance. Corrections personnel are subordinate to the Ministry of Justice. The civilian authorities maintained effective control of the security forces. Police and corrections personnel committed isolated human rights abuses.

The country has a market economy and a population of approximately 1.4 million. Services, particularly financial, transit, and tourism, have grown in importance compared to the historically more prominent light industry and food production. In the year's third quarter, the growth rate was 6.2 percent, compared with 5.1 percent in 2003. While wages and benefits kept up with inflation, there was growing disparity between Tallinn (where one-third of the population resides) and the slower-growing rural southeast and industrial northeast.

The Government generally respected the human rights of citizens and the large ethnic Russian noncitizen community; however, there were problems in some areas. There were some reports of police mistreatment of prisoners and detainees and the use of excessive force. Prison conditions remained poor, although there were some improvements, including renovations in facilities nationwide.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were some reports of police use of excessive force and verbal abuse during the arrest and questioning of suspects: In August, three suspects were abused upon arrest; in October, a minor accused a police officer of violence. Investigations in both cases were pending at year's end.

In 2003, charges were brought against two police officers for use of excessive force. In January, two former police officers were found guilty of using excessive force in 2001.

Prison conditions remained poor. Overcrowding continued in the major prisons for men. A lack of funds and trained staff continued to be serious problems, despite efforts by the country's Chancellor-Ombudsman to address the issue. The percentage of prisoners suffering from tuberculosis was much higher than in the general population.

One inmate was killed by a fellow prisoner during the year.

The Government continued renovating and restructuring the country's prisons. Living quarters at Murru prison were renovated, and modest gains in personnel retention and recruitment as well as in work and study opportunities for prisoners continued.

Men and women were held separately; juveniles also were held in separate penal facilities. Pretrial detainees and convicted prisoners were held in the same prisons but in different sections.

The Government permitted prison visits by independent human rights observers. The last such visit occurred in 2003 when the Council of Europe Human Rights Commissioner visited Maardu prison.

*d. Arbitrary Arrest or Detention.*—The Constitution and laws prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police, with an ethnically mixed police officer staff of 3,800, are under the supervision of the Ministry of Internal Affairs. There are four national police units: The Central Criminal Police, the Personal Protection Service, the Forensic Service Center, and the Police School. A police reform effort aimed to increase the effectiveness of the police forces and to cut the number of regional police prefectures; the Government reduced the number from 17 to 4. Corruption, mostly reported among the traffic police, was generally not a problem.

Under the Constitution, warrants issued by a court are required to make arrests. Detainees must be informed promptly of the grounds for the arrest and given immediate access to legal counsel. There is a functioning bail system. A person may be held for 48 hours without being charged formally; further detention requires a court order. Police rarely violated these limits. A person may be held in pretrial detention for 2 months; this term may be extended for a total of 12 months by court order.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary operates through a three-tier court system: Rural and city courts, district courts, and the Supreme Court. The district courts and Supreme Court are also courts for "constitutional supervision." The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The Law on Language prohibits the use of any foreign language on public signs, advertisements, and notices, including election posters. Translation may be provided into other languages.

The independent media were active and expressed a wide variety of views without government restriction.

There were two commercial Estonian-language television channels and a wide range of private radio stations. State (public) broadcast media, including one nationwide television channel (Estonian Television—ETV), continued to receive large government subsidies.

Eesti Meedia Group (which holds all the shares of Postimees daily, the leading daily, and half of the shares of SL Ohtuleht, the top circulation tabloid, and owns a private television channel Kanal 2 and Tartu Raadio) had the largest share of the radio market. Independent Eesti Meedia and Ekspress Group competed with one another, as well as with a number of smaller, independent media.

Some Russian-language programs, mostly produced domestically, were broadcast over state and private television channels; however, in proportion to the size of the Russian-speaking minority in the country, the amount of Russian-language programming remained small. Russian state television and Russian commercial channels were available widely via cable.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The authorities had wide discretion to prohibit public gatherings on public safety grounds but seldom did so. Noncitizens are prohibited from joining political parties, although they may form social groups (*see* Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The law requires all religious organizations to have at least 12 members and to be registered with the Department for Religious Affairs of the Ministry of Internal Affairs. Leaders of religious organizations must be citizens with at least 5 years' residence in the country.

The Estonian Evangelical Lutheran Church is the largest denomination with approximately 170,000 members, the Estonian Apostolic Orthodox Church had approximately 18,000 members, and the Estonian Orthodox Church subordinate to Moscow Patriarchy had approximately 150,000 members. Relations between the various religious communities generally were amicable; however, differences over the disposition of Orthodox Church property continued between the Estonian Apostolic Orthodox Church and the Estonian Orthodox Church.

Three graveyards were vandalized during the year. In April, eight plaques and a bronze bust were destroyed in Tartu Raadi cemetery; in May, unknown hooligans vandalized several plaques, crosses, and lanterns in Viljandi cemetery; in July, vandals broke eight granite crosses and damaged several others in a German war cemetery in Tallinn. Authorities initiated misdemeanor proceedings in the three cases.

The Government took steps to promote antibias and tolerance education, including continued work by the International Commission for Investigation of Crimes Against Humanity, a full report on the German and Soviet occupations of the country. Other steps taken by the Government to promote tolerance included observance of an annual Holocaust Remembrance Day, first commemorated on January 27, 2003. In December, the country was accepted as a liaison member of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research.

A court case regarding anti-Semitic comments made over the Internet was pending at year's end (*see* Section 5, National/Racial/Ethnic Minorities).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Government did not restrict the right of noncitizen residents—persons who are citizens of another country or stateless persons—to foreign travel, emigration, or repatriation, although some noncitizens complained of delays in obtaining travel documents.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, during the year no applicants qualified for protection. During the year, the Government did not provide asylum for refugees. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In March, the country acceded to NATO, and, in May, to the European Union (EU). Parliamentary elections, last held in March 2003, led to the formation of a three-party coalition government comprised of the Res Publica, Reform, and People's Union parties. Only citizens may vote in parliamentary elections and be members of political parties. However, resident noncitizens and those who have lived permanently in the area for at least 5 years preceding the election may vote in local elections, although they may not run for office.

The Public Information Act enables the public to access government information and allows for monitoring of the public sector's performance. The Government provided access for citizens in practice.

There were 18 women in the 101-seat Parliament. Two of the 13 cabinet ministers were women.

There were 8 members of minorities in the 101-seat Parliament.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views. A nongovernmental legal information center in Tallinn provided free legal assistance to individuals—citizen and noncitizen alike—seeking advice on human rights-related issues.

The Human Rights Institute, which received a small amount of funding from the Government, monitored human rights and provided information to the international community. It investigated reports of human rights violations, such as allegations of police abuse and the inhumane treatment of detainees. The Institute operated an information center in Johvi, in the northeastern part of the country where the Russian speaking community is in the majority.

A presidentially established roundtable composed of representatives of the Parliament, the Union of Estonian National Minorities, and the Russian-speaking population's Representative Assembly discussed and made recommendations on social integration issues, as did an analogous but independent roundtable that met monthly. The Chancellor-Ombudsman, who also operated a branch office in the heavily ethnic Russian northeastern town of Narva, handled complaints by private citizens against state institutions.

All residents, whether or not they were citizens, could file a complaint directly to the Chancellor-Ombudsman about alleged violations of human or constitutional rights. Complaints against government agencies, officials, and local authorities concerned property reform and restitution, education, transportation, court findings, and the right to employment, as well as social and housing rights. If the Chancellor-Ombudsman finds that particular legislation is in conflict with the Constitution, the body responsible for passage of the said legislation may be required to bring it into conformity with the Constitution within 20 days. The Ombudsman generally acted on cases by proposing changes in legislation and developing proposals to eliminate violations of law.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination for any reason, and the Government generally enforced it.

*Women.*—Violence against women, including spousal abuse, reportedly was common and continued to be the subject of discussion and media coverage. Domestic violence and rape, including spousal rape, were illegal and prosecuted under the law.

During the year, there were reports of 108 rapes and 13 attempted rapes. However, studies showed that 30 percent of domestic violence went unreported. Even when the police were called, the abused spouse often declined to press charges due to societal pressure.

Prostitution was not illegal and was common.

There were reports that women were trafficked for purposes of sexual exploitation (see Section 5, Trafficking).

In April, Parliament passed the Gender Equality Act under which sexual harassment is defined. Disputes are resolved in court or by the Chancellor-Ombudsman. An injured party may demand compensation for damage and termination of the harmful activity.

Although women have the same legal rights as men under the law and are entitled to equal pay for equal work, this was not the case in practice. While women's average educational level was higher than that of men, their average pay was generally lower, and there continued to be female- and male-dominated professions.

*Children.*—The Government was committed to children's rights and welfare.

Under the law, school attendance is mandatory from the age of 7 until students complete basic education, generally 9 years total, or until they reach 17 years of age. Education is free. Approximately 97 percent of those eligible attended school. The Government provided free medical care for children and subsidized school meals.

The reduction of the school class size during the year and the introduction of teacher-child conferences were among steps taken by the Ministry of Education to address violence in the schools.

During the year, there were reports of 66 rapes and 4 attempted rapes committed against minors. The police registered 84 cases of sexual abuse committed against persons less than 18 years of age, including 52 cases involving victims below the

age of 14. There were reports of children engaged in prostitution. Trafficking of children for sexual exploitation was a problem (see Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that the country was a source, transit point, and destination for trafficked women and children.

Although there is no specific law criminalizing trafficking, traffickers can be prosecuted under the law prohibiting enslaving and abduction. The maximum penalty is 12 years' imprisonment. As of September, 1 trafficking case was pending in court, and multiple investigations of 20 individuals on trafficking-related charges were underway.

Women were trafficked from the country to Nordic countries and Western Europe. Preliminary data from the latest International Organization for Migration (IOM) study indicated that, between 2001 and the first half of the year, there were less than 100 known trafficking victims. This figure includes women trafficked abroad from the country as well as domestically. The study included data from 167 sources, including government agencies, the IOM, and NGOs.

Job advertisements placed in local newspapers to recruit women for trafficking purposes were in some cases reportedly associated with international prostitution rings.

Legislation provides protection and legal, medical, and compensation rights to victims of all crimes, including trafficking. The Government assigned a special police officer to investigate trafficking cases. Social workers and teachers were trained to identify and assist victims, although efforts were not always well coordinated.

The Government participated in the work of the Nordic and Baltic Task Force on trafficking in persons.

The Ministries of Interior, of Social Affairs, of Foreign Affairs, and of Justice are responsible for combating trafficking.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities; older buildings were inaccessible in practice, although new or renovated buildings were generally accessible. The Government reorganized the system of social benefits and provided rehabilitation support for persons with disabilities; overall, improvements were made in opportunities for persons with disabilities. The Ministry of Social Affairs was responsible for protecting the rights of persons with disabilities. The scope of the Ministry's responsibilities included the drafting and implementation of plans to resolve social issues; the management of public health protection and medical care, employment, the labor market and working environment, social security, social insurance and social welfare; promotion of the equality of men and women and coordination of activities in this field; and the preparation of corresponding draft legislation.

*National/Racial/Ethnic Minorities.*—Non-Estonians, predominantly ethnic Russians, made up approximately one-third of the total population. About 40 percent of non-Estonian residents were born in the country.

A court case regarding discrimination against minorities was pending at year's end. According to the prosecution, this case involved Internet comments by a private citizen that publicly incited hatred and violence and were anti-Semitic.

The Law on Cultural Autonomy provides for the protection of cultures of minority group citizens. Some noncitizens alleged that the law is discriminatory, because it restricts cultural autonomy only to citizens; however, noncitizens may participate fully in ethnic organizations, and the law includes subsidies for cultural organizations. In districts where more than one-half of the population speaks a language other than Estonian, the law entitles inhabitants to receive official information in that language.

Although the law requiring knowledge of the Estonian language prior to citizenship does not violate international standards, some noncitizen residents, particularly ethnic Russians, continued to allege job and salary discrimination because of it.

The Language Law requires that all public servants and public sector employees, service personnel, medical professionals, and sole proprietors must use the Estonian language, with actual proficiency determined through examination. Non-Estonian citizens who have obtained at least primary education proficiency in the language are exempted from the requirement to pass a language examination. A number of prison officials were fired for noncompliance with the language requirement. For employees of private enterprises, nonprofit organizations, and foundations, as well as sole proprietors, the law establishes a requirement of Estonian language proficiency if it is in the public interest.

The language office liberally granted extensions to persons who could explain their inability to demonstrate the requisite competency. An EU assistance program reimbursed 50 percent of fees for Estonian language courses upon successful passing of the language examination; this reimbursement was not limited to public sector employees. The Government reimbursed another 50 percent of the fees to those who successfully passed the Constitution examination, which, in connection with the language examination, comprised the citizenship exam process. Approximately 70 percent of those taking the test pass.

The President's roundtable continued to seek practical solutions to noncitizens' problems. The Government implemented the state integration program action plan for 2004–07, aimed at fostering the integration of the non-Estonian-speaking population into society. At least 10 NGOs developed and implemented local programs to assist the integration of non-Estonians into society.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right for workers to form and join a union or employee association, although some workers found it difficult to exercise this right in practice. Approximately 14 percent of the total workforce belonged to trade unions.

Antiunion discrimination is prohibited by law; however, the Confederation of Estonian Trade Unions (EAKL) reported that antiunion behavior was rife in the private sector. The journalists' union reported antiunion discrimination in the media sector.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and collective bargaining, although the practice of collective bargaining has not fully developed. According to leaders of the EAKL, few collective bargaining agreements have been concluded between the management and workers of enterprises. However, the EAKL has concluded framework agreements with the Employers' Confederation, which provide the basis for specific labor agreements, including determining the minimum wage (*see* Section 6.e.). The EAKL also was involved in developing the labor code, which covers employment contracts, vacation, and occupational safety.

The law provides for the right to strike, and workers exercised this right in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age for employment at 18 years, although children age 15 to 17 may work with the consent of a parent or guardian, and children age 13 to 15 may work with the consent of a parent or guardian and a labor inspector. Children under age 18 may not perform hazardous or dangerous work. The law limits the hours that children can work and prohibits overtime or night work. The Labor Inspectorate had responsibility for enforcing these laws, and did so in practice.

*e. Acceptable Conditions of Work.*—The Government, after consultations with the EAKL and the Employers' Confederation, sets the minimum wage. The monthly minimum wage of approximately \$197 (2,480 EEK) did not provide a decent standard of living for a worker and family; however, approximately 95 percent of the workforce earned above the minimum wage.

The standard workweek is 40 hours, and there is a mandatory 24-hour rest period per week. Reduced working time is prescribed for minors and for employees who perform underground work, work that poses a health hazard, or work of an otherwise special nature. Work hours, including overtime, may not exceed an average of 48 hours per week. Overtime pay shall not be less than 150 percent of the hourly wage rate of the employee.

According to EAKL sources, legal occupational health and safety standards are satisfactory in theory; however, they were extremely difficult to achieve in practice. The Labor Inspectorate is responsible for enforcement of these standards. The labor unions also had occupational health and safety experts who assisted workers to bring employers into compliance with legal standards. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and they exercised this right in practice.

## FINLAND

Finland is a constitutional republic with a directly elected head of state (President), a Parliament, a head of government (Prime Minister), and an independent judiciary. Elections to the 200-seat Parliament were held in March 2003 and led to the formation of a new coalition government led by the Center Party. The judiciary is independent.

The Ministry for the Interior oversees police and Frontier Guard forces. The Ministry for Defense oversees the military. Civilian authorities maintained effective control of all military and security forces. There were no reports that security forces committed human rights abuses.

The economy was chiefly market-based and provided citizens with a high standard of living. The population was approximately 5.2 million, and in 2003, economic growth was estimated at 2 percent.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. Domestic violence, primarily toward women, remained a problem, and the Government took steps to address it. There were also reports of trafficking in persons to and through the country, primarily for sexual exploitation.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

There were reports of police discrimination against immigrants (*see* Section 5).

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Prisoners had access to adequate health care and legal assistance. Male and female prisoners were held in separate facilities, and female prisoners had access to specialized health and social services. Juvenile offenders were held separately from adults and given access to specialized social services for young offenders. Pretrial detainees were held separately from incarcerated convicts.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The national police force is centralized under the control of the Ministry of the Interior. The Ministry of the Interior also controls various other law enforcement organizations such as the Frontier Guards, Customs and Immigration Agencies, the National Bureau for Investigation, and the Security Police. These organizations carried out their responsibilities for law enforcement and maintenance of order; however, chronic underfunding sometimes compromised their effectiveness.

A warrant is required for an arrest. If an individual is arrested while committing a crime, a warrant must be obtained within 3 days. Once arrested, the accused must receive a court hearing within 3 days. These provisions were generally enforced in practice. There is no regular system of bail. Criminal detainees were allowed prompt access to counsel and family. Preventive detention is allowed only in exceptional circumstances, such as during a declared state of war, or for narrowly defined offenses, including treason, mutiny, and large-scale arms trafficking. There were no reports of preventive detention.

The Minority Ombudsman criticized police treatment and length of detention for some asylum seekers (*see* Section 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of the Supreme Court, the Supreme Administrative Court, and a system of lower courts. The President appoints Supreme Court justices, who in turn appoint the lower court judges. Supreme Court justices serve until their retirement, usually at age 63, although they may opt to continue on the bench until the mandatory retirement age of 67.

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Local courts may conduct closed trials in juvenile and guardianship cases, divorce proceedings, or when publicity would offend morality or endanger the security of the state.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The Data Protection Ombudsman, an independent authority, monitors the Government's observance of the Personal Data Act. The Government appeared to conform to the Ombudsman's guidance.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press. The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Evangelical Lutheran Church of Finland and the Orthodox Church are recognized as state churches. Over 80 percent of the population belonged to the Lutheran Church. Nontraditional religious groups practiced their religion freely. There was a small but growing Muslim population and a small Jewish community.

All citizens who belonged to one of the two state churches paid a church tax as part of their income tax. However, citizens may opt out of paying this tax by officially disassociating from the church. Nontraditional religious groups were eligible for tax relief provided the Government registered and recognized them as legitimate religious communities.

Religious instruction in Lutheran or Orthodox doctrine is part of the standard curriculum in public schools; however, students may opt to take philosophy or world religion courses instead of the standard curriculum.

The law requires a minimum of 20 members for official recognition of a religious community. A 2003 law regulating registered religious communities increased their autonomy.

There were a few reports of incidents of anti-Semitic activity, chiefly graffiti such as swastikas and anti-Semitic slogans being spray-painted in public locations. Critiques of Israeli policy occasionally took on anti-Semitic features. In June, the Justice Ministry ruled that the distributor of an anti-Semitic book was liable under "hate speech" provisions and ordered the distributor to pay a fine and remove the book from circulation.

In June, the Helsingin Sanomat, the largest newspaper, ran a political cartoon in a magazine supplement that members of the Jewish community and others interpreted as anti-Semitic. The newspaper subsequently apologized.

The Government criticized anti-Semitism. The Parliament and a local nongovernmental organization (NGO) co-sponsored a conference in Helsinki on anti-Semitism, and officials played an active role in international conferences on anti-Semitism.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not use it in practice.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

On May 1, a new Aliens' Act took effect, which streamlined asylum and immigration application procedures and work and residency permits. Instead of multiple permits, a foreign worker or refugee needs only one permit. Most asylum procedures remained unchanged, but the new law provides that solely the Directorate of Immigration conducts asylum interviews. The law also added an additional category—residence permit for individual humane reasons—which could be used to grant residency in certain special circumstances where an individual might otherwise be ineligible.

A total of 3,204 applications for political asylum were submitted by November 30, compared with 3,321 in all of 2003. Asylum seekers generally came from Eastern

and Central Europe and the Balkans. The largest groups included asylum seekers from Serbia and Montenegro, Slovakia (mostly Roma), the Former Yugoslav Republic of Macedonia, Russia, Somalia, Afghanistan, Turkey, and Bosnia-Herzegovina. No asylum requests were made by persons from the new European Union (EU) accession states as of June 30. In 2003, 501 applicants were granted asylum or residency, and approximately 2,440 were rejected. An additional 380 withdrew their applications, left the country, or took flight from protective custody while their cases were being adjudicated and did not return.

The number of asylum approvals has declined in recent years. Immigration authorities attributed this to the drop in the number of applications from Africans and Asians and the fact that many applicants from European countries were chiefly economic migrants. Some NGOs criticized the Government's asylum and immigration policy as too restrictive.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. Refugees and asylum seekers whose applications for admission into the country were approved were processed directly for residency. The Government took steps to assist the assimilation and integration of such persons into society. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/Protocol.

The Minority Ombudsman criticized the police treatment of some asylum seekers in the city of Tampere. Detention times are longer in Tampere than elsewhere, and some applicants claimed that they withdrew their applications under pressure from the police. The law allows for the detention of asylum seekers if there is suspicion of criminal activity or a belief that the applicant will disappear if released from police custody.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections were held in March 2003 and led to the formation of a new coalition government led by the Center Party. After less than 2 months, a political scandal led to the resignation of Prime Minister Anneli Jaatteenmaki and the appointment of a new government led by Matti Vanhanen.

The law provided for public access to government information, except for information classified for national security purposes, or when release of documents would constitute a violation of privacy laws. The Government provided such access in practice.

There were 76 women in the 200-member Parliament and 8 in the 18-member Cabinet. The President, Tarja Halonen, was a woman. There were 10 members of minorities in the 200-member Parliament and 2 members of minorities in the 18-member Cabinet. The indigenous Sami (Lapp) minority enjoys semi-autonomous status and has its own legislative body.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

On March 24, the Government released its first report on the country's human rights policy and practices. The report covered both the international human rights environment and various human rights issues within the country.

### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on sex, age, origin, language, conviction, opinion, or disability; and the Government effectively enforced these prohibitions.

*Women.*—Violence against women continued to be a problem. Recent studies revealed alarmingly high rates of domestic violence and abuse. Although police statistics annually reported approximately 10,000 cases of domestic violence, most researchers believed the actual number was significantly higher since many cases went unreported. Up to 30 women die every year as a result of domestic violence. Many researchers attributed this relatively high level of domestic violence to a high rate of alcoholism.

The Government encouraged women to report domestic violence and abuse. The number of calls to the police concerned with domestic violence was not compiled centrally, but it was estimated at 10,000 to 12,000 annually, an estimate that shelter officials believed understated by one-half the number of actual incidents. The Service for Crime Victims provided counseling and social support services to women who were the victims of domestic abuse. The Government funded several organizations that provided assistance to women. The Union of Shelter Homes maintained 23 shelters for victims of domestic violence, including children. There were also special shelters for juveniles, chiefly 15- to 18-year-olds. In addition, municipalities maintained seven shelters across the country. According to researchers, most women seeking shelter from violence were women between 25 and 35 years of age and either married or in a common-law relationship; nearly one-third were immigrants.

The law criminalizes rape, spousal rape, and domestic abuse. Through September, 480 rapes had been reported to the police, compared with 568 in all of 2003. According to the Prosecutor-General's Office, this increase in reported rapes was due to an increased willingness on the part of victims to come forward and less social stigma regarding victims than previously. The Prosecutor-General's Office estimated that between 6,000 and 10,000 rapes were committed annually. Researchers believed that 75 percent of these rapes were committed by a known assailant.

Trafficking in women for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking).

Sexual harassment is prohibited by law, and the Government generally enforced the law in practice. Employers who fail to protect employees from harassment are subject to fines or a maximum of 6 months' imprisonment. In practice, penalties imposed are generally fines, and persons who commit harassment could lose their job.

The country has a comprehensive equal rights law; women played a leading role in cultural, social, economic, and political life. The Government placed a high priority on gender equality. There are three primary government organizations devoted to gender equality issues. The Ombudsman for Equality, part of the Ministry for Social Affairs and Health, is an independent authority empowered to monitor compliance with the Equality Act. The Gender Equality Unit, also housed in the Ministry for Social Affairs and Health, develops policy recommendations on gender issues and handles tasks related to the EU's laws and policies on gender. A third body, the Council for Equality, coordinates and sponsors legislation to meet the needs of women as workers, mothers, widows, and retirees. The social welfare system provides benefits to both working and stay-at-home mothers, and to female students.

In practice, women still lagged behind men in terms of compensation and representation in top management positions in certain fields. Women's average earnings were 82 percent of those of men. Women were overrepresented in lower paying occupations, and men tended to dominate the upper ranks in industry and finance, the labor movement, and some government ministries. However, women were well represented in education and medicine, with more than half of all physicians being female. Women served in the armed forces. The Government's Equality Ombudsman judged 15 of the 74 cases it reviewed between January 1 and September 23 to be violations. In such cases, the law provides for correction of the situation as well as compensation for the plaintiff.

*Children.*—The Government was strongly committed to children's rights and welfare. Public education and health care systems were well funded. Education was free and compulsory for all children ages 7 to 16. More than 99 percent of children between these ages attended school, and girls and boys were treated equally in the education system.

There were individual reports of child abuse, although there was no social pattern of such abuse, and the law reflects the national consensus supporting children's rights.

There were reports of trafficking of children for sexual exploitation (*see* Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and through the country.

On August 1, new legislation took effect that made trafficking in persons a criminal offense and permitted electronic surveillance methods such as wiretapping to facilitate the investigation of serious trafficking and child pornography cases. The maximum penalty for trafficking is at least 6 years' imprisonment. The law also defines separate crimes that could be used to convict traffickers, including gross forms of pimping, dissemination of child pornography, arranging illegal entries, and the marketing of sexual services.

The country was a destination and transit point for trafficked persons. Most trafficking involved women and girls from Russia and Estonia for sexual exploitation.

Researchers estimated that approximately 6,000–8,000 women were trafficked into the country each year. However, the actual incidence of trafficking was unknown since police did not keep full statistics on the phenomenon. There were a few reports of persons trafficked to and through the country for labor. There were no reports of citizens being trafficked. Russian or Estonian organized crime syndicates trafficked most women and girls into the country. Although some of the women may have expected to work in such jobs as domestic servants or waitresses, most were aware that they would work as prostitutes. Economic coercion and exploitation of poor women seemed to play a larger role in trafficking than physical coercion or deception. The Schengen Treaty, which allows travelers already within EU borders to travel to any other EU country without inspection, facilitated the use of the country as a transit point for persons trafficked from Russia and the Baltics to Western Europe.

In September, an interagency working group chaired by the Foreign Ministry's Human Rights Unit was established to develop a new national action plan to combat trafficking. The group was focused on developing new victim protection and assistance measures. Ulla Anttila, the chairperson of the Parliamentary Human Rights Caucus, made fighting trafficking a top legislative priority; in September, Anttila organized a briefing on the legislative role in combating trafficking for parliamentarians and assistants. Although a few NGOs operated shelters for victims of domestic violence (with government funding), there was not yet a strong referral and assistance system in place for trafficking victims.

In September, the Government hosted a major Organization for Security and Cooperation in Europe conference on victim protection measures in Helsinki. Officials and NGO representatives were active internationally in antitrafficking fora, and a group of ministry officials, Members of Parliament, and NGO representatives traveled abroad in May to discuss with foreign officials ways to improve antitrafficking measures. Law enforcement and prosecutorial officials received training in antitrafficking measures.

*Persons With Disabilities.*—There was no discrimination against persons with physical and mental disabilities in employment, education, access to health care, or in the provision of other state services. The law provides 120 to 240 hours of state-provided interpretation services annually to the deaf and the mute. The Government provided housing subsidies, free medical care, and other benefits to persons with severe disabilities. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice; however, many older buildings remained inaccessible. A great deal of public transportation was accessible, but problems remained in some areas. Local transportation services provided a minimum of 18 free trips per month to persons with disabilities. Advocates for disabled persons in Parliament and in other institutions and organizations worked toward revising law and securing adequate funding to ensure that all persons with disabilities had access to satisfactory housing and transportation.

*National/Racial/Ethnic Minorities.*—At the end of 2003, the number of immigrants was 107,100 or approximately 2 percent of the population. There were occasional reports of fights between native youth and immigrant youth, usually involving small groups of skinheads in more rural areas. Somali and Muslim immigrants were typically the targets of such incidents. There were also occasional reports of fighting between rival groups of immigrant youths. Although tension between ethnic Finns and immigrant groups was not overt, there were reports of racism and xenophobia. Most incidents involved the use of racial epithets toward immigrants in public. The chief ethnic-immigrant groups were Russians, Estonians, Arabs, Kosovar Albanians, Somalis, Vietnamese, Roma, and Ingrams.

A 2003 study on racism showed that nearly one-third of the 3,595 immigrants interviewed allegedly had experienced racism in the previous 12 months. Most of the reported incidents were minor, such as racial epithets, while 10 percent were more serious, including assault. Approximately 70 percent of those who reported experiencing racism did not report it to police, explaining that they had experienced police discrimination.

The Government strongly encouraged tolerance and respect for minority groups and established an Ombudsman for Minorities to protect minority interests in the country. All government ministries included antiracism provisions in their educational information, personnel policy, and training programs. The Government also monitored police, border guards, and teachers regarding their treatment of immigrants and nonethnic groups. Police in the city of Mikkeli formed a special unit to investigate and prevent violence against immigrants. The Ombudsman for Minorities reported that there were 108 complaints during the year, of which 21 were judged to be violations.

The Minority Ombudsman criticized the way in which police treated some asylum seekers (*see* Section 2.d).

*Indigenous People.*—Sami (Lapps) constituted less than 0.1 percent of the population. The Constitution provides for the protection of Sami language and culture, and the Government financially supported this protection and preservation. Sami enjoyed full political and civil rights as citizens, as well as a measure of autonomy in their own civil and administrative affairs. Sami had the right to use their language in dealings with administrative and judicial authorities and in schools, media, economic and commercial life, and cultural activities. Sami communities received subsidies to enable them to continue their traditional way of life.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the rights of trade unions to organize and assemble peacefully. Approximately 79 percent of the workforce was organized. All unions were independent of the Government.

The law protects workers against antiunion discrimination. Collective bargaining agreements and labor law, both of which were enforced, govern complaint resolution.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. Collective bargaining agreements usually were based on tripartite wage policy agreements among employees, employers, and the Government.

The law grants public sector employees the right to strike, with some exceptions for employees who provide essential services. A strike is legal when an employment contract is not in effect and the action is pursuant to new contract negotiations. Strikes are considered illegal after a contract agreed to by all parties is in effect. Fines may be imposed for illegal strikes. Workers exercised this right in practice; through June, there were 1 legal and 29 illegal strikes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that persons were trafficked for prostitution and labor (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under 16 years of age from working more than 6 hours a day or from working at night. The Labor Ministry enforces child labor regulations; there were no complaints about the exploitation of children in the work force.

*e. Acceptable Conditions of Work.*—There is no legislated minimum wage, but the law requires all employers, including nonunionized ones, to meet the minimum wages agreed to in collective bargaining agreements in each sector. Almost all workers were covered under such arrangements. These negotiated minimum wages provided a decent standard of living for workers and their families.

The legal workweek consists of 5 days not exceeding 40 hours. Employees working shifts or during the weekend are entitled to a 24-hour rest period during the week. Many workers enjoyed better working conditions through effectively enforced collective bargaining agreements.

The Government sets occupational health and safety standards, and the Labor Ministry effectively enforced them. Workers may refuse dangerous work situations without risk of penalty.

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## FRANCE

France is a multiparty constitutional democracy. Citizens elect a president, a legislature, and a range of European and local officials in periodic, free, and fair elections. The Union for a Popular Movement is the ruling party, and Jacques Chirac is the President. The most recent legislative elections took place in September. The judiciary is independent.

Law enforcement and internal security services include the Gendarmerie and national and municipal police forces under the control of the Ministry of Interior. Civilian authorities maintained effective control of the security forces. A few members of the police forces committed human rights abuses.

The country, with a population of approximately 61.7 million, had a primarily market-based economy. The rate of economic growth during the year was predicted to be 2.1 percent, and wages kept pace with inflation.

The Government generally respected the human rights of its citizens; although there were a few problems in some areas, the law and judiciary provided effective

means of addressing individual instances of abuse. There were a few reported instances of abuse of detainees and reports of the use of excessive force by law enforcement officers. Long delays in bringing cases to trial and lengthy pretrial detention were problems. Anti-Semitic incidents increased in number; the Government vigorously denounced and continued to take steps to prevent and prosecute such incidents. The Government banned the wearing of "conspicuous religious symbols" in public schools. There were instances of violence and discrimination against immigrants and religious minorities. Societal violence against women and children was a problem, which the Government took steps to address. Trafficking in persons was a problem, which the Government took steps to address.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents; however, there was at least one allegation of death due to excessive police force. At year's end, the National Commission on the Conduct of Police and Security Forces and the Human Rights League had not released their findings regarding the subsequent death of a man involved in a January 1 use of tear gas by police.

There were no reported developments in any reported 2002 or 2003 killings by police.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were occasional reports that law enforcement officers used excessive force. The Inspector General of the National Police received 469 registered complaints about illegitimate police violence during the first 11 months of the year, down from 500 during the same period in 2003. There were 59 confirmed cases of police violence, compared to 65 in the previous year. Disciplinary actions against police officers who committed infractions increased compared with previous years, with 157 police officers removed from the service for impropriety as opposed to 128 in 2003 and 94 in 2002. There were 2,561 lesser punishments given for a variety of infractions, an increase compared with 2,215 recorded the previous year. The decrease in complaints and increase in disciplinary action has been attributed to an emphasis on professional ethics within the Interior Ministry.

In its annual report for 2003, the National Commission on the Conduct of Police and Security Forces cited "significant breaches" by those involved in public security and an increase in complaint of police abuse and violence. The number of cases submitted to court increased from 39 in 2002 to 70 in 2003. Law enforcement representatives blamed lack of training for young officers and increasing ratios of inexperienced officers to veteran leaders for the rising numbers.

In February, three police officers were placed under investigation for allegedly beating a driver after a high-speed chase through Paris. A fourth officer was placed under investigation for destroying evidence when he turned off the car-mounted camera that would have recorded the incident. According to police, the driver was injured as he resisted arrest and a sobriety test. The driver claimed that he was sodomized during the beating. Both the head of the Paris police and then-Interior Minister Nicolas Sarkozy condemned the beating. The investigation was ongoing at year's end.

In April, Sukhwinder Singh, an Indian asylum seeker, alleged a police officer struck his head against the street, beat him in the police station, and stole his money while apprehending him for illegally operating as a street vendor. Mr. Singh further claimed that the officer responsible had a history of requiring money from asylum seekers who sell goods without authorization. Mr. Singh filed a complaint with the Inspector General, which had not issued a report on the case by year's end.

Karim Latifi's 2002 private lawsuit for police abuse was ongoing at year's end.

In April, the European Court of Human Rights (ECHR) condemned the Government for "inhumane and degrading treatments" in the 1997 case of a teenager beaten while in police custody. The court ordered the Government to pay Giovanni Rivas \$20,500 (15,000 euros) in damages and \$13,500 (10,000 euros) in court costs.

In April, three Lille police officers were put under investigation for allegedly raping a prostitute three or four times in October and November of 2003. According to the woman, the officers threatened criminal prosecution if she did not provide them with sexual services. The investigation was ongoing at year's end.

Separatist-related violence in Corsica, aimed at both immigrant populations and government authorities, continued to concern the Government, which took steps to address the problem (*see* Section 3).

Prison conditions generally met international standards; however, credible non-governmental organizations (NGOs) reported overcrowding and unacceptable hygiene conditions in some prisons. In a May report, the Council of Europe's Committee for the Prevention of Torture criticized prisons for being overcrowded and offering insufficient recreational activities, educational opportunities, and programs to prepare inmates for social reintegration. In the case of the prison in Toulon, the occupancy rate had reached levels as high as 270 percent; however, a new penitentiary opened in June with facilities for 600 persons. The Government continued to replace old prisons and construct new facilities. According to the Ministry of Justice, there were 58,231 persons in custody at year's end in facilities designed to hold 50,094 persons.

There was no evidence of deaths in prison due to mistreatment during the year. The Ministry of Justice did not have exact figures for suicides during the year, but estimated that they were likely similar to the 120 recorded in 2003. As a result of a 2003 report on prison suicides, directives were issued outlining preventative measures for especially sensitive prisoners or those having recently received disturbing news.

Men and women were held separately, juveniles were held separately from adults, and pretrial detainees and those serving sentences of less than 1 year were held separately from convicted criminals.

The Government permitted prison visits by independent human rights observers. Between December 13 and 20, a delegation from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited various prisons on Reunion Island. No report was released by year's end.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, prolonged pretrial detention was a problem.

The civilian force of 118,000 national police and the military force of 90,000 national gendarmes were responsible for internal security, under the direction of the Minister of Interior. During the year, these services registered a total of 3,825,422 crimes and misdemeanors, a decrease of 3.76 percent from 2003, and collected sufficient evidence to charge suspects in 31.83 percent of the recorded cases.

There were allegations that authorities abused detainees; however, impunity was not a problem. The Inspector General of the National Police and the Office of Judicial Police investigated and prosecuted allegations of police brutality. The independent National Commission on the Conduct of Police and Security Forces investigated and reported to the Prime Minister and Parliament on cases of misconduct by national and municipal police, gendarmes, and private security forces. The National Consultative Commission on Human Rights (NCCHR) also monitored police conduct. Corruption was generally not a problem. The Government actively investigated and prosecuted persons accused of police corruption.

Police are required by law to obtain warrants prior to taking persons into custody. Detainees have access to lawyers. In cases involving terrorism or other major crimes, suspects may be held up to 96 hours without access to a lawyer. Pretrial detention is generally only allowed if there is a possibility that the suspect would be sentenced to more than 3 years in prison for crimes against persons and to more than 5 years in prison for crimes against property. There is a system of bail.

In January, a woman claimed police prevented her from visiting her son in the hospital. He was injured in an altercation with police. She was arrested and held for 48 hours for allegedly injuring a police officer, although a doctor at the scene indicated that no police asked to be medically examined. At the hearing, a judge found that the police were at fault and exonerated the woman, noting that there was no evidence indicating violence on her part.

Long delays in bringing cases to trial and lengthy pretrial detention were problems. Some suspects spent many years in detention before a trial, which government officials have acknowledged was due in part to insufficient government resources to expedite the investigation and trial process. According to the Ministry of Justice, 20,134 of the 58,231 persons held in jails and prisons were awaiting trial at year's end.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system includes local courts, 35 regional courts of appeal, and the highest criminal court, the Court of Cassation, which considers appeals on procedural grounds only.

In cases of serious crimes, investigating judges detain suspects while they conduct the investigation against them. The Chamber of Accusation reviews the investigating judge's investigation to determine the appropriateness of the charges lodged against the accused. The Court of Assises investigates and decides cases involving serious criminal offenses.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Violations were subject to effective legal recourse.

The trial of 12 individuals accused of illegally listening to telephone conversations, allegedly at the behest of former President Francois Mitterrand, remained ongoing at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press; however, an 1881 press law that may be used to restrict freedom of expression by prohibiting speech that insults heads of state remained in force, despite criticism from the ECHR.

In July, in response to sermons from several Muslim clerics who called for jihad (holy war), Parliament passed a law stating that a foreigner can be deported for publicly proclaiming deliberate and explicit acts of provocation proposing discrimination, hatred, or violence against any specific person or group of persons.

The independent media were active and competitive and expressed a wide variety of views without government restriction.

Unlike in the previous year, the Government did not prohibit the publication of any books.

In May, the ECHR condemned the Government for the 1996 prohibition on publishing a book alleging that former president Francois Mitterrand lied about the state of his health. The court ruled that a continued ban on the publication of the book "The Great Secret" was a violation of the freedom of expression and awarded the publishing company \$36,104 (26,500 euros) for costs and expenses.

The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The law prohibits discrimination on the basis of faith and establishes the country as a strictly secular republic. Under the law, religious groups must apply to the local prefecture for recognition as an association of worship and disclose certain management and financial information in order to receive tax-exempt status.

The Government has encouraged public caution toward some minority religious groups that it considered to be "cults." A 1996 parliamentary commission identified 173 groups as so-called cults. These included the Jehovah's Witnesses, the Theological Institute of Nimes (an evangelical Christian Bible college), and the Church of Scientology. Members of some of the groups included in the list have alleged instances of discrimination due to the ensuing publicity. The Inter-ministerial Monitoring Mission Against Sectarian Abuses is charged with observing and analyzing sect or cult movements that could constitute a threat to public order or that might violate French law, coordinating the appropriate response, informing the public about potential risks, and helping victims to receive aid.

A cause for concern was the tax authorities' scrutiny of the financial records of some religious groups. In October, the Association of Jehovah's Witnesses lost their appeal to the Court of Cassation on a 2002 ruling that they must pay \$62.3 million (45.7 million euros) in back taxes. The members claimed that they were discriminatorily and punitively audited because of their classification as a cult, and that authorities adopted a new administrative doctrine to retroactively tax "manual donations" offered by adherents. The association further alleged that this tax had not been applied to any other not-for-profit or religious organization, and the amount of the tax exceeds the assets of the Association of Jehovah's Witness in the country.

There was continuing concern about the 2001 About-Picard law, which tightens restrictions on associations and provides for the dissolution of groups, including religious groups, under certain conditions. In 2002, the Council of Europe passed a resolution critical of the law and invited the Government to reconsider it. By year's end, the law remained in force; however, its provisions for the dissolution of groups had never been applied.

On March 15, Parliament passed a law banning the wearing of "conspicuous religious symbols" in public schools by employees and students. Implementing regulations, finalized in May, provide for the display of "discreet religious symbols" and grant considerable discretion to individual schools to interpret and implement the law. Items of clothing such as bandannas and turbans can be allowed in schools if such items are worn as fashion accessories without religious significance. The law took effect in September. By year's end, 39 Muslim girls and 3 Sikh boys had been expelled from public school; all had enrolled in private schools, distance education courses, or Belgian schools. On June 29, the ECHR ruled that the law did not violate the freedom of religion.

The Paris Court of Appeals rejected a telemarketing firm's appeal of a 2003 ruling in favor of a young woman who sought reinstatement, damages, and interest after she was fired by the telemarketing firm for refusing to wear her headscarf in a manner deemed appropriate by her employer. A Lyon administrative appeals court rejected the case of a civil servant who filed a lawsuit after being disciplined in May 2002 for wearing a Muslim headscarf at work, ruling that she had violated the principle of neutrality in the public service and disobeyed the orders of her superiors. Some Muslim and Sikh groups have protested the government policy prohibiting the wearing of the head coverings in national identity photos.

During the year, some religious minorities experienced problems. According to the Ministry of Interior, police recorded 950 anti-Semitic incidents during the year as opposed to 601 in 2003. There were 187 people arrested for committing anti-Semitic crimes. Authorities vigorously condemned anti-Semitism, increased security at Jewish institutions, investigated all attacks, and arrested and prosecuted perpetrators when there was sufficient evidence.

The NCCHR released an extensive analysis of anti-Semitic incidents reported by the police in 2003. Such incidents ranged from graffiti and desecration (256) and verbal or written harassment (166) to the distribution of written tracts (31) and bomb threats (10). There have been no reported deaths due to anti-Semitic violence since 1995, but 21 persons were injured in anti-Semitic attacks in 2003. Based on investigations of the incidents, the NCCHR concluded that disaffected French-North African youths were responsible for many of the incidents, which officials linked to tensions in Israel and the Palestinian territories. A small number of incidents were also attributed to extreme-right and extreme-left organizations.

The Representative Council of Jewish Institutions in France (CRIF) operated a hotline to register allegations of threats. According to the CRIF's website, 341 anti-Semitic incidents were reported during the year.

Cemeteries and religious places were often targets; the Interior Ministry announced desecrations and destructive acts at 92 Christian, 31 Jewish, and 28 Muslim sites.

Jewish organizations and the Government criticized al-Manar, a Lebanese Hezbollah satellite channel, for airing an anti-Semitic television series during Ramadan in 2003. In July, the telecommunication laws were amended, giving new regulatory powers over satellite broadcasts to the Audio Visual Superior Council (CSA). The CSA signed a 1-year, limited license with al-Manar in November that included provisions banning expression of anti-Semitic sentiments, favorable coverage of suicide bombers and other terrorists, and incitement to racial and religious hatred. Shortly thereafter, the CSA petitioned the State Council, the country's highest administrative court, to ban the station based on the broadcaster's failure to curb anti-Semitic programming despite the restricted license agreement. In December, the State Council banned altogether the transmission of al-Manar in the country. Prime Minister Raffarin called al-Manar's anti-Semitic programming "incompatible with French values" and urged the issue of satellite broadcasts be taken up at the European Union (EU) level. Authorities were also investigating Iranian broadcast channel Al-Alam at year's end.

The Government took steps to combat anti-Semitism and other forms of intolerance, particularly among the youth; however, some groups asserted that the judicial system was lax in its sentencing of anti-Semitic offenders. In March, the Government published an educational tool on the country's values, intended to help public school teachers promote tolerance and combat anti-Semitism and racism. During the year, schools have emphasized the need for tolerance and copies of the Holocaust film "Shoah" were distributed to all high schools for use in history and civics classes.

The Government has taken other proactive steps to fight anti-Semitic and anti-Islamic attacks, including instructing police commissioners to create monitoring units in each national department and announcing in June the creation of a department-level Council of Religions that will raise public awareness of increased racial and anti-sectarian incidents. In September, the Mayor of Paris launched a campaign to fight all forms of intolerance that included 1,200 municipal billboards and bulletins in major newspapers.

Members of the Arab and Muslim communities experienced incidents of harassment and vandalism (*see* section 5), particularly on the island of Corsica. The Government is investigating at least 26 anti-Islamic websites for links to anti-Muslim attacks.

Representatives of the Church of Scientology continued to report cases of societal discrimination, frivolous lawsuits, and prosecution for allegedly fraudulent activity. Church of Scientology representatives reported that a case filed by a parent whose child attended an Applied Scholastics-based school remained ongoing.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. According to the French Office of Protection for Refugees and Stateless Persons, the Government received 54,429 initial requests for asylum or requests for re-examination in 2003—compared with 53,777 in 2002—totaling more than 60,000 when considering the children of asylum seekers. There were also 27,741 applications for territorial asylum, similar to temporary protection, but renewable. In 2003, the Government considered 67,030 cases and issued 9,790 refugee certificates, documents issued to successful asylum applicants.

The National Association for Assisting Foreigners at Borders (ANAFE) released a report in November criticizing the high refusal rates for asylum requests and the actions of border police in dealing with asylum seekers at Charles de Gaulle International Airport. ANAFE reported numerous claims of excessive force and verbal insults by police; however, it praised improved conditions in the waiting area.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The most recent national legislative elections that took place in September were generally free and fair; the President was elected in May 2002.

In November, the State Council, the highest appeals court for administrative matters, annulled the May elections for 37 of the 57 seats in the Polynesian National Assembly, citing various irregularities. New elections for the seats were expected to take place in February 2005.

In January, former Prime Minister Alain Juppe was convicted on charges of corruption, relating to political party financing while Juppe was deputy mayor of Paris. At the time, President Chirac was mayor of Paris. Juppe appealed his conviction; in December, the conviction was upheld, with a reduction of sentence to a 14 month suspended jail term and 1 year of ineligibility from holding political office. Similar charges are pending against President Chirac; however, as long as he remains in office, the President is immune from prosecution.

There were 129 women in the two bodies of the 908-seat legislature and 9 women in the 41-member Cabinet. Of the 190 members of the Court of Cassation, 74 were women. Of the 78 elected representatives to the EU Parliament, 33 were women. Women represented 33 percent of all municipal counselors and 10.9 percent of mayors. The constitutional amendment requiring parties to have equal numbers of women and men on their list of candidates or face fines remained in force.

The Constitution prohibits the Government from holding information about the racial or ethnic background of its citizens; therefore, no statistics on minority par-

ticipation in the Government were available. However, minorities generally appeared underrepresented in the Government.

The citizens of the collective territory of Mayotte and the territories of French Polynesia, Wallis and Futuna, and New Caledonia determine their legal and political relationships to the country by means of referendums and, along with the overseas departments, elected deputies and senators to the French Parliament.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. The NCCHR—an independent body in the Office of the Prime Minister, which has nongovernmental as well as governmental members—also monitored complaints and advised the Government on policies and legislation.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, sex, ethnic background, or political opinion; however, discrimination against immigrants was a problem. In December, Parliament passed legislation creating a High Authority to Fight Discrimination and Promote Equality. The body is an independent authority charged with combating discrimination based on sex, race, ethnic origin, religion, handicap, age, or sexual orientation. The High Authority is to assist with individual claims of discrimination, request the help of public authorities in their investigations, and recommend disciplinary action.

*Women.*—The Penal Code prohibits rape and spousal abuse, and in general these laws were enforced; however, violence against women remained a problem. The Ministry of Interior reported that there were 10,506 rapes and 15,732 instances of other criminal sexual assault during the year. The penalties for domestic violence vary according to the type of crime and range from 3 years' imprisonment and a fine of approximately \$60,750 (45,000 euros) to 20 years in prison. The penalty for rape is 15 years in prison, which may be increased due to other circumstances (such as the age of the victim or the nature of the relationship of the rapist to the victim). The Government sponsored and funded programs for women who were victims of violence, including shelters, counseling, and hotlines. Numerous private associations also assisted abused women.

Press reports and NGOs reported that a "repressive atmosphere" existed in some suburbs of Paris dominated by immigrants from North African countries, causing women in these neighborhoods to feel intimidated. Some men in these suburbs reportedly intimidated women whom they perceived as violating social norms. This abuse ranged from verbal abuse to physical assault and rape. After the 2002 killing of 17-year-old Sohane Benziane, who burned alive by an ex-boyfriend in a suburb of Paris, a women's rights movement emerged among inhabitants of these "difficult neighborhoods" around Paris. The trial against the man who confessed to the killing remained ongoing at year's end.

In 2003, the High Council on Integration (HCI), a government body, published a report that approximately 70,000 girls in France between ages 10 and 18, primarily from North Africa, sub-Saharan Africa, and Turkey, were threatened with forced marriages. Women and girls could seek refuge at shelters if they were threatened with forced marriages, and parents can be prosecuted for forcing their children into marriage. The Government offers some education programs to inform young women of their rights, and the HCI said it was important to distinguish between arranged and forced marriages. The age of consent for marriage is 18 for men and 15 for women; however, many of these marriages took place overseas and were often designed to facilitate immigration.

In 2003, HCI also published a report indicating that the country was home to 35,000 women who were victims of female genital mutilation (FGM), the majority of whom were immigrants from Africa, Asia, and the Middle East. The practice is illegal and could be punished by up to 20 years' imprisonment; however, in most cases FGM occurred outside of the country. Cases were seldom reported to the authorities, and most were discovered in routine school medical examinations. Several NGOs existed to prevent FGM and worked with the Government to educate women about their rights.

Prostitution is legal; pimping is illegal. Authorities cited a drop in the number of prostitutes resulting from the implementation of the Law on Internal Security; however, NGOs charged that the changes in the law had succeeded only in moving the

prostitutes to different areas at later times rather than reducing the real number of prostitutes.

Trafficking in women for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking). A government agency, the Central Office on the Treatment of Human Beings (OCRETH), addresses trafficking in women, prostitution, and pimping. The Government worked to prevent sex tourism (*see* Section 5, Trafficking).

The law prohibits sex-based job discrimination and sexual harassment in the workplace. Sexual harassment was not widely considered a problem in the workplace. The laws prohibiting it were well publicized by both the Government and NGOs and effectively enforced. These laws make sexual harassment punishable under civil, labor, and criminal code and provide for recourse in instances of unwanted sexual advances from superiors, but not from peers. The law also bans "moral harassment," which is defined as a violation of dignity, a danger to health, and a form of discrimination. The prohibited conduct did not necessarily have to be related to the gender of the victim.

The law requires that women receive equal pay for equal work; however, this standard often was not met in practice. Reports by various governmental organizations and NGOs have indicated that men continued to earn more than women, and that unemployment rates continued to be higher for women than for men. The National Institute of Statistics and Economic Studies reported that the unemployment rate for women was approximately 2 percent higher than the unemployment rate for men; in November, the unemployment rate for women was 11 percent. Only 1 of every 10 chief executive officers was a woman.

Women have increased their representation in the armed services, accounting for 12.7 percent of the military workforce in 2003 as opposed to 7.1 percent in 1992. Women serve as fighter pilots and in the Republican Guard; only specialized units such as the French Foreign Legion and submariners remained strictly male.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Ministry for Family Affairs oversees implementation of the Government's programs for children.

Public schooling was provided through age 18, and education was compulsory for citizens and noncitizens between ages 6 and 16. Although not compulsory, pre-school and kindergarten for children under age 6 is free and widely available. According to INSEE, the government statistical agency, during the school year 2001–02, the percentage of children who attended school was 100 percent for ages 3 to 13; but the percentage dropped to 99.8, 98.4, and 97.7 for ages 14, 15, and 16, respectively.

There are strict laws against child abuse, particularly when committed by a parent or guardian, and the Government effectively prosecuted abusers; however, a 2003 report by a rapporteur for the U.N. Commission on Human Rights criticized the justice system and a government-chartered doctors' group over their handling of child sex abuse. In 2003, there were approximately 18,000 reported cases of mistreatment (physical violence, sexual abuse, mental cruelty, or severe negligence) of children. Approximately 5,200 of these cases involved reports of sexual abuse. Special sections of the national police and judiciary were charged with handling these cases. In 2002, there were 427 convictions for rape of minors under the age of 15, and 4,003 convictions for cases of sexual assault against minors. In 2002, there were 7,821 convictions for cases of violence, mistreatment, and abandonment of minors.

The Government provided counseling, financial aid, foster homes, and orphanages for victims, depending on the extent of the problem. Various associations also helped minors seek justice in cases of mistreatment by parents.

Trafficking in girls and commercial exploitation of girls were problems (*see* Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits the trafficking of persons; however, trafficking in women and children for prostitution, forced domestic labor, and petty crime was a problem.

Trafficking in persons is punishable by up to 7 years in prison and a fine of \$204,360 (150,000 euros). The law also establishes a specific infraction for persons organizing a begging network, but does not target the child beggars themselves. Persons convicted of organizing a criminal network that exploited children and forced them to beg face a prison sentence of 3 to 10 years and a fine of \$60,750 to \$6.1 million (45,000 to 4.5 million euros). This law provides the Government with the means to arrest and prosecute child traffickers. Penalties for soliciting child prostitutes range up to 10 years' imprisonment. However, under the trafficking-related sentencing guidelines, sentences for some types of trafficking convictions, such as for rape, were light. The exploitation of foreign labor and exposing laborers to inhu-

mane conditions are criminal offenses under other statutes punishable by up to 3 years' imprisonment or substantial fines.

In 2003, the special anti-trafficking police arrested 709 individuals on trafficking-related charges, an increase of 10 percent over the previous year. As in 2002, nearly 66 percent of those arrested were foreigners. In 2003, 40 trafficking networks were dismantled, a 33 percent increase over the number dismantled in 2002. In July, Bulgarian officials notified police that a young Bulgarian woman had complained that her baby had been kidnapped; the police investigation revealed a baby-trafficking network in which young Bulgarian mothers were forced to sell their babies in Paris. Authorities arrested 10 persons in connection with the baby-trafficking ring. Police found \$6,800 (5,000 euros) on the prospective baby purchaser.

In 2003, police arrested 67 adults in a Roma encampment outside Paris and charged them with organizing sexual enslavement of Romani children who were kidnapped from Romania, brought to the country, raped to make them obey, and sent out on the streets of Paris and its suburbs to steal and prostitute themselves. According to press reports, the children were forced to earn \$272 (200 euros) a day or face severe physical punishment. The child traffickers remained in jail awaiting trial at the end of the year.

Prostitution is legal; however, the law prohibits pimping, including aiding, assisting, maintaining, or profiting from the prostitution of another. Public solicitation is illegal. Pimps and traffickers usually were prosecuted under these laws. Aiding, abetting, or protecting the prostitution of another person; obtaining a profit, sharing proceeds, or receiving subsidies from someone engaged in prostitution; or employing, leading, corrupting, or pressuring someone into prostitution are punishable by up to 5 years' imprisonment and a fine of up to approximately \$190,735 (140,000 euros). Penalties increase to a maximum of 10 years' imprisonment and approximately \$1.9 million (1.4 million euros) if a minor or several persons are involved, or if force is used. Pimping by organized groups is punishable by up to 20 years' imprisonment and a fine of up to \$3.8 million (2.8 million euros). The use of "torture" or "barbarous acts" in the course of pimping is punishable by up to life imprisonment and up to \$5.7 million (4.2 million euros) in fines. Enforcement of these laws varied, and prostitution remained a problem.

There also are strict laws combating trafficking in persons as it relates to domestic slavery. Slavery is punishable by up to 2 years' imprisonment and a fine of \$96,730 (71,000 euros). When the crime applies to more than one victim, punishments increase to 5 years' imprisonment and \$190,735 (140,000 euros) in fines. The Committee Against Modern Slavery brought cases of domestic and modern slavery to the authorities for prosecution.

Several law enforcement agencies were involved in the effort to combat trafficking. OCRETH, which was under the authority of the Central Criminal Investigation Directorate of the Judicial Police, centralized information and coordinated operations to counter trafficking and maintained contacts with the police, the Gendarmerie, the border police, foreign and international law enforcement authorities, and NGOs. Regional services of the police also combat trafficking, and there are police brigades to combat pimping in Paris and Marseille. Local police forces also addressed problems of prostitution and pimping.

The Government regularly cooperated on a bilateral basis or with international institutions such as the European Police Agency to investigate, track, and dismantle trafficking rings. By year's end, no trial date was set for a British man arrested in 2003 for operating a call girl service.

The country is a destination for trafficking victims, primarily women from Eastern Europe, the Balkans, the former Soviet Union, and West Africa—and to a lesser extent, South and Central America—for the purposes of sexual exploitation and domestic servitude. Trafficking of Brazilian women and girls into sexual exploitation in French Guiana was a problem. The country is also a destination for trafficked Romanian children, many of Romani descent.

Police estimated that 90 percent of the 15,000 to 18,000 prostitutes working in the country were trafficking victims, and that 3,000 to 8,000 children were forced into prostitution and labor, including begging. In 2003, a report by a rapporteur for the U.N. Commission on Human Rights criticized the Government for "continuing to deny the existence and the scale of sexual cruelty against children" with regard to trafficked children and called for the NCCHR to further investigate the situation. Of the 900 victims questioned in 2003, 50 were minors, mostly citizens and Eastern Europeans.

Traffickers used various methods to recruit and retain victims including force, fraud, confiscating the victims' identification papers, isolating them culturally, and abusing them physically or psychologically. Some victims came to the country willing to work as prostitutes, not knowing they were going to become trafficking vic-

tims. Traffickers kidnapped or “bought” some women and girls and sold them to Balkans-based prostitution networks, which smuggled the victims into the country. NGOs and police characterized the bulk of traffickers in the country as “micro-trafficking networks” that included both citizens and foreigners.

Handlers of the Romanian children of Romani descent have traditionally used the children as beggars and thieves, but many of the children have increasingly turned to or been forced into prostitution. Under the terms of a French-Romanian agreement, Romanian children and adults who had been trafficked into the country were repatriated on a voluntary basis. Some NGOs and grassroots organizations have criticized the voluntary repatriation program because the Government has limited its participation to providing transport back to Romania and \$208 (153 euros) for resettlement.

Under the Government protection program established in 2003 to aid trafficking victims who chose to cooperate with police and judicial authorities, the Government granted 204 women temporary residence; 11 obtained 1-year renewable permits. Victims who declined to cooperate with the authorities were processed as illegal immigrants and were sometimes detained or jailed.

The Government continued to screen and refer victims to counseling centers and safe houses for comprehensive services. The Government offered victims 3 to 6 months’ renewable temporary residency according to their need and cooperation with police. The Government assumed child victims to be in danger and provided immediate shelter while assessing the child’s best interests.

Numerous NGOs dealt with trafficking in persons and prostitution. Many NGOs had “field educators” who routinely met with prostitutes, served as intermediaries between police and prostitutes, offered psychological support, and tried to educate prostitutes about safe sex as well as their rights under the law.

Social Aid to Children (ASE), the national social services branch for childcare, was responsible for caring for and assisting victims under age 22. The ASE provides social workers to help victims gain access to social care, legal counsel, and asylum assistance. ASE worked closely with the Office for the Protection of Refugees and Stateless Persons.

The Government focused outreach and prevention programs on domestic prostitution and sex tourism abroad. The Prime Minister’s Inter-ministerial Commission on Clandestine Workers and Illegal Labor continued its work, and a new interministerial working group on sex tourism began work on recommendations for the Tourism Ministry.

The Government worked closely with other countries and NGOs to combat trafficking, funding programs in Central and Eastern Europe as well as West Africa. Within the EU, the Government supported anti-trafficking programs, including information campaigns, seminars, and bilateral training programs for police units and lawmakers, and assigned criminal liaison officers throughout Europe to identify trafficking networks.

In September, the interministerial Commission to Combat Child Sex Tourism released its initial report. The group, which composed of government officials, NGOs, doctors, lawyers, airline, hotel, and tour agency professionals, made 12 recommendations. The commission called on the Government to enhance the effectiveness of its own efforts against sexual tourism; to reinforce and mobilize law enforcement and the judiciary in order to strengthen the efficacy of measures to punish citizens who travel abroad to exploit children for sex; to help countries fighting the sexual exploitation of children with bilateral accords, including even the possibility of calling on domestic companies present in the foreign country to provide training or other opportunities for children to enable the children to make a living other than by prostitution; to condition assistance funds to the third country’s formalization of a plan of action to fight the sexual exploitation of children; and to convince Europe to join the country in its efforts to combat child sex tourism.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

The law requires new public buildings to be accessible to persons with disabilities; however, many older buildings and public transportation were not accessible. A 2003 court case charged a cinema with lacking access for persons with disabilities, but no decision was rendered by year’s end. A second case from 2003, which charged the Ministry of Justice with noncompliance with the law on accessibility, remained ongoing at year’s end.

Nearly 40 percent of persons with disabilities were unemployed. A 1987 law requires companies of more than 20 employees to ensure that 6 percent of their workforce consists of persons with disabilities or the company must pay fines to an asso-

ciation that assists persons with disabilities in finding work. However, in practice, this law was not effectively enforced. Of the companies subject to this law, 37 percent did not employ any persons with disabilities, and most of those that did comply fell short of the 6 percent quota.

In January, the Government passed legislation that drastically reformed and updated the disability law; however, the law was not scheduled to go into effect until 2005. Under the new law, for the first time, psychological handicaps are considered disabilities and qualify individuals for government benefits. The new law mandates stipends to individuals with disabilities, forbids academic institutions from rejecting handicapped students, gives additional benefits for companies who respect the 6 percent quota, and increases penalties for companies who fail to hire enough individuals with disabilities. Additionally, the law allows 6 years for the public transportation system to provide complete access to those with disabilities.

*National/Racial/Ethnic Minorities.*—Anti-immigrant sentiments led to some incidents of violence and discrimination, including occasional attacks on members of the large Arab, Muslim, and black African communities. In 2003, there was a decrease in violence and racial threats, as documented by the NCCHR. The annual NCCHR report noted a decline in the number of reported incidents of racist threats—137 in 2003, compared with 262 in 2002; there were 92 incidents of racist violence in 2003, compared with 119 in 2002. According to the report, there were no deaths due to racist violence in 2003; however, 11 persons were injured. Of the 137 racist threats reported, 105 were directed at immigrants of North African origin.

Violence against immigrants has increased significantly in recent years on the island of Corsica. The Government condemned the incidents and took steps to address the problem. During the year, the Ministry of the Interior reported that there were 107 acts of violence committed against individuals of immigrant, mostly Arab background, more than twice the number of such attacks as reported in 2003. In October, it was estimated that more than 25 percent of the racist attacks committed since January occurred in Corsica. For example, in November, assailants opened fire on an imam as he answered a knock at the door of the Muslim Cultural Association of Sartene, in southern Corsica. The imam was uninjured. In December, there were two attacks against a building housing immigrants. The attacks have caused some families to move to the mainland or return to their countries of origin.

The attacks were blamed on sectors of the island's nationalist movement, and many incidents involved graffiti with such slogans as "Arabs Out" and "Corsica for the Corsicans" written in the Corsican language. In November, police placed 14 members of the nationalist group *Clandestini Corsi* under investigation. In December, Corsican authorities held a week of events aimed at increasing awareness of the danger of racism and promoting coexistence between immigrant and native Corsican populations.

Immigrant advocacy groups continued to criticize a 2003 law aimed to restrict illegal immigration and to ensure that illegal immigrants are deported for being too harsh and encouraging discrimination against foreigners.

Judicial authorities may consider racist motivation as an aggravating factor in a crime. In September, a court handed down a 4-month suspended sentence and a \$13,624 (10,000 euros) fine to a woman who refused to sell property to an Arab couple.

At year's end, Joel Damman remained in jail awaiting trial for the 2002 killing of an immigrant, which he confessed was motivated by racism.

Some NGOs alleged that racist hiring practices prevented minorities from Africa, North Africa, the Middle East, and Asia from equal access to the workplace and worked to sensitize the public to this problem. A report submitted to the Prime Minister in November concluded that discrimination was a reality and recommended, among other things, that resumes be free of pictures, names, sex, age, or other criteria that might permit prejudice in hiring.

As the result of an investigative story run by a Lyon magazine, 11 nightclub bouncers went to trial in November on discrimination charges for refusing entry to individuals of North African appearance. In the experiment described in the magazine, 11 of 18 nightclubs refused entry to a couple of North-African appearance but permitted a couple of European appearance to enter several minutes later. The trial was ongoing at year's end.

The Ministry of Labor and the NGO Group for Study and Combat of Discrimination offered a free hotline to report discrimination. Government programs attempted to combat racism and anti-Semitism by promoting public awareness and bringing together local officials, police, and citizen groups. There also were anti-racist educational programs in some public school systems.

*Other Societal Abuses and Discrimination.*—Societal discrimination and abuse against persons because of sexual orientation was not a problem; although there were isolated incidents of violence, the authorities pursued and punished offenders.

*Section 6. Worker Rights*

The Constitution provides for freedom of association for all workers, and workers exercised this right in practice. Approximately 7 percent of the work force was unionized.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Workers have the right to organize and bargain collectively, and workers exercised this right in practice. Workers, including civil servants, have the right to strike except when a strike threatens public safety. Workers exercised this right in practice.

There are no special laws or exceptions from regular labor laws in the three export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5). There were press reports of substandard pay and working conditions, often within the immigrant community, suffered by undetermined numbers of undocumented immigrants of Chinese origin. For example, late in the year, there were several press reports of “cooking sweatshops” in apartments used to supply the burgeoning number of Chinese carry-out restaurants in the capital and suburbs.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—With a few exceptions for those enrolled in certain apprenticeship programs or working in the entertainment industry, children under the age of 16 may not be employed. In general, minors are prohibited from performing work considered arduous, or work between the hours of 10 p.m. and 5 a.m. Laws prohibiting child employment were enforced effectively through periodic checks by labor inspectors, who have the authority to take employers to court for noncompliance with the law.

*e. Acceptable Conditions of Work.*—The administratively determined minimum wage of \$10.27 (7.61 euros) per hour provided a decent standard of living for a worker and family. The official workweek is 35 hours; however, in certain industries, the government allows a greater number of overtime hours that can result in a de facto 39-hour workweek. Overtime is limited to 180 hours annually.

The Ministry of Social Affairs, Labor, and Solidarity is responsible for policing occupational health and safety laws. Standards were high and effectively enforced. The law requires each enterprise with 50 or more employees to establish an occupational health and safety committee. Over 75 percent of all enterprises, covering more than 75 percent of all employees, had fully functioning health and safety committees. Workers have the right to remove themselves from dangerous work situations without jeopardy to their employment, and the Government effectively enforced this right.

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## GEORGIA

Georgia is a republic with a Constitution that provides for a strong executive branch that reports to the president. The president appoints ministers with the consent of Parliament. Parliamentary elections held in November 2003 were marred by serious irregularities, resulting in mass street protests. In November 23, 2003, President Shevardnadze resigned as president, culminating what became known around the world as the Rose Revolution. New presidential elections were held on January 4, and opposition leader Mikheil Saakashvili won by over 90 percent. New parliamentary elections were held in March, and Saakashvili’s National Movement won the majority of seats. A civil war and separatist wars in the early 1990s ended central government authority in Abkhazia and South Ossetia and weakened central authority in the autonomous region of Ajara and elsewhere in the country. The Constitution provides for an independent judiciary; however, the judiciary was subject to executive pressure and corruption.

The Ministry of Internal Affairs (MIA) and the Ministry of State Security (MSS), which were combined in December to become the new Ministry of Police and Public Order, have primary responsibility for law enforcement along with the Prosecutor General’s Office. In times of internal disorder, the Government may call on the Min-

istry of Police and Public Order or the military. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed a number of serious human rights abuses.

The country, with a population of approximately 4.4 million, had a market-based economy with a large agricultural sector. The gross domestic product growth during the year was 8.4 percent. Wages did not keep pace with inflation. Although corruption impacted the economy, the Government took steps to address it during the year. Pensions and state salaries were paid on time and arrears began to be retired for the first time in several years, as a result of economic reform and anticorruption programs.

The Government's human rights record remained poor; although there were improvements in some areas, serious problems remained. Nongovernmental organizations (NGOs) blamed two deaths in custody on physical abuse. NGOs reported that police brutality continued, and in certain areas increased. Law enforcement officers continued to torture, beat, and otherwise abuse detainees. Corruption in law enforcement agencies decreased, but remained a problem. Arbitrary arrest and detention remained problems, as did lack of accountability. The judiciary system continued to lack true independence, and the executive branch and prosecutors' offices continued to exert undue influence on judges. There were lengthy delays in trials, and prolonged pretrial detention remained a problem.

Law enforcement agencies and other government bodies occasionally interfered with citizens' right to privacy. The press generally was free; however, journalists practiced increased self-censorship. In the beginning of the year, security forces violently dispersed several peaceful rallies and placed participants in pretrial detention. While violence against religious minorities decreased, Government officials continued to tolerate discrimination and harassment against some religious minorities. Violence against women was a problem. Trafficking for the purpose of forced labor and sexual exploitation was a problem.

International observers determined that the January presidential elections and the March parliamentary elections represented significant progress over previous elections and brought the country closer to meeting international standards, although several irregularities were noted. In contrast to previous years, there were fewer reports of harassment or violence against religious minorities. Police bribery of motorists also decreased significantly due to an overhaul of the highway police and elimination of the traditional traffic police.

Internal conflicts in Abkhazia and South Ossetia remained unresolved. Ceasefires were in effect in both areas, although sporadic incidents of violence occurred in Ossetia. These conflicts and the problems associated with approximately 230,000 IDPs from Abkhazia, 12,200 from South Ossetia, and 2,600 refugees from Chechnya posed a continued threat to national stability.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, law enforcement officers' abuses officially contributed to one death. NGOs blamed another death in custody, a suicide, on physical and psychological pressure.

On May 23, Khvicha Kvirikashvili died shortly after being taken home by police officers following questioning in the police station of Gldani-Nadzaladevi district in Tbilisi concerning a May 22 burglary. The Prosecutor General opened an investigation into Kvirikashvili's death and found evidence that he was beaten while in the police station. In June, police officer Roland Minadze was sentenced to 3-month pretrial detention in connection with Kvirikashvili's death. A criminal case began on September 21. The trial was ongoing at year's end.

Killings were committed by elements on both sides of the separatist conflict in South Ossetia. In August, fighting flared up in South Ossetia, and several civilians and soldiers died on both sides of the conflict. No deaths were prosecuted or punished. Partisan violence in Abkhazia significantly decreased during the year. The Government took concrete steps to arrest militia partisan groups and curtail their activities; most members of the partisan organization The Forest Brothers have been arrested.

Both government and Abkhaz forces laid tens of thousands of landmines during the 1992–93 fighting. There was a reduction in landmine casualties to two during the year due to migration out of the area and to the activities of landmine clearing organizations such as the Halo Trust.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Partisan groups active in Abkhazia engaged in criminal activity and frequently took hostages to exchange for captured compatriots. Partisans in South Ossetia also were active during the summer in kidnapping, both to exchange for captured compatriots and for ransom. Kidnapping for ransom decreased significantly elsewhere in the country. The MIA reported 18 cases of kidnapping in the first 10 months of the year and stated that investigations had resulted in charges in 4 of these cases.

At year's end, the whereabouts of Chechen refugee Adam Talalov, who disappeared in 2003, remained unknown.

The investigation into the kidnapping and release of three U.N. military observers in 2003 remained ongoing at year's end.

Government and Abkhaz commissions on missing persons reported that more than 1,000 Georgians and several hundred Abkhaz remained missing as a result of the 1992–94 war in Abkhazia (*see* Section 1.g.). The International Committee of the Red Cross (ICRC) assisted joint official efforts to determine the location and repatriate the remains of the dead. No repatriations had occurred by year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, law enforcement officers continued to torture, beat, and otherwise abuse prisoners and detainees, usually to extract money or confessions, and NGOs alleged the problem increased since the most recent elections. Serious abuses and police misconduct, such as the fabrication or planting of evidence, also remained problems. During the year, there were several cases of police officers brought to trial, dismissed, or demoted for abuses; however, impunity remained a problem, particularly in outlying regions (*see* Section 1.d.).

Human rights advocates reported that while allegations of torture of convicted criminals decreased, allegations of torture in pretrial detention facilities and in police departments increased during the year. Reported torture often included beating, electric shocks, and cigarette burns. During the year, police increasingly brought suspects to police stations, beat or tortured them, and released them without officially registering the suspect's presence at the station.

The investigation into the allegations that police subjected Irakli Tushishvili to electric shock in MIA custody remained ongoing. Tushishvili remained in pretrial custody at year's end.

The most serious incidents of abuse occurred during pretrial detention when police interrogated suspects. According to human rights observers, those who suffered such abuse were held routinely for lengthy periods in pretrial detention to give their injuries time to heal. Police often claimed that injuries were sustained during or before arrest. Criminal agents within the prison population also allegedly committed abuses in pretrial detention facilities. Unlike the previous year, there were no reports of abused children in the Isolator detention facility; the facility closed during the year.

On January 10, police officers detained former Deputy Defense Minister Gia Vashakidze and his associates Eldar Gogberashvili and Benjamin Saneblidze under suspicion of involvement in the December 2003 kidnapping of banker Tamaz Maglakelidze. Police officers took them to a local cemetery where they beat Gogberashvili and Saneblidze in front of Vashakidze. On January 11, police brought the three men to the Tbilisi City police station where all were beaten and Saneblidze received electric shocks. After a January 12 bail hearing, police officers returned them to the police office, where they continued to beat them and forced them to sign a confession. Police did not permit a medical examination requested by Saneblidze's lawyer until 2 weeks later. There were signs that officers had broken Saneblidze's nose and several of his ribs, administered electric shocks to his head and hands, and burnt cigarettes into his legs. In May, Vashakidze was released from detention on bail, after diplomatic intervention on his behalf.

On April 24, Sul Khan Molashvili appeared at the General Prosecutor's office, where he was taken into 3-month pretrial detention for abuse of power and misappropriation of money. Molashvili's lawyers reported that, in detention, officers beat him, administered electric shocks, and burnt cigarettes into his back. A medical examination was not administered. According to the NGO Human Rights Information and Documentation Center, the Prosecutor General did not begin an immediate investigation against Molashvili, although in July, the Prosecutor requested an extension of pretrial detention for investigation purposes. In July, the General Prosecutor opened an investigation into Molashvili's injuries that was ongoing at year's end.

Criminal proceedings against two police officers for extortion and physical abuse of 15-year-old D. Asaturov and his family remained pending at year's end.

There were no developments in the reported 2002 abuse cases.

During the year, the NGO Liberty Institute documented over 1,000 cases of torture in pretrial detention, although it noted a significant decrease in torture in prisons since early November.

During the year, the official number of detainees delivered to pretrial detention facilities with injuries sustained during temporary detention was 136, an increase of 14 percent. Few of these incidents resulted in prosecutions.

Government officials acknowledged that, in the past, MIA personnel routinely beat and abused prisoners and detainees, and the Government took some steps to address these problems. Government officials cited a lack of proper training, poor supervision of investigators and guards, and a lack of equipment as contributing to the continuation of these practices in law enforcement facilities.

The Ministry of Justice (MOJ) was responsible for overall administration of the prison system; however, the law permits MIA personnel to staff the facilities. During the year, the MIA and MSS transferred all remaining prisons under their jurisdiction to the MOJ. Isolator Five, a pretrial detention facility largely used for political prisoners and known for abusive practices, no longer held prisoners and was shut down during the year. The MIA only maintained overnight detention facilities at police stations. The law permits the MIA to conduct investigations among inmates without judicial approval to gather evidence for trials.

The MOJ maintained a monitoring board of civil society and NGO representatives, which had the responsibility of reporting on human rights abuses in detention facilities. Board members had the right to pay unannounced visits to any detention facility. At the beginning of the year, the board was abolished and not reestablished until September. Many NGOs complained that several previous members of the board who were especially critical of the new Government were not allowed on the new board. The board members recommenced monitoring in November.

The U.N., the International Committee of the Red Cross (ICRC), and many NGOs, including Human Rights Watch (HRW), continued to report inhumane and life threatening prison conditions. Abuse and extortion of prisoners and detainees by prison staff continued. Prison facilities remained unsanitary, understaffed, and were in desperate need of repair. Continued overcrowding was a particularly acute problem. Most prison facilities lacked basic utilities and sanitary facilities. Regional penitentiaries and pretrial detention facilities were without electricity for months. Payment of guards and prison staff became more regular, which allegedly decreased corruption.

A 2002 U.N. Human Rights Commission review cited systemic problems with the criminal justice and prison systems and continued widespread use of torture and arbitrary detention by police. The Government had not responded to the Commission's recommendations by year's end.

Attempted suicides and self-mutilation occurred in prisons as protests against declining prison conditions and human rights violations. There were also sporadic hunger strikes by prisoners to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the Government.

In 2003, prisoners Givi Rukhaia and Zaal Chikhladze protested the alleged false charges through 1 day of self-mutilation. Rukhaia mutilated himself with nails and Chikhladze sewed his mouth shut. An independent investigation by the Ombudsman supported the prisoner's contention that police had extorted money and gold from Rukhaia. An investigation into the case was ongoing at year's end.

The prison mortality rate reportedly improved; however, human rights NGOs claimed that authorities kept official rates artificially low by releasing terminally ill prisoners or by sending dying prisoners to the hospital. Observers claimed deaths of prisoners without families usually went unreported. During the year, there were 28 registered deaths in prison, 1 attributed to suicide and 1 attributed to a beating by a police officer (*see* Section 1.a.); the remaining deaths were attributed to health complications. According to the ICRC, tuberculosis was widespread in the prison system; in cooperation with the MOJ, the ICRC treated nearly 2,600 infected prisoners since 1998.

NGOs reported violence among prisoners decreased during the year.

Men and women were held separately. Juveniles were held separately in a specially constructed facility; however, juveniles were infrequently separated from other inmates in MIA temporary detention facilities. Pretrial detainees were often kept with convicted prisoners due to overcrowding.

The ICRC had full access to detention facilities, including those in Abkhazia, and was allowed private meetings and regular visits with detainees. The Organization for Security and Cooperation in Europe reported bureaucratic delays but no serious problems in obtaining access to prisoners or detainees; however, local human rights groups reported sporadic difficulty in visiting detainees, particularly in cases with political overtones. In March, the human rights unit of the Prosecutor General's Of-

office was abolished and not reestablished until October. Since November, the unit enjoyed free access to prisons to monitor conditions.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the Government frequently disregarded these provisions.

The MIA and Prosecutor General's Office have primary responsibility for law enforcement. The MIA controls the police, which are divided into functional departments. A separate, independently funded police protection department under the MIA provides security and protection to private businesses. Public confidence in the police increased during the year due to a reduction in corruption. During the year, police received their salaries more regularly. Impunity, however, remained a problem. In July, the MIA took steps to reduce police corruption by firing 13,000 officers, disbanding the corrupt traffic police force, and replacing them with a new patrol police unit consisting of newly hired officers with higher salaries. Only individuals under age 37 were allowed to apply for this new Patrol. Since then, the widespread solicitation of bribes from motorists decreased substantially. In November, the MIA transferred its armed internal troops to the Ministry of Defense. The MIA announced its intentions to reorganize the remaining 3,000 lightly armed internal troops into a Gendarmerie, responsible for keeping public order. In December, the Government announced the merger of the Ministries of Interior and State Security into a new Ministry of Police and Public Order. All redundant departments were combined and the Department of Foreign Intelligence became a stand-alone agency.

While the new Government prioritized rooting out corruption, its efforts sometimes infringed on the rule of law. For example, between January and March, the Government arrested a number of high profile, wealthy figures close to former President Shevardnadze, charged them with abuse of office or tax arrears, sentenced them to pretrial detention, and fined them a predetermined sum, which was reportedly deposited in the State treasury. Detainees were released without charge if they paid. If the individual refused to pay, he or she remained in isolated pretrial detention and experienced intimidation. The Government, in effect, used pretrial detention as a bargaining tactic to induce payment.

Government officials, including President Saakashvili, also made public comments that gave the impression they supported police brutality and increased the atmosphere of impunity among police officers. Saakashvili and other government officials later held several press conferences to publicly condemn police brutality.

On February 20, law enforcement agents arrested Gia Jokhtaberidze, majority shareholder in a large telecommunications company and son-in-law of former President Shevardnadze. Jokhtaberidze was forcibly removed from a departing airplane in an arrest widely broadcast throughout the country, and immediately placed in pretrial detention. Commenting on the arrest, President Saakashvili made public statements that violated due process. In March, in contradiction to the law, Jokhtaberidze was transferred to Isolator Number Five. Jokhtaberidze's lawyers claimed he was repeatedly threatened. The General Prosecutor offered to drop all charges if Jokhtaberidze paid \$15 million (30 million GEL). On April 26, after payment, Jokhtaberidze was released from detention with all charges dropped. Government officials, including the President, and media claimed that the money was a fine; Jokhtaberidze and his company denied the payment was an admission of wrongdoing.

An ongoing culture of impunity remained a problem. Despite this, some police officers were arrested or administratively disciplined in high-profile cases of physical abuse or deaths in custody. The MOJ maintained a system to provide for medical examinations of prisoners transferred from police stations to pretrial detention facilities in order to document injuries that may have occurred in police custody and to establish baseline medical condition information for each prisoner that could be used in cases of alleged prison abuse. Injuries consistent with abuse were documented and reported to the MOJ authorities, who in turn reported them to the MIA for investigation. The system functioned effectively.

In general, officers were held accountable for abuses only in extreme cases, and the Criminal Procedures Code limited a detainee's ability to substantiate claims of such abuses (*see* Section 1.e.). During the year, 179 criminal cases against MIA employees were opened by the Prosecutor General's Office. All of these cases were pending at year's end. Many observers claimed that prosecutors were frequently reluctant to open a criminal case against police or they closed a case for lack of evidence. Human rights NGOs also believed that many instances of abuse went unreported by victims due to fear of reprisals or lack of confidence in the system.

A defendant may file a complaint of abuse only with the Prosecutor General's Office, whose decision cannot be appealed. NGOs claimed that this regulation hindered

their ability to substantiate police misconduct because of the close ties between the Prosecutor General's Office and the police.

The Criminal Procedure Code provides for the right of a witness to be accompanied by a lawyer when being questioned by the police. Police can hold a witness for 48 hours without bringing charges. Police frequently charged witnesses as suspects at the end of this period. Human rights observers continued to allege that police often called a detainee's lawyer as a witness, thereby denying him access to his client.

Parliament's Committee on Human Rights and Ethnic Relations investigated claims of arrest and detention abuse. The Committee's chairperson reported a significant decrease in the number of claims filed during the second half of the year; however, NGOs did not report a decrease in incidents of torture until November.

Judges issue warrants and detention orders and, by law, suspects must be charged within 3 days. Judges have six possible preventive measures to ensure suspects will appear at trial, including bail, pretrial detention, and house arrest. In practice, 3-month pretrial detention was always imposed, which may be extended by 3-month intervals up to 9 months. In practice, suspects were detained in pretrial detention much longer than legally permitted. The bail system was rarely used due to fear of being subject to bribery accusations.

NGOs noted that, if a judge rules that an investigation must be renewed, the 9-month pretrial detention limits are also extended. In practice, as judges lacked real independence from prosecutors, prosecutors could keep suspects in jail as long as they liked. The Criminal Code states suspects cannot be held for a combined period of more than 24 months once a trial has commenced, which can be extended by the judge to 30 months. Judges sometimes neglected these stipulations.

Police frequently detained persons without warrants and often planted drugs or weapons in order to arrest individuals. Police frequently did not allow witnesses during searches in which they "found" drugs or weapons, and then forced individuals to sign witness statements. According to one NGO, approximately 80 percent of all detainees in pretrial detention were being held on charges of drug or illegal weapon possession.

On January 9, police raided the home of Zaza Ambroladze, entering without a warrant and not allowing witnesses to the search. The police claimed to find an illegal automatic weapon and placed Ambroladze under 3 months pretrial detention. This event sparked large street protests that were violently dispersed (*see* Section 2.b.). Several months later, the court sentenced Ambroladze to 2 years' imprisonment for illegal possession of arms. Ambroladze's lawyer's appealed the ruling to the regional appellate court.

On August 2, police raided the office of independent newspaper *Khalkhis Gazeti*. No search warrant was presented and no one was allowed to witness the search. Police claimed to find drugs and detained the newspaper's editor Rezo Okruashvili, a critic of the Government. On August 4, Okruashvili was sentenced to 3 months pretrial detention. After signing a confession, Okruashvili was released pending trial. Okruashvili claimed he was beaten and forced to sign the confession and appealed the charge.

Detainees had difficulty obtaining objective medical examinations in a timely manner, which made it difficult to establish the cause of injuries. Only a state-employed forensic medical examiner, which in most cases was an employee of the Ministry of Health's Judicial Medical Expert Center, could testify about injuries. Human rights advocates routinely criticized the state forensic examiners as biased in favor of the Prosecutor General and stated that permission for an independent forensic medical examination was rarely granted.

Police often failed to inform detainees of their rights and denied them access to family members and lawyers. Some observers charged that police also conducted interrogations in apartments outside police stations to avoid registering detainees. While suspects officially were charged within 3 days of registration, observers claimed that police frequently delayed registering detainees for long periods in order to seek bribes or to allow time for injuries inflicted by the police to heal. Police reportedly approached suspects' families and offered to drop charges in exchange for a bribe. Correct legal procedures were observed more often when a detainee was charged and registered formally.

The Criminal Procedure Code grants witnesses the right to legal counsel; however, this right was only occasionally observed in practice. It was common police practice to label detained suspects as "witnesses" in order to deny them access to a lawyer. In January 2003, the Constitutional Court ruled that 5 changes had to be made to the criminal code, including that detainees must have the right to a lawyer during the first 12 hours of detention, and that thereafter, the detainee must have at least 2 hours daily access to a lawyer. In October, Parliament passed an

amendment to the Criminal Procedural Code allowing suspects access to a lawyer immediately upon detention. The other points of the Constitutional Court's ruling have not been implemented.

The Constitution provides for a 9-month maximum period of pretrial detention, mandates court approval for detention over 72 hours, and imposes restrictions on the role of the prosecutor (*see* Section 1.e.). These provisions were often overlooked, and prosecutors continued to exert undue influence over criminal procedures.

The Criminal Procedure Code calls for detainees to be charged within 72 hours. MOJ figures for the year showed that, for the Tbilisi pretrial detention center, only one detainee was registered in violation of the 72-hour deadline. The most serious incidents of police abuse occurred in the investigative phase of pretrial detention, when police interrogated suspects (*see* Section 1.c.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice, judicial authorities continued to experience pressure from the executive branch and powerful outside interests. The judiciary did not exercise full independence, and judicial impartiality was limited. Many NGOs complained that judicial authorities often acted as a rubber stamp for prosecutors' decisions and that the executive branch exerted undue influence. Investigators often planted or fabricated evidence and extorted confessions in direct violation of the Constitution. Judges were reluctant to exclude evidence obtained illegally if the Prosecutor General objected. Courts continued to convict on the strength of confessions that may have been extracted under torture. Bribery decreased as salaries for judges increased.

President Saakashvili and other government officials often made public statements concerning the guilt of detained suspects in high-profile corruption cases before a trial had commenced, thus exerting undue influence on impending court cases, as judges felt pressured to uphold the President's "opinions."

The Council of Justice administered the three-tiered court system. The Council has 12 members, 4 selected from within each branch of government. To reduce incompetence and corruption, the law has established a three-part testing procedure for working and prospective judges administered by the Council. All judges, including Supreme Court judges, are required to take Council-administered exams. At the lowest level are district courts, which hear routine criminal and civil cases. At the next level are regional (city) courts of appeal, which serve as appellate courts for district courts. The regional courts also try major criminal and civil cases, review cases, and either confirm verdicts or return cases to the lower courts for retrial. The Supreme Court acts as a higher appellate court but is the court of first instance for capital crimes and appeals from the CEC. Regional managing judges continued to monitor the performance of lower courts throughout the country.

A separate Constitutional Court arbitrates disputes between branches of Government and rules on individual human rights violation claims; it generally demonstrated judicial independence. The Court interpreted its function in human rights case narrowly, agreeing to rule only in cases in which human rights were violated as a result of specific articles of law. Furthermore, the Constitutional Court was significantly weaker than the Supreme Court, and its rulings were sometimes not enforced.

The Constitution identifies the Prosecutor General's Office as part of the judicial system, and there were calls from legislators and others to move the Office into the executive branch. Court orders were rarely enforced.

According to the Constitution, detainees are presumed innocent and have the right to a public trial. A detainee has the right to demand immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. Officers must inform detainees of their rights and notify their families of their location as soon as possible. However, these rights were not fully observed in practice. Authorities frequently did not permit detainees to notify their families of their location, and local police authorities limited lawyers' access to detainees. Lengthy trial delays were common. Defense counsel is not required to be present at pretrial hearings, and defendants and their attorneys regularly complained that they were not notified of scheduled hearings. The Criminal Procedures Code does not require the police to allow a lawyer to enter a police station unless hired by a detainee. Juries were used. Defendants have the right to appeal and to access evidence.

Attorneys were assigned to defendants unable to afford legal counsel, upon the recommendation of the prosecutor's office by the Office of Legal Assistance, a part of the state-controlled Bar Association. In certain cases, defendants were pressured or coerced by prosecutors to accept a state-appointed attorney or other attorneys who did not vigorously defend their interests. However, in general individuals who could afford to pay were able to obtain the attorney of their choice in both criminal

and civil cases. The prosecutor's office not only had control over state-appointed lawyers it also determined whether to grant a defendant's request to change lawyers. Several NGOs provided free legal services in Tbilisi for victims of human rights violations.

Prosecutors continued to direct investigations, supervise some judicial functions, and represent the state in trials. They also continued to exert disproportionate influence over judicial decisions. The Criminal Procedure Code prohibits the judge who signed a warrant from hearing the case; however, this rule frequently was disregarded outside of Tbilisi, since few regions had more than one judge.

International and local human rights organizations varied on estimates of how many political prisoners were in the country, reporting from 0 to 20. The Parliamentary Human Rights Committee and Ombudsman claimed that there were no official political prisoners in the country; however, many individuals, including members of the former paramilitary group "Mkhedrioni," Zviadists (followers of the deceased former president Gamsakhurdia), and several high-ranking officials from the previous government, considered themselves political prisoners. According to human rights observers, some Zviadist prisoners never took up arms and should be considered political prisoners. In 2003, the Interim President appointed former Gamsakhurdia Minister of Finance Guram Absandze as Deputy State Minister charged with reviewing all cases against Zviadists, with the aim of releasing them. Over 20 of the group were released this year.

In November 2003, the European Court of Human Rights (ECHR) in Strasbourg began reviewing the case of Tengiz Asanidze, who was pardoned by President Shevardnadze in 1999, but was still held in prison by the Ajaran government in contradiction to the central authorities. On April 8, the ECHR ruled that Asanidze should be released and fined the Georgian government approximately \$202,500 (150,000 euros) and an additional \$6,750 (5,000 euros) for legal fees. In accordance with the ruling, Asanidze was released and paid.

The Government permitted international human rights and domestic organizations to visit political prisoners, and some organizations did so during the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions without court approval or legal necessity; however, in practice, the Government occasionally monitored private telephone conversations without obtaining court orders. The Government stated that security police and tax authorities entered homes and workplaces without prior legal sanction. In contrast to last year, traffic police no longer stopped and searched vehicles for bribes.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Internal conflicts in Abkhazia and South Ossetia remained unresolved. Cease-fires were in effect, and Commonwealth of Independent States (CIS) and joint peacekeeping forces, respectively, were present in both areas, although sporadic incidents of violence occurred in Abkhazia, in the neighboring Georgian region of Samegrelo, and in South Ossetia. These conflicts and the problems associated with the current numbers of approximately 230,000 IDPs from Abkhazia, 12,200 from South Ossetia, and 2,600 refugees from Chechnya posed a continued threat to national stability. In 1993, Abkhaz separatists won control of Abkhazia, and most ethnic Georgians were expelled from or fled the region. A Russian peacekeeping force has also been in South Ossetia since 1992 as part of a joint peacekeeping force with Ossetians and Georgians. The Government had no effective control over Abkhazia or South Ossetia during the year. In July and August, a flare-up in the Ossetian conflict caused 17 MIA and MOD casualties and an unknown number of deaths on the Ossetian side. The conflict deescalated before year's end.

There was limited information on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions. The U.N. Human Rights Committee (UNHRC) Office in Abkhazia reported continuing modest improvements in the human rights situation. However, systemic problems in the criminal justice system, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. Limited access to qualified legal counsel aggravated the situation. The Parliamentary Human Rights Office remained concerned at the length of pretrial detentions and violations of due process in individual cases. Since 2002, an independent legal aid office in the Gali district of Abkhazia provided free legal advice to the population.

A Human Rights Commission established by the nonrecognized government of South Ossetia continued to operate. The South Ossetian Human Rights Commission worked in close collaboration with the Commission for Human Rights in the Autonomous Republic of North Ossetia in the Russian Federation and the representative of the President of the Russian Federation for Human Rights.

In October, two Ossetian members of the Joint Peacekeeping Forces were shot by partisans.

NGOs reported a deterioration in the human rights situation in the autonomous region of Ajara under the region's President, Aslan Abashidze. In May, following public protests of Abashidze's attempt to manipulate parliamentary elections and tense negotiations with Tbilisi, Abashidze fled for Moscow in May, which led to the restoration of Ajara to central Government control and a decline in human rights abuses, particularly concerning the press and freedom of association.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, there were some incidents of government obstruction. Journalists were able to publish wide-ranging and extremely critical views of officials and their conduct; however, criticism of the Government in the media decreased during the year due to increased self-censorship. A law on broadcasting was passed in December converting the State television channel, Channel 1, into a public television channel. The law allows the new channel state funding for one more year, as well as commercial funding. Competitors complained that their lack of analogous state funding during this period would put them at a disadvantage.

There were approximately 200 independent newspapers in circulation. After the November 2003 "Rose Revolution," the Government privatized the previously state-owned news agency Sakinfo. The press frequently criticized senior government officials; however, few editorially independent newspapers were commercially viable. Typically, newspapers were subsidized by and subject to the influence of patrons in politics and business. Several newspapers were reputable sources of information, although lack of financial resources limited their circulation.

Following privatizations during the year, there were seven independent television stations in Tbilisi, three with national coverage—Channel 1, Rustavi-2, and Imedi. An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered daily news. While these stations ostensibly were independent, a lack of advertising revenue often forced them to depend on local government officials for support; however, some regions, such as Samtskhe-Javakheti and Kutaisi, had relatively independent media. After the resignation of Aslan Abashidze, former President of the autonomous region of Ajara, the region ceased jamming the national television stations. There were two independent newspapers in Ajara, and Ajara also received the national independent newspaper 24 hours.

While there were no physical attacks on media representatives during year, state tax authorities occasionally harassed independent newspapers and television stations. Journalists stated that they were vulnerable to pressure from authorities, as well as from business and societal elements. Media outlets complained that commercial firms refused to advertise on certain channels critical of the Government for fear of losing the Government's favor.

Compared to 2003, physical harassment of the media decreased, although self-censorship increased, likely due to a desire to please the new government. There were some reports of legal harassment of media outlets by the financial police.

Although most journalists had regular access to government officials and agencies, a few government officials denied journalists access to public briefings. For example, the Minister of Interior temporarily blocked the television station Kavkasia access to the Ministry and to his public briefings. The mayor of Poti prohibited television cameras from public briefings and effectively blocked interviews of local government officials. In December, the mayor of Poti was arrested on unrelated charges. The Government also used financial pressures to influence media outlets and sometimes sent financial tax investigators to investigate critical journals.

In February, on the eve of parliamentary discussions of constitutional amendments proposed by the President (*see* section 1.e.), three of the most popular nightly political talk shows were temporarily canceled, reportedly due to "reformatting." Commentators reported government officials exerted pressure on the channels to cancel programming.

Early in the year, Iberia TV ceased news operations following a high-profile raid on the station by the General Prosecutor's office, which raided all subsidiary media and nonmedia businesses owned by the parent company, Omega Group. The Prosecutor's office cited financial fraud as grounds for the raid. Omega Group's owner, then Member of Parliament Zaza Okuashvili, who allegedly had close ties to Aslan Abashidze, fled the country. Omega Group's other media operations, Media News Agency, the newspaper Akhali Epoka, Omega magazine, and a printing house went out of business.

During the March parliamentary elections, in Ajara, the regional government under Aslan Abashidze did not allow opposition candidates media access or television time. Opposition gatherings were also violently suppressed or attacked, and opposition offices were ransacked. On March 5, unidentified men in masks beat reporter Vakhtang Komakhidze at a border checkpoint and confiscated his tapes, camera and notes. Komakhidze was later hospitalized for several weeks (*see* Section 3).

On July 15, the Government passed a new law on defamation, which states comments made in Parliament, court cases, and during political debates can no longer be considered libel. The law also moves the burden of proof to the accuser, and places entire companies, rather than individual reporters, as defendants in a court case. In practice, the Government did not use libel laws to inhibit journalism during the year.

In July 2003, head of the Georgian Railway Akaki Chkhaidze won a libel suit against independent television station Rustavi-2 for information broadcast on a program linking him to bribery scandals. The station was ordered to pay \$480,000 (1 million GEL) in moral damages. The station appealed the decision to the Supreme Court and the fine was reduced to \$50,000 (104,166 GEL).

Stations desiring benefits and better working relations with authorities practiced increased self-censorship. In November, a dispute broke out between the Georgian Orthodox Church (GOC) Patriarchate and reformist seminary students and priests. Media coverage was initially intense. In October, in a press conference, President Saakashvili called on the media to be more responsible in their coverage of this dispute. Immediately, all reporting on this dispute disappeared. However, no direct government harassment was reported.

The Government did not restrict access to the Internet. The Government did not restrict academic freedom.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by their respective *de facto* governments.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, both the Government and local authorities restricted this right in practice. The Government dispersed several peaceful demonstrations and arrested participants for disrupting the peace.

The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Most permits for assemblies were granted without arbitrary restriction or discrimination; however, according to the law, the Government has the right to disperse any assembly that is “a disruption of the public order.” No mechanism is designated to determine what constitutes a disruption of the public order. As a result, in contrast with previous years, the police often used this imprecision to justify violently dispersing several peaceful protests.

On January 11, protesters blocked the Tbilisi-Kutaisi highway to protest the detention of Zaza Ambroladze (*see* section 1.d.). Police violently dispersed the protest and pursued demonstrators into the forest, kicking them and beating them with clubs before apprehending them. Seven demonstrators were sentenced to 3 months pretrial detention for disrupting the public order. At year’s end, these activists remained in detention and no trials had begun.

On July 1, riot police violently broke up a peaceful protest in front of Tbilisi City Hall, beating the 40 to 50 earthquake victims who were on a hunger strike due to the lack of funding for house reconstructions.

On September 2, 500 riot police violently dispersed a peaceful protest in the Batumi central market protesting the removal of the market to a new location. Riot police beat and kicked several participants, including M.P. Koba Davitashvili, then loaded participants into vans; 11 participants were charged and placed in 3 month pretrial detention for disrupting the public order. All 11 remained in detention awaiting trial at year’s end.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Authorities granted permits for registration of associations without arbitrary restriction or discrimination.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, in practice, local authorities sometimes restricted the rights of members of nontraditional religious minority groups. There were fewer reports of violence against minority religious groups this year, but several groups continued to report intimidation by local authorities.

The Constitution recognizes the special role of the GOC in the country’s history but stipulates the separation of church and state. A constitutional agreement (Concordat) signed by the President and the Georgian Orthodox Patriarch gives the GOC legal status and states that, with the consent of the GOC, the Government can issue

permits or licenses for the use of official symbols and terminology of the GOC, as well as for the production, import, and distribution of worship articles. The tax code grants tax exemptions only for the GOC. Although several churches signed formal documents with the Orthodox Patriarchate agreeing to the Concordat, they noted that a controversial article allowing GOC authority over construction, as well as restitution issues, was not in the original agreed-upon document.

Some nationalist politicians continued to use the issue of the supremacy of the GOC in their platforms and criticized some Protestant groups, particularly evangelical groups, as subversive. Jehovah's Witnesses in particular were the targets of vocal attacks from such politicians.

There are no laws regarding the registration of religious organizations. The GOC remained the only religion with legal status in the country, although some religions registered affiliated NGOs. This lack of legal status prevented religions from renting or registering property; many groups registered property under an individual or affiliated NGO, although this complicated ownership issues and exposed individuals to personal liability. The new Government has not addressed a previous draft law to allow for registration or proposed other changes. Unregistered religious groups are not officially permitted to rent office space, acquire construction rights, import literature, or represent the international church, although many religious groups accomplished these goals through their locally registered NGOs. Unregistered religious groups were also subject to an administrative fine.

In late 2003, the new Government allowed the registration of the Jehovah's Witnesses NGO The Watchtower Bible Society. Jehovah's Witness Groups reported that since then, unlike in previous years, there has been no violent persecution and they have had no difficulties in importing their literature.

While less harassment was reported during the year, minority religions continued to report intimidation from local government authorities and obstructions to constructing worship halls. The Catholic Church, True Orthodox Church, Baptists, Armenian Apostolic Church, and Protestant denominations had difficulty in building churches during the year.

The Roman Catholic Church and the Armenian Apostolic Church were unable to secure the return of churches closed or given to the GOC during the Soviet period. The Jewish community also experienced delays in the return of property confiscated during Soviet rule, including a former synagogue that a 2001 Supreme Court ruling instructed the Government to return.

The Ministry of Education requires all 4th grade students to take a "Religion and Culture" class, which covers the history of major religions. Many parents complained of teachers focusing solely on the Georgian Orthodox Church. The Church has a consultative role in all curriculum development.

Regular and reliable information regarding separatist-controlled regions, including South Ossetia, was difficult to obtain. An Abkhaz presidential decree bans Jehovah's Witnesses. A number of members of Jehovah's Witnesses were detained in the last few years; however, according to a representative of Jehovah's Witnesses, none were detained during the year.

Despite a general tolerance toward minority religious groups traditional to the country—including Catholics, Armenian Apostolic Christians, Jews, and Muslims—citizens remained very apprehensive towards Protestants and other nontraditional religions, which were seen as taking advantage of the populace's economic hardships by gaining membership by providing economic assistance to converts. Some members of the GOC and the public viewed non-Orthodox religious groups, particularly nontraditional groups or sects, as a threat to the national Church and the country's cultural values and argued that foreign Christian missionaries should confine their activities to non-Christian areas. Reputable and repeated public opinion polls indicated that a majority of citizens believed minority or nontraditional religious groups were detrimental to the state and that prohibition and outright violence against such groups would be acceptable to limit them.

Since 2000, the Government has prosecuted a criminal case against Father Basili Mkalavishvili, an Orthodox priest, whose followers engaged in a number of violent attacks on nontraditional religious minorities; however, the investigation has proceeded very slowly. In 2003, Father Mkalavishvili's case was suspended due to the Government's inability to keep order in the court, and Father Mkalavishvili went into hiding. In March, riot police stormed the church where Father Mkalavishvili was hiding out, arrested him and several of his supporters, and placed them in 3-month pretrial detention. Father Mkalavishvili's trial began on September 13 and was ongoing at year's end. Though his arrest was welcomed, many NGOs criticized the excessive force used to apprehend him.

Unlike in previous years, there were no violent attacks against nontraditional religious minorities by Basilists.

In June 2003, an ultra-Orthodox mob blocked the streets in front of a Pentecostal minister's house where services were being conducted and refused to let parishioners through. Church members were threatened with violence. Police were present but did not allow the parishioners to enter the street. At year's end, the Pentecostal group still had not been allowed access to this meeting house. The same Pentecostal group filed a suit in the Constitutional Court, complaining that they were denied legal registration as a religious group in contradiction with the Constitution, in which freedom of religion is guaranteed.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Freedom of movement was restricted in the separatist regions of Abkhazia and South Ossetia. The de facto governments of Abkhazia and South Ossetia did not allow their citizens to exit their respective regions and their internal movement was also often obstructed by police checkpoints. Many who did enter other parts of the country were denied reentry into the separatist regions. Ethnic Mingrelians living in the Gali region of Abkhazia were allowed movement throughout the rest of the country, but were not allowed in other parts of Abkhazia.

The law prohibits forced exile, and the Government did not employ it.

Following a 1999 presidential decree to repatriate and rehabilitate approximately 275,000 Meskhetian Turks relocated during the Soviet period, there has been no additional legislation to allow for repatriation of Meskhetian Turks. There was some official and public opposition to their repatriation. There were 643 Meskhetians living in the country, most of whom had citizenship. There were no repatriations during the year.

There were approximately 244,800 persons displaced at year's end, due to conflicts in the separatist regions of Abkhazia and South Ossetia, as well as hostilities in Chechnya. IDPs occupied hotels, hospitals, and other civil buildings in Tbilisi, or lived in private homes with relatives or friends throughout the country, particularly concentrated in Tbilisi, Zugdidi, and Gori.

The 1994 agreement between Russia, Georgia, Abkhazia, and the U.N. High Commissioner for Refugees (UNHCR) on repatriation in Abkhazia called for the free, safe, and dignified return of the approximately 230,000 IDPs and refugees driven from Abkhazia to Tbilisi and the western part of the country. The Abkhaz separatist regime prevented such repatriation and unilaterally abrogated the agreement. In 1999, the Abkhaz separatist regime unilaterally invited IDPs to return to Gali but did not adequately ensure their safety. The move did not significantly affect IDPs, who continued to travel back and forth to the area to tend their property. As many as 40,000 persons were estimated to be living in Gali on a more or less permanent basis, depending on the security situation.

The 1992 ethnic conflict in South Ossetia also created tens of thousands of IDPs and refugees. In 1997, the UNHCR began a program to return IDPs and refugees; however, both sides created obstacles that slowed the return. During the year, the South Ossetian separatists continued to obstruct the repatriation of ethnic Georgians to South Ossetia, although some families returned. Meanwhile, South Ossetia continued to press for the return of all Ossetian refugees to South Ossetia rather than to their original homes in other regions of the country. The Government recognized the right of Ossetian refugees to return to their homes but was unable to facilitate returns, due to its limited authority in South Ossetia. Government opposition to the return of illegally occupied homes has prevented the return of Ossetian refugees to Georgia proper. Approximately 2,700 persons were reported to be still dislocated from recent hostilities at year's end.

The Government inconsistently paid stipends to IDPs of approximately \$7 (14 GEL) per person per month and subsidized some monthly allocations of electricity. Subsidies were paid more frequently in Tbilisi than elsewhere in the country. IDPs also were not afforded the right to vote in local elections (*see* Section 3).

During the year, approximately 1,000 IDPs housed in Tbilisi hotels were effectively "bought out" through the Government's privatization of the hotels. IDPs received \$7,000 (14,000 GEL) by the private investors to move elsewhere, which the Government maintained was adequate compensation. IDPs who accepted the buy out maintained their refugee status and government stipends, but lost their right to a place in a collective center (shelter). Absent a likely imminent return to their homes and a coordinated government IDP policy, observers interpreted this status as temporary assimilation.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol,

and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. During the year, the Government processed approximately 4,000 refugee cases and granted refugee status to approximately 2,500.

The Ministry for Refugees and Accommodation was responsible for the screening and registration of refugees and new arrivals. Since the outbreak of hostilities in Chechnya, the Government has admitted an estimated 4,000 to 5,000 refugees from the conflict. Since then, many have returned or resettled. There are currently 2,500 registered refugees from Chechnya in the country. Chechen refugees settled in the Pankisi Valley in the eastern part of the country. International humanitarian organizations assistance to refugees in the Pankisi Valley was sporadic. During the year, approximately 2,500 Chechen refugees were living in the Pankisi Valley and 35 in Tbilisi. The majority of the Chechen refugees lived with the local Kist population; only 15 percent were sheltered in communal centers.

Chechen refugees remained vulnerable to abuse, including police harassment and threats of refoulement.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections, held on the basis of universal suffrage; however, poor organization by authorities, inaccurate voter registers, and lack of transparency in vote counting and tabulation and other flaws marred elections over the past three years. The irregularities in the November 2003 parliamentary elections led to peaceful mass protests, which resulted in President Shevardnadze's resignation in November 2003 and the assumption of the post of Interim President by Parliament Speaker Nino Burjanadze. The Supreme Court subsequently annulled the results of the November 2003 parliamentary contests. In January, Mikheil Saakashvili was elected President in the constitutionally mandated presidential election. Repeat parliamentary elections were held on March 7. President Saakashvili's National Movement Party won 133 of the 150 proportional seats. The only other party to win proportional seats was the New Rightists, headed by David Gamkrelidze, who won 17 seats.

On February 6, Parliament passed a series of constitutional amendments that strengthened the power of the executive relative to the Parliament and judiciary. According to international observers and civil society groups, both the amendments themselves and the manner in which they were adopted were problematic. Authorities ignored the constitutional provision for a 1-month debate period prior to adoption. NGOs criticized that the amendments increased the powers of the president at the expense of the Parliament and of judges. The amendments gave the president power to dismiss Parliament if it fails to approve the state budget, or the appointment of the prime minister or other ministers or in times of crisis. In addition, Parliament must accept or reject the budget in its entirety and does not have power to change separate line items in the budget.

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) reported that the January presidential election demonstrated notable progress, although it also noted that time constraints limited administrative improvements to previous elections. ODIHR noted a continued lack of separation between state administration and political party structures and the tendency to misuse state administration resources. The voter register also continued to be incomplete and sometimes inaccurate. There was also notable political imbalance in the election administration at all levels and election commissions displayed a lack of impartiality. The National Movement and Democrat Parties (the allied parties of Saakashvili and Burjanadze, respectively) selected 10 out of 15 members of the Central Election Commission (CEC). Both parties provided regional election committees with material resources and campaign literature. While the OSCE reported the voting process itself as excellent in the majority of regions, there were significant irregularities in Kvemo Kartli, the southernmost region of the country, bordering Azerbaijan and Armenia, where vote count and tabulation violations and ballot stuffing were reported.

The worst irregularities were recorded in Ajara, where no pre-election registration was conducted and little to no campaigning occurred. Regional authorities maintained until late 2003 that elections would not take place on their territory, as they believed annulling the November 2003 election was illegitimate. In December 2003, unknown men physically assaulted a student leader active in a pro-election Public Committee. Journalists were prevented entry into Ajara, and authorities blocked transmission of television supporting the new Government. The election did take

place; however, turnout was low. After the election, several civil activists and their relatives were detained.

International observers deemed the March parliamentary elections the most democratic since independence, with voter registration procedures further improved, including the addition of a consolidated computerized database; however, there continued to be a lack of political balance and independence in election commissions. During the election, international observers noticed a number of irregularities, including campaign material on display in several polling stations, implausible voter turnout (over 100 percent) in certain regions, and an unusually high percentage of invalid votes. Significant voting irregularities again took place in Kvemo Kartli, including ballot stuffing and proxy voting.

Ajara remained the largest problem in the parliamentary elections. Then Ajara President Abashidze initially threatened to prevent the region from participating in Georgia's national parliamentary elections, voter registration information was inaccurate, and officials refused to cooperate with officials of the CEC. NGOs reported that violence against the opposition was higher than in previous elections. Opposition gatherings were violently suppressed or attacked, opposition offices were ransacked, and no television time was given to opposition parties. On March 5, unidentified men in masks beat reporter Vakhtang Komakhidze at a border checkpoint and confiscated his tapes, camera, and notes. Komakhidze was later hospitalized for several weeks. Such abuse reportedly prompted large-scale demonstrations, which were linked to Abashidze's ouster in May.

The separatist governments of Abkhazia and South Ossetia held periodic elections. International organizations, including the U.N. and the OSCE, as well as the Government did not recognize the Abkhaz presidential elections held in October. In 2001, the unrecognized separatist government held presidential elections in South Ossetia, resulting in the defeat of the incumbent and a peaceful transfer of power.

Local elections, held on June 2, were the first elections to be conducted under a new election code, which significantly tightened election rules to prevent fraud. International observers noted that although the election process was chaotic, with numerous errors in voter lists, the elections were not seriously hampered by fraud. Election results mirrored polling data running up to the election.

There were no government restrictions on political party formation beyond registration requirements; there were 20 registered political parties, a vast reduction from the previous year due in part to the vast popularity of President Saakashvili's National Movement Party.

Government corruption decreased significantly in the executive branch, but remains widespread in the judicial branch and in some law enforcement agencies. During the year, as opposed to previous years, most government officials received salaries in a timely manner, reducing corruption significantly. In February, Parliament passed an anticorruption bill that introduced major changes to the criminal and criminal procedure codes. The new legislation allowed the Prosecutor's Office greater flexibility in charging officials with criminal bribery, cancelled immunity for law enforcement agency officials, authorized in absentia proceedings against officials who fail to appear in court, and introduces the use of plea-bargaining, as well of undercover recordings made by journalists in trials.

In October, the Parliament adopted a new Code of Conduct, which established ethical norms to govern Parliamentarians in an effort to strengthen public accountability and provided a set of benchmarks for the public to measure their elected representatives' performance.

The Office of the Anticorruption Bureau was closed and its materials were transferred to a new office with the NSC, which investigated fraud, waste, and abuse.

The Government instigated several high profile arrests of former government officials on corruption charges, though NGOs claimed that arrest and interrogation methods compromised government dedication to the rule of law and due process (*see* Section 1.d.). Observers also criticized the Government for using harsh detention conditions as a form of pressure and a negotiating tool in these cases, often to extract payment.

The law provides for public access to government meetings and documents; however, few citizens or journalists employed it. The Government often failed to register freedom of information act requests, and although the law states that a public agency shall release public information immediately or no later than 10 days, the release of requested information could be delayed indefinitely and was sometimes ignored. A requesting party has no grounds for appeal.

There were 22 women in the 235-seat Parliament. Female Speaker of Parliament, Nino Burjanadze, served as Interim President from November 2003 until presidential elections in January, when she returned to Parliament as Speaker. The ma-

majority head of Parliament was also a woman, and women held important committee chairmanships and ministerial posts.

There were 8 members of minority groups (5 Armenians and 3 Azeris) in the 235-seat Parliament.

During the March parliamentary elections, the CEC provided ballots, manuals, and voter education materials in Azeri, Armenian, and Russian in areas with a concentration of national minorities. Training of election commissions was provided in minority languages as well; however, in some instances, training in Azeri-populated areas was conducted in Russian, and commission members reportedly had difficulties. Generally, national minorities were underrepresented on election commissions, even in areas where they were the majority population.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While some NGOs enjoyed free access and close cooperation with the Government, others complained of discrimination from government members.

Unlike in the previous year, no NGO members were arrested while observing elections.

An investigation of a 2002 attack on the Liberty Institute, the country's leading human rights organization, remained ongoing.

The law provides for the Ministry of Finance to access the funding records of international NGOs, alarming some in the NGO community; however, no NGOs complained of the Government using this provision in practice.

The UNHRC and the OSCE Mission's joint human rights office in Abkhazia operated sporadically due to security conditions but provided periodic findings, reports, and recommendations.

NGOs viewed the Office of the Public Defender, or Ombudsman, as the most objective of the Government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuses. The position remained vacant for most of the year, until September. The Parliamentary Committee on Human Rights and Civil Integration, as well as the National Security Council's human rights advisor, also had the mandate to investigate claims of abuse. The Prosecutor General Office's human rights unit focused on curbing pretrial detention abuses and trafficking in persons. This position was abolished early in the year and then reestablished in August. The Government maintained a constructive relationship with several NGOs, although it restricted government access to some who had fallen out of the Government's favor.

The NGO Former Political Prisoners for Human Rights was denied access to detention facilities, a right it enjoyed under the previous government. In December, informational commercials on police torture prepared by Former Political Prisoners for Human Rights were pulled from all television channels. Channel representatives claim that the advertisements were pulled on the order of the Ministry of Security. The Ministry claimed it merely gave a recommendation and left the choice to the channels.

*Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The Constitution recognizes that all citizens are to be considered equal before the law, regardless of race; color; language; sex; religion; political and other opinions; national, ethnic, and social belonging; origin; property and title; and place of residence; however, in practice, discrimination was a problem.

*Women.*—Societal violence against women was a problem. There are no laws that specifically criminalize spousal abuse or violence against women, although the Criminal Code classifies rape, including spousal rape, and sexual coercion as crimes. In 2003, 795 crimes were registered against women, including 18 murders, 24 attempted murders, 52 rapes, and 41 attempted rapes; the remainder consisted of battery, assault and lesser crimes. Domestic violence was reportedly one of the leading causes of divorce but was rarely reported or punished because of social taboos and because it is not illegal according to the Criminal Procedural Code. Police did not always investigate reports of rape. A local NGO operated a shelter for abused women, and the Government operated a hotline for abused women but did not provide other services.

The kidnapping of women for marriage occurred, particularly in rural areas, although the practice continued to decline. Such kidnappings often were arranged elopements; however, at times abductions occurred against the will of the intended

bride and sometimes involved rape. Police rarely took actions in these cases even though the Criminal Code criminalizes kidnapping.

Prostitution is not a criminal offense. Prostitution was widespread, especially in the capital of Tbilisi. Several NGOs claimed that prostitution increased during the year, due to continuing poor economic conditions. Trafficking in women for the purpose of sexual exploitation was a problem (see Section 5, Trafficking).

Sexual harassment and violence against women in the workplace was a problem. The law prohibits sexual harassment in the workplace; however, it was rarely investigated.

The Constitution provides for the equality of men and women; however, in practice, this was not enforced. Women's access to the labor market had improved; however, overall women remained primarily confined to low-paying and low-skilled positions, regardless of professional and academic qualifications. As a result, many women sought employment abroad. Salaries for women continued to lag behind those of men. According to the U.N. Development Program (UNDP), employers frequently withheld benefits connected to pregnancy and childbirth.

A number of NGOs promoted women's rights, including the women's group of the Georgian Young Lawyers' Association, the Women's Center, and Women for Democracy. Women's NGOs took an active role in the presidential and partial parliamentary elections during the year, engaging candidates on issues of concern.

*Children.*—The law provides for the protection of children's rights and welfare; however, funding shortages limited government services. Primary and basic education is compulsory from age 6 or 7 to age 14, and provided up to age 16. Education was officially free through high school, and most children attended school; however, in some places schools did not function or functioned sporadically because teachers were not paid and facilities were inadequate, particularly in winter when some schools could not afford to heat buildings. Many schools lacked libraries or blackboards. Many parents were unable to afford books and school supplies, and most parents were obliged to pay some form of tuition or teachers' salaries; in some cases, students were forced to drop out due to an inability or unwillingness to pay. Bribery was endemic in the education system to ensure acceptances, recommendations, and good grades. Attendance in 2002 was assumed to be about 90 percent.

Free health care was available only for children over age 3.

There were some reports of abuse of children, particularly street children, although there was no societal pattern of such abuse.

Incidents of sexual exploitation of children were reported, especially among girls. Child prostitution and pornography are punishable by imprisonment for up to 3 years. There were unconfirmed reports of trafficking in children (see Section 5, Trafficking), street children and children living in orphanages were allegedly particularly vulnerable. The Ministry of Internal Affairs sponsored a Center for the Rehabilitation of Minors, which regularly provided medical and psychological assistance to child and adolescent victims of prostitution before returning them to guardians.

Difficult economic conditions broke up some families and increased the number of street children. A local NGO estimated that there were approximately 1,500 street children in the country, with 1,200 concentrated in Tbilisi, due to the inability of orphanages and the Government to provide support. The private voluntary organization Child and Environment and the Ministry of Education each operated a shelter; however, the two shelters could accommodate only a small number of street children. No facilities existed outside of Tbilisi. The Government took little other action to assist street children.

There were no confirmed reports of police violence against street children this year.

Orphanages were unable to provide adequate food, clothing, education, and medical care; facilities lacked heat, water, and electricity. The staff was paid poorly, and wages were many months in arrears. Staff members often diverted money and supplies provided to the orphanages for personal use. The Government offered education grants and tutoring, including the option of enrolling in military school, to some children who left orphanages.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons.

The Criminal Code prohibits trafficking in persons, including minors, for the purposes of sexual, labor, and other forms of exploitation. The basic penalty is from 5 to 12 years' imprisonment, with maximum penalties of 20 years for aggravated circumstances. A memorandum of understanding between the Prosecutor General's Office and the Ministry of State Security led to greater cooperation, joint operations, and a number of arrests and charges under trafficking statutes. No convictions had been reached by year's end. In December, a new Plan of Action was adopted by

Presidential Decree that established an ad hoc Interagency Commission against Trafficking under the auspices of the National Security Council of the country. The human rights unit of the NSC remained the government-wide antitrafficking point of contact.

The Government dissolved an MIA antitrafficking unit, which received foreign funding, and merged it with the antikidnapping unit, claiming it would give the unit more ability to coordinate casework and exchange information with investigators. In October, the MIA antitrafficking unit was reestablished with two branches, one in Tbilisi and one in Batumi. Following the December merger of the MIA and MSS, a Department of Special Operations on Trafficking and Illegal Migration with a staff of 50 was being established within the new Ministry of Police and Public Safety.

The country cooperated with other regional countries to uncover trafficking rings and assisted in the repatriation of trafficked persons discovered in transit through the country.

On June 22, Georgian police took 14 Uzbek women into custody who were being trafficked to Dubai. Through the assistance of the acting Ombudsman, the women were temporarily housed in an NGO facility, then an empty police shelter for children; 12 of the victims were repatriated and 2 remained in the shelter due to fraudulent documents, until they escaped 2 months later. All 14 were eventually repatriated. Ashot Hovhannesian, a citizen, was charged with organizing the human trafficking network and sentenced to 3 months pretrial detention. Tbilisi local police handled the case exclusively. Police investigators did not have victims sign the intelligence oath necessary for testimonies to be used in court. At year's end, the case was still pending.

Women were trafficked from the country to Turkey, Israel, United Arab Emirates, the United States, and Western Europe to work in bars, restaurants, or as domestic help. Many worked in the adult entertainment sector or as prostitutes. There also was evidence that Russian, Ukrainian, and Central Asian women were trafficked through the country to Turkey, sometimes using fraudulently obtained passports. Georgian victims most likely come directly from the impoverished former industrial centers of Poti, Kutaisi, Rustavi, and Tbilisi. Local NGOs report that men were trafficked to Russia, Greece, Spain, Portugal, and other destinations to work in construction and manual labor. There were unconfirmed reports of trafficking in children, street children and children living in orphanages were allegedly particularly vulnerable.

Jobs abroad offered through tourism firms or employment agencies often lured victims. Many of the women working in the adult entertainment sector as prostitutes were informed, or led to believe, that they would be employed as waitresses in bars and restaurants or as domestic help.

There were no government programs to help victims; however, several NGOs provided assistance to victims. One internationally funded NGO operated a trafficking hotline that offered psychological support and assistance, though only a small percentage of the callers identified themselves as victims of trafficking. The Government conducted some antitrafficking training for police in the regions and maintained an OSCE-funded working group with the NGO community to draft the new Plan of Action and additional legislation including protections for victims' rights.

The Ministry of State Security instituted and adhered to a policy protecting the identity of victims and made numerous public statements that victims of trafficking would not be held liable for their crimes associated with having been trafficked, such as illegal border crossing, if they provided significant information about the crime of trafficking.

The Government did not conduct any public awareness campaigns during the year, although multiple NGOs continued informational brochures and local television public announcement campaigns.

*Persons With Disabilities.*—Discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services was a problem. There is no law or official provision mandating access to buildings for persons with disabilities and very few, if any, public facilities or buildings were accessible. The law mandates that the Government ensure appropriate conditions for persons with disabilities to freely use the social infrastructure and to ensure proper protection and support and provide special discounts and favorable social policies for persons with disabilities, particularly veterans; however, in practice, a lack of funding precluded much assistance. Most persons with disabilities were supported by family members or by international humanitarian donations. Societal discrimination against persons with disabilities existed.

*National/Racial/Ethnic Minorities.*—The Government generally respected the rights of ethnic minorities in nonconflict areas but limited self-government.

The Constitution stipulates that Georgian is the state language. Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian. Both Georgian and Russian were used for interethnic communication. School instruction in non-Georgian languages was permitted. The new Parliament did not take up a language law drafted under the previous Government that would make Georgian compulsory for government employees. The State Language Chamber organized free language courses for government employees in regions inhabited by ethnic minorities, conducted in coordination with and through funding from the OSCE. Armenians, on occasion, complained that they were being forced to learn Georgian.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of citizens to form and join unions, and workers exercised this right in practice.

The principal union was the Georgian Trade Union Amalgamation (GTUA), which was the successor to the official union during the Soviet period. The GTUA consisted of 31 sectoral unions and claimed 500,000 members, although active, dues-paying membership was lower. During the year, prosecutors initiated a criminal investigation of the president of the GTUA that reportedly was related to efforts by the government to induce the GTUA to divest itself of substantial real estate and other assets unrelated to the essential functions of a labor federation, which the GTUA inherited from its Soviet-era predecessor. There were two additional unions: The Free Trade Union of Teachers of Georgia Solidarity (FTUTGS) and the Independent Trade Union of Metropolitan Employees.

The law prohibits discrimination by employers against union members, and employers may be prosecuted for antiunion discrimination and forced to reinstate employees and pay back wages; however, the GTUA and its national unions reported frequent cases of management warning staff not to organize trade unions. Some workers, including teachers, employees of various mining, winemaking, pipeline, and port facilities, and the Tbilisi municipal government reportedly complained of being intimidated or threatened by employers, including their public sector employers, for union organizing activity. Observers also claimed that employers failed to transfer compulsory union dues, deducted from wages, to union bank accounts. The Ministry of Labor investigated some complaints but took no action against any employers.

*b. The Right to Organize and Bargain Collectively.*—The law allows workers to organize and bargain collectively, and some workers exercised these rights; however, the practice of collective bargaining was not widespread.

The law provides for the right to strike with some restrictions, and workers exercised this right in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code governs all labor issues, including child labor, and the worst forms of child labor are criminal offenses carrying steep penalties.

According to the law, the minimum age for employment of children is age 16; however, in exceptional cases, children may work with parental consent at ages 14 and 15. Children under age 18 may not engage in unhealthy or underground work, and children between ages 16 and 17 are subject to reduced working hours. The Ministry of Health, Social Service, and Labor was responsible for enforcing laws regulating child labor; however, the actual enforcement of these laws was questionable due to a general lack of resources. Child labor was not considered a serious problem.

*e. Acceptable Conditions of Work.*—The national minimum wage for public employees was \$4.50 (9 GEL) a month, which did not provide a decent standard of living for a worker and family. There was no mandated minimum wage for private sector workers, although the lowest wage actually paid was \$10 (20 GEL), which also did not provide a decent standard of living. Average wages in private enterprises for 2003 was \$65 (126 GEL) monthly; in state enterprises, \$58 (113 GEL). In general, salaries and pensions were insufficient to meet basic needs for a worker and family. Unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries.

The old Soviet Labor Code, still in effect with some amendments, provides for a 41-hour workweek and for a weekly 24-hour rest period. The labor code permits higher wages for hazardous work and permits a worker to refuse duties that could

endanger life without risking loss of employment; however, in practice, these protections were rarely, if ever, enforced.

## GERMANY

Germany is a constitutional parliamentary democracy; citizens periodically choose their representatives in free and fair multiparty elections. A coalition government of the Social Democratic Party (SPD) and Alliance 90/The Greens returned to office in 2002 elections. The head of the Federal Government, the Chancellor, is elected by the Bundestag, the directly elected chamber of the federal legislature. The second chamber, the Bundesrat, represents the 16 states. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states enjoy significant autonomy, particularly regarding law enforcement and the courts, education, the environment, and social assistance. The judiciary is independent.

Civilian authorities maintained effective control of the security forces. State governments have primary responsibility for law enforcement, and the police are organized at the state level. Some members of the security forces are alleged to have committed isolated human rights abuses.

A well-developed industrial economy provides citizens with a high standard of living. The population was approximately 82 million.

The Government generally respected the human rights of the citizens; however, there continued to be instances of ill-treatment of prisoners and detainees by police. Under a new law, the courts may order that a person be detained indefinitely if convicted of particularly serious crimes and has completed his sentence but is judged, after expert testimony, to be a danger to the public. There were some limits on freedom of assembly and association. There was some government and societal discrimination against minority religious groups. Instances of societal violence and harassment directed at minority groups and foreign residents continued, and the Government at times did not provide adequate protection. Women continued to face some job discrimination in the private sector, as did minorities and foreigners. Trafficking in persons, particularly women and girls, was a problem, which the Government actively combated.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, there was one instance in which police may have been culpable in the death of an individual in their custody.

In August, a 35-year-old man died after officers of the Special Unit Commandos (SEK) arrested him in his home in Neukoelln, Berlin. The officers are alleged to have held the man down with an iron shield and handcuffed him. Shortly afterwards, the man complained about feeling ill; an emergency physician was called, but the suspect died. The Berlin public prosecutor was still investigating this matter at year's end.

In July 2003, a court in Cologne found six police officers guilty of the 2002 beating death of a man who had been arrested; sentences ranged from 12 to 16 months in jail, and the officers appealed the decision. In July, the Cologne Court of Justice rejected the appeal but justified the comparatively lenient sentences by citing evidence by a medical expert linking the death (2 weeks after the beating) to a pre-existing medical condition. Nevertheless, since the sentences were 12 months or more, the police officers were dismissed from the police and lost their status as civil servants.

On October 18, a Frankfurt state court convicted three officers of the border police (BGS) charged with the 1999 death of a Sudanese asylum seeker during a deportation flight. The court found the officers guilty of inflicting "bodily harm with fatal consequences." The men were sentenced to 9 months of probation. Two of the three retained their jobs and pensions, while the third lost his job under the terms of his introductory 90-day trial period, as he had joined recently. The court ruled the men had not received sufficient instruction from the BGS on how to respond in crisis situations.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Basic Law prohibits such practices; however nongovernmental organizations (NGOs) and other observers asserted that there continued to be instances in which police ill-treated and used excessive force against individuals in their custody. The

Government investigated a number of abuses and prosecuted police who mistreated persons in custody (*see* Section 1.d.).

In February, Stuttgart police allegedly beat a foreigner who had been arrested for refusal to provide identification or accompany officers to the station in connection with an identification check. Stuttgart prosecutors conducted a full investigation and concluded that there was no legal basis to pursue criminal charges against the officers involved, determining that the individual was extremely intoxicated and police action had occurred in the course of resisting arrest.

In February 2003, an employee at the Cologne police headquarters struck a detainee whom he alleged was verbally abusive. Authorities reassigned the employee to another position and began an investigation, which remained pending at year's end.

In April 2003, authorities charged three police officers in Frankfurt am Main with assault for beating Andre Heech after arresting him in February for failing to return from a prison work release program. Heech, an amputee, alleged that one of the officers struck the remaining part of his leg with a metal pipe, and that he was not provided medical assistance. The case remained pending at year's end.

In November, police in Baden-Wuerttemberg initiated an investigation of three police officers suspected of having mistreated a suspect during a drug raid at a subway station in Stuttgart. According to a Stuttgart city council member, two civilian policemen forced a suspect to lie down on the floor of the subway station and a third policeman kicked him. The city council member filed a legal complaint against the police officers, and the Stuttgart prosecutor's office was investigating the case at year's end.

Late in the year, military authorities began a criminal investigation of a Bundeswehr army captain and 17 noncommissioned officers stationed in Coesfeld, near Muenster, charged with abuse and degrading treatment of draftees during training. Drill instructors allegedly stripped, kicked, and used electric shock on the inductees. All 18 Bundeswehr members were suspended from duty while the investigation by the Muenster state prosecutor continued. If convicted the defendants faced sentences of to up to 5 years in prison.

There were a number of violent attacks by rightwing groups on minority groups and foreigners (*see* Section 5).

Prison conditions met international standards.

Men were held separately from women, juveniles were held separately from adults, and pretrial detainees were held separately from convicted criminals.

The Government permits visits by independent human rights observers, and such visits took place.

*d. Arbitrary Arrest or Detention.*—The Basic Law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police forces are organized at the state level. The jurisdiction of the Federal Criminal Office is limited to counterterrorism and international organized crime, particularly narcotics trafficking, weapons smuggling, and currency counterfeiting. The Federal Criminal Police, as the country's central police agency, coordinates crime suppression at the national and international level, and investigates certain limited cases of international crime as mandated by the law or the public prosecutor. Police forces in general were trained to a high professional level, disciplined, and mindful of citizens' rights. The Government investigated abuses and prosecuted police who mistreated persons in custody (*see* Sections 1.a. and 1.c.). Allegations of corruption were very rare.

An individual may be arrested only on the basis of a warrant issued by a competent judicial authority, unless the suspect is caught in the act of committing a crime or the police have strong reason to believe that the individual intends to commit a crime. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. An individual detained by police must be brought before a judge and charged within 24 hours of the arrest. The court then must issue an arrest warrant stating the grounds for detention or order the individual's release.

Police at times detained known or suspected radicals for brief periods when they believed such individuals intended to participate in illegal or unauthorized demonstrations (*see* Section 2.b.). The rules governing this type of detention are different in each state, with authorized periods of detention ranging from 1 to 14 days, provided judicial concurrence is given within 24 hours of initial detention. There were no reports of such detention during the year.

Detainees have access to lawyers. Only judges may decide the validity of any deprivation of liberty. Bail exists but was employed infrequently; detainees usually were released unless there was clear danger of flight outside the country. In these

cases, a person may be detained for the duration of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the Government must compensate the individual.

A law allowing a so-called “retroactive preventive detention” for criminals went into force in July. Under the new law, criminals cannot be punished twice for the same crime; however, in cases involving certain serious crimes (rape, homicide, manslaughter, and others), courts may order that detention be continued after the sentence has been served (“preventive detention”). This requires a court finding that the convicted person could pose a danger to the public, and requires at least one expert opinion. The detention could last for an indefinite period of time.

*e. Denial of Fair Public Trial.*—The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice. Ordinary courts have jurisdiction in criminal and civil matters. There are three levels of such courts (local courts, regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: Administrative, labor, social, and fiscal. These courts also have different levels, and appeals may be made to the next higher level.

In addition, the Federal Constitutional Court, the country’s supreme court, reviews laws to ensure their compatibility with the Basic Law and adjudicates disputes between different branches of government on questions of competency. It may also hear and decide cases concerning the infringement of a person’s basic constitutional rights by a public authority.

The judiciary provided citizens with a fair and efficient judicial process, although court proceedings at times were delayed because of increasing caseloads. For simple or less serious cases, procedures exist for an accelerated hearing and summary punishment at the local court level. The maximum sentence for such cases is limited to 1 year. Generally, a 1-year sentence is suspended and the individual is placed on probation.

Trials are public and juries are usually used; however, some cases are heard by two lay judges and two to three professional judges. In such cases, the lay judges have the same rights as the professional judges. Defendants are required to be present and have the right to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants demonstrate financial need. Defendants may confront or question witnesses against them and present witnesses and evidence on their behalf. In addition, defendants and their attorneys have access to government-held evidence relevant to their cases. They also enjoy a presumption of innocence and have a right of appeal.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Basic Law and statutory laws prohibit such actions, and government authorities generally respected these prohibitions in practice; however, the privacy of members of organizations under observation by the federal and state Offices for the Protection of the Constitution (OPCs) may have been infringed (see Sections 2.b. and 2.c.).

The monitoring of private conversations requires the concurrence of the courts and is permitted only where there is a suspicion of a serious offense that could carry a prison sentence of more than 5 years. In March, the Federal Constitutional Court ordered that the law on monitoring conversations in private homes be amended so that the state security division of a regional court could no longer order monitoring when the individuals under surveillance were speaking to close relatives, doctors, priests or defense lawyers. The ruling will require an amendment to the law, which had not taken place by year’s end.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Basic Law provides for freedom of speech and of the press, and the Government generally respected this right in practice; however, there were some limits on freedom of speech and press. Academic freedom was not restricted.

Distribution of the propaganda of proscribed organizations is illegal, as are statements inciting racial hatred, endorsing Nazism, and denying the Holocaust. The authorities sought to block what they considered dangerous material on the Internet. In March, police nationwide raided over 300 apartments to search for and seize rightwing extremist CDs and other banned music products. For example, there were a growing number of neo-Nazi musical bands in Lower Saxony that called for violence or employed xenophobic or racist lyrics. As in other states, rightwing extremists planned the distribution of such CDs in Lower Saxon schools. The government of Lower Saxony deterred rightwing extremists from distributing these CDs by officially declaring it a criminal offense. In 2003, members of the Berlin neo-Nazi band

Landser were convicted of forming a criminal organization and sentenced to terms ranging from 3 years and 4 months in prison to 21 months' probation.

In July, the Constitutional Court ruled that, in general, neo-Nazi groups enjoy a constitutionally guaranteed right of freedom of speech. The highest court overturned a state court ban on a rally by rightwing extremists protesting construction of a synagogue. The judges specified, nonetheless, that anti-Semitic or racist statements remained illegal.

Apart from these limitations, the independent media were active and expressed a wide variety of views without government restriction.

The law bans access to prohibited material (for example, child pornography and Nazi propaganda) on the Internet, and the Government explored ways to expand international cooperation against Internet crime. For example, between 2002 and 2004 the Duesseldorf District Administration issued 90 ordinances against Internet providers in North Rhine-Westphalia, forcing them to block access to certain websites with rightwing extremist content. Appeals of these ordinances were making their way through the courts at year's end.

A 2003 federal report estimated that there were more than 950 Internet sites with what the authors considered to be hate-inciting propaganda. While the number of such Internet sites decreased slightly due to government prosecution, the extremist groups used other methods such as e-mail and chat rooms to deliver their message. The Federal Court of Justice has held that the country's laws against Nazi incitement may apply to individuals who post Nazi material on Internet sites available to users in the country even if the site resides on a foreign server.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly, and the Government generally respected this right in practice; however, outlawed organizations were not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when outlawed organizations attempt to hold public assemblies.

In March 2004, the Muenster Higher Regional Court confirmed a ban by local authorities on two planned demonstrations by the German National Democratic Party (NPD) against the construction of a synagogue in Bochum, citing the party's anti-Semitic tendencies and the racially inflammatory motto for the demonstration as reasons for the ban. The NPD lodged a constitutional complaint against this decision with the Federal Constitutional Court. In June, when local law enforcement authorities banned another planned NPD demonstration against the construction of the synagogue, the party went directly to the Constitutional Court, which unanimously granted a temporary injunction to have the ban lifted. The demonstration took place on June 28. The case remained before the Federal Constitutional Court at year's end.

In August, in Wunsiedel, more than 2,000 neo-Nazis participated in an annual march to honor Rudolf Hess. City officials had tried to ban the march, but the Bavarian Administrative Court had ruled against a ban. Several hundred individuals gathered also to oppose the march. Authorities arrested 105 individuals for carrying guns and illegal symbols such as swastikas.

On September 20, the Berlin Senate banned the holding of the "First Arab and Islamic Congress in Europe" scheduled to take place on October 1–3 in Berlin. The conference organizer, in the media and on his website, used anti-Semitic slogans and was quoted saying it was a "sacred duty" to resist "US-British-Zionist" "terror" and "hegemony" and calling for "liberation of all occupied lands" and resistance "against the aggression and occupation in Palestine and Iraq." Mainstream Muslim organizations and German officials had publicly expressed their concerns about the planned event, saying it would violate German laws against violence incitement. On September 18, conference organizer Fadi Madi was refused entry into Germany on those grounds and was sent back to his residence in Lebanon.

The law provides for freedom of association, and the Government generally respected this right in practice; however, the Basic Law and the Association Law permit the banning of organizations whose activities are found to be illegal or opposed to the constitutional democratic order as established by the Basic Law. The Federal Constitutional Court is the only body that can outlaw political parties on these grounds. Federal or state governments may ban other organizations on these grounds, but legal recourse against such decisions is available. Such banned organizations included a number of groups that authorities generally classified as rightwing or leftwing, foreign extremist, or criminal in nature. Several hundred organizations were under observation by the federal and state OPCs (*see* Section 1.f.). The OPCs were charged with examining possible threats to the constitutional democratic system; they had no law enforcement powers. Observation generally consisted of col-

lecting information from written materials and firsthand accounts in order to assess the possible threat. While OPC monitoring by law may not interfere with the continued activities of any organization, the OPCs publish a list of organizations being monitored, which could affect those organizations' activities (*see* Section 2.c.). At times, more intrusive methods, such as the use of undercover agents, could be employed, subject to legal checks.

In October 2003, more than 300 police officers raided homes and meeting places of suspected neo-Nazi groups in Schleswig-Holstein and Hamburg. Police found weapons and arrested several individuals suspected of "forming a politically motivated criminal organization." The suspects were associated with the international neo-Nazi group Combat 18. Seven individuals were arrested. In April, the Kiel District Court sentenced one of those arrested, a known rightwing extremist, to 3 years and 2 months in prison on 13 counts of illegal weapons trading. Of the remaining six suspects, two received probation in firearms-related proceedings, one remained in prison awaiting trial on charges of illegal weapons trading, and three were released from pretrial detention and were awaiting trial.

An Aachen-based Islamist group, the Al-Aqsa-Association, which was banned by the federal Interior Minister in 2002 due to its financial support of the terrorist organization Hamas, lodged an appeal against the ban at the Federal Administrative Court in August 2002. In July, the court decided to suspend the ban until the appeal was adjudicated. On December 3, in a final decision, the Federal Administrative Court in Leipzig confirmed the ban.

Nine members of the Kameradschaft Sued, a neo-Nazi gang from the southern part of the country, were charged in an alleged 2003 plot to bomb the site of a planned Jewish community center in downtown Munich. The first of two trials, involving three teenage girls and two men, began in October. The public was largely excluded in order to protect the defendant minors. The trial of ringleader Martin Wiese and three members of his inner leadership circle began in November.

*c. Freedom of Religion.*—The Basic Law provides for freedom of religion, and the Government generally respected this right in practice; however, some religious minorities continued to experience instances of discrimination.

Church and State are separate, although the State bestows certain advantages upon those religious communities that have the status of "corporation under public law." This status entitles them, among other things, to levy taxes on their members, which the Government collects for them. The decision to grant public law corporation status is made at the state level, but the requirements generally include a minimal number of members and financial resources, evidence of continuity of existence, and observance of, and consistency with, the Basic Law.

Religious organizations are not required to register, although many were registered and were treated as nonprofit associations and therefore enjoyed tax-exempt status.

The Government does not recognize for public administration purposes several belief systems, such as Scientology, as religions; however, it does not prevent them from engaging in public and private religious activities. The Church of Scientology, in particular, is viewed, instead, as an economic enterprise. Moreover, federal and state authorities have classified Scientology as a potential threat to democratic order, measures which have led to employment and commercial discrimination against Scientologists in both the public and private sectors. Within the federal system, the states showed large differences with respect to their treatment of Scientology. Most states did not monitor Scientology, but Bavaria, which had unsuccessfully sought support among other states for a federal ban, continued to do so. The state of Baden-Wuerttemberg also continued to monitor Scientology, which it labeled a dangerous sect. In November, the Cologne Administrative Court ruled that the observation of Scientology by the Federal OPC, including the use of undercover methods, was legal. The court found that there were "factual indications" that Scientology sought to undermine the "free and democratic basic order" of the FRG. The court rejected a petition by Scientology to end its observation by the OPC, which has been ongoing since 1997. Scientologists announced plans to appeal.

Scientologists encountered other forms of hostility and suspicion from official sources. According to Scientologists, when the Ministry of Trade and Commerce of Baden-Wuerttemberg learned in October that the winner of the "Baden-Wuerttemberg Support Prize for Young Companies" had been awarded to a Scientologist, the Ministry withdrew the prize of approximately \$20,250 (15,000 Euro). In another instance, a Scientologist claimed that his license to be an expert witness for cases involving real estate claims, granted by the Berlin Chamber of Industry and Commerce, would not be renewed because of his affiliation with the Church of Scientology. The Chamber claimed not only that Scientologists should not

be active on the real estate market but also that many judges would not accept testimony from a witness affiliated with Scientology.

Employment offices throughout the country continued to implement a 1996 administrative order of the Ministry of Economics and Labor directing them to enter an "S" notation next to the names of firms suspected of employing Scientologists, a notation that was subsequently made optional. Employment counselors are supposed to warn their clients that they might encounter Scientologists in these workplaces. Scientologists claimed that the "S" notations violate their right to privacy and interfere with their livelihood. Private sector firms have frequently screened for Scientology affiliations, citing OPC observation of Scientology as a justification for discrimination. Unlike in previous years, there were no reports that the Federal Property Office barred the sale of real estate to Scientologists.

Outside the government sector, the Lutheran Church employed "sect commissioners" to warn the public about supposed dangers posed by Scientology, as well as by the Unification Church, Bhagwan-Osho, and Transcendental Meditation. The Lutheran Church also characterizes the Church of Jesus Christ of Latter-day Saints (Mormons), the Jehovah's Witnesses, the Church of Christ, Christian Scientists, the New Apostolic Church, and the Johannish Church as "sects," but in less negative terms than it does Scientology.

The Unification Church sought legal remedies against the Government's entry ban on the founder of the Unification Church, Reverend Sun Myung Moon, and his wife, Hak Ja Har Moon. Federal courts ruled that the ban did not infringe upon church members' freedom to practice their religion. An appeal against the ban was pending at year's end. In December, the Berlin Administrative Court offered the Jehovah's Witnesses conditional Public Corporate status. The conditions, if accepted, are as follows: Jehovah's Witnesses would not collect the Church tax, they would not take part in religious lessons in schools, and they would not be appointed to church civil servant status. At year's end, the Witnesses had not responded to this proposal.

In April, following legal maneuvering and debate in 2002 and 2003, Baden-Wuerttemberg became the first state to enact a law banning the wearing of headscarves by teachers in public schools. Saarland, Hessen, and Bavaria soon followed. In June, the Federal Administrative Court in Leipzig upheld the law and the state's decision to deny a teaching position to plaintiff Fereshta Ludin. In March, Baden-Wuerttemberg authorities suspended teacher Gabriele Graber for refusing to remove her headscarf; the suspension remained pending a decision on Graber's case by the Federal Administrative Court in Leipzig. Other cases were also pending in the court system at year's end. An amended school law that entered into force in Lower Saxony in May also prohibited Muslim teachers from wearing headscarves while on duty in public schools. On October 8, the Hessen state parliament passed a law barring headscarf use by all public officials. In contrast, Hamburg permitted teachers to wear headscarves.

In October, a court in Leipzig ruled that Christian nuns teaching in public schools, a common practice, must also conform to a Baden-Wuerttemberg law that prohibited the wearing of religious paraphernalia in schools. When Bavaria banned headscarves and other religious symbols deemed contrary to constitutional order in November, it did not ban the wearing of crucifixes or nuns' habits, claiming that they were professional uniforms.

While traditional anti-Semitism based on religious doctrines and traditional anti-Jewish prejudices continued to exist, Jewish leaders, academics, and others contended that a newer, nontraditional, form of anti-Semitism was emerging. This form tended to promote anti-Semitism as part of hostility to globalization, capitalism, Israel, and foreigners.

According to the 2003 report by Office for the Protection of the Constitution, the total number of registered Anti-Semitic crimes went down to 1,199 (from 1,515 in 2002). However, among these, the number of violent crimes increased from 28 to 35, and the number of desecrations of Jewish cemeteries, synagogues, and memorials increased from 78 to 115. On July 31, a rightwing extremist attempted to put an NPD leaflet in the hand of a young man wearing a Star of David sticker who was walking on a street in Berlin. When the young man dropped the leaflet on the sidewalk, the extremist attempted to strangle him and throw him on the ground, causing minor injuries. The authorities apprehended and charged the offender.

In August, according to the Zionist Organization of Frankfurt, four men in downtown Frankfurt harassed an English-speaking Orthodox Jew, shouting, "they forgot to send your parents to the gas chamber" and jostled the individual until he fell to the ground. The men fled the scene immediately.

The desecration of Jewish cemeteries continued to be the most widespread acts of anti-Semitic violence. In January, vandals knocked over a number of headstones

in a Jewish cemetery in Nickenich. They smeared four other headstones with black paint and partially dug up one of the graves in the cemetery. Police officials offered a reward of approximately \$3,375 (2,500 Euro) for information on the incident. In April, vandals scrawled swastikas and Nazi epithets on five headstones at a Jewish cemetery in Bausendorf. In June, vandals knocked over two headstones and scratched swastikas into seven others at a Jewish cemetery in Alsbach-Haehnlein; police were investigating the incident.

Also in June, 45 gravestones in an ancient Jewish cemetery in Duesseldorf were covered with swastikas, SS-signs and anti-Jewish slogans. Another Jewish cemetery in Bochum was vandalized in August. Police investigators were unable to identify the perpetrators. In October, police announced that the Jewish cemetery in Julich had been desecrated; swastikas and other anti-Semitic symbols had been daubed on the gravestones.

On September 23, 350 persons demonstrated in the district of Neunkirchen (Saarland) against the desecration of the Hermanstrasse Jewish cemetery earlier in the month. According to police, the desecration nearly destroyed the cemetery. Vandals have desecrated the Hermanstrasse graves on 10 occasions since 1971, including twice during the year. The incident took place after significant electoral gains by the far-right party NPD in Neunkirchen (5.6 percent) and neighboring Voelklingen (9.7 percent) in Saarland's September 5 state elections.

On December 8, it was discovered that billboards advertising the campaign against forgetting the Holocaust in the Steglitz section of Berlin had been defaced with anti-Semitic graffiti and slogans in support of a neo-Nazi organization.

Frankfurt's Jewish community harshly criticized anti-Semitism on the part of some Islamic representatives at the Frankfurt Book Fair, held in October. Jewish representatives cited open displays of anti-Semitic texts, such as the book "Terror and Zionist Thinking" (featuring a cover illustration of an individual standing in a pool of blood with a skull with a Star of David).

All branches of Islam were represented in the country, and a large majority of Muslims came from abroad. There remained areas where the law conflicted with Islamic practices or raised religious freedom issues, notably the wearing of headscarves. The integration of Muslims into German society continued to be a source of controversy, which intensified following violent incidents between Muslims and non-Muslims in neighboring Holland.

Police reported that in November a Molotov cocktail was thrown at a mosque near Heidelberg, causing an estimated \$13,500 (10,000 Euro) worth of damage. In December, a 17-year-old German citizen born in Tajikistan was arrested for the arson attack. Also in November, 25,000 Muslims took part in a massive protest in Cologne against terrorism and militancy and emphasizing their rejection of violence.

Reports of opposition to the construction of mosques in various communities around the country continued. The complainants generally cited increased traffic and noise. A debate continued over whether Muslims would be permitted to use loudspeakers in residential neighborhoods to call the faithful to prayer.

Authorities ran a variety of tolerance-education programs, many focusing on anti-Semitism and xenophobia. Government agencies cooperated with NGOs in the formulation and administration of these programs. With the active participation of the Muslim community, authorities in Hamburg began work on establishing interreligious education at public schools, labeled the "Hamburg Model."

In April, the Government hosted a conference on anti-Semitism sponsored by the Organization for Security and Cooperation (OSCE). The OSCE conference led to the "Berlin Declaration," which called on the 55 nations that attended to implement a set of concrete measures to combat anti-Semitism and foster tolerance and respect for all religious groups.

For a more detailed discussion, see the 2004 International Religious Freedom report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.*—The Basic Law provides for these rights, and the Government generally respected them in practice. For ethnic Germans from Eastern Europe and the former Soviet Union, the Basic Law provides both for citizenship immediately upon application and for legal residence without restrictions.

The law specifies that foreign residents must reside in the country for 8 years in order to become naturalized citizens. It grants citizenship to children born to foreign residents as of January 1, 2000, provided that one parent has lived legally in the country for at least 8 years. Children may retain both German citizenship and that of their parents until they reach the age of 18, at which time they must choose the citizenship of one country or the other. If they fail to make this choice by the time

they have reached age 23, they will lose their German citizenship. If they give up their foreign citizenship, they must provide evidence of having done so.

The Basic Law prohibits forced exile, and the Government did not employ it.

The country is a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Basic Law and legislation reflect this. The Government provided protection against refoulement (the involuntary return of persons to a country where they feared persecution) and provided refugee status or asylum. Both the Federal Government and state governments cooperated with the office of U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, although immigration matters were primarily a state-level responsibility.

In July, the Bundestag and Bundesrat passed a new immigration law providing for stricter security and antiterrorism measures, such as background checks and for easier deportation of suspected terrorists and persons inciting hatred. The bill also established greater protection for refugees by including persecution based on gender and persecution by non-state actors as grounds for granting asylum. It facilitated work and residence permits for highly qualified foreigners, foreign students, and investors. The law was scheduled to take effect on January 1, 2005.

The Government continued to observe a European Union (EU) regulation providing that individuals who attempt to enter the country via a "safe country of transit" (a member state of the EU or a country adhering to the Geneva Convention on Refugees) were ineligible for asylum and could be turned back at the border or, if they had managed to enter the country, returned to that "safe country of transit." Individuals whose applications for asylum were rejected had up to 2 weeks to appeal the decision. Individuals who arrived at an international airport and who were deemed to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases, the Federal Office for the Recognition of Foreign Refugees was required to make a decision on an asylum application within 48 hours or allow the person to enter the country. The applicant could appeal a negative decision to an administrative court within 3 days, and the court was required to rule within 14 days or allow the individual to enter the country. Although stays in the airport facility were limited to a maximum of 19 days, applicants whose claims were rejected, but who could not be deported immediately, allegedly were held at the airport for months, a practice criticized by some refugee assistance groups and human rights advocates.

The number of asylum applicants during the year decreased to 35,607 from 50,563 in 2003, a decline of 29.6 percent. According to the Interior Ministry, 1.5 percent of the processed applicants received asylum. The majority of asylum seekers came from Turkey, Serbia and Montenegro, and Russia. Applicants who entered the country and were denied asylum at their original administrative hearings could challenge the decision in court, and 80 percent of applicants denied asylum did so. Only 3 to 4 percent of such denials were overturned. The rejected applicants were allowed to remain in the country during the course of the appeal, which usually took at least a year and sometimes significantly longer. Applicants received housing and other social service benefits during this time. Refugees from civil wars in the former Yugoslavia have been allowed to work after a 1-year waiting period. Individuals who failed to cooperate during the deportation process or who were deemed likely to flee to avoid deportation could be held in pre-deportation detention, with the average detention period lasting 5 to 6 weeks.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. Almost 2 percent of the processed applicants whose asylum applications were rejected, but who would be endangered if they were returned to their home country, received temporary residence permits; however, they were expected to leave when conditions in their home country allowed for their safe return.

In several cases, observers accused local authorities in Hesse of deporting foreigners in contravention of humanitarian practice. Usingen authorities deported the parents of two teenage children who remained in the country. In a separate incident, Usingen police deported three teenagers to Turkey, leaving the rest of the family behind. In February, Border Control officers deported a Tunisian woman (under treatment at a Frankfurt mental clinic) after rejecting her political asylum claim; medical authorities and human rights groups protested that the woman was not well enough to undergo deportation.

Trier prosecutors stated on August 6 that they were unable to verify independently charges made by four Chinese individuals of abuse and intimidation at the hands of Chinese authorities in 2003. The four plaintiffs petitioned to reopen the case.

Metin Kaplan, former head of the “Caliphate State,” a Turkish Islamist group, was extradited to Turkey in October to face terrorism-related charges after serving a 4-year sentence for calling for the killing of an opponent. Kaplan’s extradition was delayed because of uncertainty that a fair trial could take place in Turkey. However, on May 26, the High Administrative Court in Muenster, recognizing changes in Turkish laws, especially the abolition of the death penalty, and assurances that Kaplan would get a fair trial, approved his deportation.

The Government estimated that approximately 59,000 technically deportable Kosovar refugees remained in the country. Of that total, 21,000 were ethnic Kosovo Albanians, and 38,000 were members of ethnic minorities: Serbs, Roma, Bosniaks (Muslim Slavs), Askalii/Egyptians, and Gorani. The Government agreed with the U.N. Interim Mission in Kosovo (UNMIK) to stop all involuntary returns of Roma, Askakali and Serbs while continuing the repatriation of Bosniaks and Gorani.

After the 2002 terrorist incident in a Moscow theater in Russia, the federal Interior Ministry recommended to its state-level counterparts that deportations of Chechens be halted temporarily and that previously refused asylum cases of Chechens remaining in the country be re-evaluated. However, according to Amnesty International (AI), many asylum applications by Chechens were refused during the year. In February, over 100 refugees from Chechnya demonstrated in Bielefeld against deportation; in April, more than 60 refugees demonstrated in Hamburg against their pending deportation.

Several states attempted to speed up repatriation of uncooperative rejected asylum seekers by opening communal accommodations where foreigners were housed while authorities obtained valid information regarding their identity and citizenship. Some refugee rights and church organizations criticized these centers as inhumane, claiming that the Spartan amenities and the relative lack of freedom of movement constituted psychological pressure on the residents. Authorities countered that the centers’ emphasis on counseling and job skill development promoted the residents’ willingness to depart voluntarily and enhanced their chances of success in their home countries.

According to mid-year statistics, 16,151 Afghans and 12,922 Iraqis were technically deportable; however, authorities extended a moratorium on deportations of Afghan refugees was extended pending the recommendations of a group of experts established in mid-year, and the Interior Minister decided in July that conditions would not permit the forced deportation of Iraqi nationals to Iraq.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Basic Law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections. Members of the Bundestag are elected every 4 years from a mixture of direct-constituency and party-list candidates on the basis of universal suffrage and secret balloting. The Bundesrat is composed of delegations from state governments; there are no direct Bundesrat elections.

In the Bundestag that was last elected in 2002, there were two major parties, the SPD and the Christian Democratic Union/Christian Social Union (CDU/CSU), and three smaller parties, the Free Democrats (FDP), Bündnis 90/the Greens and the Party of Democratic Socialism (PDS), which only holds two seats. The Federal Constitutional Court may outlaw political parties that actively work to undermine the liberal democratic order (*see* Section 2.b.).

Press allegations of malfeasance by some well-known parliamentarians gave rise to a public debate about the impact of secondary jobs and income on politicians’ conduct in office. This debate did not appear to damage the public’s trust in the integrity of the Parliament.

While there was no federal law establishing public access to government information, four states—Berlin, Brandenburg, Schleswig-Holstein, and North Rhine-Westphalia—have freedom of information laws. In these states, denial of access to information was usually attributable to concern for the protection of business confidentiality and a narrow interpretation of the law. Fees for obtaining information were not a significant impediment. All four states with such laws provide for an appeals process.

The Ministry of the Interior issued a directive in July to promote further training and other measures intended to deter corruption.

By law, women are entitled to participate fully in political life, and a growing number were prominent in the Government and the parties. On the Federal Constitutional Court, 4 of the 16 judges were women. Two of the parties represented in the Bundestag were headed by women, and the share of women in the Bundestag

increased from 30.9 percent to 32.8 percent. Six members of the 14-member cabinet were women.

Few minorities were represented in the Government. There were two Bundestag deputies of Turkish origin, one of partially Indian origin, and one of the indigenous Sorb minority. On June 13, two candidates of Turkish ancestry were elected to the European Parliament.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of international and domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits the denial of access to housing, health care, or education on the basis of race, disability, sex, ethnic background, political opinion, or citizenship, and the Government generally enforced these provisions in practice.

The Government had not implemented a 2000 EU Directive establishing a general framework (antidiscrimination act) for equal treatment in employment and occupation. The framework seeks to combat discrimination on the grounds of religion or belief, disability, age and sexual orientation.

*Women.*—The law prohibits violence against women, and the Government has established a number of legal and social structures to combat it. Nevertheless, violence against women was a problem and was thought to be underreported; there were no nationwide statistics, but in 2003, the Federal Ministry of Family, Seniors, Women and Youth estimated that there were approximately 45,000 cases per year of domestic violence against women. In 2003, according to police criminal statistics, 8,766 cases of rape and serious sexual coercion were registered. Societal attitudes toward such violence are strongly negative, and legal and medical recourse were available. During the year, the Government conducted campaigns in schools and through church groups to bring public attention to the existence of such violence and supported numerous projects to combat the problem. There were 324 “women’s houses,” where victims of violence and their children could seek shelter, counseling, and legal and police protection. The law provides for removing a violent husband or male domestic partner from a shared dwelling.

Prostitution is legal. Lawmakers have approved new rules affording prostitutes more benefits, such as the chance to enter the social security system and to use the courts to obtain payment for their services.

Sexual harassment of women was a recognized problem. The press reported on sexual harassment in the workplace and in public facilities. Unions, churches, government agencies, and NGOs ran a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it.

The law provides for equal pay for equal work; women usually were not discriminated against in terms of equal pay for equal work, although they were underrepresented in well-paid managerial positions and represented disproportionately in some lower-wage occupations; their average monthly incomes were lower than those of men.

*Children.*—The Government maintained its strong commitment to children’s rights and welfare; it amply funded systems of public education and medical care. Public education was provided free of charge through the university level, and education was compulsory through the age of 16; almost all children attended school.

Child abuse was a problem. No statistics were available, but children’s advocates from NGOs as well as some politicians considered it a problem, and individual cases received attention in the media. Statistics on victims of violent crimes indicate that in 2003, approximately 95 children were victims of murder or homicide.

The Criminal Code provides for the protection of children against pornography and sexual abuse. For possession of child pornography, the maximum sentence is 1 year in prison; the sentence for distribution is 5 years. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child’s own country. In 2003, 15,430 cases of sexual abuse of children were recorded, a decrease of 3.6 percent compared to 2002. In 2003, there were 169 cases of serious sexual abuse of children for the purpose of producing and publishing pornographic material. The number of cases of possession or distribution of child pornography increased from 2,002 in 2002 to 2,868 in 2003 according to an analysis of the issue conducted by the Federal Office of Criminal Investigation; however, the police reported that the increased number of cases reflected a higher number of

complaints filed due to better information and increasing awareness of the problem within the population rather than an actual increase in abuse.

A German UNICEF report issued in October 2003 characterized a region in the Czech Republic close to the German border as a "haven for pedophilia." For several years, a liaison group between the two countries has worked to increase the exchange of information and fight pedophilia, but reports indicated that the problems persisted.

Trafficking in girls was a serious problem, which the Government and NGOs combated (*see* Section 5, Trafficking.)

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons, primarily women and girls for sexual exploitation, was a problem, which the Government recognized and actively combated.

The criminal law specifically prohibits trafficking in persons and makes the offense punishable by up to 10 years' imprisonment. In December, parliament passed a bill to implement the European Union (EU) Council Framework Decision on Combating Trafficking in Human Beings and the U.N. Protocol. It extends the definition of trafficking to include trafficking for both sex and labor purposes.

The country was both a destination and transit country for trafficked persons. As in previous years, most trafficking victims were women and girls between the ages of 16 and 25 who were forced to work as prostitutes. The Federal Criminal Office (BKA) reported in their annual report on trafficking in persons that the numbers of known and registered victims in 2003 was 1,235, and the percentage of registered victims under age 18 continued to be in the 5 percent range. Of the registered victims, 80 percent came from Eastern Europe and the countries of the former Soviet Union, primarily Russia, Poland, Ukraine, Moldova, Lithuania, Slovakia, Latvia, Bulgaria, and the Czech Republic. Non-European victims came mostly from Africa and Asia.

Traffickers used a range of intimidation techniques to ensure the compliance of victims, including threats to "sell" the victim, threats of deportation, misrepresentation of victims' legal rights and status, physical violence, and withholding travel and identification documents. The Government was active in combating trafficking in persons at the federal and state levels. There were no reports of government officials involved in human trafficking.

Trafficking crimes are prosecuted at the state level. According to a report covering 2003, the number of sex trafficking investigations in that year was 431, an increase of 20 percent compared to 2002. The number of trafficking victims increased by 37 percent.

In 2003, in North Rhine-Westphalia, the number of cases of trafficking in persons uncovered by state police authorities increased by almost 20 percent, reaching a record high with 118 new criminal investigations for such crimes. A total of 294 perpetrators were identified, more than two-thirds of them from foreign countries. Almost 75 percent of the 241 victims were from Eastern Europe, and 23 were younger than 18, including 3 who were 14 years of age. In Berlin, there were 17 convictions for trafficking in 2003, according to press reports.

In Bavaria, Bavarian and Czech law enforcement officials continued to cooperate closely to combat trafficking at the German-Czech border (*see* Section 5, Children).

In May 2004, the Berlin District Court convicted the head of a major "call-girl" ring to 4 years' imprisonment for alien smuggling. The ring organized prostitution using women from Eastern Europe. Two accomplices were also convicted; one was sentenced to 3 years in prison, and the other was fined. In September 2003, in Frankfurt, two Germans were convicted of forcing 18 women from the former Soviet Union to work as prostitutes, but were released on probation. Six Eastern Europeans were also charged in this case and convicted on charges ranging from trafficking to aiding in procurement.

Federal ministries worked to coordinate antitrafficking efforts on the international, national, and state levels. Several states have established interagency countertrafficking working groups. The federal and state governments worked actively with NGOs and local women's shelters to identify and assist victims, and together they fund more than 30 counseling centers for victims of trafficking run by NGOs. NGOs continued to criticize uneven and limited funding by the states.

When illegal aliens are identified as trafficking victims, police are required to notify a counseling center and to inform the victims of their rights and options for seeking assistance. The centers provide shelter, counseling, interpreting services, and legal assistance. Victims who agree to serve as witnesses in trafficking cases have the right to join the criminal trial against the trafficker as co-plaintiffs, a status that entitles them to an attorney and financial assistance to cover legal expenses. As co-plaintiffs, victims are entitled to participate actively in the criminal

trial and to extend the criminal trial to a civil compensation proceeding. Victims who are illegal residents receive basic health care for physical illness or pain in accordance with the Benefit Rules for Asylum Seekers. The right to remain in the country is granted in cases of marriage to a national, political asylum, or evidence that deportation would endanger the victim's life. Of the 1,108 registered non-German victims in 2003, 35.8 percent were expelled or deported, 17.3 percent returned to their home countries of their own free will, and 23.9 percent were granted a temporary stay or remained under police protection (data was not available in 23 percent of the cases).

The Government covers the basic cost of repatriation of trafficking victims under the Reintegration and Emigration Program for Asylum-Seekers in Germany (REAG). The International Organization for Migration administers REAG and has offices in several of the major return countries where the organization facilitates assistance to returning victims.

The Government actively sought to educate potential trafficking victims before they entered the country. Embassies and consulates as well as NGOs distributed brochures that provided information on residency and work permit requirements as well as warnings about trafficking. The Government established a new program in 2003 to fund projects abroad to combat trafficking in women, including information campaigns and awareness training seminars with police officials from source countries.

*Persons With Disabilities.*—The Basic Law and a 2002 law on persons with disabilities specifically prohibit discrimination against persons with disabilities, and there were no reports of discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. State-owned health insurance companies, which cover most citizens, must accept any applicant, but private insurance companies may select their clientele.

The law mandates several special services for persons with disabilities; they are entitled to assistance to avert, eliminate, or alleviate the consequences of their disabilities and to secure employment commensurate with their abilities. The Government offered vocational training and grants for employers who hired persons with disabilities. In addition, various federal and state programs were initiated to promote employment or vocational training of persons with disabilities through financial assistance or subsidies. Persons with severe disabilities could be granted special benefits, such as tax relief, free public transport, special parking facilities, and exemption from radio and television fees.

The Government set guidelines for the attainment of barrier-free public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings followed the guidelines for a "barrier-free environment." Building regulations for private property are decided on a state-by-state basis. There were no reports of societal discrimination against persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Federal Criminal Police uses a crime definition system for "politically motivated crimes" (PMCs). PMCs are crimes that involve motives related to the victims' ideology, nationality, ethnicity, race, skin color, religion, world-view, ancestry, sexual orientation, disability status, appearance, or social status. PMCs are categorized and reported by the Federal OPC in its annual report, according to perpetrator (rightwing extremist, leftwing extremist, foreign extremist) and crime type (propaganda, racist literature or hate speech; property destruction, desecration of Jewish graves; and assaults on persons). In 2003, 10,792 rightwing PMCs were recorded (10,902 in 2002), including 7,551 propaganda crimes (7,294 in 2002), 2,138 "incitement of racial hatred" crimes (2,513 in 2002), 225 property crimes (178 in 2002), 93 criminal threats (115 in 2002), and 26 grave desecrations (30 in 2002). In 2003, 759 of the rightwing extremist PMCs were violent (772 in 2002); the majority of these (430, 56.7 percent; down from 440 in 2002) were perpetrated against foreigners; 35 (4.6 percent) were anti-Semitic (up from 28 in 2002), and 211 (27 percent) were against political opponents (up from 207 in 2002).

Harassment of foreigners and racial minorities, including beatings, remained common throughout the country. Media as well as official reports indicated that several such incidents occurred each week. For example, in July, in Hanover, five men from Turkey and Africa were harassed with racial slurs, struck with an iron bar and chased through the streets. In April, three rightwing extremists beat the owner of a Vietnamese snack stand in Koepenick, Berlin, with a long piece of lumber. The victim was hospitalized. The offenders were sentenced in August: A 16-year-old to

2 years probationary youth custody, a 17-year-old to 90 days of social work, and a 21-year-old to 2 years of youth custody and 90 hours of social work.

In May, a 20-year-old foreigner who applied for an apprenticeship as a technician for the city of Kaiserslautern allegedly received a racist response from the city administration's human resources department. Upon opening the returned resume, the man found the comment "No Niggers" on top, using swastikas instead of "g's" and with both his photo and the word "German" in the line nationality crossed out. The man's mother referred the letter to the criminal police, which was still investigating the case at year's end.

The 2003 Federal OPC Report listed 169 rightwing extremist organizations and groups. The total of rightwing extremists was estimated to be 41,500 persons. The authorities estimated that there was a potential of 10,000 violent rightwing extremist sympathizers (mostly skinheads).

Federal and state governments indicated that they remained firmly committed to combating and preventing rightwing violence.

The Government protected and fostered the languages and cultures of national and ethnic minorities traditional to the country (for example, Sorbs, Danes, Roma, Sinti, and Frisians). Although the Government has recognized the Sinti and Roma as an official "national minority" since 1995, critics contended that the Sinti/Romani minority was the only official national minority that did not have unique legal protection, political privileges, or reserved representation in certain public institutions. The federal and state interior ministries indicated that they had been unable to fulfill their international commitments in the case of the Romani language because it was not written, the Romani themselves wished to keep the language restricted to Romani society, and because the Roma and Sinti are widely but thinly distributed around the country in a way that made Romani-language schools impractical. Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination.

Unemployment affected foreigners disproportionately, although at times this was due in part to inadequate language skills or nontransferable professional certifications of the job seekers (*see* Section 6.e.). The Federal Government and all states established permanent commissions to assist foreigners in their dealings with government and society.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Basic Law provides for the right of employees to associate freely, choose representatives, determine programs and policies in their interests, and publicize their views; and workers exercised these rights. The great majority of unionized workers (approximately 23 percent of the labor force) were organized in eight unions largely grouped by industry or service sector. These unions are affiliates of the German Trade Union Federation (DGB), which represents approximately 80 percent of organized workers. Other unions do exist, but represented small numbers of workers.

The law effectively protects workers against antiunion discrimination. Complainants file their cases directly with the labor courts, which are the courts of first instance. Specialized labor court judges render decisions in these cases.

*b. The Right to Organize and Bargain Collectively.*—The labor laws permit unions to conduct their activities without interference, and the Government generally protected this right in practice. The Basic Law protects the unions' right to strike, with some exceptions, and they were free to exercise this right; however, bargaining mechanisms minimized the number of work stoppages (in 2003, approximately 1 day of work was lost per 1,000 workers).

Collective bargaining was widespread due to a well-developed system of contract negotiations with no governmental role; mediation was used infrequently. Basic wages and working conditions were negotiated at the industry level, but exceptions negotiated at the company level were fairly common during the year. In addition, some employers in the eastern part of the country refused to join employer associations, or withdrew from them, and then bargained independently with workers. Some firms in the West withdrew at least part of their work force from the jurisdiction of employer associations, complaining of rigidities in the industry-wide, multi-company, negotiating system. However, they did not refuse to bargain as individual enterprises.

The Works Constitution Act regulates the right of works councils, which represent the interests of workers in relation to their employers. A works council may be elected in any private company employing at least five individuals. The rights of the works council include the right to be informed, consulted, and to participate in company decisions. Members of works councils do not have to be union representatives. Works councils often helped labor and management to settle problems before they

become disruptive. "Codetermination" laws give workers in medium-sized or large companies significant voting representation on the companies' supervisory boards. This codetermination in the supervisory board extends to all company activities.

Civil servants and personnel in sensitive or essential positions, such as members of the armed forces, do not have the right to strike. The International Labor Organization (ILO) continued to seek clarifications from the Government on policies and laws governing the labor rights of civil servants and continued to remind the Government that this restriction is not in line with ILO Convention 87 (on freedom of association), and has asked it to change its legislation accordingly. Similarly, teachers in the public service continue to be denied the right to strike. Collective bargaining agreements reached for public service workers who do have this right are usually extended by legislation to those who do not, although such extensions do not always include all of the provisions of those agreements. Workers not allowed to strike also have legal recourse through the courts to protect their rights.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Basic Law and the federal statutes prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 15, with a few exceptions: Those 13 or 14 years of age may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; and those 3 to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and time of day. The Federal Economics and Labor Ministry effectively enforced the law through its Factory Inspection Bureau.

*e. Acceptable Conditions of Work.*—There was no legislated or administratively determined minimum wage. Collective bargaining agreements set minimum pay rates and were enforceable by law for an estimated 80 to 90 percent of all wage and salary earners. The remaining 10 to 20 percent of workers were covered by either individual contracts or company-level contracts. The wages established by these processes provided a decent standard of living for a worker and family.

Federal law limits the workweek to a maximum of 48 hours. Collective bargaining agreements, which covered 80 percent of the working population directly or indirectly, may provide for longer hours but must average no more than 48 hours per week over time. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

Federal regulations limit the workweek to a maximum of 48 hours, but collective bargaining agreements permit greater flexibility, provided that the 48-hour average is not exceeded over time. Agreements regulating the number of hours of work per week covered 80 percent of the working population directly or indirectly; the number of hours of work per week was regulated by contracts that directly or indirectly affected 80 percent of the working population. In 2002, the average workweek for industrial workers was 39.6 hours nationwide, according to 2002 data from the Organization for Economic and Cooperation in Europe. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

An extensive set of laws and regulations on occupational safety and health was enforced by the Economics and Labor Ministry and its counterparts in the states. A comprehensive system of worker insurance carriers enforces safety requirements in the workplace. At the local level, professional and trade associations, which are self-governing public corporations with delegates both from the employers and from the unions, oversaw worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

Foreign workers legally in the country were protected by law and generally worked in conditions equal to that of citizens; however, such workers faced some wage discrimination. For example, foreign teachers in some schools were paid less than their German counterparts. In addition, seasonal workers from Eastern Europe who came to the country on temporary work permits often received wages below those of citizens. Workers from other EU countries at times were employed at the same wages they would receive in their home country, even if the corresponding German worker would receive a higher wage. Foreigners who were employed illegally, particularly in the construction industry in Berlin, were likely to receive substandard wages.

## GREECE

Greece is a constitutional republic and multiparty parliamentary democracy. On March 7, the New Democracy party won the majority of seats in the unicameral Vouli (parliament) in free and fair elections. Its leader, Constantinos Karamanlis, has been Prime Minister since March. The judiciary is independent.

The national police and security services are responsible for internal security and are under the Ministry of Public Order. Civilian authorities maintained effective control of all security forces. Some members of the police and security forces committed human rights abuses.

The country has a market economy with a large public sector and a population of approximately 11 million. For the year, economic growth was estimated at 4 percent and inflation at 3.5 percent. Wages generally kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Security forces sometimes abused persons, particularly illegal immigrants and Roma. There were reports of police torture of illegal immigrants. Overcrowding and harsh conditions continued in some prisons. Police sweeps resulted in the detention of undocumented immigrants, frequently under squalid conditions. There were legal limits on the freedom of association of ethnic minorities. Some leaders of minority religions reported difficulty with the authorities, but others noted a general improvement in government tolerance. Despite Vouli approval, construction of a new Islamic cultural center and mosque in Athens had not started by year's end, and Muslims in Athens continued praying in unofficial mosques. Laws that restricted freedom of speech remained in force, and some legal restrictions and administrative obstacles on freedom of religion persisted. Violence and discrimination against women were problems. Women are underrepresented at the decision-making level in political, economic, and academic fields. Discrimination against ethnic minorities and Roma remained a problem. There were reports that foreign children were forced into begging, including by their families. Trafficking in women and children was a problem. Many Roma lived in sub-standard conditions, and their settlements often lacked access to running water, electricity, sanitation, and other essential services. Romani children often were not enrolled in school or dropped out at a very early stage of their schooling.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary and Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In August, two police officers were charged with homicide for the December 2003 killing of a person who did not stop at a routine automobile checkpoint in Herakleion, Crete; however, a trial date had not been set by year's end.

A border policeman was charged with homicide in the September 2003 shooting and killing of an Albanian who was trying to cross illegally into the country. The policeman's trial was scheduled for February 2005.

During the year, at least 16 migrants died and at least 8 others were severely injured in poorly marked minefields on the border with Turkey.

In October, a court sentenced four members of the terrorist group Peoples' Revolutionary Struggle (ELA) to 25 years in prison for the 1994 murder of a police officer, attempted murders, bombings, and possession of firearms and explosives. A court was scheduled to hear appeals of the convictions in February 2005.

A court hearing was scheduled for December 2005 on the appeals of 15 members of the terrorist group Revolutionary Organization 17 November who were convicted and sentenced in December 2003 for crimes including homicide.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, security forces abused some persons, particularly immigrants and Roma (see Section 5).

Human rights nongovernmental organizations (NGOs) have repeatedly alleged that illegal immigrants and refugees are subjected to violence by border guards and coast guard officers when caught entering the country illegally.

In August, two civilians alleged that police beat them in Pyrgos, Peloponnese during a routine identity check. The local police director ordered an inquiry; however, no results had been released by year's end.

Amnesty International alleged that 3 armed forces officers abused and beat 10 illegal immigrants on an islet in the Aegean in September. The Army general staff

ordered an inquiry into the charges; however, no results were announced by year's end.

In December, police officers allegedly subjected a group of Afghan asylum-seekers to interrogation techniques that included torture (*see* Section 2.d.).

There were no developments by year's end in either the civil lawsuit against three officers or the police investigation arising from the allegations of two Kalamata high school students that police beat them during a routine identity check in July 2003.

There were no developments in the July 2003 case of two Britons who alleged that police beat them.

By year's end, authorities had not taken any action on the September 2003 allegations that border police tortured three migrants attempting to return to Albania.

In September, in the first trial of its kind for immigrant abuse, the Military Court of Thessaloniki sentenced a former conscript to a 1-year suspended prison term for shooting and injuring an elderly Albanian at the border in 2002. During the trial, the NGOs Greek Helsinki Monitor and Albanian Helsinki Committee presented the court with 25 similar cases.

There were no developments during the year in the Ministry of Public Order investigations into the alleged 2002 police torture of Nigerian national Joseph Okeke or the alleged 2002 beating and torture of Yannis Papacostas in a police station near Athens. In January, the NGO Greek Helsinki Monitor filed an application with the European Court of Human Rights (ECHR) alleging violation of the article of the European Convention on Human Rights that prohibits torture and inhuman or degrading treatment or punishment.

On October 15, the naval court of Hania sentenced one Coast Guard officer to a 2-year suspended prison term for sexual assault and sentenced five other officers to 1-year suspended prison terms for abuse and maltreatment. The victims, who were part of a group of approximately 160 migrants on a Turkish boat towed by the Coast Guard in 2001, claimed that the officers beat them while they were detained in Crete.

Security forces reportedly arrested and beat journalists during the year (*see* Section 2.a.).

Police abused Roma more frequently than other minority groups. Immigrants, including Albanians, also accused police of abuse (*see* Section 5).

Conditions in some prisons remained harsh due to overcrowding and outdated facilities. As of October, the Ministry of Justice reported that the total prison population was 8,541, while the total capacity of the prison system was 5,584. Juveniles were generally held separately from adults, and women were held separately from men. Pretrial detainees were held with a few convicted prisoners awaiting trials in Korydallos Prison. Construction continued on four new prisons.

Conditions in detention centers for illegal immigrants remained harsh, particularly for females at the Drapetsona detention center (*see* Section 2.d.).

According to local and international independent human rights observers, the Government did not consistently permit these observers' visits to police detention centers, to detention centers for illegal immigrants, or to prisons. International human rights observers reported fewer problems in having their requests for visits granted than did local human rights observers. A Ministry of Justice representative stated that requests for prison visits had not been made during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, the police conducted large-scale sweeps and temporarily detained large numbers of foreigners, often under squalid conditions, while determining their residence status. Some foreigners were detained indefinitely without judicial review.

All police forces are under the authority of the Ministry of Public Order. During the year, the Bureau of Internal Affairs of the Ministry of Public Order took several disciplinary measures, including dismissal and suspension, against officers involved in corruption, primarily for forging documents and taking bribes. During the year, 325 complaints were filed with the Bureau. Most charges against police involved violation of duty, false certificates, abuse of power, corruption, violations with arms and explosives, illegal release of persons in police custody, pimping, and violations relating to alien registration. By the end of the year, the Bureau filed lawsuits against 75 policemen, 20 civil servants, and 78 civilians.

The press and the Greek Helsinki Monitor alleged that penalties for corrupt or abusive police were too weak and discouraged citizens from pressing charges against police. A weak record of prosecution of police misbehavior supported these claims.

In October, an Ombudsman's report on internal inquiries into maltreatment and abuse of citizens by the police found that penalties against police were imposed mainly in cases made public by the press; that the results of the inquiries were not

made known to interested parties without the intervention of the Ombudsman; and that police authorities were generally not inclined to launch inquiries or to discipline their personnel.

A June 2003 Ombudsman's report on police abuse found that police took citizens to detention centers for arbitrary identity checks, used insulting language and threats of force, and conducted bodily searches in public. Most citizens were released within hours of being detained for identity checks.

Police corruption was a problem. While the anticorruption unit of the Hellenic Police stated the problem was decreasing, human rights and antitrafficking groups said that anticorruption efforts needed to be given higher priority.

The Constitution requires judicial warrants for arrests except when they are made during the commission of a crime, and the law prohibits arbitrary arrest orders; the authorities generally respected these provisions in practice. By law, the police must bring persons who are detained or arrested before an examining magistrate within 24 hours. The magistrate must issue a detention warrant or order their release within 3 days unless special circumstances justify a 2-day extension of this limit.

Defendants have the right to legal counsel. In felony cases, the Bar Association provides lawyers to defendants who prove they cannot afford legal counsel.

Defendants brought to court on the day following the alleged commission of a misdemeanor may be tried immediately under expedited procedures. Although legal safeguards, including representation by counsel, apply in expedited procedure cases, the short time period limited defendants' ability to present an adequate defense. Defendants may request a delay to prepare a defense, but the court is not obliged to grant it. Expedited procedures were used in less than 10 percent of applicable cases.

Detention of both illegal and legal immigrants by police was common. The police conducted many large-scale sweeps of neighborhoods populated by immigrants, temporarily detaining large numbers of individuals while determining their residence status. Police sweeps were heightened in the period before the Olympic Games.

Police regularly detained members of the Church of Jesus Christ of Latter-day Saints and Jehovah's Witnesses, usually after receiving complaints that they were proselytizing (*see* Section 2.c.).

The law allows pretrial detention for up to 18 months for felonies and 9 months for misdemeanors. Defense lawyers asserted that pretrial detention is excessively long and overused by judges. A panel of judges may release detainees pending trial, with or without bail. Pretrial detainees made up 31 percent of those incarcerated and contributed to overcrowding.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of three levels of civil courts (first instance, appeals, and supreme), three levels of criminal courts (first instance—divided into misdemeanor and felony divisions, appeals, and supreme), appointed judges, and an examining magistrate system, with trials by judicial panels.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Due to serious bureaucratic problems in the legalization process for immigrants, many aliens were in a semi-legal status (had expired permits but had filed for renewal, or were entitled to renewal but a renewal stamp had not yet been placed in their passports) and were subject to deportation without legal process following police sweeps.

Defendants who do not speak Greek have the right to a court-appointed interpreter. According to several immigrant associations in Athens, the low fees paid for such work often resulted in poor interpretation. Foreign defendants who used these interpreters frequently complained that they did not understand the proceedings at their trials. Defendants often were not advised of their rights during arrest in a language that they could understand. Several complained that they were not shown the Hellenic Police Informational Bulletin, which contains prisoners' rights in a variety of languages, and that they were forced to sign blank documents later used for their deportation.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits the invasion of privacy and searches without warrants, and the law permits the monitoring of personal communications only under strict judicial controls; however, these provisions were not always respected in practice.

Turcophone and Slavophone activists complained of continued police surveillance. Police conducted regular raids and searches of Romani neighborhoods for alleged criminal suspects, drugs, and weapons. Local authorities evicted or threatened to evict Roma from camps and tent dwellings during the year (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, legal restrictions on free speech remained in force. The law prohibits exposing to danger of disturbance the friendly relations of the state with foreign states; spreading false information and rumors liable to create concern and fear among citizens and cause disturbances in the country's international relations; and inciting citizens to rivalry and division leading to disturbing the peace or acts of violence. However, these prohibitions were very rarely invoked. In most criminal defamation cases, defendants typically were released on bail pending appeal without serving time in jail.

In August, two foreign journalists alleged that the Coast Guard arrested, insulted, and beat them when they attempted to film a restricted security area of the port of Piraeus during the Olympic Games. The journalists filed a complaint and the Merchant Marine Ministry ordered an inquiry. No results were available by year's end.

The Constitution provides that the Government exercise "immediate control" over radio and television, and the law establishes ownership limits on media frequencies. The Ministry of Press and Mass Media has final authority over radio and television licensing; the National Radio and Television Council (ESR) has an advisory role.

Independent radio and television stations were active and expressed a wide variety of views with little government restriction. State-run stations tended to emphasize the Government's views but also reported objectively on other parties' programs and positions. Turkish-language television programs were widely available via satellite in Thrace.

There were numerous independent newspapers and magazines. Satirical and opposition newspapers routinely criticized state authorities. Members of ethnic, religious, and linguistic minorities were generally able to publish materials freely, often in their native language.

The Constitution allows for seizure, by order of the public prosecutor, of publications that insult the President, offend religious beliefs, contain obscene articles, advocate violent overthrow of the political system, or disclose military and defense information. There were no such seizures during the year.

The Greek publisher and Austrian author of a comic book that police deemed insulting to the Christian faith were scheduled to stand trial on blasphemy charges in January 2005. In February 2003, police confiscated approximately 50 copies of the comic book from bookstores.

In July, police seized equipment and arrested the owner of a private radio station in Northern Greece that had been broadcasting in a Slavophone dialect. The police shut down the station on grounds that it did not have a license to broadcast. The station claimed that it was singled out because of its ethnic affiliation, since there were many other radio stations in the northern part of the country that operated without proper licenses.

In May, the European Court of Human Rights (ECHR) ruled that a court had violated the European Convention on Human Rights and awarded two journalists \$42,500 (32,179 euros). The case stemmed from an article the journalists wrote in 1995 describing unlawful conduct by public prosecutors in Preveza, Epirus, and the political ties that protected the prosecutors. The ECHR reversed a court award against the journalists for disparaging the honor and reputation of one of the prosecutors.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice; however, the courts continued to place legal restrictions on the names of associations involving ethnic minorities (*see* Section 5).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, non-Orthodox groups at times faced administrative obstacles or legal restrictions on religious practices.

The Constitution establishes the Eastern Orthodox Church of Christ (Greek Orthodoxy) as the "prevailing" religion. The Greek Orthodox Church exercised significant political and economic influence. The Government financially supported the Greek Orthodox Church and also paid the salaries and some expenses of the two official Muslim religious leaders in Thrace.

The Government, by virtue of the Orthodox Church's status as the prevailing religion, recognizes de facto its canon law. Privileges and legal prerogatives granted to the Greek Orthodox Church are not extended routinely to other recognized religions. Greek Orthodox Church officials refused to enter into dialogue with religious groups

they considered harmful to Greek Orthodox worshippers and instructed their members to shun members of these faiths.

The Government did not have an established procedure for recognizing religions. Recognition was granted indirectly by applying for and receiving a "house of prayer" permit. Some newer religions had problems getting these permits. Although Jehovah's Witnesses have a recognized religion, members continued to face harassment, mainly in the form of arbitrary identity checks.

Several religious denominations reported difficulties dealing with the authorities on a variety of administrative matters.

Despite the Vouli's approval of a bill in 2003 allowing construction of the first Islamic cultural center and mosque in the Athens area, no construction had started by the end of the year and, as a consequence, Muslims in Athens continued congregating in about 25 unofficial prayer rooms.

Muslims are accorded the status of an official minority in Thrace, and the Government selects two official Muslim religious leaders, or "muftis," there. While much of the community accepted the two officially appointed muftis, some Muslims, with support from Turkey, "elected" two different muftis. The courts repeatedly convicted one mufti for usurping the authority of the official mufti; however, his sentences remained suspended and were pending appeal at year's end.

Non-Orthodox citizens claimed that they faced career limits in the military, police, fire-fighting forces, and civil service due to their religion. The employment rate of Muslims in the public sector and in state-owned companies was much lower than the Muslim percentage of the population.

The law requires that recognized religious groups obtain permits from the Ministry of Education and Religion to open houses of worship. By law, the Ministry may base a permit decision on the opinion of the local Greek Orthodox bishop. According to Ministry officials, once a recognized religion received a permit, applications for additional houses of prayer were approved routinely. Non-Greek Orthodox churches must provide separate and lengthy applications to authorities on such matters as gaining permission to move places of worship to larger facilities. In May, a priest defrocked by the Greek Orthodox Church in the northern part of the country (but still in good standing with the Orthodox Church in the Republic of Macedonia) was given a 3-month suspended prison sentence for holding religious services without a house of prayer permit. There was no decision on the priest's appeal of the judgment at year's end.

The Scientologists have not been able to register or build a house of prayer. Followers of the ancient Greek religions applied twice in the last 3 years for a house of prayer permit but have not received an official response to their applications, despite advice of the Ombudsman to the Ministry of Education and Religions to officially respond to their requests.

The Constitution prohibits proselytizing and stipulates that religious rites may not disturb public order or offend moral principles. Police regularly detained members of the Church of Jesus Christ of Latter-day Saints (Mormons) and Jehovah's Witnesses (on average once every 2 weeks), usually after receiving complaints that they were engaged in proselytizing. In most cases, police held these persons for several hours and then released them without filing charges. Many reported that police did not allow them to call their lawyers and verbally abused them for their religious beliefs.

Several foreign religious groups, including Protestant groups and Mormons, continued to report difficulty renewing the visas of their non-European Union (EU) citizen ministers because there is not a distinct visa category for religious workers and because of the Government's restrictive interpretation of its obligations to control entry to non-EU citizens under the Schengen Treaty.

Religious instruction was mandatory for all Greek Orthodox students in primary and secondary schools, but not for non-Orthodox students. Some government-approved religious textbooks made derogatory statements about non-Greek Orthodox faiths. Members of the Muslim community in Athens sought Islamic religious instruction for their children. Since schools did not supervise non-Orthodox children while Greek Orthodox children were taking religious instruction, the community complained that parents were effectively forced to have their children attend Greek Orthodox classes. In Thrace, the Government subsidized public schools for the Muslim minority and two Koranic schools. Turcophone activists criticized the quality of instruction at the minority schools and the state-sponsored Pedagogical Academy that trains teachers.

Anti-Semitism continued to exist, both in the mainstream and extremist press, and the press and public often did not clearly distinguish between criticism of Israel and comments about Jewish persons. The European Commission against Racism and Intolerance (ECRI), the Wiesenthal Center, the Greek Helsinki Monitor, and

the Anti-Defamation League criticized the press for carrying anti-Semitic stories and cartoons on several occasions during the year, particularly after Israeli forces killed Hamas leader Sheik Yassin.

Vandalism of Jewish monuments continued to be a problem, although the Government generally condemned such acts. In August, unknown persons desecrated a recently erected Holocaust memorial in Komotini. Police did not find the perpetrators in the reported 2003 desecration of monuments in Ioannina, and the cases were still open at year's end. Extreme right-wing groups painted anti-Semitic graffiti along with their symbols and organization names at several spots on the busy Athens-Corinth Highway. Some schoolbooks carried negative references to Roman Catholics, Jewish persons, and others. Bookstores sold and displayed anti-Semitic literature including the "Protocols of the Elders of Zion."

The Wiesenthal Center issued a travel advisory in November 2003 warning Jewish visitors about the failure of the country to curb growing anti-Semitism. The Greek Helsinki Monitor and the Wiesenthal Center protested the revival of traditions such as the burning of an effigy of Judas on some islands, sometimes known locally as the "burning of the Jew," which they maintained propagated hatred and fanaticism against Jews.

The Popular Orthodox Herald Party (LAOS), a small, extreme right-wing party, employed virulent nationalism, anti-Semitism, racism, and xenophobia. In June, LAOS leader George Karatzaferis won a seat in elections to the European Parliament. The extreme right-wing group "Golden Dawn" regularly painted anti-Semitic graffiti on bridges and other structures throughout the country.

Jewish community leaders have condemned anti-Semitic broadcasts on small private television stations, but authorities have not brought charges against these largely unlicensed operators.

On January 15, the Vouli approved declaring January 27 as Holocaust Remembrance Day, which was commemorated with events in Athens and Thessaloniki.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law permits the Government to remove citizenship from persons who commit acts contrary to the interests of the country for the benefit of a foreign state. While the law applies to citizens regardless of ethnicity, it has been enforced, in all but one case, only against citizens who identified themselves as members of the "Macedonian" minority. The Government did not reveal the number of such cases; there were no reports of new cases during the year. Dual citizens who lost their citizenship under this provision sometimes were prevented from entering the country on the passport of their second nationality. Activists charged that several expatriate Slavo-Macedonians, whose names appeared on a "black list" were barred from entering the country.

The Government has issued identification documents characterizing persons as "stateless" to 143 persons—mainly Muslims in Thrace—who lost their citizenship under a provision of the law that was repealed in 1998 and has permitted them to apply to reacquire citizenship. As of October, 65 of 111 applications had been granted and 46 were pending. In its Third Report on Greece, the ECRI strongly recommended that authorities take steps to facilitate recovery of citizenship to these persons.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. However, the Government has largely not enforced a 1999 presidential decree that brought the law into compliance with the standards of the U.N. High Commissioner for Refugees (UNHCR) with regard to asylum procedures.

In practice, the Government provided minimal protection against refoulement, the return of persons to a country where they feared persecution. However, the UNHCR, the Greek Council for Refugees, and the ECRI expressed concern that very few applicants were granted asylum without UNHCR involvement and that a publicly funded legal aid system was not available to provide counseling for asylum-seekers and refugees. During the first 9 months of the year, the Government granted refugee status to 11 (or 0.3 percent) of 3,450 applicants. The Government also provided temporary protection to individuals who do not qualify as asylees or refugees. During the first 9 months of the year, the Government granted temporary residence to 19 persons on humanitarian grounds. The overall recognition rate (convention and humanitarian status) amounted to 0.9 percent. The Government cooperated

with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Individuals recognized as refugees are eligible for residency and work permits necessary to settle permanently.

The UNHCR, the Greek Council for Refugees, the U.N. Committee Against Torture, and the ECRI expressed concern about the country's asylum policy and practices, citing its insufficient reception facilities, low refugee recognition rates, underdeveloped systems for providing for refugee welfare, and insufficient counseling to assist integration of refugees and asylum seekers. Following the change of government in March, a group of domestic and international NGOs published a joint appeal that expressed concern over authorities' frequent violation of the rights of individuals who wished to apply for asylum, including local authorities' failure to inform them of their right to apply for asylum.

In December, police officers allegedly subjected a group of 40–60 Afghan asylum-seekers to interrogation techniques that included torture. The Prosecutor pressed felony charges against two policemen, who were awaiting trial at year's end.

The Coast Guard reported that 1,793 illegal immigrants were arrested between January and September. Conditions for illegal immigrants detained by authorities were often harsh. The UNHCR observed improvements during the year in some detention centers, including on the islands of Chios and Mytilini; however, sub-standard conditions persisted in others. For example, although improvement was noted in some parts of the Evros region, an old warehouse continued to be used to house illegal immigrants while a new reception center had not yet opened. Foreign observers reported "degrading" conditions in most of the refugee/immigrant detention centers. In September, 221 illegal immigrants, including 4 children, were held in Samos in a former warehouse with a 100-person capacity and only 2 toilets.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

On March 7, the New Democracy party won the majority of seats in the Vouli in free and fair elections. Opposition parties functioned freely and had broad access to the media. Voting is mandatory for citizens over age 18; however, there are many conditions under which citizens may be exempted from voting, and the Government did not apply any penalty for not voting.

Romani representatives reported that local authorities sometimes deprived Roma of the right to vote by refusing to register them. Many Roma had difficulty meeting municipal residency requirements to register to vote.

Corruption was a problem. International NGOs and human rights and antitrafficking groups stated that anticorruption efforts needed to be a higher government priority. In December, a number of judges were implicated in corruption. Government officials, including a former Justice Minister, and the Athens Bar Association called for immediate investigations to protect the integrity of the justice system.

There were 38 women in the 300-seat Vouli, including the Speaker, the first woman to hold the position. There was 1 woman among the 19 ministers in the Cabinet, and women held 1 of the 27 subministerial positions. A quota system requires 30 percent of all local government candidates to be women.

There was 1 member of the Muslim minority in the 300-seat Vouli. There were no members of minorities in the Cabinet. There were occasionally complaints that the Government limited the right of some individuals, particularly Muslims and Slavo-Macedonians, to speak publicly and associate freely on the basis of their self-proclaimed ethnic identity.

A government-appointed regional administrator of Eastern Macedonia and Thrace has statutory responsibility for oversight of rights provided the Muslim minority in Thrace, but the Ministry of Foreign Affairs retains an important advisory role.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without restriction in the country, investigating and publishing their findings on human rights cases; however, the Government's cooperation with domestic groups varied. The Government usually cooperated with international human rights groups, had good working relations with them, and made an effort to take their views into account.

There was a government ombudsman whose office provided an effective means for citizens to address human rights and religious freedom problems. The office was

granted adequate resources to perform its functions and was widely recognized. In the first 9 months of the year, the office had received 1,274 complaints, of which 47 were directly related to human rights and the remainder related to civic rights and civic differences.

The government-funded National Human Rights Committee is an autonomous human rights body that operates independently of government or party control or influence. The Committee is the Government's advisory organ on protection of human rights and had adequate resources. It cooperated effectively with the Government to promote legislation protecting and enhancing human rights. During the year, it produced reports and recommendations on human rights problems, including human rights standards for law enforcement, antiterrorism measures, and application of EU legislation against discrimination.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equality before the law irrespective of nationality, race, language, or political belief; however, government respect for these rights was inconsistent in practice.

*Women.*—Violence against women was a problem. The law does not specifically prohibit domestic violence; however, it can be prosecuted under the general assault statute. The General Secretariat for the Equality of the Sexes (GSES), an independent government agency, provided counseling and assistance to domestic violence victims. The reported incidence of violence against women was low; however, the GSES believed that the actual incidence was high. The GSES estimated that only 6 to 10 percent of victims contacted the police, and only a small fraction of those cases reached trial. The GSES claimed that police tended to discourage women from pursuing domestic violence charges, instead encouraging them to undertake reconciliation efforts, and that courts were lenient when dealing with domestic violence cases. The GSES, in cooperation with the Ministry of Public Order, continued courses to train police on how to deal with domestic violence victims.

Two GSES shelters for battered women and their children, in Athens and Piraeus, offered services, including legal and psychological help. The GSES operated a 24-hour emergency telephone hotline for abused women. The Ministry of Health and Welfare's Emergency Social Care Unit also operated a hotline providing referrals and psychological counseling.

Nonconsensual sex in any setting is a crime; however, there is no specific spousal rape law. Conviction rates for rape were low for first time offenders, but sentences were harsh for repeat offenders. There have been no cases of spousal rape before the courts in recent years.

Prostitution is legal at the age of 18. Prostitutes must register at the local prefecture and carry a medical card that is updated every 2 weeks. It was estimated that fewer than 1,000 women were legally employed as prostitutes. Approximately 20,000 women, most of foreign origin, worked as illegal prostitutes. According to experts, a significant number of these women were trafficking victims (see Section 5, Trafficking).

The law prohibits sexual harassment, but penalties are lenient. The Government has not yet implemented an EU directive on sexual harassment that provides guidelines for sanctions, legal action, and compensation for victims. Unions reported that lawsuits for sexual harassment were very rare and that only four women had filed such charges in the past 5 years. In all four cases, the courts reportedly imposed very lenient civil sentences. The state-run Research Center for Equality reported that 10 percent of women have experienced sexual harassment in the workplace. The vast majority of these quit their jobs and did not file charges.

The law provides for equal pay for equal work; however, according to official statistics in 2003, women's pay amounted to 75.8 percent of men's pay. Although relatively few occupied senior positions, women continued to enter traditionally male-dominated occupations such as the legal and medical professions in larger numbers. Women were underrepresented in labor unions' leadership. During the year, the Bank of Greece published a report noting that unemployment was much higher among women than men (15 percent and 6.6 percent, respectively), while women constituted just 42.5 percent of the work force. Women's employment in part-time jobs was 8.1 percent while men's was 2.3 percent.

The GSES operated regional employment offices for women in Thessaloniki and Patras that provided vocational training for unemployed women, programs to reinforce entrepreneurship, subsidies to establish businesses, and information and counseling to unemployed women. It also operated childcare facilities to enable unemployed women to attend training courses and look for jobs.

*Children.*—The Government was strongly committed to children's rights and welfare and amply funded a system of public education and health care. Government agencies with responsibility for children's issues included the National Organization for Social Care, which had a national network of offices and was active in the field of child protection. There was also a department for children's rights in the Ombudsman's office.

Education was free and compulsory through the ninth grade. According to the 2001 census, 99.4 percent of school-age children attended school; however, non-compliance with the compulsory education requirement was a significant problem in the Romani community. University education was public and free at all levels, but the number of applicants greatly exceeded available places. Most children completed secondary education.

Violence against children was a problem; however, there was no societal pattern of abuse. The law prohibits the mistreatment of children and sets penalties for violators, and the Government effectively enforced these provisions. No national data existed on the incidence of child abuse; authorities, other than police, were not required to report such cases. According to UNICEF and local NGOs, the majority of street children (usually indigenous Roma or Albanian Roma) were exploited by family members who forced them to work in the streets, usually begging or selling small items.

Welfare laws provide for preventive and treatment programs for abused and neglected children. These laws seek to ensure the availability of alternative family care or institutional placement. However, children's rights advocacy groups claimed that government residential care centers provided inadequate and low quality protection of children at high risk of abuse due to a lack of coordination between welfare services and the courts, inadequate funding of the welfare system, and poor staffing of the care centers. Athens had two municipal shelters for battered children. Child health specialists noted that the number of children in residential care facilities was decreasing, while the number in foster care was rising. With EU funding, special care was available for juvenile offenders, Romani children, children from remote mountain and island areas, and children with disabilities.

In 2003, the Government ended a program to shelter street children from Albania due to a lack of eligible children. The U.N. Committee Against Torture expressed concern that inadequate measures had been taken to protect children picked up by the security police and taken into state care during the 1998–2003 period. The Prosecutor accepted a criminal complaint submitted by the Greek Helsinki Monitor and an appeal by the U.N. Committee Against Torture and, in December, pressed felony charges against members of the administration of the Agia Varvara shelter relating to the case of 502 Albanian children that remained unaccounted for after being kept in state custody in the shelter program between 1998 and 2003.

There were reports that trafficking of children—mainly for forced labor and sexual exploitation—was a problem (*see* Sections 5, Trafficking and 6.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was both a transit and destination country for significant numbers of women, men, and children trafficked for the purposes of sexual exploitation and forced labor. There were allegations that some police officers were involved in trafficking rings or accepted bribes from traffickers.

The law considers trafficking in persons a criminal offense and provides for imprisonment of up to 10 years and fines of approximately \$13,500 to \$67,500 (10,000 to 50,000 euros) for convicted traffickers. Penalties are harsher for traffickers of children.

During the year, police investigated 65 trafficking cases, of which 29 were allegedly committed by criminal networks, charged 352 persons with trafficking-related crimes, and located 181 victims of trafficking, although NGOs reported there were many more victims during the period. In June, two child traffickers in the border region of Evros were given 13- and 14-year prison sentences and fined \$94,500–97,200 (70,000–72,000 euros) each; they were in prison awaiting the outcome of their appeals at year's end. Comprehensive conviction information was not available at year's end.

Ministries with primary responsibility for combating trafficking are Health and Welfare, Justice, Public Order, and Foreign Affairs, with support from the Ministries of Interior, Equality, Economy and Finance, Education, and Employment and Social Protection. There is a governmental National Coordinator for Combating Trafficking in Persons and an interministerial committee to coordinate antitrafficking efforts. In June, the Government designated two special prosecutors to lead an informal group to standardize government efforts to screen women for

victims of trafficking, transfer detained victims to shelters, and prosecute trafficking cases.

During the year, the country's law enforcement agencies participated in a multinational regionwide antitrafficking effort called "Mirage 2004."

The country was both a transit and destination country for trafficked women, men, and children. Major countries of origin included Ukraine, Russia, Bulgaria, Albania, Moldova, Romania, and Belarus. Women from many other countries were trafficked to the country and in some cases were reportedly trafficked on to Italy and other EU countries as well as to the Middle East.

According to one academic observer, trafficking in women and children for prostitution in the country has decreased since the end of 2002. The observer estimated that approximately 40,000 women and children, most between the ages of 12 and 25, were trafficked to the country for prostitution each year between 1998 and 2002, but decreased to 20,000 in 2003 and to 13,000 in the reporting year. Unofficial NGO estimates placed approximately 13,000 to 14,000 trafficked women and girls in the country at any given time, although authorities estimated the number of trafficked women and children was much lower.

Trafficking of children was a problem. While NGOs and police reported that child trafficking decreased during the year, the practice persisted. Most child trafficking victims were Albanian Roma children trafficked for labor exploitation or teenage girls trafficked for commercial sexual exploitation. Albanian children made up the majority of children trafficked for forced labor, begging, and stealing. There were reports that some Albanian Roma parents "sold" or "rented" their children to traffickers in exchange for a monthly income (*see* Section 6.d.); however, NGOs reported that the practice of "renting" children has dramatically decreased as it has become easier for Albanian parents to emigrate to the country. As recently as 2003, Albania police estimated that more than 1,000 children were trafficked in the country and forced to beg. The primary anti-child trafficking NGO reported that, of the 173 children it identified begging in the streets in the first 11 months of the year, 22 were victims of trafficking. During the Olympics, a child trafficking NGO did extensive street sweeps and located and repatriated six trafficked Albanian boys. An NGO that works on child-trafficking problems reported that some legalized Albanian immigrants residing in the country exploited their children.

In July, police dismantled a network dealing in child pornography through the Internet. The perpetrators had developed a network of customers in 20 countries. At year's end, 11 Romanians were in detention and awaiting trial after their arrest in September 2003 for operating a forced child-begging racket in central Athens.

Police often detained minors trafficked into the country as criminals. Those under the age of 12 were placed in state-run orphanages, while children as young as 13 were jailed for begging or illegal immigration. According to one NGO, the Government continued detaining and deporting children in groups, returning them to the border with Albania without ensuring either their reception by Albanian authorities or their protection from re-trafficking, although smaller numbers of children were involved than in 2003. Few such repatriations were conducted with advance notice to prepare families or to transport the children safely. Some reports indicated that children were deported with less than 24 hours notice and without sufficient cross-border coordination.

Some women and children arrived as "tourists" or illegal immigrants; seeking work, they were lured into prostitution by club owners who threatened them with deportation. Traffickers kidnapped some victims, including minors, from their homes abroad and smuggled them into the country, where they were sold to local procurers. Traffickers sometimes confined victims to apartments, hotels, and clubs against their will, failed to register them with authorities, and forced them to surrender their passports.

Many antitrafficking activists alleged that some police officers were involved in trafficking rings or accepted bribes from traffickers, including organized crime networks. In June, a Thessaloniki Court sentenced three police officers to between 3 and 5 years in prison on corruption charges relating to their protection of a nightclub that employed trafficked women. The Bureau of Internal Affairs at the Ministry of Public Order investigated charges of police involvement but had not issued its report by year's end.

During the year, the Ministry of Foreign Affairs allocated approximately \$4.2 million (3.1 million euros) for antitrafficking projects to implement the August 2003 Presidential decree establishing shelters for trafficking victims and encouraging cooperation between the Government and NGOs. A number of domestic NGOs also worked on trafficking issues during the year, but victim protection measures and referral mechanisms remained weak. The Government supported antitrafficking NGOs that ran public service announcements to raise awareness of trafficking. The

Government inaugurated a 24-hour hotline for trafficking victims, and there were additional hotlines operated by NGOs.

On August 4, eight government ministries announced a comprehensive national action plan to fight human trafficking, including plans for legal assistance for victims, new public awareness campaigns, the use of Health Ministry centers to assist trafficking victims, creation of a national database on trafficking, and the amendment of the August 2003 presidential decree to facilitate victim recognition, residence permits, and training programs.

There were two government-run and three NGO-run shelters that assisted trafficking victims in Athens, and construction began on a shelter to be operated by Solidarity, an Orthodox church-affiliated NGO. There was one government-run shelter operating in Thessaloniki, and an additional NGO-run shelter for women opened in Thessaloniki in November. There was one shelter in Ioannina.

During the year, the Government began issuing special residence/work permits to trafficking victims; however, anecdotal reports indicated that trafficking victims continued to be deported. On June 3, the first residence permits were issued to two trafficked women, as provided for under the trafficking law. By November, there had been 24 residence permits issued to trafficking victims.

During the year, major radio stations and magazines carried announcements on trafficking in women and NGOs distributed antitrafficking brochures with funds from the Ministry of Foreign Affairs. The Ministry of Public Order published a multilingual "know-your-rights" pamphlet designed to inform persons identified as possible trafficking victims of resources at their disposal.

*Persons With Disabilities.*—There was no systemic discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other government services. The law mandates access to buildings for persons with disabilities; however, authorities enforced this law poorly. Only 5 percent of public buildings were fully accessible to persons with disabilities; most buildings with special ramps did not have special elevators and lavatories. Research conducted in 2003 by the Medical School of Athens showed that most Athens sidewalks were inaccessible for persons with disabilities.

The Ministry of Health and Welfare is responsible for providing welfare allowances and special schools to the disabled, but serious problems existed due to lack of personnel and funding. An organization for persons with disabilities alleged that only 10 percent of children with disabilities were able to attend school because many special schools were either closed or understaffed.

During the year, special wheelchair lifts for persons with mobility problems were constructed on the Acropolis, and two beaches in the country became accessible to persons with disabilities. In addition, issues involving persons with disabilities received greater public attention as a result of the Paralympic Games in Athens.

*National/Racial/Ethnic Minorities.*—Albanian immigrants who make up approximately 5 percent of the population faced widespread societal discrimination, although Albanian legal residents encountered less official discrimination than Albanians residing in the country illegally. Immigrants—mostly Albanian citizens—accused police of physical, verbal, and other mistreatment. These immigrants also reported the confiscation and destruction of personal documents, particularly during police sweeps to apprehend illegal immigrants. The media regularly blamed Albanians for a reported rise in crime in recent years. The country's sometimes difficult relations with Albania intensified the problem.

On September 4, an Albanian immigrant was stabbed to death and approximately 20 others were injured during clashes across the country following a soccer game between the two countries. The Government condemned the incidents; police arrested one person in connection with the stabbing, who was awaiting trial at year's end. Immigrant associations denounced racist violence in the country and charged that police had not intervened to arrest far-right extremists.

Widespread public debate continued during the year over whether "foreign" students should be allowed to carry the Greek flag at local National Day parades, an honor that is normally accorded students with the highest marks in their school. In October, classmates of one such student in Achaia occupied their school to protest her carrying the flag, and she subsequently declined the honor. Ministry of Education officials and local authorities condemned the protesters, and the Nomarch of Achaia said that the students' attitude neither honored the Achaia region nor reflected the feelings of the citizens, parents, and the school community. Another student in the northern part of the country gave up the honor before his classmates reacted. High school students in Thessaloniki organized protests against a school board decision to give the flag to an Albanian student.

A number of citizens identified themselves as Turks, Pomaks, Vlachs, Roma, Arvanites (Orthodox Christians who speak a dialect of Albanian), or "Macedonians" or "Slavomacedonians." The Government formally recognized only the "Muslim minority" and did not officially acknowledge the existence of any ethnic groups, principally Slavophones, under the term "minority." However, the previous government affirmed an individual right of self-identification. Nevertheless, some individuals who defined themselves as members of a minority found it difficult to express their identity freely and to maintain their culture. Use of the terms "Tourkos" and "Tourkikos" ("Turk" and "Turkish") is prohibited in titles of organizations, although individuals legally may call themselves "Tourkos." To most Greeks, the words "Tourkos" and "Tourkikos" connote Turkish identity or loyalties, and many object to their use by Greek citizens of Turkish origin. At year's end, an appeal from the "Turkish Union of Xanthi," established in 1927, was before the Supreme Court and a petition for the establishment of a "Turkish Women's Union" was also pending.

The Government did not recognize the Slavic dialect spoken by an indeterminate number of persons in the northwestern area of the country as "Macedonian," a language distinct from Bulgarian. This group's use of the term "Macedonian" has generated strong objections among the 2.2 million non-Slavophone inhabitants of the northern region of Greek Macedonia who use the term "Macedonian" to identify themselves. Members of this group asserted that the Government pursued a policy designed to discourage use of their language. Activists of the Rainbow Party, which represents the interests of this group, said that they were forced to cancel plans to hold a conference in Florina in December 2003 and in January because no one would rent them a meeting hall. There were reports that right wing extremists threatened locals with violence if they participated in or facilitated the conference. In May, the conference took place in Thessaloniki under heavy police protection and in a climate made hostile by local government authorities.

In December 2003, the Florina First Instance Court rejected for a second time an application for registration by the association "Home for Macedonian Civilization." This occurred notwithstanding that, in 1998, the ECHR had criticized the Government's refusal to recognize the association as a violation of the European Convention for the Protection of Human Rights and Basic Freedoms.

Roma continued to face widespread governmental and societal discrimination. In April, the European Roma Rights Center (ERRC) issued a report that claimed that Roma were subject to systematic police abuse, mistreatment while in police custody, regular raids and searches of Romani neighborhoods for criminal suspects, drugs, and weapons, and educational discrimination (*see* Section 1.c.). The ECRI report noted with concern that the situation of Roma remained serious and that Roma continued to face discrimination and difficulty in the areas of housing, employment, education, and access to public service. There were anecdotal reports of some societal discrimination, such as landlords refusing to rent apartments to Romani and non-Romani parents withdrawing their children from schools attended by Romani children.

There were frequent police raids on Romani settlements and harsh police treatment of Roma in the Aspropyrgos settlement near Athens. Authorities took no action in the 2002 case of a police officer who allegedly kicked a pregnant woman, who later miscarried, during a raid on the Aspropyrgos camp. Romani families who had lived for decades in settlements close to Olympic venues were evicted and left to find alternate shelter after local municipalities reportedly reneged on their commitment to provide replacement housing with subsidized rent for the families. In November, the U.N. Committee Against Torture expressed concern at instances of ill treatment of Roma by public officials in situations of forced evictions or relocation.

The law prohibits the encampment of "wandering nomads" without a permit and forces Roma to establish settlements "outside inhabited areas" and far from permanent housing. There were approximately 70 Romani camps in the country. Local and international NGOs charged that the enforced separation contravened the country's commitments under the International Convention on the Elimination of All Forms of Racial Discrimination.

Local authorities harassed and threatened to evict Roma from their camps or other dwellings. The NGO Greek Helsinki Monitor reported that police threatened to evict Romani tent-dwellers in the Aspropyrgos area outside Athens in April and May 2003. The European Roma Rights Center and the Greek Helsinki Monitor criticized the demolition of the homes of eight Romani families in late October in Patras. Roma in Tiryns, Peloponnese were in a court battle to avoid eviction from a settlement there.

Roma frequently faced societal discrimination in employment and in housing, particularly when attempting to rent accommodations. The illiteracy rate among Roma was estimated at 80 percent. Poverty, illiteracy, and societal prejudice were most

severe among migrant Roma or those who lived in quasi-permanent settlements. Most Romani camps had no running water, electricity, garbage disposal, or sewage treatment. The approximately 400 Romani families in Tyrnavos, Thessaly lived in tents because authorities refused to include the area in city planning.

Romani representatives reported that some local authorities have refused to register Roma as residents. Until registered with a municipality, a citizen cannot vote or exercise other civil rights such as obtaining an official marriage, commercial, or driver's license, or contributing to social security. It was estimated that 90 percent of Roma were not insured by the public social security systems because they were unable to make the required contributions. Indigent Roma were entitled to free health care provided all citizens; however, their access at times was hindered by the distance between their encampments and public health facilities.

The Government considers the Roma to be a "socially excluded" or "sensitive" group, not a "minority." As a result, government policy was to encourage the integration of Roma. The Ministry of Education has instructed school principals to promote integration.

In June, residents in Sagaika, Patras, demonstrated at an elementary school to discourage Romani parents from enrolling their children in the school.

The Ministry of Interior headed an interministerial committee that coordinated projects for the 85,000 to 120,000 Roma the Government estimated were in the country (unofficial estimates ranged from 250,000 to 350,000). By September, only 30 cities had responded to the Ministry of Interior's 2003 invitation to 75 cities with Romani populations to identify areas in which it could build housing for Roma. Among the program's provisions were very low interest housing loans for Roma, which have had varying success rates in different areas of the country. Municipalities outside Thessaloniki have built prefabricated Romani neighborhoods.

The Ministry of Health and Welfare continued projects to address the chronic problems of the Romani community, including training courses for civil servants, police, and teachers to increase their sensitivity to Romani problems, the development of teaching materials for Romani children, the establishment of six youth centers in areas close to Romani communities, and the deployment of mobile health units to address the needs of itinerant Roma.

*Other Societal Abuses and Discrimination.*—The organization Greek Homosexual Community (OKE) alleged that police often abused and harassed homosexuals and transvestites and subjected them to arbitrary identity checks and to bodily searches in public places.

In December, the broadcasting regulator ESR fined a radio station over insulting language used on a radio show presented by a lesbian, and the station subsequently cancelled the show. The Gay and Lesbian Community of Greece (OLKE) and OKE condemned the ESR ruling as homophobic and lodged complaints with the Government over what it described as a discriminatory decision.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and law provide workers the right to form and join unions of their choice, and workers exercised this right. All workers, with the exception of the military, have the right to form or join unions. Approximately 26 percent of nonagricultural salaried employees were union members. Unions received most of their funding from a Ministry of Labor organization, the Workers' Hearth, which distributes mandatory contributions from employees and employers. Workers, employers, and the state were represented in equal numbers on the board of directors of the Workers' Hearth.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to bargain collectively in the private sector and in public corporations, and unions exercised this right freely. The law provides for the right to strike, and workers in the private sector and in public corporations exercised this right in practice. Civil servants have the right to organize, to bargain collectively with the Ministry of Public Administration, and to strike. Police have the right to organize and to demonstrate, but not to strike.

The law provides for mediation of labor disputes, with compulsory arbitration as a last resort. The National Mediation, Reconciliation, and Arbitration Organization is responsible for mediation and arbitration of labor disputes involving the private sector and public corporations. Mediation is voluntary; however, the Organization may require compulsory arbitration if mediation fails to resolve a dispute.

There are some legal restrictions on strikes, including a mandatory notice period of 4 days for public utilities and 24 hours for the private sector. The law mandates a skeleton staff during strikes affecting public services. Courts may declare a strike

illegal; however, such decisions were seldom enforced. Unions complained that this judicial power deterred some of their members from participating in strikes. Courts declared some strikes illegal during the year for such reasons as failure of the union to give adequate advance notice of the strike or a union making new demands during the course of the strike. During the year, no workers were prosecuted for striking.

There are no special laws or exemptions from regular labor laws in the country's three free trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a problem, although international and local observers agreed that numbers of working children have decreased in recent years. A number of children were illegally employed in the streets of the country in jobs from windshield washing to prostitution. The Government and NGOs believed that the majority of beggars were either indigenous or Albanian Roma. There were reports that children from Albania were trafficked and forced to beg; however, child trafficking NGOs reported a decrease in this abuse (see Section 5). Some parents forced their children to beg for money or food. During the year, heightened security because of the Olympics resulted in a significant decrease in the number of street children who panhandled or peddled at city intersections on behalf of adult family members or for criminal gangs.

The minimum age for employment in the industrial sector is 15 years, with higher limits for some activities. The minimum age is 12 years in family businesses, theaters, and the cinema. These age limits were enforced by occasional Labor Inspectorate spot checks and were generally observed. However, families engaged in agriculture, food service, and merchandising often had younger family members assisting them at least part time.

*e. Acceptable Conditions of Work.*—The GSEE and the Employers' Association determine a national minimum wage through collective bargaining. The Ministry of Labor routinely ratified this minimum wage, which has the force of law and applies to all workers. The minimum wage of approximately \$37 (28 euros) daily and \$813 (616 euros) monthly, effective September 1, provided a decent standard of living for a worker and family. The maximum legal workweek is 40 hours in the private sector and 37.5 hours in the public sector. The law provides for at least one 24-hour rest period per week, mandates paid vacation of 1 month per year, and sets limits on overtime.

The law provides for minimum standards of occupational health and safety. The GSEE characterized health and safety laws as satisfactory, but stated that enforcement by the Labor Inspectorate was inadequate. Workers do not have the legal right to remove themselves from situations that they believe endanger their health; however, they do have the right to lodge a confidential complaint with the Labor Inspectorate. Inspectors have the right to close down machinery or a process for up to 5 days if they see safety or health hazards that they believe represent an imminent danger to the workers.

The law protects foreign workers; however, their wages were lower and they worked longer hours than citizens. Many employers did not make social security contributions for illegal foreign workers, making their legalization impossible.

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## HUNGARY

Hungary is a parliamentary democracy with a freely elected legislative assembly. Prime Minister Peter Medgyessy led a coalition government formed by the Hungarian Socialist Party and the Alliance of Free Democrats after multiparty elections in April 2002, which were considered generally free and fair. In August, Prime Minister Medgyessy resigned, and MSZP member Ferenc Gyurcsany was nominated by the same coalition and confirmed by a parliamentary vote as the new Prime Minister in September. The judiciary is independent.

The country joined the European Union on May 1 along with nine other countries and took part in the European Parliamentary election in June, sending 24 delegates to the European Parliament.

The Hungarian National Police (HNP), under the Ministry of Interior's oversight, has responsibility for law enforcement and maintenance of order within the country.

The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country has completed its transition from a centrally directed economy to a fully functioning market economy. At year's end, the population was approximately 10 million. The private sector accounted for more than 80 percent of gross domestic product. The Socialist government maintained a strong commitment to a market economy but has not succeeded in addressing remaining problems in agriculture, health care, and tax reform. Despite 7 years of strong economic growth, an estimated 25 percent of the population still lived in poverty, with the elderly, large families, and the Roma most affected. At year's end, observers estimated economic growth at approximately 4 percent; the average inflation rate at 6.8 percent; and the unemployment rate at 6.1 percent.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports that some police used excessive force, beat, and harassed suspects, particularly Roma. There were allegations of government interference in editorial and personnel decisions of state-owned media. Violence against women and children remained significant problems. Sexual harassment in the workplace also continued to be a problem. Racial discrimination persisted, as well as anti-Semitic phenomena, such as vandalism of Jewish cemeteries and coded speech by fringe political groups. Societal discrimination against Roma was a serious problem. Trafficking in persons was a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents, however, in June, a Bulgarian died while attempting to escape police custody. The man, arrested for having created a disturbance on an Amsterdam to Budapest flight, attempted to escape from a police car after his court appearance. Two police officers injured the individual in an ensuing struggle. The man died while on route to the hospital. The preliminary medical examiner's report determined that the cause of death was strangulation. Press reports speculated that one of the officers might have improperly restrained the man, resulting in strangulation. The National Police Chief suspended the two policemen from their positions, pending an investigation by the prosecutor's office. The investigation was still pending at year's end.

In July, a young Roma man died after being chased and tackled by an off duty police officer in Kecskemet. The local Roma community and the man's family did not accept the preliminary medical examiner's report that the man died from a congenital heart defect. The police chief reinstated the suspended officer based on the medical examiner's report, despite the report noting the unexplained presence of sand in the suspect's windpipe and water in his lungs. The final coroner's report, released by the Budapest Central Police, affirmed the conclusions of the preliminary medical report and found no relation between the man's death and the officer's actions. The Office of the Minority Affairs Ombudsman was also investigating the incident, and its report was still pending at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police occasionally used excessive force, beat, and harassed suspects, particularly Roma. For example, according to the Roma Press Center, in December, police beat a Roma couple while in custody at the Szigetvar police station. Police released the couple, detained on suspicion of pickpocketing, after 2 hours. The man, an epileptic, sought treatment at a local hospital for injuries to his kidneys and lungs—allegedly sustained at the hands of police. Officials from the Baranya County Police Headquarters took the couple's statements along with their complaint and were investigating the case at year's end.

In December, eight police officers were put on trial by the Kaposvar Military Prosecutor's Office for allegedly beating a 31-year-old Roma man in January. The officers were charged with illegal restraint, maltreatment during an official procedure, assault and battery, and committing a breach of duty. The man was allegedly dragged from his home and driven by car for 10 minutes while being beaten by the officers, allegedly to dissuade him from pressing charges against a local deputy in another abuse case.

In July, the European Court of Human Rights in Strasbourg found that the Government had violated the European Convention on Human Rights in the case of Sandor Balogh versus Hungary. The case concerned the abuse of Sandor Balogh while in police custody in 1996. The Court ruled that there was a violation of Article

3 (prohibition of inhuman or degrading treatment), but no violations of Article 13 (right to an effective remedy). The Court awarded Mr. Balogh \$5,400 (4,000 euros) for pecuniary damages, \$13,500 (10,000 euros) for non-pecuniary damages, and \$4,050 (3,000 euros) for costs and expenses.

The Government actively pursued allegations of police abuse. In the first half of the year, authorities investigated 18 cases of suspected abuse by police involving 15 police officers. The majority of incidents occurred during interrogations. A total of 12 incidents resulted in court cases, with 9 guilty verdicts. NGOs usually estimated that approximately half of the police abuse cases involved Roma victims. The law does not authorize the Government to compile statistics on race or ethnicity. There were occasional reports that police punched, kicked, and struck persons with truncheons while in police custody. The Government conducted investigations in some cases and brought charges against individual police officers.

While the number of police abuse reports remained relatively steady compared with the previous year. The widespread prejudice against Roma further complicated efforts to assess the extent of police abuse, particularly against Roma. As in previous years, the National and Ethnic Minority Right Protection Office received frequent complaints from Roma of police abuse and misconduct.

NGOs, such as the Mahatma Gandhi Human Rights Organization, believed that there were fewer cases of police harassment of foreign residents, particularly of non-Europeans; however, police continued to show indifference toward foreigners who were victims of street crime. Discrimination against dark-skinned foreigners persisted.

Prisons were overcrowded but generally met international standards. As of September, the prisons and detention centers held 16,538 persons or 146 percent of capacity. The Government continued to expand the capacity of several prisons. Men and women were held separately; juveniles were held separately from adults; and pretrial detainees were held separately from convicted prisoners.

On November 27, 2003, a Romani inmate burned to death in a "rubber cell" at a prison in Zalaegerszeg, Zala County. An investigation determined that the prison guards did not adequately search the inmate before placing him in the cell. The cause of the fire was determined to be from a lighter that the inmate had smuggled in with him. The death was ruled a suicide, and the guards were fined for not following proper procedures.

The Government permitted visits by independent human rights observers, and such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, in April, a 15-year-old Roma boy remained in custody for robbery several weeks after the alleged victim confessed to having falsely accused the boy. Despite being exonerated, the Borsod-Abaúj-Zemplén County Police refused to release the boy until the victim's confession had been delivered to police from the county prosecutor's office.

The Hungarian National Police has responsibility for law enforcement and maintenance of order under the direction of the Ministry of Interior. In addition, city police forces and the National Border Guards share security responsibilities, ultimately also under the Ministry of Interior's direction. The Government actively pursued allegations of police abuse. Punishments for abuses committed by police included fines, probation, prison sentences, and dismissal (*see* Section 1.c.). A book on victim protection, used to train police officers and activists, also listed all NGOs providing protection to crime victims.

The law requires that police obtain warrants to place an individual under arrest. Police must inform suspects upon arrest of the charges against them but may hold detainees for a maximum of 72 hours before filing charges. The law requires that all suspects be allowed access to counsel prior to questioning and throughout all subsequent proceedings and that the authorities provide counsel for juveniles, the indigent, and persons with mental disabilities. Credible reports suggested that police did not always allow access to counsel, particularly for persons accused of minor crimes. There was a comprehensive bail system, which was used frequently.

Pretrial detention, based on a warrant issued by a judge, may not exceed 3 years while criminal investigations are in progress. The Government may detain individuals for 3 days without bringing charges against them. Not all suspects were remanded to detention centers after arraignment while pending trial. The law stipulates that authorities can request pretrial detention in cases when it is likely the suspect will flee, when the gravity of the charges warrant detention, or when the release of the suspect would endanger the investigation. In 2003, 6 juvenile offenders and 12 adults who had been detained for more than the new maximum period were set free.

The Prosecutor General's Office reported that the average length of pretrial detention was 118.5 days during the year; however, nearly 12 percent of detainees were held for periods longer than 8 months. Aliens usually were held until their trials, since they were considered likely to flee the country. Roma alleged that they were kept in pretrial detention longer and more frequently than non-Roma, although the data protection law prohibits keeping records detailing the ethnicity of the detainees (see Section 1.e.). The law provides for compensation if a detainee is released for lack of evidence, but the procedure rarely was exercised since detainees must undertake a complicated legal procedure to pursue such claims. The Minister of Justice decides upon compensation. The amount is decided on a case-by-case-basis and may cover the costs of the trial, attorney's fees, lost wages, and some miscellaneous sums.

The law permits police to hold suspects in public security detention (PSD) under certain circumstances, including when a suspect has no identity papers, when blood or urine tests must be performed, or when a suspect again commits the same misdemeanor offense after receiving a prior warning. Suspects may be held in PSD for up to 24 hours. Such detainees were not always informed of the charges against them, because such periods of "short" detention were not defined as "criminal detention" and, therefore, were not considered covered by the Criminal Code.

The Government funded or operated victim protection offices in each county to provide psychological, medical, and social services to victims of crime. At the conclusion of judicial proceedings, victims may apply through the Safe Hungary Public Foundation for financial compensation from the perpetrator. In practice, both citizen and foreign victims received compensation from the victim protection offices; however, there is no indication of how often victims received compensation from perpetrators.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

Under the Constitution, the courts are responsible for the administration of justice, with the Supreme Court exercising control over the operations and judicial procedure of all other courts. Effective July 2003, a regional court system was established. The new regional courts serve as the court of appeals for county cases, thus creating a fourth level of appeals in the court system. The Supreme Court is the final court of appeal, and the Constitutional Court can hear appeals of military court decisions.

The Constitutional Court is charged with reviewing the constitutionality of laws and statutes brought before it, as well as the compliance of these laws with international treaties that the Government has ratified. Parliament elects the 11 members of the Constitutional Court, who serve 9-year terms. The judges elect the president of the Constitutional Court among themselves by secret ballot. Citizens may appeal to the Constitutional Court directly if they believe that their constitutional rights were violated. The Constitutional Court does not function as a court of appeal, and it cannot override the sentences made by regular courts. It can decide if a law is unconstitutional or not, and citizens can demand a retrial of their cases on the basis of a Constitutional court decision. The Constitutional Court is required to address every petition it receives; however, no deadline is specified for the Court to render a decision, resulting in a considerable backlog of cases. No judge or member of the Supreme or Constitutional Courts may belong to a political party or trade union. Members of the Constitutional and Supreme Courts also may not be members of Parliament or be employed in local government. The National Judicial Council nominated judicial appointees other than for the Constitutional Court and oversaw the judicial budget process.

The law provides for the right to a fair trial, and an independent judiciary generally respected this right. Trials are public, but, in some cases, judges may agree to a closed trial to protect the accused or the victim of a crime, such as in some cases of rape. Judicial proceedings generally were investigative rather than adversarial in nature. Defendants are entitled to counsel during all phases of criminal proceedings and are presumed innocent until proven guilty. Counsel is appointed for indigent clients, but the public defender system generally provided substandard service. There is no permanently staffed public defender's office; private attorneys may or may not choose to serve in this capacity. Public defenders were paid poorly—less than \$4.50 (1,000 HUF) for the first hour of the trial and less than \$2.50 (500 HUF) for each additional hour—and did not give indigent defendants priority. Lawyers often met indigent clients for the first time at trial. The Act on Legal Aid provided for greater assistance to defendants by providing for free legal advice from government-funded legal staff, but not representation.

Judicial proceedings varied in length, and delays of several months to a year before the commencement of trials were common. Cases on appeal may remain pending before the courts for indefinite periods, during which time defendants are held in detention. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf, and they have access to government-held evidence relevant to their cases. There is no jury system; judges are the final arbiters. The new Criminal Procedure Law allows 3 years from the start of an investigation until the first instance court sentence. Cases that have not resulted in a sentence are dismissed. The new law gives prosecutors more investigative powers than the HNP. Prosecutors may employ plea-bargaining, which police considered an important weapon in the fight against organized crime.

Many human rights and Romani organizations claimed that Roma received less than equal treatment in the judicial process (*see* Section 1.d.). Specifically, they alleged that Roma were kept in pretrial detention more often and for longer periods than non-Roma. This allegation was credible in light of general discrimination and prejudice against Roma. Since the majority of Roma were from the lowest economic strata, they also suffered from substandard legal representation.

Military trials follow civil law and may be closed if justified on national security or moral grounds. In all cases, sentencing must take place publicly. The law does not provide for the trial of civilians in military courts.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

The law provides that the prosecutor's office may issue search warrants. Police must carry out searches of private residences in the presence of two witnesses and must prepare a written inventory of items removed from the premises.

Courts ordered evictions due to nonpayment of public utilities, but they were not carried out during winter months. According to NGOs, district councils threatened to take children away from Roma families to expedite evictions. NGOs also cited government figures that suggested it was less expensive simply to rent an apartment than it was to pay for a child in state care. Due to their economic status, Roma were disproportionately represented among those evicted for nonpayment of utilities.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, opposition parties criticized the Government for influencing editorial and personnel decisions of state-owned media. Individuals may criticize the Government publicly or privately without reprisal and did so in practice.

Numerous privately owned print publications expressing a variety of views were available to the public. The Government generally did not interfere with the operation of private news media.

There were two state-owned public service television stations (MTV and Duna TV) and one public service radio (Hungarian Radio), two national commercial television stations (TV2 and RTL Klub), two national commercial radio stations (Slager Radio and Danubius Radio), and four national dailies (Nepszabadsag, Magyar Hirlap, Nepszava, Magyar Nemzet).

Interference in state-owned media remained a concern. Several state-owned radio and television stations were governed by a state-appointed public media oversight board, which has proportional political representation. During the year, allegations were made against the President of Hungarian Public Radio (HPR) that she had been a secret agent during the Communist period. Although the allegations were never substantiated, it was widely believed that the attempt to discredit her was politically motivated, as she was appointed to the post by the previous conservative government. In July, the board of the state-owned public television MTV cancelled the program Night Tracks (Ejjeli Meneddek) after the program had featured a well-known Holocaust victim. Opposition political parties were traditionally critical of the progovernment news coverage in state-owned media, and the audience for private news outlets exceeded that for state-owned broadcasters.

The OSCE Representative on Freedom of the Media criticized the country's outdated libel and secrecy laws in response to two court decisions during the year involving sentences for journalists. These journalists were given suspended prison sentences for libel convictions under the criminal statutes.

The Media Law provided for the creation of nationwide commercial television and radio boards and was intended to insulate the remaining public service media from government control. The National Television and Radio Board monitored news

broadcasts for equal treatment of all political parties, and censured and fined public and private broadcasters.

Minority language print media continued to appear, and the state-run radio broadcast 2 hours of programs daily in languages of the major minority groups: Romani, Slovak, Romanian, German, Croatian, and Serbian. State-run television carried a 26-minute program produced by and for each of seven major minority groups. In addition, a 50-minute joint program serving the five smaller minority communities was seen on a monthly basis along with 30-minute weekly documentaries covering one minority community monthly. Programming of Radio C, a public foundation-sponsored nonprofit station with an 80 percent Romani staff, was received only in the Budapest metropolitan area; however, a 1-hour program of Radio C aired on HPR's regional network daily. Although it received subsidies and foreign donations to cover its operations from the Soros Foundation's Open Society Institute and foreign embassies, it still lacked a stable source of income. Television programs for, about, and by ethnic Hungarians in the neighboring countries were broadcast for 3.75 hours per week.

The Government did not restrict access to the Internet or academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice; however, prior to a planned neo-Nazi demonstration by a little-known group called “Hungarian Future,” the Government attempted to stop the group from carrying out the demonstration, despite having no legal means to do so. Hungarian Future's leader was arrested 1 week before the demonstration and sentenced to 10 days' detention for publicly displaying a fascist symbol banned by law. The group declined to proceed with its demonstration as planned, due to the detention of its leader.

The Constitution forbids the registering of neo-Nazi groups, and the neo-Nazi group “Blood and Honor” was originally registered as a “cultural group.” However, in December, a Budapest district court stripped Blood and Honor of its legal status under a law prohibiting “incitement against a community.” Without legal status, Blood and Honor could not apply for permits to hold rallies or enjoy other legal benefits open to registered groups such as owning property, and opening bank accounts under its name. At year's end, Blood and Honor was expected to appeal the decision.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There is no state religion; however, there are 4 historically recognized denominations (Roman Catholic, Calvinist, Lutheran, and Jewish) and 136 officially recognized denominations.

A group must provide 100 signatures to register as a religion, which it may do in any local court. While any group was free to practice its faith, formal registration made available to religious groups certain protections and privileges and granted access to several forms of state funding. The Government provided subsidies to some religious groups each year, and taxpayers may contribute 1 percent of their tax payments to a registered religious body. In 2003, 14.6 percent of the taxpayers offered 1 percent of their taxes to churches. In January, Parliament amended the tax code to make donations to any registered religion tax-free, and the Government matches taxpayer donations. In 2003, the Government provided subsidies to 121 religious groups.

Religious instruction was not part of the public school curriculum; however, the State permitted primary and secondary school students to enroll in extracurricular religious education classes.

The religious groups and the State agreed on a number of properties to be returned and an amount of monetary compensation to be paid for properties that could not be returned. These agreements are subsumed under the 1991 Compensation Law, which requires the Government to compensate religious groups for properties confiscated by the Government after January 1, 1946. During the year, the Government paid religious groups \$11 million (2.2 billion HUF) as compensation for the assets confiscated during the Communist regime.

During the year, the Government resolved 131 cases regarding properties seized from religious groups by the communist regime. No property was returned to churches. At year's end, there were 837 cases pending.

Despite a generally optimistic outlook regarding the decrease in anti-Semitism over the last several years, representatives of the Jewish community expressed concern over anti-Semitism in some media outlets, in society, and in coded political speech. For example, certain segments of an ongoing Sunday news magazine, *Vasarnapi Ujsag*, on Hungarian Public Radio were criticized for presenting guests who held anti-Semitic viewpoints. The weekly newspaper *Magyar Demokrata* con-

tinued to publish anti-Semitic articles, and featured articles by authors who have denied the Holocaust.

On January 11, over 5,000 persons held a protest in front of Tilos Radio against anti-Christian statements made on the air by an inebriated disk jockey on Christmas Eve 2003. After the demonstration, approximately 100 to 200 persons remained and burnt an Israeli flag. Although police witnessed the event, no arrests were made until after it received widespread media coverage. Two defendants were ultimately convicted and fined under the Hate Speech Law.

Several groups staged anti-fascist counterdemonstrations in response to Hungarian Future's aborted commemoration of the 60th anniversary of the fascist takeover of the country (*see* Section 2.b.). Despite the failure of Hungarian Future to go through with the demonstration, at least 10,000 anti-fascist demonstrators showed up, including the Prime Minister and almost all the ruling coalition's Members of Parliament (M.P.s).

According to police reports, during the first 8 months of the year there were 216 cases of persons vandalizing gravestones and cemeteries during the year, compared with 459 such cases in 2003. The Jewish community stated that there were fewer acts of vandalism in Jewish cemeteries than in 2003 (a downward trend continued from 2002), and it attributed most of the incidents to youths and did not consider the incidents anti-Semitic in nature.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. There were no reports that local authorities tried to expel Roma from towns; however, the Government resettled 20 homeless persons from Budapest to government-subsidized apartments in the country on a volunteer basis.

The law does not provide for forced exile, and the Government did not employ it. The Government may delay but may not deny emigration for those who have significant court-assessed debts or who possess state secrets. During the year, there were no known cases of delayed emigration. Those with approximately \$50,000 (over 10 million HUF) or more in public debt may be denied travel documents. The Government did not impose an exit visa requirement on its citizens or on foreigners.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return to a country where they feared prosecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting refugees and asylum seekers. The UNHCR reported that, during the year, 1,600 asylum seekers entered the country, including 1,146 illegal border crossers. The asylum seekers came primarily from Georgia, Serbia and Montenegro, Turkey, Vietnam, China, Algeria, and Nigeria. During the year, the Government accelerated its asylum process and granted 1,187 residence permits on humanitarian grounds. During the year, the Government granted refugee status to 149 applicants and temporary protected status to 177 persons, and 283 cases were pending. The Office of Immigration and Nationality (OIN) is the central authority for asylum and immigration matters.

Asylum applicants were housed in three government-owned camps and two temporary camps run by NGOs. One temporary camp was closed and another for unaccompanied minors was opened in 2003.

The OIN operated seven regional offices to process asylum requests and administered the refugee camps. Prospective refugees who sought only to transit to other European countries were encouraged to return to their countries of origin. In September, 565 asylum seekers were living in 3 permanent and 1 temporary reception center, and there were 14 minors (ages 4 to 17 years) living in a new home for unaccompanied minors. For aliens requiring greater monitoring in a more restrictive environment, the OIN operated four different shelters called community shelters. Aliens housed in the refugee camps enjoyed fewer restrictions on freedom of movement than those in community shelters did. Several NGOs and human rights organizations supported asylum seekers and provided legal information.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. Foreigners apprehended trying to cross the border illegally either may apply for refugee status if they have valid travel documents or were housed temporarily at one of eight border

guard detention centers for non-asylum seekers throughout the country, pending deportation. During the year a total of 4,588 aliens passed through the shelters, while on a typical day 114 persons occupied these facilities. The greatest number of aliens in the border guard facilities came from Romania, Moldova, Ukraine, Serbia-Montenegro, and Turkey. Although police sought the timely deportation of detainees who did not qualify for refugee status, a shortage of funds and the detainees' lack of documentation, such as passports, often resulted in lengthy stays. NGOs criticized the Government's indefinite detention of stateless and some undocumented foreigners pending resolution of their cases. There were no reports of abuse during deportation. NGOs and churches cooperate with the border guards to support the asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. Elections are held at least every 4 years. Parliamentary elections took place in April 2002, and municipal elections were held in October 2002. Reform of the country's political and economic structure led to the country's EU membership in May.

M.P.s are elected every 4 years through a multi-stage process, in which voters cast ballots for individual candidates and party lists. In May 2002, the Socialist Party and the Alliance of Free Democrats established a post-election coalition, which gave the two parties a 10-member majority in Parliament. The Socialist Party was the senior coalition member and nominated Peter Medgyessy as Prime Minister. The FIDESZ-Hungarian Civic Party and the Hungarian Democratic Forum were the opposition groups in Parliament. In August, Prime Minister Medgyessy resigned. Socialist Party member and Minister of Sport Ferenc Gyurcsany was nominated for Prime Minister by the existing ruling coalition, and was elected by simple majority of the Parliament via a constitutionally prescribed method on September 29.

Although there was widespread perception of corruption in the executive and legislative branches, no compelling evidence of such corruption came to light in 2004. Anecdotal evidence suggested that significant corruption in procurement of military articles existed; however, various indices—including Transparency International—rate Hungary among the least corrupt governments in the region. Low-level corruption among law enforcement officials remained a problem, but the Government was taking steps to address the issue.

In Parliament, 35 of 386 representatives were women. Two women served in the Cabinet, and several women were state secretaries and deputy state secretaries. A woman (a former Minister of Justice) headed the Hungarian Democratic Forum, one of four parties represented in Parliament. The Speaker and one of the deputy speakers of Parliament were women. The level of women's political participation was greater in provincial and municipal governments than at the national level. The Hungarian Women's Alliance held weekend courses throughout the year to promote the participation of women in public life.

Although there is no legal allocation of minority representation within the national government, there were several ethnic minority M.P.s, including ethnic Germans and ethnic Slovaks. There were four Romani M.P.s. There were 3,000 Roma politicians in the local and national minority self-governments.

The law provides for the establishment of local minority self-governments to enhance respect for the rights of ethnic minorities, particularly in the fields of education and culture. The self-governments received funding from the central budget and some logistical support from local governments. Self-governments provided wide cultural autonomy for minorities and handled primarily cultural and educational affairs. The president of each self-government is also a delegate to local government assemblies. The president has no voting or veto rights but has the right to speak and attend committee meetings. Minority self-governments are dependent on local governments for funding, office space, and equipment. Any of the 13 registered minorities may set up a minority self-government if at least 50 valid votes are cast in settlements with fewer than 10,000 inhabitants and if at least 100 votes are cast in larger settlements.

Since an individual's ethnicity is not registered officially, voting on minority self-governments is not limited to the minorities themselves. All voters receive a minority ballot in addition to the local government ballot. The elected local minority self-governments could elect their national minority self-governments, which have been formed by all 13 minorities. Several Romani self-governments have regional groupings to facilitate cooperation. Critics have called for increasing the authority and financial resources of the minority self-governments.

In 2002, non-minority candidates also were elected to minority self-governments and, in some cases, even obtained a majority, for instance, in Jaszladany. Romani rights observers viewed this outcome as undermining the local Romani community. Government efforts to amend the laws on minorities and elections to prevent non-minority voting in elections for minority self-governments were pending in September. In September, 977 out of the 1,830 active self-governments were Romani self-governments. Romani mayors headed 4 municipal governments, and 544 Roma sat on local and county government assemblies.

Two factors limited the effectiveness of the Romani and other minority self-governments: Elections of non-minorities to the self-governments, which prevented some minorities from exercising the autonomy the law is intended to promote, and the reported abandonment by some local governments of responsibilities for government functions related to the minorities, which the self-governments lacked the legal mandate and resources to address.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Many NGOs reported that the Government continued to be responsive to their requests for information. Human rights groups indicated improvement in the degree of cooperation from government ministries and prosecutors' offices on cases involving Roma and police abuse. An increasing number of NGOs were involved in the law-making process; however, NGOs claimed that the Government's cooperation in this area was insufficient.

The Government did not interfere with activities of international NGOs operating offices in the country. During the year, Amnesty International opened an office in the country. Government cooperation with international NGOs was very good. In particular, the Government has worked closely with International Organization on Migration (IOM) in its effort to combat trafficking in persons (see Section 5).

A 21-member parliamentary Committee for Human, Minority, and Religious Rights conducted hearings and participated in the law-making process. The Committee was composed of both majority and opposition M.P.s, reflecting the proportion of party representation in Parliament, and was headed by an opposition chair. There were separate ombudsmen for human rights, data protection, and minority affairs. The ombudsmen were independent from the Government and prepared annual reports to Parliament on their activities and findings. Parliament elects the ombudsmen for 6-year terms. Persons with complaints who have not obtained redress elsewhere may seek the assistance of the Ombudsman's office. The Ombudsman's office does not have the authority to issue legally binding judgments but may act as a mediator and conduct fact-finding inquiries.

The Minority Affairs Ombudsman—an ethnic German elected to a second term in 2001—played an active role in the examination of allegations of discrimination against the Romani community in such cases as school segregation, access to housing, and the election of non-Roma to the Romani minority self-governments (see Sections 3 and 5).

The Political State Secretary of Roma Affairs was moved from the Prime Minister's Office to the new Ministry of Youth, Family, Social Affairs, and Equal Opportunities. The Roma Affairs and Civil Relations Office operated out of the same ministry. The Government Office of Ethnic Minorities continued its operations, dealing with all 13 ethnic minority communities.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for individual rights, equality, and protection against discrimination; however, in practice, discrimination persisted, particularly against Roma.

*Women.*—Domestic violence against women was common, but the vast majority of such abuse was not reported. The NGO Women Against Violence Against Women (NANE) reported that 20 percent of women were threatened by or were victims of domestic violence. The Government focused more attention on issues such as domestic violence. In September, the Government and NGOs sponsored a conference on domestic violence and victim's assistance for law enforcement and judicial officials. In addition, the Government funded NGO-run training seminars for law enforcement and judicial officials in the area of victim's assistance. The Ministry of Youth, Family, Social Affairs, and Equal Opportunities opened a shelter for victim's of domestic abuse and operated a 24/7 hotline for such victims.

The laws criminalize spousal rape. Women's rights organizations claimed that 1 woman in 10 was a victim of spousal abuse and that societal attitudes towards

spousal abuse were archaic. The law prohibits violence in general and establishes criminal penalties for those convicted of such crimes. There are no statistics for domestic violence prosecutions, since this was not a distinct charge under the Penal Code.

Each county police station or county local government has a victim's protection unit. Police recruits received training from representatives of NGOs and international organizations on proper responses to rape and sexual assault cases. Victims of domestic violence could also obtain help and information from an NGO-run national hotline or at one of several NGO-run shelters. The hotline operated intermittently for 3 hours each day, and a message system was activated when a counselor was unavailable in person. Shelters provided short-term refuge, and their locations were concealed to protect victims.

Although rape is illegal, for cultural reasons the crime often was unreported. Police attitudes toward victims of sexual abuse reportedly often were unsympathetic, particularly if the victim was acquainted with her abuser. During the year, women were victims of 87,837 reported crimes of all types.

Prostitution is illegal; however, municipal governments may establish "tolerance zones" where such activity may occur. Currently, there is only one such tolerance zone, located in Budapest.

The Penal Code does not explicitly prohibit sexual harassment in the workplace, but there are laws prohibiting general harassment and the Labor Code has a section addressing the right to a secure workplace. However, sexual harassment remained a widespread problem. Women's groups reported that there was little support for efforts to criminalize sexual harassment and that sexual harassment was tolerated by women who feared unemployment more than harassment. The Labor Code, which regulates questions of security in the workplace, provides for sentences of up to 3 years' imprisonment for sexual harassment; nonviolent acts of sexual harassment may also be prosecuted under the defamation statutes. During the year, no charges were brought under this provision of the Labor Code.

Women have the same rights as men, including identical inheritance and property rights. The number of women in middle or upper managerial positions in business and government remained low, and, in practice, women received lower pay than men in similar positions and occupations. The number of women in the police and the military has risen over the past several years, and women were well represented in the judiciary and in the medical and teaching professions.

*Children.*—The Government was committed to children's rights. The law provides for compulsory education, which was free through age 18 for children who were born after 1997. The Ministry of Education estimated that 95 percent of school-age children, with the exception of Romani children, were enrolled in school. Roma were far more likely than non-Roma to stop attending school before age 16. Reliable figures on Romani enrollment and graduation rates were unavailable due to the prohibition on collecting data on ethnicity.

Romani and other civic organizations continued to criticize the practice of placing Romani children in remedial education programs designed for children with mental disabilities or low academic performance, resulting in informal segregation. Although the children could return to the regular school system, only a small percentage did so. In 2002, the Ombudsman for National and Ethnic Minority Rights declared that segregation continued to exist in public education. An earlier report by the Ombudsman's office found that the high proportion of Romani children in "special schools" for children with mental disabilities was a sign of prejudice and a failure of the public education system. To prevent the improper placement of children in remedial education, particularly Romani children, parents were required to concur in the decision of the school to enroll their child in such a program and the child was tested yearly to measure educational performance. However, NGOs remained concerned that Romani children were still improperly referred to special schools despite the safeguards. In June, the Borsod-bauj-Zemplen County Court ruled that the public school in Tiszatarjan had improperly referred 10 Romani students to remedial education classes and that those classes were inadequately conducted. The court ordered the school council to pay more than \$200,000 (approximately 38 million HUF) to the 10 families.

During the previous school year, Roma Affairs ministerial Commissioner of the Ministry of Education conducted an investigation of 1200 second-grade children in "special schools." The Ministry determined that 222 of those children could continue their studies in "normal" elementary schools. The Government Office of National and Ethnic Minorities estimated that as many as 700 schools had de-facto segregation. The Government stated that the Romani schools were designed to provide intensive help for disadvantaged children. During the year, the Ministry of Education

released a report stating less than one-third of the 380 schools conducting special education programs have the necessary certification. Laws permit a combination of a maximum of three grades into one classroom, and prescribe the employment of a special-needs teacher in each program. However, the report found that, in 17 schools, grades 1 through 8 were combined, in 67 schools grades 1 through 4 were combined, and in 74 schools grades 5 through 8 were in 1 class. According to the European Roma Rights Center, Roma students make up 20 percent of the country's student population but over 50 percent of the remedial school population. Education officials claimed that this was largely due to the dire economic circumstances of these children's families, not due to discrimination.

In February, the Hungarian Examination and Evaluation Center for Public Education found that the private foundation school of Jaszladany, opened in September 2003, was not in accordance with the laws and was improperly segregated. According to the Ministry of Education, the authorities do not have the right to close down the school. At year's end, the Government was still working on amending the Law on Public Education to resolve the situation.

In June, the Ministry of Education initiated an investigation of the school councils in the towns of Bag and Isaszeg due to allegations of mistreatment of "special school" children made in a Roma Press Center report. The report claimed that the number of students with mental disabilities in Isaszeg increased 2-fold over 10 years, that educational practices were sub-standard, and that all the students in the remedial program in Bag were Romani children.

There were programs aimed at increasing the number of Roma in higher education. The Romaversitas program supported Romani students completing degrees in institutions of higher education; there were departments of Romani studies in the teachers' training colleges in Pecs, Eger, and Zsambek and of Romology at the University of Pecs. The Government provided a number of scholarships to Roma at all levels of education through the public Foundation for the Hungarian Roma. The Government reported that in the 2003-04 academic year, over 23,000 Roma received state-funded scholarships, of which 1,600 were given for studies at the university level.

School-age children may receive free medical care at state-operated institutions and most educational facilities. Psychologists were available to evaluate and counsel children, and provisions existed for children to obtain dental care. However, NGOs and Roma activists claimed that Romani children did not have equal access to these and other government services.

Child abuse remained a problem. NGOs claim that an estimated 25 percent of girls suffered from abuse by a family member before they reached the age of 12. During the year, 7,423 children were reported as victims of crimes. NGOs reported that neglect and abuse were common in state care facilities. The law criminalizes relationships between an adult and a minor when the minor is less than 14 years of age. The Criminal Code provides sanctions against the neglect and endangerment of minors, assault, and preparation of child pornography; however, laws to protect children were enforced infrequently.

Child prostitution was not a common practice, although isolated incidents occurred. Severe penalties existed under the law for those persons convicted of sexually abusing children by engaging in such acts. While child prostitutes are not criminally convicted, they can be remanded to juvenile centers for rehabilitation and to complete school.

Trafficking in children for the purpose of sexual exploitation was a problem (see Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons to, from, and primarily through the country remained a problem.

The Penal Code provides penalties for trafficking commensurate with those for rape. Under the law, even preparation for the trafficking in persons is a criminal offense. The penalty for trafficking is between 2 and 8 years in prison; the trafficking of minors is punishable by up to 10 years in prison. However, if an organized trafficking ring is involved, the sentence can be life imprisonment and seizure of assets. The law provides for immediate deportation of foreign traffickers following completion of their sentences. Witness cooperation in the prosecution of traffickers was aided by the Witness and Victim Protection Act, which came into force during the year. This law provides witnesses with short-term relief from deportation and access to shelter. A total of 15 trafficking cases came to trial during the year, all of which were ongoing at year's end.

The government agencies most directly involved in anti-trafficking efforts were: Police, border guards, customs authorities, prosecutors, and the Justice, Interior, and Foreign ministries. In principle, the Government is willing to extradite foreign

nationals charged with trafficking; however, no such actions were taken in practice. The Organized Crime Task Force investigated trafficking cases involving organized crime, and the Government cooperated with other countries in joint trafficking investigations. On July 1, an anti-trafficking unit was set up within the organized crime section of the National Police. By year's end, this unit had conducted joint investigations of trafficking rings with Norwegian, Danish, and Italian law enforcement authorities.

The country was primarily a transit point, but it was also a source and destination country for trafficked persons. No accurate estimate of how many trafficking victims transit through the country existed. Rough estimates by the Government and NGOs put the figure at approximately 3,000 per year. The most frequent targets were women between the ages of 13 to 27. Victims also included middle-aged women, men, and children. Women and children were trafficked for sexual exploitation primarily from countries to the east, where unemployment is higher: Russia, Romania, Ukraine, Moldova, and Bulgaria to Austria, Germany, Spain, the Netherlands, Italy, France, Switzerland, and the United States. Trafficking victims from Hungary typically were women from the country's eastern regions, where unemployment was higher. They were trafficked to Western Europe and elsewhere primarily to Austria, Belgium, Germany, Italy, and the Netherlands, as well as to Canada, Japan, Spain, Switzerland, and Turkey. Men trafficked for forced labor through the country en route to EU countries and the United States came from Iraq, Pakistan, Bangladesh, and Afghanistan. There were no estimates available on the extent of trafficking of males for forced labor.

Organized crime syndicates transported many of the trafficking victims for forced prostitution either in Budapest, or for transit to Western Europe or North America. Trafficking rings also exploited victims for domestic servitude and manual labor. Russian-speaking organized crime syndicates were active in trafficking women through the country, primarily from Ukraine and other countries of the former Soviet Union to EU countries. Victims were recruited at discos and modeling agencies, through word-of-mouth, or even through open advertisements in local newspapers and magazines. Reportedly, some victims knew that they were going to work illegally; others believed they were getting foreign visas; others expected to work but believed their employers were obtaining the appropriate papers and permission. Once at their destination, the victims were forced into prostitution or other exploitation. Traffickers often threatened victims, confiscated identification documents, and severely restricted their freedom of movement.

There was no evidence of Government involvement in or tolerance of trafficking. However, border guards have been arrested for isolated instances of corruption. There were no available statistics on how many of these corruption cases involved trafficking in persons.

The Government has increased trafficking awareness and victim identification training for law enforcement and judicial officials by holding training workshops throughout the country. In addition, the Government has developed a training program for trafficking investigators focusing on both investigative skills and victim assistance. The Government has also instituted mandatory trafficking awareness courses at the National Police Academy and in continuing educational programs for veteran police officers. In cooperation with NGOs, the Government has developed other victim assistance training materials for law enforcement and consular officials, some of which have been adopted by other nations in the region. The Border Guards have developed a 300-page handbook to combat trafficking, which has been distributed to all law enforcement education institutions. At year's end, nearly 750 teachers and social workers have taken university classes on trafficking. The Government has also expanded its counter-trafficking efforts regionally with the establishment of the Crime Prevention Academy, which has begun to train Ukrainian and western Balkan law enforcement officials in counter-trafficking techniques.

Assistance with temporary residency status, short-term relief from deportation, and shelter assistance were available to trafficking victims who cooperated with police and prosecutors. There was no government-run operational shelter for trafficking victims; however, NGOs have provided shelter for trafficking victims on an informal basis. The Ministry of Interior's Victims' Protection Office managed a victims' protection fund and posted information on victim protection in every county police headquarters. Victims' Protection Office branches in 51 localities provided psychological and social support services and legal aid for all types of victims including trafficking victims.

The IOM, working with other NGOs, continued a program funded by the Government and foreign donors to raise awareness of the problem of trafficking and to educate potential victims. Women's rights organizations, the IOM, the Crime Prevention Section of the National Police, and the Ministry of Youth and Sports Affairs

conducted preventive programs for teenagers in schools. NANE continued to operate a hotline that provided information on trafficking-associated advertising lures and situations to alert young women. NANE, the IOM, and the Public Fund for a Safe Hungary, with funding from foreign governments, cooperated to continue and enhance the operation of the hotline.

NGOs working on trafficking problems reported that cooperation with counterpart government agencies improved. The NGOs provided law enforcement officers with training in recognizing and identifying trafficking victims, which included sensitivity training as well as techniques to combat trafficking (see Section 4).

The Government has improved its internal coordination of its counter-trafficking efforts by forming an inter-ministerial working group.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, or in the provision of other state services. Government sources estimated that there were between 600,000 and 1 million persons with disabilities (6 to 10 percent of the population). Of these persons, 300,000 to 350,000 were considered to have serious disabilities and received increased government benefits. Persons with disabilities faced societal discrimination and prejudice.

A Council for the Disabled under the leadership of the Minister of Social and Family Affairs served as an advisory board to the Government. A decree requires all companies that employ more than 20 persons to reserve 5 percent of their jobs for persons with physical or mental disabilities, with fines of up to 75 percent of the average monthly salary for noncompliance. In practice, this regulation was not very effective, as employers would rather pay the small fine if caught. The international NGO Mental Disability Rights International (MDRI) and the local NGO Hungarian Mental Health Interest Forum (PEF) noted that no procedures existed to oversee the treatment and care of persons with disabilities who were under guardianship. The MDRI and the PEF also criticized the use of cages in government facilities for persons with mental disabilities.

The law mandates access to buildings for persons with disabilities; however, services for persons with disabilities were limited, and most buildings were not wheelchair accessible.

*National/Racial/Ethnic Minorities.*—The law recognizes individuals' minority rights, establishes the concept of the collective rights of ethnic minorities, and states the inalienable collective right of minorities to preserve their ethnic identity. The law also permits associations, movements, and political parties of an ethnic or national character and mandates the unrestricted use of ethnic languages. To be recognized, an ethnic group must have at least 100 years' presence in the country, and its members must be citizens. On this basis, minority status was granted specifically to 13 national or ethnic groups (among which the Roma were easily the most numerous). Other groups may petition the Speaker of Parliament for inclusion if they believed that they fulfilled the requirements.

According to the 2001 national census, Roma constituted approximately 2 percent of the population, but many NGOs and government offices estimated the number at up to 5 percent. Ethnic Germans, the second largest minority group, constituted approximately 0.7 percent of the population. Smaller communities of Slovaks, Croats, Romanians, Poles, Ukrainians, Greeks, Serbs, Slovenes, Armenians, Ruthenians, and Bulgarians also were recognized as ethnic minorities.

During the year, the previously established office of Roma Affairs and the Political State Secretary for Minority Affairs were folded into the new Ministry of Youth, Family, and Social Affairs and Equal Opportunities. The Government planned to place a Roma affairs ministerial commissioner in six ministries. At year's end, there were two ministerial commissioners for Romani affairs in the Ministries of Education and Cultural Heritage. The Roma Affairs Inter-ministerial Commission, established in 1999, continued to work to support the integration of the Roma and to coordinate the Roma affairs activities of the ministries and the national government offices. Government and NGO observers claimed that they could have accomplished more were it not for budget limitations and the Government restructuring. However, the Government Office of Ethnic Minorities along with the Roma Affairs State Secretary played an active role in establishing the European Roma Forum in Brussels. Together with the Ministry of Education, the Office of Ethnic Minorities developed a special education program for three small minority communities (Polish, Greek, and Bulgarian) in which the children go to Hungarian schools but have an afternoon lesson in their native languages, cultures, and traditions.

Living conditions for Romani communities continued to be significantly worse than for the general population. Roma were significantly less well educated and had below average income and life expectancy. The unemployment rate for Roma was

estimated at approximately 70 percent, more than 10 times the national average, and most Roma lived in extreme poverty.

The Minority Affairs Ombudsman played an active role in the examination of allegations of discrimination against the Romani community and continued to promote a uniform anti-discrimination law (*see* Section 4). The Law on Equal Treatment was passed by Parliament in December 2003.

Reports of police abuse against Roma were common, but many Roma were fearful to seek legal remedies or notify NGOs (*see* Section 1.c.). Police finished the investigation into the 2002 case of arson at the Roma minority self-government building in Pecsvarad without any arrests. Local Roma claimed that police were protecting the perpetrator. The February 2003 case of a Roma man, who accused police in Hajduhadhaz of excessive force after being shot, went to trial. At year's end, there was no verdict in the case.

The Penal Code provides penalties for hate crimes committed because of the victim's ethnicity, race, or nationality. Three cases from 2001 charging incitement of the public remained pending at the middle of the year, all involving distribution of anti-Semitic tracts. In December 2003, Parliament passed an amendment to the Hate Speech Law. The amendment modifies the law so that language does not have to meet the "incitement to violence" test to be considered hate speech. The President referred the amendment to the Constitutional Court. In May, the Constitutional Court declared the amendment of the Hate Speech Law unconstitutional and returned the amendment to Parliament for reconsideration. The Parliament had not amended the Hate Speech Law by year's end.

Negative stereotypes of Roma as poor and socially burdensome persisted. Widespread discrimination against Roma continued in education, housing, penal institutions, and access to public institutions, such as restaurants and pubs. In some instances, the authorities fined establishments that banned Roma. In August 2003, the Roma Press Center published a report that a hospital in Heves County segregated pregnant Roma. At the instigation of the Minister of Equal Opportunity and the National and Ethnic Minority Office, the hospital made changes in the structure of the wards, and the responsible nurses were disciplined. During the year, the Ombudsman initiated an investigation in the case of the Roma man who died while being captured in Kecskemet (*see* Section 1.a.). The National and Ethnic Minority Right Protection Office sued a book-publishing house for publishing and distributing a schoolbook of ethics with several anti-Roma statements. Although the book is not on the national list of schoolbooks, schools can use it. The Roma Rights Protection Foundation has urged the Government to ban the book. During the year, the Minority Affairs Ombudsman conducted a survey on the Roma in the media, and concluded that Roma were underrepresented in the state-owned media outlets. The report recommended that the Government adopt some type of positive discrimination or affirmative action program to increase Roma representation in the media.

Education was available to varying degrees in most minority languages. There were certain minority schools where the minority language was also the primary language of instruction, and there were some schools where minority languages were taught as a second language.

Schools for Roma were more crowded, more poorly equipped, and in significantly worse condition than those attended by non-Roma. Government sources estimated that graduation rates for Roma remained significantly lower than for non-Roma, although there were no available statistics.

NGOs claimed that city councils threatened to remove children from Roma families in order to more easily evict those families for nonpayment of public utilities (*see* Section 1.f.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Code recognizes the right of unions to organize and permits trade union pluralism, and the Government enforced it in practice. Workers have the right to associate freely, choose representatives, publish journals, and openly promote members' interests and views.

There were six trade union federations; each was targeted broadly at different sectors of the economy. The largest labor union organization was the National Confederation of Hungarian Trade Unions, the independent successor to the former monolithic Communist union, with approximately 235,000 members. As an indicator of union membership, in 2003, a total of nearly 600,000 taxpayers declared a deduction for payment union fees.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code permits bargaining at the enterprise and industry level, but collective bargaining was not widespread in many sectors of the economy. Labor organizations cooperated with each other and the Government. For example, the major trade unions worked closely to-

gether in the Interest Reconciliation Council, which brought together government officials, employers, and trade union leaders to advise the Government on labor policies and to set target wage increases. Individual trade unions and management may negotiate higher wages at the plant level. Under a separate law, public servants may negotiate working conditions, but the final decision on increasing their salaries rests with Parliament. The Ministry for Employment Policy and Labor Issues was responsible for drafting labor-related legislation, among other tasks.

With the exception of military personnel and police officers, workers have the right to strike.

There are no export processing zones, but individual foreign companies frequently were granted duty-free zone status for their facilities. Employees in such facilities and zones are protected under the labor laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government adopted laws to protect children from exploitation in the workplace. The Labor Code prohibits labor by children under the age of 16 and regulates temporary labor conditions during the school vacations for minors (14 to 16 years of age), including prohibitions on night shifts and hard physical labor. Children may not work overtime. The National Labor Center enforced these regulations in practice, and there were no reports of any significant violations of this statute.

*e. Acceptable Conditions of Work.*—The IRC has the right to establish the minimum wage through agreement among its participants, representatives of the Government, employers, and employees. The minimum monthly wage was raised to \$260 (53,000 HUF), which did not provide a decent standard of living for a worker and family. The gross average monthly wage was \$550 (109,000 HUF). The minimum wage was only 49 percent of the average wage, and many workers needed a second job to make ends meet.

The Labor Code specifies various conditions of employment, including termination procedures, severance pay, maternity leave, trade union consultation rights in some management decisions, paid vacation and sick leave entitlements, and labor conflict regulations procedures. The Code sets the official workday at 8 hours, although it may vary depending upon the nature of the industry. A 48-hour rest period is required during any 7-day period. In 2002, the Labor Code was amended to conform to EU standards.

Labor courts and the Ministry of Economy enforced occupational safety standards set by the Government, but specific safety conditions were not consistent with internationally accepted standards. The enforcement of occupational safety standards was not always effective, in part due to limited resources. Under the Labor Code, workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and this right generally was respected in practice.

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## ICELAND

Iceland is a constitutional republic and a parliamentary democracy in which citizens periodically choose their representatives in generally free and fair multiparty elections. Executive authority is vested in the prime minister, who is head of government and is appointed by the President. The President is head of state and is elected by popular vote for a 4-year term. The unicameral Althingi parliament constitutes the legislative branch. In May 2003, voters reelected the Independence and Progressive parties to form a governing coalition led by Prime Minister David Oddsson (Independence). On June 26, Olafur Grimsson was reelected as president. In September, Foreign Minister Halldor Asgrimsson (Progressive) replaced Oddsson based on a coalition agreement. The judiciary is independent.

Civilian authorities maintained effective control of the police forces, which were responsible for internal security. The country had no military forces. There were no reports that security forces committed human rights abuses.

The market economy provided residents with a high standard of living. The population was approximately 290,570; the gross domestic product grew approximately 4 percent during the year. Fish and other marine products accounted for approximately 40 percent of the country's exports; aluminum was the second leading export.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Societal discrimination against minorities and foreigners was a problem. There were isolated reports of women trafficked to the country.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them. In its May 2003 review of the country's report on its implementation of the Convention Against Torture, the U.N. Committee Against Torture (CAT) expressed concern that the law does not clearly define and prohibit torture and does not prohibit the courts' use of evidence obtained through torture; however, the Government responded that its law does prohibit torture. In 2003, the Ministry of Justice disseminated the conclusions of the CAT among relevant ministries and agencies.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. The Ombudsman of Parliament monitored prison conditions.

Litla Hraun Prison, a state-of-the-art detention facility, held most of the country's approximately 100 prisoners; however, the prison system also used a substandard jail (Hegningarhusid), where the 16 individual cells lacked toilets and sinks. In most cases, prisoners stayed in Hegningarhusid Prison only a short time for evaluation and processing before moving to another facility.

The Government maintained a separate minimum-security prison for women inmates; however, because so few women were incarcerated, some men who had been convicted of nonviolent crimes were held there as well. Judges could sentence juvenile offenders who were at least 15 years old to prison terms, but they gave the vast majority probation or suspended sentences or sent them to treatment programs. In the rare instances when juvenile offenders were incarcerated, they were held with adults, since there was no separate facility for juveniles. Since the need to incarcerate a juvenile occurred infrequently, the Government argued that separation was not practical; however, human rights observers criticized this practice.

The law allows the Government to hold pretrial detainees with the general prison population. In May 2003, the Government initiated the bidding process for a new detention prison near Reykjavik for completion in 2005. As of December, the project remained in the planning stages, and it appeared the deadline would not be met.

During the year, 86 persons placed in custody spent some time in solitary confinement, on average for 10.7 days. In March 2003, the Ombudsman of Parliament criticized Litla Hraun officials' carelessness and asked the prison authority to take steps to ensure medical treatment for inmates in solitary confinement. He acted on a complaint filed by an inmate in 2002 whose request to see a psychiatrist was ignored. During the year, the prison authority retrained staff on proper procedures for safeguarding prisoner welfare; however, mental health advocates complained that prisoner access to mental health care remained inadequate.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Minister of Justice is the head of the police force. The National Commissioner of Police administers and runs police operations that require centralized coordination among various offices. Various district chiefs of police have responsibility for law enforcement in their areas, investigate criminal offenses, and have prosecution powers.

Police may only make arrests when they strongly suspect someone has committed a crime or when someone refuses to obey police orders to move. Persons placed under arrest are entitled to legal counsel, receive a form for their signature that outlines their rights and options, and within 24 hours of the arrest appear before a judge who rules whether they need to remain in custody during the investigation.

In December 2003, the Reykjavik district court found two Reykjavik police officers guilty of improper arrests and false reports. Both officers lost their jobs, and the court imposed suspended prison sentences of 2 and 5 months; the longer term was given to an officer, who also was found guilty of improper use of chemical spray. In May, the Supreme Court dismissed one of the two charges of improper arrest,

acquitted the officer who had been given a 2 month sentence, and reduced the 5 month sentence to 2 months. The police reinstated the acquitted officer.

*e. Denial of Fair Public Trial.*—The Constitution and the law provide for an independent judiciary, and the Government generally respected this provision in practice.

There are two levels of courts: a five-member Judicial Council, which administers the eight district courts, and the Supreme Court. The Minister of Justice appoints members of the Judicial Council and the Supreme Court; all judges, at all levels, serve for life.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Courts do not use juries, but multi-judge panels are common, particularly in the Supreme Court, which hears all appeals. The courts presume defendants' innocence and generally try them without delay. Defendants receive access to legal counsel of their own choosing. For defendants unable to pay attorneys' fees, the State covers the cost; however, defendants who are found guilty must reimburse the State. Defendants have the right to be present at their trial, to confront witnesses, and to participate in the proceedings. At the discretion of the courts, prosecutors may introduce evidence that police have obtained illegally. With limited exceptions, trials are public and conducted fairly. Defendants have the right to appeal, and the Supreme Court handles appeals expeditiously.

In June, the European Court of Human Rights ruled that police had violated Article 5.1 (right to liberty and security) of the European Convention on Human Rights in the case of a woman arrested six times, from 1988 to 1992, for drunk and disorderly behavior. The court found that, at the time of arrest, the police lacked sufficient legal basis for the woman's detention, but rejected her compensation claim. The court stated that the laws in question were not clear enough to prevent possible cases of arbitrary arrest. The laws are no longer in effect.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

The Government has not completed its promised revision of 1998 legislation to establish a national computerized health records database. Following a 2003 Supreme Court ruling that its encryption would be insufficient to protect privacy, the never-completed database remained inactive.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction.

Internet access was almost universally available and unrestricted.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

In June 2003, the Privacy and Data Protection Authority informed the Ministry of Justice that the Ministry had acted unlawfully in issuing lists of Falun Gong members to police and airlines who in turn denied entry to the country to between 110 and 120 Falun Gong practitioners in June 2002. A human rights lawyer asked the Ministry of Justice to issue an official apology to the group and threatened to take legal action if it did not do so. At the lawyer's request, the Ombudsman of the Althingi reviewed the case. In a preliminary finding, the Ombudsman determined that the law permits authorities to bar prospective protesters from entering the country and, alternatively, to make entry contingent on signing agreements to follow police orders. Human rights advocates complained that the Ombudsman's decision set a precedent for unfettered government action whenever the police assert that a group presents a threat to public order. The Ombudsman has yet to respond to complaints that the Government directed its national airline to bar Falun Gong members from boarding planes bound for the country.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The State financially supported and promoted the official religion, Lutheranism.

The State directly paid the salaries of the 147 ministers in the State Lutheran Church, and these ministers were considered to be public servants under the Min-

istry of Justice and Ecclesiastical Affairs; however, the Church was autonomous in its internal affairs. The Government did not pay Lutheran ministers in the nonstate churches, also known as Free Churches.

All citizens 16 years of age and older must pay an annual church tax of approximately \$121 (isk 7,800). For persons who were not registered as belonging to a religious organization, or who belonged to one that was not registered and officially recognized, the tax payment went to the University of Iceland, a secular institution.

The law specifies conditions and procedures that religious organizations must follow to be registered by the Government. Such recognition was necessary for religious organizations other than the state church to receive a per capita share of church tax funds from the Government. The law applies only to religious organizations that are seeking to be, or are already, officially recognized and registered. The Government did not place any restrictions or requirements on unregistered religious organizations, which had the same rights as other groups in society.

The law mandates religious instruction in Christianity in the public schools; however, students may be exempted from attending the classes. Anti-bias and tolerance education are incorporated in the national curriculum in life skills and sociology courses.

In August, a Jewish visitor reported in an online newsmagazine that he and a friend had been harassed by a group of young teenagers who pointed at his yarmulke, gave a "heil Hitler" salute, and then briefly blocked the visitors' exit from a parking lot and intimidated them. A daily newspaper picked up the story, sparking over 30 online comments from correspondents based in the country. Some of the comments were themselves anti-Semitic or xenophobic in tone and content.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. In January 2003, the Act on Foreigners took effect that provides guidelines on the granting of asylum and refugee status; the Act provides that only the Directorate of Immigration may deny admission to asylum seekers. The Government did not accept quota refugees during the year.

The Government has not formulated a policy of temporary protection for those persons who fall outside of the definition of the 1951 U.N. Convention Related to the Status of Refugees or its 1967 Protocol because this issue has rarely arisen. The Directorate of Immigration and the Icelandic Red Cross reported that 76 persons applied for asylum during the year (compared with 80 in 2003 and 110 in 2002). Of these, 64 were sent to other countries, withdrew their applications, and were denied asylum. At year's end, the applications of 12 persons still were being processed. Most asylum seekers applied for asylum after entering the country, rather than in the international sector of the airport. On February 12, the small municipality of Reykjanesbaer, pursuant to a contract with immigration authorities, took over housing and care of asylum seekers from the Red Cross. Processing of asylum cases may take a year or more, during which time asylum seekers were eligible for state-subsidized health care, could apply for work permits and enroll their children in public schools.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Elections to the Althingi, the unicameral legislature, were held in May 2003.

Center-right coalitions have governed since 1991. There were 19 women in the 63-seat Althingi and 3 women in the 12-member Cabinet. Two of 9 Supreme Court members and 10 of 38 district court judges were women. Foreigners, who have resided in the country legally for 5 years (3 years for Scandinavian citizens), may vote in municipal elections. There were no members of minorities in the legislature.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. An independent Ombudsman, elected by Parliament, monitors and reports to national and local authorities to ensure equal protection of persons residing in the country, whether citizens or aliens. Individuals may lodge complaints with the Ombudsman regarding decisions, procedures, and conduct of public officials and government agencies. The Ombudsman may demand official reports, documents, and records and may summon officials to give testimony and has access to official premises. While the Ombudsman's conclusions are not binding on authorities, his recommendations generally have been followed. There was also a Children's Ombudsman (*see* Section 5, Children).

In November, the parliament cut all direct government funding for the Icelandic Human Rights Center, effective at year's end. Funded primarily by the Government, but operated as an NGO, the Center had acted as the country's leading human rights watchdog, vetting government legislation and reporting to international treaty monitoring bodies as well as promoting human rights education and research. Public figures, human rights advocates, and several of the center's European partner institutes argued that having to apply to the executive branch for grants henceforth will undermine the center's independence.

*Section 5. Discrimination, Societal Abuses and Trafficking in Persons*

The Constitution prohibits discrimination based on these factors, but the law does not prohibit discrimination by nongovernmental actors.

*Women.*—The law prohibits domestic violence and rape, including spousal rape; however, violence against women continued to be a problem, with gang rapes an ongoing concern. Police statistics indicated that the incidence of violence against women, including rape and sexual assault, was low; however, the number of women seeking medical and counseling assistance indicated that many incidents went unreported. During the year, up to 88 women sought temporary lodging at the country's women's shelter, mainly because of domestic violence, and the shelter offered counseling to approximately 443 clients. During the year, the sexual violence counseling center in Reykjavik drew 446 clients, including 223 seeking help for the first time.

The Government helped finance various facilities and organizations that provided assistance to victims of violence. The City of Reykjavik, in addition to partially funding such services, provided help to immigrant women in abusive relationships, offering emergency accommodation, counseling, and information on legal rights. Courts could issue restraining orders, but there were complaints that the police were reluctant to recommend them and that the courts granted them only in extreme circumstances. Victims of sexual crimes were entitled to lawyers to advise them of their legal rights and help them pursue cases against the alleged assailants; however, a large majority of victims declined to press charges or chose to forgo trial, in part to avoid unwanted publicity. Some local human rights monitors also attributed underreporting to the fact that convictions are rare due to the heavy burden of proof and traditionally yield light sentences. The maximum penalty for rape is 16 years' imprisonment, but judges typically imposed sentences much closer to the minimum of 1 year.

Prostitution is legal, but it is illegal to engage in prostitution as a main source of income. It is also illegal to act as an intermediary in the sale or procurement of sex.

There were concerns that some foreign women were trafficked to work as exotic dancers or in massage parlors where sexual services are offered (*see* Section 5, Trafficking).

More than 75 percent of women participated in the labor market. In part, this circumstance reflected the country's comprehensive system of subsidized day care, which made work outside the home more affordable and convenient for parents. The law requires that employers give preference to hiring and promoting men or women in areas where they are underrepresented, so long as they are equal in all other respects to job seekers of the opposite sex. Despite laws that require equal pay for equal work, a pay gap existed between men and women. According to one of the largest labor unions, during the year, women on average earned 15 percent less than men. Some women's rights activists also expressed concern that the proportion of women in the legislature dropped below one-third after elections in May 2003 (*see* Section 3) and that only 14 percent of the bar and 22 of 147 professors at the national university were women.

Since January 2003, the law permits both mothers and fathers to take 3 months of paid leave upon the birth of a child, with an additional 3 months that parents either could take individually or split between them. Such leave is at 80 percent of the normal salary. The new leave requirements apply equally to the public and private sectors.

The Government funded a Center for Gender Equality to administer the Act on Equal Status and Equal Rights of Women and Men. The center also provided gender equality counseling and education to national and municipal authorities, institutions, companies, individuals, and NGOs. The Minister of Social Affairs appoints a Complaints Committee on Equal Status to adjudicate alleged violations of the act; the committee's rulings are nonreviewable. The Minister of Social Affairs also appoints an Equal Status Council, with nine members drawn from national women's organizations, the University of Iceland, and labor and professional groups, which makes recommendations for equalizing the status of men and women in the labor market.

During the year, the Complaints Committee found that there was demonstrable gender bias in the Justice Minister's 2003 appointment of a Supreme Court justice where the minister did not provide an adequate explanation for appointing a man instead of a more qualified woman. The candidate delayed legal action while her application for another Supreme Court seat was under consideration, but, following the appointment in September of another male to the court, declared her intention to sue. At year's end, she had not yet done so.

*Children.*—The Government was strongly committed to children's rights and welfare; it funded public education and health care. School attendance is compulsory through the age of 15 and free through public university level. Approximately 85 percent of students continued to upper secondary education. The Government provided free prenatal and infant medical care, as well as heavily subsidized childcare. The Children's Ombudsman, who is appointed by the Prime Minister but is independent from the Government, fulfilled a mandate to protect children's rights, interests, and welfare by, among other things, exerting influence on legislation, government decisions, and public attitudes. When investigating complaints, the Ombudsman had access to all public and private institutions and associations that house children or otherwise care for them; however, the Ombudsman's conclusions were not legally binding on parties to disputes.

There were some reports of abuse of children, although there was no societal pattern of child abuse. The government-funded Agency for Child Protection operated eight treatment centers and a diagnostic facility for abused and troubled minors. It also coordinated the work of approximately 34 committees throughout the country that were responsible for managing child protection issues (for example, foster care) in their local areas. Beginning in 2002, the local committees hired professionals knowledgeable about sexual abuse. One committee could not, due to its remote location, hire a specialist on sexual abuse and had to rely on temporary hires on a case-by-case basis instead.

In an effort to accelerate prosecution of child sexual abuse cases and lessen trauma to the child, the Government maintained a Children's Assessment Center (Barnahus). The center, which handled approximately 199 child abuse cases during the year, was intended to create a safe and secure environment where child victims might feel more comfortable talking about what happened to them. It brought together police, prosecutors, judges, doctors, and officials from child protection services. District Court judges did not have to use the center and could hold investigatory interviews in the courthouse instead, a practice that concerned some children's rights advocates.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were anecdotal reports that women were trafficked for exploitation.

The general penal code states that "whoever is found guilty of trafficking in persons with the aim of sexual abuse, or forced labor, or for organ removal shall be punished by up to 8 years imprisonment." Criminal procedures provide that victims may testify against traffickers at government expense. During the year, police did not charge any persons with trafficking, although traffickers have been convicted under the law on alien smuggling.

The law provides that a person may be extradited as long as the offense involved would be punishable by more than 1 year's imprisonment; therefore, the law would allow the extradition of persons who were charged with trafficking in other countries.

Police, airport authorities, and women's aid groups reported that there was anecdotal evidence of foreign women trafficked to the country, primarily to work in strip-tease clubs or massage parlors offering sexual services. The Baltic countries were

the main region of origin for women working in such clubs and parlors, with others coming from Central and Eastern Europe and Russia. There were no statistics on the number or origin of women actually trafficked. To work as an exotic dancer, any person from outside the European Economic Area (EEA) must first obtain a work permit, which is typically valid for 3 months. In 2002, the number of foreign dancers applying for work permits dropped sharply after Reykjavik authorities prohibited private dances that served as a front for prostitution. The Supreme Court upheld the ban in 2003, and other municipalities have since enacted their own bans, thus largely destroying the profit incentive for trafficking women into the country. Social workers suspect that most foreign women working in this field now come from within the EEA and are thus impossible to track through work permit applications.

Trafficking victims could seek help at the women's shelter, counseling center, and hospital, all of which receive government funding. There were no domestic NGOs dedicated solely to assisting victims of trafficking, nor was there an established government assistance program. Some NGOs provided government-supported counseling and shelter to women and children who were victims of violence or sexual abuse. The government-funded Icelandic Human Rights Center was also available to assist with trafficking cases and make referrals.

The Government participates in the Nordic-Baltic Action Group Against Human Trafficking, which hosts periodic meetings to discuss programs and strategies. The group, established to succeed the Nordic-Baltic Campaign Against Trafficking, has a mandate that runs until August 2006.

*Persons With Disabilities.*—There was no official discrimination against persons with disabilities in employment, education, or the provision of other state services. The law provides that such persons have the right to all common national and municipal services and to receive assistance to live and work normally in society. The law also provides that persons with disabilities receive preference for a government job when they are at least as qualified as other applicants; however, advocates asserted that common practice and implementation of the law fell short of full protection of the rights of persons with disabilities to the extent that persons with disabilities have come to constitute a majority of the country's poor.

Building regulations require that public accommodations and government buildings, including elevators, be accessible to persons in wheelchairs; that public property managers reserve 1 percent of parking spaces (a minimum of one space) for persons with disabilities; and that, to the extent possible, sidewalks outside the main entrance of such buildings be kept clear of ice and snow. Violations of these regulations are punishable by a fine or a jail sentence of up to 2 years; however, the main association for persons with disabilities complained that this regulation was not enforced regularly, and authorities rarely assessed penalties for noncompliance.

Some mental health advocates criticized the Government for not devoting sufficient attention and resources to the care of persons with mental disabilities. Although the law safeguards their rights, a large number of persons with mental disabilities remained on waiting lists for housing, education, and employment programs. Advocates for the mentally ill alleged that government funding for the care of the mentally ill was generally inadequate and that the government-financed health system funded too few hospital places for acute patients and thus exacerbated a shortage of publicly funded preventative and follow-up mental health care.

*National/Racial/Ethnic Minorities.*—While the population remained largely homogeneous, family- and employment-sponsored immigrants were more visible.

In May, the parliament amended the 2002 Act on Foreigners in order to eliminate perceived loopholes in the immigration system and combat phony or arranged marriages. The amendments stipulate that in order to win automatic residence rights, a foreign spouse has to be at least 24 years old. Further, the amendments give authorities the power to conduct house searches without a prior court order, as well as DNA testing, in cases where they suspect immigration fraud. Human rights and immigrants' advocates criticized the amendments, arguing that it is discriminatory effectively to demand a higher marriage age of foreigners than of citizens, who can marry at age 18. They also complained that the house searches and DNA tests being contemplated violated privacy rights.

The term "newcomer" has taken on a negative connotation and was increasingly applied to immigrants of color. Asian women in public at night reportedly were sometimes taunted on the assumption that they were prostitutes and minority children were teased for allegedly having been "purchased on the Internet."

The Icelandic Red Cross operated an Intercultural Center in Reykjavik to help foreigners adjust to living in the country. The center offered free translation, education, research, and advice services. The Ministry of Social Affairs operated a

Multicultural Center in Isafjordur that facilitated the interaction of citizens with foreign nationals and provided support services for foreign nationals in rural municipalities. However, the Isafjordur center's remote West Fjords location meant that it could serve only the immigrant community in that region.

In June, the publishers of a Reykjavik monthly newspaper recounted how a private dance company refused to rent them a national costume (for a planned cover shoot intended to depict the future of the country) because the model was black. The company's spokesman offered the explanation that his organization had objected to the newspaper's proposed theme because, if anything, the country's future of Iceland was yellow rather than black. The public reaction was overwhelmingly critical of the dance company, and the Bishop of Iceland referred to the matter in a speech before the Althingi urging tolerance.

The Government said it was reviewing the recommendations of a 2003 report by the European Commission against Racism and Intolerance that concluded that conditions for immigrants "may not be wholly satisfactory."

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers to establish unions, draw up their own constitutions and rules, choose their own leaders and policies, and publicize their views; and workers exercised these rights. Labor unions were independent of the Government and political parties. Approximately 85 percent of all eligible workers belonged to unions.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law requires employers to withhold union dues (1 percent of gross pay) from the pay of all employees, whether or not they are union members, to help support disability, strike, and pension funds, and other benefits to which all workers are entitled.

Trade unions and management organizations periodically negotiate collective bargaining agreements that set specific terms for workers' pay, hours, and other conditions. With limited exceptions, collective bargaining is done on an industry- or sector-wide basis. These agreements, not the law, set the minimum labor standards for most workers. The Government played a minor role in the bargaining process, providing mediation assistance in a few cases through the State Mediator's Office.

At its annual June labor conference, the International Labor Organization (ILO) upheld a 2003 ILO Freedom of Association Committee finding that the Government had, in the course of a 2001 fishing industry strike, infringed on the principle of free and voluntary collective bargaining and recommended that the country review its practices concerning labor disputes.

With the exception of limited categories of workers in the public sector whose services are essential to public health or safety, unions have the right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children younger than age 16 in factories, on ships, or in other places that are hazardous or require hard labor; this prohibition was observed in practice. Children 14- or 15-years old may be employed part-time or during school vacations in light, nonhazardous occupations. Their work hours must not exceed the ordinary work hours of adults in the same occupation. The Administration of Occupational Safety and Health enforced child labor regulations effectively.

*e. Acceptable Conditions of Work.*—The law does not establish a minimum wage, but the minimum wages negotiated in various collectively bargained agreements applied automatically to all employees in those occupations, whether they were union members or not. While the agreements can be either industry- or sector-wide, and in some cases firm-specific, the minimum wage levels are occupation-specific. Labor contracts provided a decent standard of living for a worker and family.

The standard legal workweek was 40 hours, which included nearly 3 hours of paid breaks a week. Work exceeding 8 hours in a workday must be compensated as overtime. Workers were entitled to 11 hours of rest within each 24-hour period and to a day off every week. Under defined special circumstances, employers may reduce the 11-hour rest period to no less than 8 hours, but they then must compensate workers with 1.5 hours of rest for every hour of reduction. They may also postpone a worker's day off by 1 week.

The legislature set health and safety standards, and the Ministry of Social Affairs administered and enforced them through its Administration of Occupational Safety

and Health, which could close workplaces until they met safety and health standards. Workers had a collective, but not individual, right to refuse to work in a place that did not meet occupational safety and health criteria. It is illegal to fire workers who report unsafe or unhealthy conditions.

In 2003, union representatives and media reported that Italian contractor Impregilo failed to pay adequate wages or provide proper accommodation and facilities to several hundred foreign workers on a major government-financed hydroelectric dam construction project. The company hired workers through Portuguese employment agencies that created multiple versions of contracts to mislead both employees and regulators. The unions ultimately concluded an agreement with Impregilo guaranteeing them access to wage information. A number of cases of alleged violations of workers' rights remained under union review, but no legal action has been taken.

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## IRELAND

Ireland is a multiparty parliamentary democracy with an executive branch headed by a prime minister, a bicameral parliament, and a directly elected president. In November, the President was inaugurated for a second term of 7 years. Parliamentary elections were last held in May 2002. The Government is a coalition composed of Fianna Fail (the largest party in the country) and the Progressive Democrats. Fianna Fail leader Bertie Ahern is the Prime Minister. The judiciary is independent.

The national police have primary responsibility for internal security; the army acted in their support when necessary. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country, with a population of 4.1 million, has an open, market-based economy that is primarily industrial, although agriculture remains a key sector. The gross national product increased by approximately 4.8 percent, and the inflation rate was approximately 2.2 percent. Wages generally kept pace with inflation.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Abuse and mistreatment of children were problems. There were incidents of violence against immigrants, racial minorities, and some discrimination against Travellers (an indigenous migrant community).

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

There were no developments in the case of the allegations of collusion between security forces and paramilitaries in the 1989 killing of two Royal Ulster Constabulary officers in Northern Ireland.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports of abuse by police officers.

The Police Complaints Board recorded 1,175 complaints, including abuse of authority, discourtesy, neglect, and discreditable conduct of police officers in 2003, compared with 1,405 such complaints recorded in 2002. Of these complaints, 2 percent were adjudicated as minor breaches of discipline and referred to the Commissioner, and 3 percent were deemed as breaches of discipline and referred to a tribunal.

In several communities, there were allegations of incidents of violence against racial minorities and immigrants (*see* Section 5).

Prison conditions generally met international standards; however, work and sanitation conditions remained poor in some prisons.

Living conditions in mental health establishments continued to need improvement, although the Government made progress in upgrading conditions. Human rights groups continued to condemn the Central Mental Health Hospital in Dundrum, the country's only secure hospital for prisoners with mental disabilities, because of understaffing and poor infrastructure. The Government created, but has

not yet implemented, a program to add observation cells and remove padded cells at the hospital.

Male prisoners were held separately from female prisoners, juveniles were held separately from adults, and pretrial detainees were held separately from convicted prisoners.

The Government permitted prison visits by domestic and international human rights observers in most cases; however, appointments were necessary to tour facilities, and there were no visits during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions, however, the use of special arrest and detention authority continued, primarily for those involved in paramilitary organizations.

The national police have primary responsibility for internal security but are generally an unarmed force; therefore, the army, under the effective civilian control of the Minister for Defense, acted in support of the police when necessary. The Government continued to monitor closely indigenous paramilitary groups active in the Republic and Northern Ireland.

A person may be arrested without a warrant when the police, with reasonable cause, suspect that an offense has been committed and that the person is guilty of that offense. When the suspect is brought to the police station, details of the offense must be set out in a “charge sheet.” A copy of the details must be given to the suspect. The police will formally charge the suspect by reading each charge to the suspect and noting any replies. After being charged and cautioned, the suspect must be released on bail as soon as reasonably possible. At the District Court level, the suspect may either be released on bail or may be detained in custody (“on remand”) by the judge. Bail is possible. If a suspect out on bail fails to appear before the court, the judge issues a “bench warrant” for the suspect’s arrest.

The Offenses Against the State Act allows police to arrest and detain for questioning anyone suspected of committing a “scheduled offense”—crimes involving firearms, explosives, or membership in an unlawful organization. As a result, the police have broad arrest and detention powers in any case involving firearms. In cases covered by this Act, the initial period of detention without charge is 24 hours at the direction of a police superintendent, and detention may be extended another 24 hours by a judge.

Detainees and prisoners are allowed unrestricted access to attorneys. If the detainee does not have an attorney, the court will appoint one; if the detainee cannot afford an attorney, the Government will provide one through the Free Legal Aid program.

The law allows a court to refuse bail to a person charged with a serious offense (one that carries a penalty of 5 years’ imprisonment or more) when it is considered reasonably necessary to prevent the commission of another serious offense.

The Offenses Against the State Act also provides for the indefinite detention, or internment, without trial of any person who is engaged in activities that are “prejudicial to the preservation of public peace and order or to the security of the State”; however, this power has not been invoked since the late 1950s.

The Criminal Justice (Drug Trafficking) Act permits detention without charge for up to 7 days in cases involving drug trafficking; however, to hold a suspected drug trafficker for more than 48 hours the police must seek a judge’s approval.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of district courts, circuit courts, the High Court, the Court of Criminal Appeal, and the Supreme Court. The President appoints judges recommended by the Judicial Appointment Board, who choose from a list presented by the Government.

The Director of Public Prosecutions (DPP), an independent government official, prosecutes criminal cases. Jury trials usually are used in criminal cases, and the accused may choose an attorney. Indigent defendants have the right to an attorney at public expense. Defendants have the right to present evidence, question witnesses, a presumption of innocence, and the right to appeal.

The Constitution explicitly allows “special courts” to be created when “ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order.” A non-jury “Special Criminal Court” (SCC) tries “scheduled offenses,” and any case the DPP certifies that an ordinary court cannot adequately handle. The SCC always sits as a three-judge panel, and its verdicts are by majority vote. Rules of evidence are generally the same as in regular courts; however, the sworn statement of a police chief superintendent identifying the accused as a member of an illegal organization is accepted as prima facie evidence. SCC ses-

sions generally are public, but judges may exclude certain persons other than journalists. Appeals of SCC decisions are allowed in certain circumstances.

Michael McKeivitt's appeal was heard and denied in 2003. The families of the victims of the Omagh bombing filed a civil suit against him during the year.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution and the law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech, and the Government generally respected this right in practice and did not restrict academic freedom.

The Constitution provides for freedom of the press; however, this right is subject to the constitutional qualification that it not “undermine public order or morality or the authority of the state.” The Constitution prohibits the publication or utterance of “blasphemous, seditious, or indecent matter.”

The independent press was active and expressed a wide variety of views without government restriction.

Broadcasting remained mostly state controlled, but private sector broadcasting continued to grow. There were 49 independent radio stations and an independent television station. Access to cable and satellite television lessened considerably the relative influence of state-controlled broadcasting. The Broadcasting Complaints Commission oversees standards and investigates complaints about programming.

The Broadcasting Act empowers the Government to prohibit the state-owned radio and television network from broadcasting any matter “likely to promote or incite to crime or which would tend to undermine the authority of the State.” The Act was not employed during the year.

While the press operated freely, some observers believed that the Defamation Act (which puts the onus on newspapers and periodicals accused of libel to prove that defamatory words are true) and the Official Secrets Act (which gives the Government wide scope to prosecute unauthorized disclosures of sensitive government information) might result in some self-censorship.

Books and periodicals were subject to censorship by the Censorship of Publication Board; however, unlike in the previous year, the Board did not censor any books or magazines.

The Office of the Film Censor must classify films and videos before they can be shown or sold and cut or ban any film that is “indecent, obscene, or blasphemous,” or which tends to “inculcate principles contrary to public morality or subversive of public morality.” During the year, the Film Censor did not ban any films, but did ban one video, primarily because of its pornographic or violent content.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides citizens with the right to “assemble peaceably and without arms”; however, it also allows the State to “prevent or control meetings” that are calculated to breach the peace or to be a danger or nuisance to the general public.

Police conduct during demonstrations generally was restrained. The trial of seven police officers accused of using their batons excessively during a 2002 May Day demonstration in Dublin resumed in October.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits promotion of one religion over another and discrimination on the grounds of religion or belief, and the Government did not restrict the teaching or practice of any faith. Approximately 88 percent of the population is Roman Catholic; however, there is no official state religion.

The Government permits but does not require religious instruction in public schools. Most primary and secondary schools are denominational—the majority Catholic—and the Catholic Church partially controls their boards of management. As mandated by the Constitution, the Government provided equal funding to schools of different religious denominations (such as an Islamic school in Dublin). Although religious instruction is an integral part of the curriculum, parents may exempt their children from such instruction.

During the year, there were three anti-Semitic incidents in the country. One incident involved a swastika being painted on the Irish Jewish Museum in Dublin. The second and third incidents involved vandalism at a Jewish cemetery and synagogue.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government also provides temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

The number of asylum seekers entering the country decreased. There were 4,766 total (4,265 new applications, 501 reapplications) applications for asylum during the year compared with 7,900 in 2003; the Government granted asylum to 877 (430 at first instance and 686 at the appeal stage) individuals, compared with 1,176 (345 at first instance and 831 at appeal stage) in 2003. At year's end, there were 549 deportations, and 608 asylum seekers had voluntarily returned to their country of origin.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Parliament is bicameral; members of the Dail (House of Representatives)—the chamber that carries out the main legislative functions—are elected popularly, while most members of the Seanad (Senate) are elected by vocational and university groups, with the others appointed by the Prime Minister. Several political parties have seats in both bodies. The President (head of state) is elected popularly for a 7-year term and is limited to two terms. An appointed council of state advises the President. Parliamentary elections were held in May 2002, and the President was inaugurated for a second 7-year term in November.

In December, allegations of corruption were made involving a Ministry of Environment, Heritage and Local Government appointment of a public relations consultant. The Minister of Transport (formerly Minister of Environment) allegedly hired a close political associate at an exorbitant salary. The Government appointed a former civil servant to investigate the allegations, and the investigation was ongoing at year's end.

The President was a woman, and 22 of the 166 deputies in the Dail and 10 of the 60 senators were female. Three of the 15 government ministers were female, as was 1 of the 17 junior ministers. Three women sat on the 26-member High Court, and 2 of the 8 Supreme Court judges were female.

There were no members of minorities in the Dail, the Seanad, the Government, or the Cabinet. In June, there were two minority council members elected at the county level.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Ombudsman's role is to investigate complaints about administrative actions, delays, or inaction adversely affecting persons or bodies in their dealings with government departments, local authorities, health boards, or the postal service.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Employment Equality Act prohibits discrimination in relation to employment on the basis of eight distinct discriminatory grounds: Gender, marital status, family status, sexual orientation, age, disability, race, and membership in the Traveller community; however, discrimination against racial minorities, including immigrants and Travellers, was a problem. The Equal Status Act outlaws discrimination in the provision of goods, facilities, and services on these grounds.

*Women.*—Domestic violence and emotional abuse were problems, although there were some improvements during the year. The police recorded 8,452 incidents of domestic violence in 2003 compared with 10,248 in 2002. There were 24 domestic vio-

lence support centers throughout the country, funded in part by the Government. Additionally, there were 11 women's rights groups.

The law criminalizes rape within marriage and provides for free legal advice to victims of serious sexual assault. In rape cases, the Government brings the case against the accused, with the victim acting as a witness. The Sex Offenders Act provides for separate legal representation for victims in rape and other serious sexual assault cases where application is made to adduce evidence or to cross-examine the victim about his or her past sexual experience.

The 18 rape crisis centers, funded in part by the Government, provided support by immediate telephone contact and one-on-one counseling. A Voluntary Housing Capital Assistance Scheme and a Voluntary Housing Subsidy Scheme provided long- and short-term housing options for victims of sexual violence. All police received training on the investigation of cases of domestic violence, rape, and sexual assault. Police also attended training lectures on causes and effects of domestic violence and techniques for interviewing victims of domestic violence.

In 2003, the Dublin Rape Crisis Center reported receiving 11,863 counseling calls in all categories (child sexual abuse, adult rape, adult sexual assault, sexual harassment), which continued an upward trend in frequency of calls. The center reported that 143 of the 477 rape victims recorded in 2003, reported their attacks to the police, resulting in 27 defendants tried and 18 convicted.

There was anecdotal evidence that women were trafficked for sexual exploitation (*see* Section 5, Trafficking).

The law prohibits discrimination against women in the workplace and provides for protection and redress against discrimination based on gender and marital status; however, inequalities persisted regarding pay and promotions in both the public and the private sectors. The Equality Tribunal and the Equality Authority are the main statutory bodies that enforce and administer the discrimination laws. Women constituted 47.5 percent of the labor force but were underrepresented in senior management positions. During the year, the earnings of women averaged 80 percent that of men, and women worked 10 hours a week less. As a way to combat this gender gap, the Government increased the minimum wage, created more childcare facilities, funded childcare for those in employment training, and worked through the National Framework Committee on the Development of the Family Friendly Polices to increase flexibility in the workforce.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and health care. Under the law, education is free and compulsory for children from age 6 to 15. Almost all children attended school. According to the Department of Education, approximately 99 percent of children between the ages of 5 and 16 attended school. Most children completed secondary education.

In 2002, there were 375 cases of child abuse reported to the Health Authority, but only 122 cases were confirmed. The Health Authority received approximately \$1.35 million (1 million euros) in 2002 to improve the identification, reporting, assessment, treatment, and management of child abuse. The sexual abuse of children was a problem and continued to receive significant media attention. In 2003, the Dublin Rape Crisis Center reported that 41 percent of calls to its crisis line involved child sexual abuse. The law requires government health boards to identify and help children who are not receiving adequate care, and it gives the police increased powers to remove children from the family if there is an immediate and serious risk to their health or welfare.

In September 2003, the Government renewed the Laffoy Commission's mandate to investigate sexual and physical abuse in government institutions. The Commission's Third Interim Report, released in December 2003, discussed cases heard by the Confidential Committee and the Investigation Committee. The Confidential Committee consists of a group of commissioners that listen to a person's abuse experiences in institutions as defined by the Commission to Inquire into Child Abuse Act 2000. The Confidential Committee began hearings in September 2000, and, by May, had heard 866 witnesses. The Committee hopes to hear the remaining 189 cases by the end of the year. The Investigation Committee investigates complaints and allegations made to it, and may compel persons accused to appear before it and produce particular documents. However, the Investigation Committee heard less than 3 percent of its estimated 1,800 cases according to the Interim Report. Because of the governmental review, the committee focused on group complaints rather than individual hearings, and no further evidential hearings were conducted.

The law prohibits the trafficking and sexual exploitation of children; however, there were reports that such practices occurred (*see* Section 5, Trafficking).

In December 2003, an Ombudsman for Children was established to investigate complaints from children or persons acting on their behalf against various governmental and nongovernmental bodies. When the Ombudsman finds in favor of the child, the offending body must state how it will rectify the problem and ensure that it does not recur. The Ombudsman also has a role in promoting general child welfare.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no confirmed reports that persons were trafficked to, from, or within the country; however, NGOs and others offered anecdotal evidence of trafficking.

The Child Trafficking and Pornography Act criminalizes trafficking in children for the purpose of sexual exploitation, with penalties of up to life imprisonment. The Illegal Immigrants (Trafficking) Act criminalizes trafficking in illegal immigrants and asylum seekers. No specific legislation addresses trafficking in women for sexual activities; however, laws prohibit the exploitation of prostitutes by means of coercion or fraud. Traffickers who facilitate for gain the entry of illegal immigrants or asylum seekers are liable for fines or 1 to 10 years' imprisonment. The Police National Immigration Bureau (GNIB) and the Department of Justice are the governmental organizations responsible for combating trafficking.

In 2003, Dublin police raided several lap-dance clubs that were employing illegal female workers, and the Limerick police raided a brothel that was bringing prostitutes into the city from Eastern Europe, although the women stated that they had entered the country voluntarily. A man and a woman were convicted for running the brothel: Both were sentenced to 4 months' imprisonment, but the woman's sentence was suspended. The press reported that three English language schools were being used as fronts to smuggle Eastern European women into the country to have them work as lap dancers and prostitutes. In December, the Justice Minister ordered tighter restrictions on access to foreign language schools. To cut down on scams and foreign students in forced labor situations, the students are now required to register with the Police National Immigration Bureau and will not be allowed to join the labor market unless they are attending a full-time course of at least 1 year in length.

The country might be a destination country on a limited scale for trafficking in women and children. The country may also be a transit point for persons trafficked to or from Northern Ireland. There is anecdotal information that some women were trafficked within the country. Socially disadvantaged women and children were most likely to be trafficking victims.

NGOs reported that women were trafficked to the country primarily for prostitution or exploitation in the sex industry, and that men may be trafficked into the country for work in the construction industry. However, NGOs were only able to provide anecdotal information; they did not have statistics or other hard evidence. NGOs reported that traffickers now targeted younger women who were more vulnerable, having little language skill, and no legal status or recourse. Another tactic that changed was that prostitution moved away from the streets and brothels to apartments, where activities were easier to hide. NGOs reported that traffickers used information technology more effectively as well.

There were no reliable statistics on the number of possible victims of trafficking in the country, due mainly to lack of data collection. During the year, GNIB and local detective units in the Dublin metropolitan region continued to investigate suspected instances of trafficking but did not find sufficient evidence to open a formal investigation or to bring charges. Since 2000, there have been nine investigations into alleged trafficking/smuggling, resulting in the conviction of one Ukrainian for smuggling two Ukrainian males through the Dublin airport. In December, a Portuguese man was jailed for 9 months and fined \$1,350 (1,000 euros) for bringing two Brazilian women into the country. An NGO investigating trafficking estimated that as many as 40 children a year were being trafficked into the country for either economic or sexual exploitation. An anti-prostitution and trafficking NGO reported more than 600 prostitutes, mostly drug users and younger women, in its database.

The Ministries of Justice and Foreign Affairs and the GNIB were involved in anti-trafficking efforts, and there was coordination between government officials, NGOs, and other elements of civil society on trafficking issues. A coalition of NGOs that deal in part with trafficking issues met periodically during the year. In December, the Department of Foreign Affairs held an international seminar on human rights, keynoting the issues of women and trafficking.

*Persons With Disabilities.*—There was generally no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

The law established minimum criteria to ensure access for persons with disabilities to all public and private buildings constructed or significantly altered after 1992; however, enforcement was occasionally uneven and fines minimal.

A National Disability Authority has responsibility for setting disability standards, monitoring the implementation of these standards, and researching and formulating disability policy. The National Standards for Disability Services, which specifies required national standards for all government-funded bodies, was released in January.

*National/Racial/Ethnic Minorities.*—Societal discrimination and racial violence against immigrants and ethnic minorities, such as Asians and Africans continued to be a growing problem. Racially motivated incidents involved physical violence, intimidation, and verbal slurs, and the majority of incidents of racist violence took place in public places.

There were 145 police around the country who worked with the different ethnic communities. The Police Racial and Intercultural Office began tracking racially motivated incidents in 2002. There were 81 racially motivated incidents in 2003. The Police Racial and Intercultural Office also gave instruction and booklets to police to teach them how to interact with those of different racial and ethnic backgrounds.

Approximately 25,000 indigenous nomadic persons regard themselves as a distinct ethnic group called “Travellers,” with its own history, culture, and language. Travellers faced societal discrimination and regularly were denied access to premises, goods, facilities, and services; many restaurants and pubs, for example, would not serve them. In February, police evicted a Traveller family with 13 children from their mobile home. The local county council that authorized this eviction had entitled another family to their electrical hookup and reported that this particular family was staying illegally.

Despite national school rules that provide that no child may be refused admission on account of social position, Travellers frequently experienced difficulties enrolling their children in school. Traveller students are not separated in classrooms, but it is not uncommon for them to be taken from the classroom to receive additional schooling. Of the estimated 5,000 Traveller families, approximately 1,200 lived on roadsides or on temporary sites without electricity or sanitary facilities. Many Travellers depended on social welfare for survival and were unable to participate in the mainstream economy because of discrimination and a lack of education.

The law prohibits job discrimination against Travellers; however, a monitoring committee established to oversee reforms to address problems encountered by Travellers was considered ineffectual by the Travelling community.

The Housing (Traveller Accommodation) Act requires local elected officials to draw up and implement Traveller accommodation plans on a 5-year basis and requires Traveller input in the process; however, many Traveller NGOs were dissatisfied with the progress of this legislation and believed that anti-trespassing legislation enacted in 2002 further undermined the Housing Act. The Traveller movement withdrew from the Social Partnership Agreement with the Government because of its continued dissatisfaction. To develop better relations between Travellers and the settled community, the Government granted approximately \$130 million (approximately 96 million euros) to Traveller community organizations during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to join—or refrain from joining—a union, and workers exercised this right in practice. Approximately 33 percent of workers in the private sector were union members, compared with 95 percent in the public sector. Police and military personnel may form associations, but technically not unions, to represent themselves in matters of pay, working conditions, and general welfare.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Labor unions have the right to engage in collective bargaining, and unions exercised this right in practice. The law provides for the right to strike, and this right was exercised in both the public and private sectors; however, police and military personnel are prohibited from striking. There are no special laws or exemptions from regular labor laws in the export processing zone at Shannon Airport.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were anecdotal reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the law, employers may not employ children under the age of 16 in a regular, full-time job. Employers may hire 14- or 15-year-olds for light work on school holidays, as

part of an approved work experience or educational program, or on a part-time basis during the school year (for children over the age of 15 only). The law sets rest intervals and maximum working hours, prohibits the employment of 18-year-olds for late night work, and requires employers to keep specified records for workers who are under 18 years of age. Enforcement was reportedly lax, but violations were rare.

*e. Acceptable Conditions of Work.*—The national minimum wage was \$9.45 (7 euros) per hour, which did not provide a decent standard of living for a worker and family; however, low-income families are entitled to benefits such as subsidized housing, medical coverage, and children's allowances.

The standard workweek is 39 hours. Working hours in the industrial sector are limited to 9 hours per day and 48 hours per week. Overtime work is limited to 2 hours per day, 12 hours per week, and 240 hours per year.

The Department of Enterprise, Trade, and Employment is responsible for enforcing the laws dealing with occupational safety, which provide adequate and comprehensive coverage; no significant complaints arose from either labor or management regarding enforcement of these laws. Regulations provide workers with the right to remove themselves from dangerous work situations that present a "serious, imminent and unavoidable risk" without jeopardy to their continued employment.

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## ITALY

Italy is a multiparty parliamentary democracy. Executive authority is vested in the Council of Ministers, headed by the president of the Council (the Prime Minister). The Head of State (President of the Republic) nominates the Prime Minister after consulting with the leaders of all political forces in Parliament. Elections for the European Parliament during the year were considered generally free and democratic. The Constitution provides for an independent judiciary; however, long trial delays and the impact of organized crime on the criminal justice system complicated the judicial process.

The armed forces are under the control of the Ministry of Defense. The Ministry of Defense controls the Carabinieri, a military security force; however, the Ministry of Interior assumes control of the Carabinieri when they are called upon to assist police forces in maintaining public order. Four separate police forces report to different ministerial or local authorities. Civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country had an advanced, industrialized market economy, and the standard of living was high for the country's population of approximately 57.8 million. Wages generally kept pace with inflation. The Government owned a substantial number of enterprises in finance, communications, industry, transportation, and services, but privatization continued to move forward at a measured pace.

The Government generally respected the human rights of its citizens; although there were problems in some areas, the law and judiciary provide effective means of addressing individual instances of abuse. There were some reports of police abuse of detainees. The judiciary investigated accusations of police abuse. Prisons were overcrowded. Lengthy pretrial detention was a serious problem. The pace of justice was slow, and perpetrators of some serious crimes avoided punishment due to trials that exceeded the statute of limitations. Trafficking in persons into the country, particularly women and girls for prostitution, was a problem, which the Government took steps to address. Child labor, primarily involving immigrant children, continued in the underground economy, but authorities actively investigated such reports.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In July and November, magistrates dismissed charges against two off-duty police officers who killed two persons in 2003 during separate attempted robberies.

In July, Brindisi magistrates sentenced a police superintendent to 6 years in prison along with six other policemen (sentences varied from 3–14 years' imprisonment) for the 1995 death of a smuggler who attempted to flee the country in a rubber dinghy via the Adriatic Sea. They were also convicted of false documentation, brutality, and obstruction of justice.

In December 2003, the leader of the New Red Brigades (Communist Combatant Party) was charged with the March 2003 murder of a policeman. In June and October, prosecutors charged nine members of the New Red Brigades with murder for the 1999 and 2002 killings of two academic advisors (Biagi and D'Antona) to the Labor Ministry; one of the nine was also charged along with the leader of the New Red Brigades with the 2003 murder of a policeman. A preliminary hearing in the D'Antona case began in September, while the Biagi case was scheduled to begin in early 2005. According to police, the New Red Brigades were no longer active by year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, according to Amnesty International (AI) and the nongovernmental organization (NGO) Antgone, which monitored issues such as police behavior, police occasionally used excessive force against persons detained in connection with common criminal offenses or in the course of identity checks. While this behavior affected both citizens and foreigners, Africans and Roma were at particular risk (see Section 5).

In February, magistrates indicted 29 policemen, including a number of senior officers, and charged them with perjury, conspiracy, or assault in connection with a 2001 police raid on a building used by protesters at the G-8 summit in Genoa. The trial was scheduled to begin in April 2005. Some police allegedly conspired to manufacture evidence and to claim violent resistance from demonstrators to justify their use of force during the raid. In May, 47 policemen were indicted for “inhuman or degrading treatment,” including assault, during the subsequent detention of those protesters.

In May, an off-duty policeman shot and wounded a 16-year-old boy who attempted to steal a motorcycle. The case was under investigation at year's end.

In May, three police officers were indicted for using excessive force and causing personal injury to a number of individuals while trying to clear approximately 100 activists from a Milan emergency room waiting area in March 2003. Four activists were accused of violence against police.

Overcrowded and antiquated prisons continued to be a problem. In July, there were 55,500 detainees incarcerated in a prison system designed to hold 42,100. Older facilities lacked outdoor or exercise space; some prisons lacked adequate medical care. Approximately 61 percent of the inmates were serving sentences; the other 39 percent consisted mainly of detainees awaiting trial or the outcome of an appeal. During the year, 91 prisoners died while in custody; 51 committed suicide.

The 20 temporary detention centers for illegal immigrants were often overcrowded due to an increasingly large flow of illegal immigrants. For example, in September, 900 aliens arrived by boat in Lampedusa and were sent to the local detention center, which was equipped to house only 120 persons. The Government moved the detainees to other detention centers within a few days.

Men were held separately from women, and juveniles were held separately from adults; however, pretrial detainees were not held separately from convicted prisoners.

The Government permits visits by independent human rights organizations, parliamentarians, and the media. AI, the U.N. Human Rights Commission, the U.N. Committee Against Torture, and the U.N. Special Rapporteur on Torture regularly assessed the country's judicial and prison system. In November, the European Union's Committee for the Prevention of Torture visited several jails. An NGO composed primarily of lawyers, magistrates, and academics promoted the rights of detainees, worked closely with the European Commission for Prevention of Torture, and monitored the prison system. Several municipalities appointed independent ombudsmen to promote the rights of detainees and facilitate access to health care and other services.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Four separate police forces, which report to different ministerial or local authorities, effectively enforced public law and order. The National Police and the Financial Police fall under the jurisdiction of the Interior and Finance Ministries, respectively. The Ministry of Defense controls the Carabinieri, a military security force; however, the Ministry of Interior assumes control of Carabinieri and Financial Police units when they perform law enforcement functions. Under exceptional circumstances, the Government may call on the army to provide security in the form of police duty in certain local areas, thereby freeing the Carabinieri and local police to focus on other duties. Allegations of police corruption were rare.

Both the Government and the judiciary investigated abuses and prosecuted police who mistreated persons in custody. In June 2003, prosecutors charged 31 policemen with unlawful imprisonment and assault based on evidence of their conduct during protests in Naples in 2001 (*see* Section 1.c.). The trial was scheduled to begin in March 2005.

Warrants are required for arrests unless there is a specific and immediate danger to which the police must respond without waiting for a warrant. Under the law, detainees are allowed prompt and regular access to lawyers of their choosing and to family members. The state provides a lawyer to indigents. Within 24 hours of a suspect's detention, the examining magistrate must decide whether there is enough evidence to proceed with an arrest. The investigating judge then has 48 hours in which to confirm the arrest and recommend whether the case goes to trial. In exceptional circumstances—usually in cases of organized crime figures—where there is danger that attorneys may attempt to tamper with evidence, the investigating judge may take up to 5 days to interrogate the accused before the accused is allowed to contact an attorney.

There is no provision for bail; however, judges may grant provisional liberty to suspects awaiting trial. As a safeguard against unjustified detention, panels of judges (liberty tribunals) review cases of persons awaiting trial on a regular basis per a detainee's request and rule whether continued detention is warranted. Persons in detention included not only those awaiting trial but also individuals awaiting the outcome of a first or second appeal (*see* Section 1.e.). Pretrial detention may last for a maximum of 24 months. The Constitution and the law provide for restitution in cases of unjust detention (*see* Section 1.e.).

Preventive detention can be imposed only as a last resort if there is clear and convincing evidence of a serious offense (such as crimes involving the Mafia or those related to terrorism, drugs, arms, or subversion) with a maximum sentence of not less than 4 years or if there is a risk of an offense being repeated or of evidence being falsified. In these cases, a maximum of 2 years of preliminary investigation is permitted. Except in extraordinary situations, preventive custody is not permitted for pregnant women, single parents of children under age 3, persons over age 70, or those who are seriously ill.

Lengthy pretrial detention was a serious problem. In 2003, 36 percent of pretrial detainees were awaiting a final sentence; trials had not begun for another 21 percent. In April, a court ordered the Government to pay \$135,000 (100,000 euros) to an entrepreneur who was charged in 1996 and spent 448 days in prison before being acquitted by an appeals court in 2001. According to some judicial experts, some prosecutors used pretrial detention as pressure to obtain confessions.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, most cases involved long trial delays, and the impact of organized crime on the criminal justice system complicated the judicial process.

The judiciary consisted of professional magistrates who function either as prosecutors (the executive branch does not perform prosecutorial functions) or trial and appellate judges. The Superior Council of the Magistracy governs the judiciary. Magistrates select two-thirds of its members; the rest are selected by Parliament.

There are three levels of courts. Either a single judge or a court hears cases at the level of first instance. At the second level, separate courts with juries hear appeals of civil and criminal cases. Decisions of the Court of Appeals can be appealed to the highest court, the Court of Cassation (Supreme Court) in Rome, but only for reasons related to law, not to a case's merit. A separate Constitutional Court hears cases involving possible conflict between laws and the Constitution or involving conflicts over the duties or powers of different units of government.

The law provides for the right to fair and public trials, and the judiciary generally enforced this right. The law grants defendants the presumption of innocence. Defendants have access to an attorney sufficiently in advance to prepare a defense and can confront witnesses. All evidence held by prosecutors may be made available to defendants and their attorneys. Defendants may appeal verdicts to the highest appellate court.

Although some observers noted improvement, domestic and European institutions continued to criticize the slow pace of justice in the country. In 2002, the European Court of Human Rights issued 148 judgments against the Government for excessively long proceedings. Observers cited several reasons for delays: The absence of effective limits on the length of pretrial investigations; the large number of minor offenses included in the penal code; unclear and contradictory legal provisions; prosecutors' complete freedom to set prosecutorial priorities; and insufficient resources, including an inadequate number of judges. During the year, the Chief Prosecutor

of the Cassation Court reported that the average time to complete a civil trial was 8 years and a criminal trial 5 years.

The courts have leeway to determine when the statute of limitations should apply, and defendants often took advantage of the slow pace of justice to delay trials through extensive pleas or appeals. In one high-level case in December, judges dropped a bribery charge filed in 1999 against Silvio Berlusconi on the grounds that the statute of limitations had expired. The events on which the charge was based occurred in 1991.

In January, the Constitutional Court abrogated the 2003 legislation granting immunity from prosecution while in office to the country's five highest-ranking public servants, including the prime minister. In April, magistrates resumed Prime Minister Berlusconi's remaining trial (related to his business activities prior to assuming office) and continued proceedings against his codefendants. In December, Berlusconi was acquitted of one count of bribery; judges dropped another count of bribery, ruling the statute of limitations had run out.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Searches and electronic monitoring may be carried out only under judicial warrant and in carefully defined circumstances; violations were subject to legal sanctions. However, in 2001, Parliament applied antiterrorist laws to suspects responsible for directing violent acts outside the country's borders and authorized prosecutors to order wiretaps in connection with ongoing investigations. Parliament imposed safeguards to prevent the release of information intercepted without prior judicial authorization to unauthorized persons and prohibited its use in criminal proceedings.

A national privacy authority monitored the collection and use of personal data for commercial and other purposes, ensuring that current and proposed data banks and information collection systems conformed to requirements. In February, the Parliament enacted an overall code for the protection of personal information that sets strict privacy requirements for companies and institutions. It requires that data banks created for scientific, statistical, financial, and security purposes protect privacy and introduces sanctions for electronic privacy violations.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. However, the autonomous judiciary was sensitive to investigative leaks and press criticism and imposed fines for defamation.

The media provided a broad spectrum of political opinions, including those critical of Prime Minister Berlusconi and his policies. There were approximately 80 newspapers, of which 8 had national readership; the Berlusconi family controlled 2 of them. Critics charged that Prime Minister Berlusconi directly or indirectly controlled six of the country's seven national broadcast channels: Mediaset (a company in which the Prime Minister had a major interest) owned three, and the state-owned network (RAI) controlled the other three. In December 2003, President Ciampi declined to sign legislation proposed by the Government to relax restrictions on ownership of mass media; in May, the Parliament approved a revised bill, which increased those restrictions.

RAI's three channels and other networks broadcast a wide range of opinion that reflected the full spectrum of political views in the country, but disputes over partisanship on the airwaves continued to prompt frequent political debate. In 2003, RAI's suspension of two programs prompted some complaints of censorship. In May, the president of RAI resigned over objections to the appointment of some executives proposed by the general director who were considered linked to the political coalition in power.

In February, the NGO Reporters Without Borders and the journalists' union criticized search warrants issued against two journalists and two national daily newspapers. Critics noted the contradiction between separate laws maintaining the sanctity of journalistic sources and another authorizing magistrates to carry out investigations into journalistic sources.

Politicians and their supporters filed several defamation suits during the year. In June 2003, magistrates began defamation proceedings against two prominent journalists in connection with their criticism of legal proceedings against former Prime Minister Andreotti; no further action occurred by year's end. In July, a judge dismissed charges filed by a minister against a journalist who wrote an article characterizing the minister as corrupt; however, in 44 percent of defamation cases in Milan between 2001–2003, journalists were convicted.

In July, Naples magistrates placed a 76-year-old journalist and senator under house arrest. In 2002, he had been sentenced to 29 months' imprisonment for defamation because of articles that appeared in a local paper for which he was editor in chief.

The Government generally did not restrict access to the Internet; however, the Government could block foreign-based Internet sites if they contravened national laws.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There is no state religion; however, an historic agreement between the Catholic Church and the Government, revised in 1984, accords the Church certain privileges. For example, the Church may select Catholic religion teachers, whose earnings are paid by the State. The Constitution authorizes the State to enter into relations with non-Catholic religious confessions pursuant to an accord (“intese”), on the basis of which the Government can provide support (including financial) to the confession; these accords are voluntary, initiated by religious confessions, and do not infringe on the practice of religion. The Government has signed accords with several minority religious groups. At year’s end, the Buddhist Union and Jehovah’s Witnesses awaited parliamentary ratification of government accords.

The continuing presence of Catholic symbols, such as crucifixes, in many government offices, courtrooms, and other public buildings has drawn criticism and has been the subject of lawsuits. In December, the Constitutional Court ruled that a 1928 regulation that provides for the display of crucifixes in public classrooms is constitutional because the regulation does not have to be consistent with the Constitution. A mother in Venice, who asked that the crucifixes be removed, brought the case.

Muslim women are free to wear the veil in public offices and schools; however, there were occasional reports of objections to women wearing a burqah (a garment that completely covers the face and body). In August, a woman in Drezzo was fined for wearing a burqah under a seldom-used 1931 law that forbids persons from hiding their identity.

There were no violent anti-Semitic attacks, but surveys conducted by independent research centers confirmed the persistence of some societal prejudices against Judaism. The Government hosted meetings to increase educational awareness of the Holocaust and to combat anti-Semitism in Europe.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and the law provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile and the Government did not employ it.

The Constitution provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees, and provided temporary protection to refugees fleeing hostilities or natural disasters. Such refugees were granted temporary residence permits, which must be renewed periodically and did not ensure future permanent residence.

In 2003, the Ministry of Interior approved approximately 725 asylum requests and denied approximately 11,280 others.

There was little government assistance for asylum seekers during the time they must spend waiting for their application to be processed; *Medicin Sans Fronteres* in Rome estimated that approximately 10 percent of asylum seekers had access to secondary reception facilities.

*Caritas*, a Catholic NGO and independent research center, estimated there were 2.6 million legal immigrants, two-thirds of whom came from Eastern Europe; experts estimated there were 500,000 illegal aliens resident in the country, and large numbers of immigrants continued to arrive from Africa, Eastern Europe, the Middle East, and China.

The majority of illegal immigrants were denied entry at the border. Those who did enter, usually via the sea, were sent to temporary detention centers for processing. A new regulation requires a magistrate (previously only a Ministry of Inte-

rior representative) to determine if an immigrant will be deported (for those whose identity can be determined), issued an order to depart (for those whose identity has not been determined), or accepted for asylum processing.

During the year, 12,000 illegal immigrants were caught landing in the country, and 55,200 were either expelled or denied entry. In 2003, 27,400 illegal immigrants were held in temporary detention pending identification. Many of these immigrants entered the country with the intent to transit to other European Union (EU) countries. Most illegal immigrants paid fees to smugglers, and many risked death due to unseaworthy vessels or were forced off the vessels. At least 65 immigrants died in two separate incidents—in July, off the coast of Puglia and, in August, off the coast of Sicily. Some illegal immigrants were forced to engage in illegal activities, were paid substandard wages, or were forced to work as prostitutes to pay off debts incurred for their passage (*see* Section 5).

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The June elections for the European Parliament were generally free and democratic. There were numerous political parties that functioned without government restrictions.

It is illegal for public employees to accept money or other advantages in return for performing public duties (punishable by 6 months' to 3 years' imprisonment) or in return for delaying or declining to perform public duties (punishable by 2 to 5 years' imprisonment). National corruption scandals of the 1990s reinforced the general belief that politicians were corrupt. In December, Prime Minister Berlusconi was acquitted of one count of bribing a judge (before he became Prime Minister) to block the sale of a food conglomerate to a business rival; the judges dropped another bribery count stating that the statute of limitations had expired. In November 2003, Berlusconi's former lawyer and one-time defense minister was sentenced to 5 years' imprisonment for bribing a judge in 1991; the judge in the case was sentenced to 8 years imprisonment; both were appealing their convictions at year's end. During the year, the Government appointed an independent task force headed by a magistrate that was charged with conducting investigations on alleged corruption in the public sector.

There were no restrictions on women or minority participation in government and politics. There were 25 women in the 315-seat Senate and 63 women in the 630-seat Chamber of Deputies; women held 2 of 25 cabinet positions. Women won 20.5 percent of the seats in the June European parliamentary elections, compared to 10.5 percent elected for the previous European Parliament.

The only legally defined minorities are linguistic—the French-speaking Valdostani and the German-speaking Altoatesini/Suditirolese (*see* Section 5). During the year, there were 6 members of linguistic minorities in the 315-seat Senate and 5 in the 630-seat Chamber of Deputies. In a largely monolithic society, immigrants represented approximately 4 percent of the population, and less than half of these qualified as ethnic/racial minorities. There were no members of the new immigrant groups in either the Senate, Chamber of Deputies, or the Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, sex (except with regard to hazardous work), ethnic background, or political opinion, and provides some protection against discrimination based on disability, language, or social status; however, some societal discrimination against women, persons with disabilities, and Roma persisted.

*Women.*—Violence against women remained a problem. The NGO Telefono Rosa, which provides a hotline through which abused women may obtain legal, medical, and other assistance, reported that 35 percent of the calls it received involved physical violence in the home; more than 41 percent of the calls involved psychological violence. During the year, the Chief Prosecutor of the Cassation Court reported that cases of sexual violence and exploitation of women and children increased by 48 percent and 28 percent respectively. Some of this increase was credited to the success

of new public awareness campaigns that encouraged greater reporting of these crimes.

Legislation protects women from physical abuse, including by family members, allows for the prosecution of perpetrators of violence against women, and shields women who have been objects of attack from publicity. Law enforcement and judicial authorities were not reluctant to prosecute perpetrators of violence against women, but victims sometimes did not press charges due to fear, shame, or ignorance of the law. According to Telefono Rosa, approximately three out of four women who experienced violence declined to report it to the authorities, and one in five who did report it later withdrew their complaint.

The law treats spousal rape in the same manner as any other rape. According to the Ministry of Justice, there were 4,519 cases of rape reported in 2002. A 2002 survey conducted by the National Institute of Statistics showed that 2.9 percent of women ages 14–59 suffered rape or attempted sexual violence at least once in their lives; in 90 percent of these cases, the incident was not reported to the authorities.

Individual acts of prostitution in private residences are legal. Trafficking of women into the country for sexual exploitation remained a problem (see Section 5, Trafficking).

A 2002 survey indicated that almost 50 percent of women ages 14 to 59 were victims of sexual harassment, including sexual advances, requests for sexual favors, and other verbal or physical misconduct. In 2003, Parliament approved legislation introducing new definitions of sexual harassment and other abuses in the workplace. The law strengthens a code of conduct on workplace harassment, attached to national sectoral labor contracts.

Men and women enjoy legal equality in marriage, property, and inheritance rights and equal access and treatment with regard to education, health, and other government services.

According to a press survey, the gap between salaries for men and women narrowed during the year; however, women who held a university degree continued to earn less than men with the same qualifications. Women were underrepresented in many fields, such as management, entrepreneurial business, and the professions.

The law provides for voluntary female military service; in January, there were 1,736 women in the armed forces. There were almost 13,000 policewomen, of whom 26 were senior officers.

A number of government offices worked to ensure women's rights. A woman heads the Ministry for Equal Opportunity, and there is an equal opportunity commission in the office of the Prime Minister. The Labor Ministry has a similar commission that focuses on women's rights and discrimination in the workplace, as well as equal opportunity counselors who deal with this problem at the national, regional, and provincial government levels. However, many counselors had limited resources with which to work. Many NGOs, most of which were affiliated with labor unions or political parties, actively and effectively promoted women's rights.

*Children.*—The Government demonstrated a strong commitment to children's rights and welfare. Schooling is free and compulsory for children from age 7 to age 18; those unable (or unwilling) to follow the academic curriculum may shift to vocational training at age 15. In 2003, the Government implemented educational reforms that were intended to reverse the middle and secondary school dropout rate, which historically has been high.

The abuse of children was a problem; during the year, the NGO Telefono Azzurro received approximately 350,000 calls related to child abuse. Approximately 6 percent of cases involved sexual abuse, 16 percent physical violence, and 12 percent psychological exploitation. In 58 percent of the cases, the victims were female; 44 percent were ages 10 or younger. In the first 6 months of the year, judicial authorities registered 349 allegations of sexual abuse against minors and accused 392 persons of abuse. Both public and private social workers counseled abused children and were authorized to take action to protect them. Telefono Azzurro maintained two toll-free hotlines for reporting incidents of child abuse.

Although there was no official data, in 2003, independent research centers estimated that there were between 1,800 and 3,000 minors who worked as street prostitutes, of whom 1,500 to 2,300 were trafficked into the country and forced into prostitution (see Section 5, Trafficking).

Police monitored approximately 29,000 websites for child pornography and related crimes. During the first half of 2003, police registered 431 complaints regarding Internet-based child pornography. In 2003, police shut down 36 pornographic websites, investigated 720 persons, and arrested 9 for disseminating child pornography.

Child labor was a problem (see Section 6.d.)

*Trafficking in Persons.*—The country was a destination and transit point for trafficked persons; trafficking for sexual exploitation and forced labor was a problem that the Government took steps to address.

A 2003 law prohibits trafficking in persons; trafficking previously had been prosecuted using other sections of the Penal Code. The law provides for sentences of 8 to 20 years' imprisonment for trafficking in persons and for enslavement. For convictions in which the victims were minors destined for prostitution sentences were increased by one-third to one-half. The law applies special prison conditions to traffickers that are designed to limit criminals' ability to continue their operations from jail. The Government also cooperated with foreign governments, including Nigeria, Ukraine, and Moldova, to investigate and prosecute trafficking cases. The number of persons investigated for trafficking increased from 1,307 in 2002 to 2,231 in 2003, and arrests increased from 209 to 328, respectively. Appeals increased from 41 to 51 but were denied 94 percent of the time.

According to the Government and an NGO, approximately 2,000 persons were trafficked in 2003, of whom 8 to 10 percent were believed to be underage. In August, the Ministry of Interior announced that 214 persons were arrested, and another 300 remained under investigation for the crimes of slavery and trafficking. For example, in May, police arrested a Romanian father who was selling his 10-year-old child for sex in the outskirts of Milan. In July, police arrested six Bulgarian men who accompanied Bulgarian women into the country who gave birth to children and then sold the babies to Italian families for \$13,500 (10,000 euros) each. In September, 12 persons, including 2 policemen, were arrested in Sassari and charged with trafficking for prostitution and falsification of documents. In December, following an investigation coordinated with Brazilian authorities, four persons were accused of organizing tours to Brazil that included the sexual services of girls ages 12 to 17.

Trafficking in persons for the purpose of sexual exploitation involved immigrants, mostly from Nigeria, North Africa, Eastern Europe, China, and South America. Press reports estimated that over 85 percent of prostitutes in the country were immigrants, primarily from Eastern Europe and North Africa.

Trafficking in children for sweatshop labor was a particular problem in Tuscany's expanding Chinese immigrant community, where children were considered to be part of the family "production unit."

Victims of trafficking were usually lured to Western Europe with promises of a job, or sold by relatives, friends, or acquaintances. They were then forced into prostitution, laboring in restaurants or sweatshops, or begging in the street. Their traffickers enforced compliance by taking their documents, beating and raping them, or threatening their families. There were no reports of trafficked women being killed by their traffickers during the year.

Organized criminal groups were responsible for most trafficking in the country; prostitution rings routinely moved trafficked persons from city to city to avoid arrest. In July, police in Brescia arrested two Albanians, one Egyptian, one Pakistani, and one Italian involved in trafficking women from eastern countries for prostitution.

Government officials did not participate in, facilitate, or condone trafficking.

Victims of trafficking who were in the sex trade faced the attendant health risks resulting from unsafe or unprotected sex. Trafficking victims in the Tuscany region who worked in sweatshops were possibly exposed to dangerous chemicals in the leather industry.

The law provides temporary residence or work permits to persons who seek to escape their exploiters. Victims were encouraged to file complaints, and there are no legal impediments for them to do so. If a complaint was lodged, victims usually did not face prosecution for any laws they had broken. NGOs alleged that the Government did not allow enough time between apprehension and deportation of illegal immigrants to screen for trafficking victims.

The Government provided legal and medical assistance once a person was identified as having been trafficked. There were shelters and programs for job training. There also were assistance and incentive programs for those willing to return to their home country; in 2003, 47 victims who choose to go home were repatriated. The domestic NGO Social Service International assisted in repatriating unaccompanied immigrant minors.

The law creates a separate budgetary category for victim assistance programs and empowers magistrates to seize convicted traffickers' assets to finance legal assistance, vocational training, and other social integration assistance to trafficking victims.

The Government, in conjunction with other governments and NGOs, worked to orchestrate awareness campaigns. The law directs the Foreign Ministry, together with

the Equal Opportunity Ministry, to conclude additional anti-trafficking agreements with trafficking source countries.

*Persons With Disabilities.*—There was no governmental discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there was some societal discrimination. The law requires companies having 15 or more employees to hire workers with disabilities; in exchange, companies received financial benefits. Although the law mandates access to buildings for persons with disabilities, mechanical barriers, particularly in public transport, left such persons at a disadvantage.

According to the Government, there were approximately 2.6 million persons with disabilities representing about 5 percent of the population. Of the 500,000 workers with disabilities registered at public employment centers, only 5.8 percent found work.

*National/Racial/Ethnic Minorities.*—In November, the Minister for Equal Opportunities created a National Office to Combat Racial and Ethnic Discrimination to monitor and prevent discrimination and to provide victims with legal assistance. Its programs were to include a national hotline for reporting cases and public relations campaigns to discourage discrimination.

Increasing immigration led to some anti-immigrant sentiment. Since many immigrants are Muslim, religion was an additional factor differentiating them from native-born citizens. According to an International Labor Organization survey conducted during the year in three major cities, 41 percent of Moroccan immigrants believed that employers discriminated against them during the hiring process. Nevertheless, there was a high rate of employment of immigrants in low-paying jobs.

Public opinion surveys indicated that the prevalence of negative attitudes toward immigrants was increasing, especially among young persons and in the north of the country.

In 2003, a U.N. commission of independent experts underscored its grave concern over continued police mistreatment of young immigrants and Roma and recommended more extensive training for law enforcement officers working with children. In response, several municipalities established training programs devoted specifically to police in charge of public order in the Romani camps.

There were no accurate statistics on the number of Roma in the country. Romani community members and Romani-oriented NGOs estimated that the population was approximately 120,000, of whom up to 80 percent could be Italian citizens—most of whom can trace their ancestry in the country to the late 14th Century. These Roma tended to live in the central and southern parts of the country; there is no official recognition of their language. They worked and lived in conditions indistinguishable from those of other Italians.

Romani immigrants, or the children of Romani immigrants, were concentrated on the fringes of urban areas in the central and southern parts of the country, living in camps characterized by poor housing, unhygienic sanitary conditions, limited employment prospects, inadequate educational facilities and the absence of a consistent police presence. Faced with limited income and job opportunities, and suffering from harassment, some Roma turned to begging or petty crime, which generated repressive measures by police and some judicial authorities.

Some traditional minorities, including French- and German-speaking Alpine communities in the north and a mixture of German and Slovene speakers in the northeast, enjoy special autonomous status. The special rights of these areas—respectively, the Valle d'Aosta, Trentino Alto Adige, and Friuli Venezia Giulia—include the use of non-Italian languages in government offices and, in Trentino Alto Adige and Valle d'Aosta, in public schools. The law provides for Slovene to be used in government offices and schools.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to establish trade unions, join unions, and carry out union activities in the workplace, and workers freely exercised these rights. The unions claimed to represent between 35 and 40 percent of the work force.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right of workers to organize and bargain collectively, and workers exercised this right. Approximately 35 percent of the workforce works under a union-negotiated contract, but nonunion members working alongside union employees also benefited from the same contracts. The Constitution provides for the right to strike, and workers exercised this right in practice. The law restricts strikes affecting essential public services (for example, transport, sanitation, and health), requiring longer advance notification and precluding multiple strikes within days of each other.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5). Police periodically discovered clandestine Chinese immigrants working in plants throughout the country, particularly in Tuscany's large Chinese immigrant community.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under age 15 (with some limited exceptions), and there are specific restrictions on employment in hazardous or unhealthful occupations for men under age 18 and women under age 21; however, these laws were not fully respected in practice. The enforcement of minimum age or other child protection laws was difficult in the extensive underground economy. During the year, an independent research center estimated that approximately 400,000 children worked at least occasionally, while 70,000 children worked for at least 4 hours per day. In 2002, the National Institute of Statistics (ISTAT) reported that approximately 31,500 children—a large number of whom were 14 years old and younger—worked in agriculture (mostly boys) and urban hotels, coffee bars, and restaurants (mostly girls). This child labor occurred primarily within the family, and mistreatment was not a problem. However, ISTAT stated that mistreatment and exploitation were problems for child labor that occurred outside of families, particularly for children of immigrants.

Illegal immigrant child laborers from northern Africa, the Philippines, Albania, and, particularly China, continued to enter the country in large numbers. A combination of immigration legislation and stricter enforcement operations reduced the number of Chinese immigrants working in sweatshop conditions; however, many minor children worked alongside the rest of their families to produce scarves, purses, and imitations of various brand name products.

The Government, employers' associations, and unions continued their tripartite cooperation on child labor. The Ministry of Labor, working with the police and the Carabinieri, is responsible for enforcement of child labor laws.

*e. Acceptable Conditions of Work.*—The law does not set minimum wages, but they are set through collective bargaining agreements on a sector-by-sector basis. When an employer and a union fail to reach an agreement, courts may determine fair wages on the basis of practice in comparable activities, although this rarely happened in practice. The average daily wage provided a decent standard of living for a worker and family.

The legal workweek is 40 hours. Overtime work may not exceed 2 hours per day or an average of 12 hours per week. Unless limited by a collective bargaining agreement, the law sets maximum permissible overtime hours in industrial sector firms at no more than 80 hours per quarter and 250 hours annually.

The law sets basic health and safety standards and guidelines for compensation for on-the-job injuries. EU directives on health and safety also have been incorporated into the law. Labor inspectors were from the public health service or from the Ministry of Labor, but they were few in number in view of the scope of their responsibilities. During the year, the Ministry of Labor hired an additional 850 labor inspectors. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment. Courts imposed fines and sometimes prison terms for violation of health and safety laws.

## KAZAKHSTAN

The Constitution of Kazakhstan concentrates power in the presidency. President Nursultan Nazarbayev was elected to a 7-year term in a 1999 election that fell far short of international standards. The Constitution permits the President to control the legislature and judiciary, as well as regional and local governments; changes or amendments to the Constitution require presidential consent. The law allows the President to retain certain controls over policy and a seat on the Security Council after he leaves office. The Constitution limits Parliament's powers by precluding it from appropriating state money or lowering taxes without executive branch approval, although Members of Parliament (M.P.s) have the right to introduce legislation. Parliamentary elections in September and runoff elections in October were in some respects an improvement over the previous elections; however, they fell short of international standards and featured numerous irregularities. Although opposition party Ak Zhol won one seat in September's Mazhilis (the lower house of Par-

liament) elections, party leaders declined the seat to protest what they characterized as election fraud. As a result, no opposition parties were represented in the Mazhilis following the elections. The judiciary remained under the control of the President and executive branch, and corruption remained systemic.

The Committee for National Security (KNB) is responsible for national security, intelligence, and counterintelligence. The Ministry of Internal Affairs (MVD) supervises the police. Civilian authorities maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The country continued to move towards a market-based economy driven by energy and mineral resources. The population was approximately 15.4 million. During the year, approximately 16 percent of the population lived below the poverty line. Inflation was 6.7 percent, and the official unemployment rate was approximately 8 percent during the year. Wage growth exceeded inflation. Real gross domestic product grew by 9.3 percent during the year.

The Government's human rights record remained poor, and it continued to commit numerous abuses. The Government severely limited citizens' right to change their government and democratic institutions remained weak. On some occasions, members of the security forces, including police, tortured, beat, and otherwise mistreated detainees; some officials were punished for these abuses. Prison conditions remained harsh; however, the Government took an active role in efforts to improve prison conditions and the treatment of prisoners. The Government continued to use arbitrary arrest and detention and to selectively prosecute political opponents; prolonged detention was a problem. Amendments to several laws governing the authority of procurators further eroded judicial independence. The Government infringed on citizens' privacy rights.

The Government continued to restrict freedom of the press. There were instances of Government harassment of independent media. As a consequence, some media outlets closed or remained closed, and many journalists practiced self-censorship. The Government took positive steps to improve political participation by registering opposition political parties, some of which had previously been denied registration, before the September 19 parliamentary elections. The Government restricted freedom of assembly and association and limited democratic expression by restricting political party demonstrations and rallies.

Freedom of religion improved during the year. National and regional officials worked to correct incidents when local authorities harassed nontraditional religious groups or their members; as a consequence, there were few incidents reported during the year. Some human rights observers reported that the Government monitored their activities. Violence against women, including domestic violence, was a serious problem.

Discrimination against women, persons with disabilities, and ethnic minorities remained problems. The Government discriminated in favor of ethnic Kazakhs. Trafficking in persons, primarily women trafficked for sexual exploitation, was a problem, which the Government took steps to address. Workers' rights were restricted, and child labor persisted in agricultural areas.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents; however, some conscripts died as a result of military hazing and mistreatment. Military hazing was a serious problem that not only led to deaths as a result of mistreatment but also resulted in some conscripts committing suicide (*see* Section 1.c.). The Government took some steps to prevent or reduce hazing through education and reforms aimed at professionalizing the military; however, problems remained.

On June 15, conscript Nurbol Toyanov died after having served only 5 days in his military unit. An investigation determined that older soldiers routinely beat and humiliated new conscripts in the unit. Three sergeants in the unit were convicted for causing Toyanov's fatal injuries, and they received sentences that ranged from 18 months of service in a disciplinary battalion to 6 years in prison.

On July 16, according to press reports, conscript Asylbek Zhumanov died under mysterious circumstances with the official cause of death listed as a suicide; however, the case was investigated as a homicide. A military police investigation led to charges against several fellow-conscripts, who were convicted of hazing that resulted in Zhumanov's death. Six older soldiers from Zhumanov's military unit were convicted of murdering Zhumanov; one soldier received a suspended sentence on appeal, while the other 5 soldiers received sentences ranging from 2 to 5 years in prison.

On July 16, media reported the suspicious deaths of two brothers, who were conscripts in separate military units. Azamat Brimzhanov died after he was beaten severely in a hazing incident. Two sergeants from his unit were detained as suspects. In a separate incident, his brother, Yerbolat Brimzhanov, jumped out of the fourth floor window of his barracks and died. In court, Yerbolat Brimzhanov's fellow-conscripts testified that he had been beaten repeatedly and severely for over 2 weeks. In August in Sary Ozek, Almaty region, 8 fellow conscripts were convicted and sentenced to 8 to 10 years in prison for hazing that caused the death of Yerbolat Brimzhanov. Two sergeants in the unit were dismissed from the army; no criminal charges were brought against them.

No charges had been brought by year's end in the case of Daniyar Nagaybayev, a private who died in May 2003. The press reported that Nagaybayev's sergeant killed him while disciplining him for disobedience.

No arrest had been made at year's end in the 2001 killing of Dilbirim Samsakovaya, a well-known Uighur community activist.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police and prison officials at times tortured, beat, and otherwise abused detainees, often to obtain confessions. Human rights observers and government officials reported that beatings and abuse of prisoners increased during the year.

The Government reported that 51 criminal cases against law enforcement officers for physical abuse were filed during the year.

In March in Aktau, human rights advocates publicized the case of Berik Tatiyev, who reportedly was severely tortured by MVD authorities while being held in pretrial detention between December 2003 and February. Procurators launched a criminal investigation that did not result in any charges by year's end. The director and deputy director of the Aktau pretrial detention facility were fired, and the head of the Aktau police department received minor disciplinary punishment for his role in the case.

It was reported that in July 2003, a district deputy procurator and two other men brutally beat a 14-year-old girl at a cafe in the southern part of the country. The case was ongoing at the year's end; however, according to the victim's parents, the district deputy procurator exerted pressure on witnesses in the case, discouraging them from testifying.

On July 16, the Arkalyk City court convicted four Arkalyk prison guards for beating prisoners on January 11. All 4 guards were sentenced to prison terms ranging from 5 to 6 years.

There were unconfirmed reports that some women detained by law enforcement officers were subjected to coercive sexual advances or rape.

Army personnel continued to subject conscripts to brutal hazing, including beatings and verbal abuse. There were reports of hazing-related deaths and suicide (see Section 1.a.); which in some cases led to investigations and eventual convictions of service members. The Main Military Procurator reported close to 100 suicides among conscripts in 2003. The Army reported that 128 hazing cases were opened during the first 9 months of 2003, 13 of which were classified as particularly severe; in the first 6 months of 2003, 50 service members were convicted of hazing. On January 5, conscript Andrey Frolov committed suicide while serving in a military unit stationed in Tokyaru settlement, near Balkhash. According to an internal investigation, Frolov had been subjected to extensive physical and psychological abuse by older soldiers. Reportedly, other conscripts were abused by the same soldiers but were too scared to testify in court and a trial did not take place. On January 18, conscript Baurzhan Bukitayev committed suicide by hanging. Two sergeants in Bukitayev's military unit were tried and convicted for hazing Bukitayev.

Conscript Madiyar Argynbekov committed suicide on November 30, leaving a suicide note that blamed an older soldier in a Pavlodar military detachment for hazing and physical abuse. An investigation was underway at year's end.

The Government continued a training program for military forces on social and legal issues, which included mandatory antihazing training.

Prison conditions remained harsh and sometimes life threatening. Mistreatment occurred in pretrial detention facilities and in prisons, and nongovernmental organizations (NGOs) and international organizations reported that abuses of prisoners increased after the head of the penitentiary system and approximately one-third of the prison administrators were replaced in 2003. The December 2003 transfer of supervision of pretrial detention facilities from the MVD to the Ministry of Justice was completed in May; as a result of this transfer, conditions improved, although they remained harsh. The head of the prison system and two deputies resigned in Feb-

ruary following reports of brutal beatings of inmates in certain prisons. Violent crime among prisoners was common. During the year, the number of prisoners continued to decline significantly. Much of the decrease was associated with the 2002 Humanization of Criminal Justice Law, which prescribes punishments other than imprisonment, such as probation, for minor first offenses.

The Government reported 2,600 total violations, including physical force violations, by employees of the penitentiary system during the year. Some officials were punished for these abuses; 911 employees received disciplinary punishment, including fines, demotions, and dismissal and another 8 employees were convicted on criminal charges.

In the past several years, prison diets and availability of medical supplies have improved. There were 6 tuberculosis colonies and 2 tuberculosis hospitals for prisoners; 5,591 prisoners were housed in these colonies. While the incidence of tuberculosis stabilized, HIV/AIDS continued to be a problem. The Government, together with the U.N. Development Program (UNDP), continued to implement a project to prevent HIV/AIDS and other sexually transmitted diseases in penitentiaries. Prisoners were permitted to have visitors, although the number and duration of visits depended on the security level of the prison and the type of sentence being served.

Prisoners were held in close proximity, barracks-style facilities; however, a government program to build new correctional facilities and rehabilitate existing facilities continued throughout the year.

Incidents of self-mutilation by inmates to protest prison conditions continued. In general, the Government did not take action in response to self-inflicted injuries by prisoners.

In May, a group of juvenile prisoners at an Almaty prison staged a riot to protest harsh conditions. After the uprising was suppressed, the Penitentiary Commission reported that two prisoners had been admitted to the hospital: One had attempted suicide, another had been thrown out a second story window by his roommates.

There were separate facilities for men and women, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners. Approximately 50 percent of the prison population served their terms in facilities that, contrary to the law, were not near their places of residence.

Although there is no known statutory requirement, human rights observers and journalists wishing to visit prisons must receive authorization; observers and journalists reported that authorities often denied such requests, especially in politically sensitive cases. The Kazakhstan International Bureau for Human Rights and Rule of Law visited men's, women's, and juveniles' facilities during the year, although they also reported that their requests were sometimes denied without clearly articulated reasons.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, they remained problems.

The KNB plays a law enforcement role in border security, internal security, and antiterrorism efforts and oversees the external intelligence service, Barlau. The Chairman of the KNB reports directly to the President. The MVD supervises the national police force. Police were poorly paid and widely believed to be corrupt. On June 25, the MVD announced the creation of regional public commissions to investigate allegations of corruption and abuse received through hotlines set up to receive complaints about police. The Minister also reported that over 300,000 complaints of police corruption had been received in 2003 (*see* Section 3).

According to the Government, during the year, 74 investigations were initiated against 114 law enforcement officers, for violations of citizens' rights. Of these cases, 25 resulted in criminal cases taken to courts. Human rights observers believed that these cases covered only a small fraction of the incidents of police abuse of detainees, which they characterized as routine.

The Constitution provides that courts or procurators must sanction arrests and detentions, and the Government generally respected this provision in practice. Warrants were required for arrest. Procurators have the power to authorize arrest and pre-trial detention as well as investigative actions such as searches and seizures. The law allows police to hold a detainee for 72 hours before bringing charges; however, human rights observers alleged that police routinely failed to register the name of a person arrested in order to extend the maximum 72-hour period that a person could be held without the approval of the procurator.

A bail system exists, but was rarely used, and individuals generally remained in pretrial detention until their trial.

Every person detained, arrested, or accused of committing a crime has the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation; however, police were not required under the law or in practice to inform de-

tainees that they had the right to an attorney. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney or gathered evidence through preliminary questioning before the person's attorney arrived and the formal interrogation began.

The Government arrested and detained government opponents and critics, sometimes for minor infractions of the law such as unsanctioned assembly, and selectively prosecuted political opponents (*see* Sections 1.e., 2.a., and 2.b.).

On August 16, journalist Sergey Duvanov was conditionally released from custody under parole status. In 2003, Duvanov, known for his reporting on domestic politics, was convicted of raping a minor and sentenced to 3 years in prison, though most recently he had been under house arrest. Observers considered the charges politically motivated and the trial marked by serious procedural irregularities (*see* Sections 1.e. and 2.a.). Duvanov's release was subject to certain restrictions on his movement and attendance of public events.

There were credible reports of arbitrary detention of members of the political opposition.

On August 16, former Governor and opposition party Democratic Choice of Kazakhstan (DCK) leader Galymzhan Zhakiyanov was transferred to a minimum security settlement colony, the first administrative step toward parole. In 2002, Zhakiyanov had been tried and convicted of alleged abuse of power and corruption along with Mukhtar Ablyazov, former Minister of Energy. The arrests occurred years after the crimes were allegedly committed, but only months after Ablyazov and Zhakiyanov founded an opposition political movement. Authorities reportedly tried to convince Zhakiyanov to discontinue his political activities in exchange for release, and threatened to impose new criminal charges.

Police reportedly detained foreigners without official charges, sometimes mistreating them.

Pretrial detention is permitted for periods up to 1 year with approval from the Procurator General, and there were no reports that detainees were held for periods longer than 1 year. The aggregate number of persons held in pretrial detention facilities continued to decline during the year; at year's end, 8,000 detainees were being held pending trial. Local human rights NGOs reported that authorities generally denied them access to pretrial detention facilities.

An unnamed citizen from Shymkent won a lawsuit against the Government for damages inflicted by police during investigation of his wife's murder in 2003. The Government was ordered to pay \$2307.70 (300,000 KZT) as monetary remuneration for illegal detention and police abuse of the plaintiff. The Supreme Court press service indicated that this suit was the first in which the Government was held financially responsible for illegal detention and police abuse.

Many individuals were detained for identity checks without suspicion of a criminal offense. Law enforcement officials performing identity checks were required by law to identify themselves and show their badges if the subject requested.

*e. Denial of Fair Public Trial.*—The law does not adequately provide for an independent judiciary; in practice, the executive branch subjugated judicial independence. Procurators enjoyed a quasi-judicial role, and were permitted to suspend court decisions.

There are three levels in the court system: District, Oblast (regional), and the Supreme Court. District courts are the court of first instance in nearly all criminal cases. Oblast courts hear cases involving more serious crimes, including those that carry the death penalty, and may handle cases in rural areas with no local courts. District court decisions may be appealed to the oblast courts, and oblast court decisions may be appealed to the Supreme Court. There are also military courts.

The Constitutional Council, which replaced the Constitutional Court, rules on election and referendum challenges, interprets the Constitution, and determines the constitutionality of laws adopted by Parliament. The President directly appoints three of its seven members, including the chairman, and has the right to veto Council decisions. The Council can overturn a presidential veto if at least two-thirds (five) of its members vote to do so. Only the President, Chairman of the Senate, Chairman of the Parliament, Prime Minister, one-fifth of the Members of Parliament (M.P.s), or a court of law may appeal to the Constitutional Council; courts may appeal if they find that a law or legislation undermined the rights and liberties of an individual and a citizen. Citizens may not appeal to the Council, although they were allowed to appeal the constitutionality of government actions to the former Constitutional Court.

Corruption was evident at every stage and level of the judicial process. Although judges were among the most highly paid government employees, lawyers and human rights monitors alleged that judges, procurators, and other officials solicited

bribes in exchange for favorable rulings the majority of criminal cases (*see* Section 3).

The President nominates Supreme Court judges to the upper house of Parliament through the presidentially appointed Supreme Judicial Council. The President appoints oblast judges nominated by the Supreme Judicial Council, and local level judges from a list presented by the MOJ. Judges are appointed for life or until mandatory retirement at age 65.

The law provides for a fair trial; however, trials often were not fair in practice. The Constitution allows for trial by jury; however, jury trials were not implemented in practice. Trials were public, except in instances that could compromise state secrets, or to protect the private life or personal family concerns of a citizen. However, there were several reports during the year of journalists being denied access to open court hearings. Defendants have the right to counsel and to a Government-provided attorney if they cannot afford one; however, in practice, defense attorneys reportedly participated in only half of all criminal cases because the Government did not have sufficient funds to pay them.

The Constitution also provides defendants the right to be present at their trials, to be heard in court, and to call witnesses for the defense. Defendants enjoy a presumption of innocence, are protected from self-incrimination, and have the right to appeal a decision to a higher court. These rights were generally exercised in practice; however, there were reports of individual cases of infringement.

Court verdicts were often determined invalid, and in many cases reversed based on the inadequacy of evidence. In many instances, lower courts convicted defendants despite procedural violations. Lack of due process was a problem, particularly in politically motivated trials.

On August 16, journalist Sergey Duvanov, who was convicted in March 2003 of raping a minor, was released on full parole. Independent legal experts deemed his trial unfair, citing lack of evidence, procedural violations, and denial of the presumption of innocence through comments made by the President.

Zhakiyanov, who had been convicted in 2002 following a trial that international observers said was politically motivated and lacked due process, remained in a prison facility in Kostanay Oblast until August, when he was transferred to a reduced security settlement colony in Shiderty, Pavlodar Oblast. Zhakiyanov's family and advocates reported that he faced harsher conditions than other inmates at the facility. Following Zhakiyanov's transfer, the media reported an official investigation of new corruption charges against Zhakiyanov; however, at year's end, no new charges had been filed.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government at times infringed on these rights.

The law provides procurators with extensive authority to limit citizens' constitutional rights. The KNB, MVD, Financial Police, and other agencies, with the concurrence of the Procurator General's Office, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Courts may hear an appeal on such decisions by procurators, but cannot issue an immediate injunction to cease the infringement. The Criminal Procedure Code allows wiretapping and recording of communications for investigative purposes without a procurator's warrant only in urgent cases; however, the Procurator must be notified of the interception within 24 hours.

Government opponents continued to report that the Government monitored their movements and telephone calls on occasion.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, observers reported the Government used a variety of means, including criminal and administrative charges, physical attacks, and vandalism to control the media. Judicial actions against journalists and media outlets, including civil and criminal libel suits filed by government officials, contributed to self-censorship.

The Government limited individuals' ability to criticize the country's leadership, and regional leaders increasingly sought ways to limit local media outlets' criticism of them. The Constitution provides for the protection of the dignity of the President, and the law prohibits insulting the President and other senior officials.

Prior to the September 19 Mazhilis elections, international and local elections observers and opposition parties cited strong media bias in favor of pro-administration parties as a serious breach of the election law, which stipulates that media must provide equal coverage of all parties during the official campaign season. The Orga-

nization for Security and Cooperation in Europe (OSCE) noted that no media outlets were shut down in the period prior to the elections, nor were journalists prosecuted, as during past elections. However, a local media advocacy group documented 39 separate incidents of journalists being denied access to information about the elections or being prohibited from covering voting or vote-counting, rights that are protected by law.

In July, Altynbek Sarsenbaily, a co-chairman of opposition party Ak Zhol, was appointed Minister of Information. Sarsenbaily took a leave of absence from this position in August to campaign for the Mazhilis elections. On September 20, Sarsenbaily formally resigned his position as Minister of Information to protest elections irregularities. The Ministry was reorganized later in the year to become part of the Ministry of Culture, Information and Sports.

According to government statistics, there were 990 privately owned newspapers and 418 privately owned magazines. The Government ran one of the two national Russian-language newspapers and the only national Kazakh-language newspaper that appeared as many as five times a week. In addition, members of the President's family were believed to control a number of privately owned media. Many newspapers that nominally were independent received government subsidies. Each major city had at least one independent weekly newspaper. The centrist opposition political party Ak Zhol continued to publish two national weeklies during the year.

The Government controlled nearly all broadcast transmission facilities. There were 116 independent television and 35 radio stations. Only three combined radio and television companies could broadcast nationwide; of these, one was completely government-owned, one was 50 percent government-owned, and one was nominally independent. Regional governments owned several frequencies; however, independent broadcasters arranged to use the majority of these. Many media outlets considered to be independent, including the larger outlets, were owned by holding companies believed to be controlled by members of the President's family and close circle of friends.

All media were required to register with the Ministry of Information, or its successor, the Ministry of Culture, Information and Sports, although websites were exempted from this requirement. In practice, media outlets known to be associated with opposition political parties or movements were frequently refused registration.

The law limits the rebroadcast of foreign-produced programming to 20 percent of a station's total airtime. This provision burdened smaller, less-developed regional television stations that lacked resources to develop their own programs. However, no media outlets were sanctioned under this provision.

Harassment of and violence against journalists were problems.

For example, on March 17, the city court of Aktyubinsk sentenced Vladimir Mikhaylov, the publisher of the independent weekly newspaper Diapazon, to 1 year in prison for noncompliance with a 2002 court order regarding a property dispute that media advocates characterized as politically motivated. Diapazon staffers believe the case was motivated by local authorities' desire to take control of the paper, as Mikhaylov was approached earlier during the year and was asked to sell his interest in Diapazon, but refused. Mikhaylov's sentence was reduced to 180 hours of community service on appeal, and on April 26 he was released from prison, where he had spent the previous month.

In November 2003, an Almaty district court convicted Yermurat Bapi, editor-in-chief of the opposition newspaper SolDat and a member of the executive committee of the RNPk, of tax evasion and barred him from practicing journalism for 5 years. Bapi and the newspaper had previously been subjected to harassment, libel suits, and tax charges.

On August 16, a district court in Almaty granted a permanent early release on full parole to journalist Sergey Duvanov, who had been jailed after a January 2003 conviction on the allegedly politically motivated charge of raping a 14-year-old (see Sections 1.d., 1.e., and 3). In a separate incident, Duvanov was the victim of a 2002 attack by three unknown persons, who carved a cross and several other marks on his chest and allegedly told him that he was aware of why they were attacking him. President Nazarbayev denounced this attack, calling it a provocation. Duvanov received no communication on the case from law enforcement during the year and no arrests were made.

During the September Mazhilis elections, members of a local election commission assaulted newspaper correspondents Tamara Sukhomlinova and Gulzhanat Isabayeva. Their newspaper filed an official complaint with the regional procurator in September, but had not received a response by year's end.

On July 16, Askhat Sharipzhanov, a correspondent for the opposition online news organization Navigator, was struck by a car and died 4 days later, under what journalists and human rights advocates stated were suspicious circumstances. According

to the police account of the accident, Sharipzhanov was drunk when he was struck by a car late at night as he was crossing a street in Almaty. Sharipzhanov's colleagues reported that he had conducted interviews with opposition figures Zamanbek Nurkadilov and Altynbek Sarsenbaily on the evening of the accident. The tape recorder that Sharipzhanov's colleagues believed he was carrying was not found. Colleagues also noted several suspicious deviations from Sharipzhanov's normal routine on the night he was injured. Hearings into the death began in October in the Almaty District Court, but had not concluded by year's end.

Journalists covering organized crime and corruption reported harassment and intimidation directed at them as a result of their reporting.

On August 17 in Taraz, unknown assailants threw 7 molotov cocktails through the windows of the independent weekly newspaper, Yuzhniy Ekspres. Editor-in-chief Zharylkasyn Nuraliyev said the attack was likely provoked by reporting on organized crime structures and was not linked to the parliamentary elections. A local media defense expert suggested the attack was linked to a particular article in the newspaper on attempts by crime bosses to put up candidates for the parliamentary elections. No one had been charged by year's end.

The law provides for free speech and prohibits censorship; however, it also enables the Government to restrict media content under amendments that prohibit undermining state security or advocating class, social, race, national, or religious superiority, or cruelty and violence. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content, regardless of the source of information, unless it came from an official source. Criminal libel suits could be initiated by private parties on behalf of the Government, and an individual filing such a suit would be able to file a civil suit as well, based upon the same allegations. The law also prohibits violence and all pornography from television broadcasts. The Government continued to be able to influence most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. In addition, many publishing houses were government-owned.

In April, the President vetoed a draft media law after the Constitutional Council ruled parts of the draft unconstitutional. International organizations and NGOs stated the draft would have further restricted media freedom. In August, then-Minister of Information Altynbek Sarsenbaily convened a working group to revise the law to make it conform with internationally recognized democratic standards, but the status of that draft was left in doubt after Sarsenbaily resigned in September. The Congress of Journalists released an alternate version of a draft media law on October 21. By year's end, no draft law had been accepted by the Government for submission to Parliament.

During the year, almost all media outlets willing to criticize the President directly were subjected to intimidation, often in the form of law enforcement actions and/or civil suits. While these events continued to cast a chilling effect on all media outlets, criticism of government policies continued to be reported during the year.

The State Secrets Law makes it a criminal offense to release any information about the health, financial, or private life of the President, as well as economic information about the country such as the volumes of national mineral reserves and the amount of government debt owed to foreign creditors.

Officials used the law's restrictive libel and defamation provisions to force media outlets to refrain from publishing unflattering information. Both the Criminal and Civil Codes contain articles establishing broad libel liability. Owners, editors, distributors, publishing houses, and journalists were held responsible for the content of information conveyed and had the burden of proving its veracity, regardless of its source, which promoted self-censorship at each level. At times, fines for libel were exorbitant and bankrupted small media outlets.

Iskak Toksanbayev, a Petropavlovsk police colonel and the head of the regional MVD, filed a defamation suit against Vremya reporter Grigoriy Melnikov regarding a September 9 article that reported Toksanbayev had been fired after an incident during a drunken party. Toksanbayev demanded \$15,385 (2,000,000 KZT) in damages. In a separate incident in March, Melnikov initiated criminal charges against Berik Bilyakov, the head of an oblast (regional) criminal investigation division, for attempting to set him up in a fight in order to have him arrested. The case against Bilyakov was dismissed in September for lack of evidence. Melnikov stated the setup was in retaliation for his article criticizing Bilyakov. Bilyakov filed a lawsuit against Melnikov in Petropavlovsk city court for defamation. The defamation cases were ongoing at year's end.

On October 27, the joint stock company Khabar, headed by Dariga Nazarbayeva, filed a defamation suit against Altynbek Sarsenbaily, co-chairman of the opposition Ak Zhol party and former Minister of Information, in response to an October 1 interview in the weekly opposition newspaper Respublika, in which he accused

Khabar of monopolizing the media market and violating financial regulations. The Khabar company demanded a public retraction and \$7.58 million (1 billion KZT) in damages.

On July 16, an Almaty district court ordered the owner of weekly newspaper Assandi Times to pay \$384,615 (50 million KZT) in damages regarding a civil libel suit the Presidential Administration filed against the paper for defamation. On June 2, a forged issue of the Assandi Times was published with articles that discredited opposition leaders and suggested the “Kazakhgate” case being tried in a foreign country was based on false information provided by the President’s opponents. The day the false edition appeared, Assandi Times’ editors posted a statement on the opposition Navigator online news site suggesting that the Presidential administration had published the forged issue. The Presidential Administration filed a separate suit against Navigator; the Navigator case was dropped after a retraction was issued by the website. The amount of damages against Assandi Times was the highest ever set in a libel case. As a result, the Assandi Times was forced to cease publication in mid-July due to insolvency. By the end of the year, the damages assessed to Assandi Times had not been paid.

In mid-August, the former staff of the Assandi Times began publishing a new newspaper, Respublika: Delovoye Obozreniye. This marked the fourth time the newspaper’s name changed to avoid what the editorial and management staff considered illegal judgments against the publication.

On March 17, the Zhetysu district court in Almaty acquitted journalist Genadiy Benditskiy, of the national newspaper Vremya, of criminal libel, for lack of evidence. The charges were based on a complaint by former Minister of Energy Asygat Zhabagin, who objected to two articles Vremya published in 2003, which alleged that the organization that Zhabagin headed held bank accounts containing approximately \$1.58 million (2.15 million KZT) in state funds that had been allocated for another purpose.

Media outlets generally practiced self-censorship regarding information on the President and his family to avoid possible legal problems.

Most media did not report a 2003 story, which had been widely reported internationally, about an investigation into possible illicit payments, allegedly from foreign companies to senior government officials, including President Nazarbayev. Local media outlets, when they did report on the case, informally dubbed it Kazakhgate (see Section 3).

Some journalists alleged that the KNB or tax police threatened publishing houses if they printed opposition media; concern over criminal or civil proceedings influenced publishing houses.

The law defines websites based in the country as media outlets. During the year, the content of websites was subject to libel lawsuits and criminal charges. Independent web media reported that the Government periodically blocked clients of the two largest Internet providers, Kaztelecom and Nursat, from direct access to several opposition websites, including Evrasia, Navigator, and Kub, although access was still available through anonymous proxy servers.

The Government generally did not restrict academic freedom; however, as was the case for journalists, academics could not violate certain restrictions, such as criticizing the President and his family.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association; however, there were significant restrictions on these rights in practice. The Law on National Security defines as a threat to national security unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability.

Under the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. Opposition and human rights monitors complained that complicated procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations, and reported that local authorities, especially those outside Almaty, turned down most applications for demonstrations in central locations. Organizers of unsanctioned gatherings, including political party gatherings, frequently were detained briefly and often fined (see Section 3).

On September 8, during an unsanctioned rally in the central square in Almaty, approximately 50 members of the opposition party Democratic Choice of Kazakhstan (DCK) approached the office of Dariga Nazarbayeva, daughter of President Nazarbayev and leader of the pro-Presidential party Asar (“All Together”), to challenge her to a debate. Police detained eight of the activists for a few hours, and fined them a nominal sum.

In September, DCK received a permit to hold another rally, co-sponsored by the Communist Party, as part of series of national rallies leading up to the September 19 parliamentary elections. However, the permit specified that the rally could take place only at a site on the outskirts of Almaty; DCK and the Communist Party instead staged the rally in the center of the city. Several DCK activists were taken to court, though no fines or penalties were levied. There was a separate report of the detention of an activist in Aktau city, who was fined and released after taking part in a concurrent, but unsanctioned, DCK/Communist rally in Aktau.

In early October, the DCK-Communist bloc attempted to get permits to stage demonstrations in cities across the country to protest election results. The protest was to take place on October 2, prior to run-off parliamentary elections. All requests for permits were denied by akimats, the local municipal governments.

Any public organization set up by citizens must be registered with the MOJ, or its oblast branches. Participation in nonregistered public organizations can result in administrative or even criminal liability, such as fines, dissolution, probation or imprisonment. Although authorities often did not object to groups that failed to formally register, in some instances the prohibition on unregistered organizations provided the pretext for authorities to interfere with the activities of organizations. Membership organizations, including religious groups, must have 10 members to register at the local level and branches in over half of the oblasts for national registration. Political parties and labor unions were considered membership organizations, but had specific registration requirements. The law requires parties to have 50,000 members, including 700 in each region and prohibits parties established on an ethnic, gender, or religious basis (*see* Section 3).

The Constitution prohibits members of the armed forces, employees of national security and law enforcement organizations, and judges from participating in trade unions or political parties.

During the year, organizations were charged a fee to register as new organizations. Many organizations had to hire lawyers or other consultants to expedite registration through the bureaucracy, which increased the registration cost considerably. Some groups considered these costs to be a deterrent to registration.

On September 21, a law went into effect simplifying registration procedures for legal entities, including membership and nonmembership organizations (*see* Section 2.c.). The new law provides that registration be granted within 10 days instead of 15. The law introduced a one-window procedure in which the MOJ is the sole agency to which the entities must apply; previously, legal entities had to register with the MOJ, the Agency on Statistics, and tax agencies, with each agency requiring a separate package of registration documents. Initial reports indicated that the registration process was more streamlined in practice.

On February 4, Kakharman Kozhamberg, leader of the Association of Uighurs, reported he had been fined for holding an illegal meeting of an unregistered association when the association attempted to reorganize itself as a political party in a meeting in Almaty in July 2003.

The Government maintained that Hizb ut-Tahrir, a banned Islamic organization, is an extremist group. Although Hizb ut-Tahrir maintained that it was committed to nonviolence, the party's strongly anti-Semitic and anti-Western literature called for secular governments, including in the country, to be replaced by a world-wide Islamic government called the Caliphate. The Government does not consider Hizb ut-Tahrir to be a religious organization and characterizes the handing out of pamphlets by Hizb ut-Tahrir members as incitement for political and terrorist purposes. On several occasions during the year, authorities detained Hizb ut-Tahrir members for distributing literature. More frequently than in previous years, authorities filed charges against these individuals, and courts convicted several of them, generally for inciting social, national, tribal, racial, or religious hatred. In other cases, however, alleged Hizb ut-Tahrir members simply continued to be held in custody for brief periods and then released. During the reporting period, there were no reported cases of government officials harassing observant Muslims under the guise of combating Hizb ut-Tahrir activities, other than those actively engaged in pamphleteering. (*see* Section 2.c.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this in practice; however, local officials attempted on occasion to limit the practice of some nontraditional religions. Higher-level officials or courts often intervened to correct such attempts. There existed general wariness within the population, particularly in rural areas, of nontraditional religions.

The Constitution defines the country as a secular state. While on several occasions in previous years the Government unsuccessfully sought to amend the National Religion Law to give the Muslim Spiritual Association a quasi-official role,

both the Government and the association denied any official connection between them.

The Government invited the leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in some state events. The leaders of the Catholic and Jewish religions, which were represented by small proportions of the population, also participated in some official events. Leaders of other faiths, including Baptists, Adventists, and other nontraditional groups, have at times also participated in some government events.

In contrast to laws governing other public associations, the National Religion Law does not explicitly require religious organizations to register with the Government (*see* Section 2.b.); however, religious organizations must register to receive legal status in order to act as a legal entity to buy or rent real property, hire employees, or engage in other legal transactions. Unlike in previous years, religious groups did not experience delays in registration; this was primarily due to the new law that simplified the registration procedure (*see* Section 2.b.). The Government exempted registered religious organizations from taxes on church collections and income from certain religious activities. The Government donated buildings and provided other assistance for the construction of new mosques, synagogues, and Russian Orthodox churches.

The administrative code allows national and local authorities to suspend activities or fine the leaders of unregistered religious organizations, although both legal experts and government officials had varying interpretations as to whether it supercedes the National Religion Law on the obligation of religious groups to register. In practice, some lower courts used the administrative code to sanction religious groups, but cases were generally overturned or dismissed.

Local officials, particularly in remote locations, often insisted that religious organizations register at the local level, despite the fact that registration at the national or the oblast level legally was sufficient to obtain the rights that registration offers.

Members of the Council of Churches of Evangelical Christians and Baptists reported that they were harassed by law enforcement for not being registered. Although the Council of Churches was reported to act as a legal entity, it has a policy of not seeking or accepting registration in former Soviet countries. During the year, as in the previous year, the Government dropped criminal cases and did not fulfill court orders that would have compelled congregations affiliated with the Council of Churches of Evangelical Christians and Baptists to register. In Nikolayevka, Almaty Oblast, Aleksandr Kalmakov was fined for his group's failure to register; he reported that court bailiffs harassed him to pay the fine early in the year, but still refused to pay the fine at year's end.

In July, Vilgelm Dik, a member of the Council of Churches of Evangelical Christians and Baptists, was found guilty of violating the Administrative Code by not registering, and was fined. On February 12, the city court of Karatau in Zhambyl Oblast tried Asan Abylkanov, also a member of the Council of Churches, and fined him \$49.48 (6,433 KZT) for conducting a religious service without registration. Neither Dik nor Abylkanov had appealed or paid the fine by year's end; their respective congregations maintained their refusal to register.

In an October 6 report, the national Jehovah's Witnesses Religious Center stated that its members were generally able to freely practice their religion without interference; however, the Center reported isolated problems. Although local Jehovah's Witnesses groups are formally registered at the national level and in 12 oblasts, the Center has attempted unsuccessfully to register in a northern Kazakhstan Oblast since 1997 and in Atyrau Oblast since 2001. In 2003, the MOJ ordered its Northern Kazakhstan Oblast branch to register the group; however, it had not done so by year's end.

Although the Hare Krishna movement was registered at the national level, followers faced continued local government and police harassment during the year. On August 27, the Hare Krishna community in Almaty Oblast held an annual convention with foreign guests. The community filed a formal request to hold the gathering with oblast authorities 2 weeks before the event began, but received no response. The Hare Krishna community reported that seven foreign invitees were briefly detained and released with a warning for violation of the immigration law. However, unlike in previous years, no Hare Krishna followers were deported. During this weeklong gathering, law enforcement representatives visited the convention on a daily basis, conducting health, sanitation, and other inspections of the premises to ensure compliance with the law.

Law enforcement authorities conducted inspections of religious groups throughout the country, claiming the right to do so as a means of preventing the development of religious extremism and ensuring that religious groups pay taxes. Where religious groups operated as legal entities, such as running collective farms and restaurants

or operating orphanages, authorities conducted health, sanitation, and other inspections relevant to the nature of the entity's operations. These inspections also provided the authorities with information about the registration status of the groups, even when the inspection appeared reasonable given the nature of the group's operations.

According to Hare Krishna leaders, the authorities made frequent inspections of the Krishnas' settlement outside Almaty. In September, the Hare Krishna farm was the subject of 11 inspections by different government agencies including the police, fire protection service, sanitary agency, environment protection agency and land committee, and subsequently fined for different violations of the law. The Hare Krishnas admitted several violations, which they attempted to rectify, but reported that they had been subjected to closer scrutiny than their neighbors, who were generally not subject to inspections. Notwithstanding these inspections, Hare Krishna leaders reported that in general, conditions for their community improved during the year.

The Council of Churches of Evangelic Christians and Baptists reported that a church service in Arkalyk was disrupted on April 18 by local police, who videotaped the service without the congregants' permission. No other disruptions of religious services were reported during the year.

The national Jehovah's Witnesses Religious Center alleged continuing incidents of harassment by a number of local governments. It claimed that city officials sometimes blocked the group from renting stadiums or other large public or private sites for religious meetings.

The law does not prohibit foreign missionary activity. Although the law is unclear on whether missionaries were required to register, there were no reports of officials requiring missionaries to register during the year.

On October 1, the media reported a conflict between missionaries from Missionary Center Grace Rakhim and local Muslims in a village in Akmola Oblast. The missionaries, who identified themselves as Presbyterian Christians, were threatened, beaten, and exiled from the village when they preached to local inhabitants in an attempt to convert them.

There were no reports of incidents of anti-Semitism by the Government. In August, the Chief Rabbi of Kazakhstan addressed an international religious conference in Brussels, stating that in his 10 years living in Kazakhstan, he had never faced a single case of anti-Semitism, and he praised the Government for its pro-active protection of the Jewish community. Other than the actions of members of political organization Hizb ut-Tahrir, who printed and distributed leaflets that supported anti-Semitism among other beliefs, there were no reports of anti-Semitic incitement or acts during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, in practice, citizens were required to register to prove legal residence and obtain city services.

Citizens and foreigners in the country for more than 5 days were required to register with the migration police. Registration in most of the country generally was routine, but it was often difficult to register in Almaty and Astana due to local officials' fears of overcrowding. Persons who were suspects in criminal investigations were often required to sign statements that they would not leave their place of residence. Many individuals were detained for identity checks without suspicion of a criminal offense (see Section 1.d.).

Although the Government did not require exit visas for temporary travel of citizens, there remained certain instances in which exit from the country could be denied, including for travelers subject to pending criminal or civil legal proceedings, unserved prison sentences, or compulsory military duty. Travelers who presented false documentation during the exit process could be denied, and travel by active-duty military was controlled. The Law on National Security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

The Constitution prohibits forced exile, and the Government did not employ it.

The Constitution provides for the right to emigrate and the right to repatriate, and the Government generally respected these rights in practice; however, the Law on National Security prohibits persons who had access to state secrets from taking up permanent residence abroad for 5 years after leaving government service. A permanent exit visa was required for emigrants and obtaining this visa required criminal checks, credit checks, and letters from any dependents concurring to the exit

visa. Many individuals reported that without travel agency assistance, obtaining permanent exit visas could take several months.

Foreigners were required to have exit visas, which they received routinely with entry visas. Foreign visitors were required to register, either with airport immigration officials or local migration police. Immigration authorities occasionally fined foreigners without proof of registration before allowing them to leave the country.

Foreigners were required to obtain prior permission to travel to some border areas with China and cities in close proximity to military installations. The Government continued to declare certain areas closed to foreigners due to their proximity to military bases and the space launch center; however, foreigners could visit these areas with prior permission from the MVD.

The Government accorded special treatment to ethnic Kazakhs and their families who fled during Stalin's era and wished to return. These returnees were in principle entitled to citizenship and many other privileges. Other persons, including ethnic Kazakhs who were not considered refugees from the Stalin era, such as the descendants of Kazakhs who moved to Mongolia during the 19th century, had to apply for permission to return. It was government policy to encourage and assist all ethnic Kazakhs living outside the country to return. The Chair of the Agency for Migration and Demography reported that between 1991 and April 1, approximately 322,500 ethnic Kazakhs, including returnees, immigrated to the country, mostly from other former Soviet republics, Iran, Afghanistan, Mongolia, Turkey, China, and Saudi Arabia. The Government maintained a quota for returnee families that increased annually; during the year it was 10,000. The Government struggled to find resources for integration programs for those who arrived outside the quota. The Government helped provide families with housing, stipends, and other benefits and international organizations and local NGOs assisted in these efforts.

There were reports that the Government did not always extend benefits to returnee family members who were not of ethnic Kazakh origin. An international NGO reported that unskilled returnees who returned faced difficulty in finding work and housing.

Returnees were automatically eligible for citizenship; however, the prohibition on dual citizenship prevented many of them from receiving it immediately. Applications for citizenship generally took 6 months to process. According to Migration Police statistics, 48,731 out of approximately 73,000 ethnic Kazakh returnees, whose families had fled during the Stalin era, and who had returned since independence, had received citizenship by August.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has not established a system for providing protection to refugees. The absence of legislation to fully implement the Convention left many aspects of refugee status unclear, such as whether refugees had a right to work. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status, but not asylum.

The Government registered asylum seekers and determined their status, in consultation with the U.N. High Commissioner for Refugees (UNHCR). Only the President can grant political asylum, and he did not do so during the year. In some cases, asylum seekers and refugees were allowed to stay in the country while the UNHCR found third countries that would accept them. Nonpolitical asylum claims could theoretically be processed anywhere in the country; however, in practice, claims continued to be processed only in Almaty.

The Agency for Migration integrated the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, into the process of reviewing refugee claims. By November, the UNHCR estimated that there were fewer than 16,500 refugees in the country, including 13,700 Chechens from Russia and 2,500 from Afghanistan. The remainder included Palestinians and Uighurs from China, among others.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The Government allowed the UNHCR access to detained foreigners to determine if they qualified for refugee status and in practice was generally tolerant in its treatment of local refugee populations, except for citizens from former Soviet republics. Migrants from former Soviet republics were not considered to be refugees because they could ostensibly travel and settle freely within the Commonwealth of Independent States (CIS). The Government often did not allow refugees without passports or those who had entered the country illegally to register; in practice, it restricted registration almost exclusively to refugees from Afghanistan.

The Government struggled to deal with the increases in immigration, and periodically engaged in heavy-handed campaigns to round up noncitizens who violated mi-

gration procedures. According to a U.N. reporting agency, the Government deported large numbers of migrants each month.

The Government also provided temporary protection to individuals, including some Afghan refugees who may not qualify as refugees under the 1951 Convention/1967 Protocol. Consistent with the Minsk Convention on Migration within the CIS, the Government did not recognize Chechens as refugees; however, the Government, in cooperation with the UNHCR and Chechen organizations, did grant indefinite but temporary legal resident status to Chechens until they could return home to safe conditions. In March 2003, the Government established a new temporary registration procedure for Chechens; however, reports persisted that Chechens did not have the same access to registration as others, and often resorted to paying bribes to local officials to obtain registration.

The Government had an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors remained concerned with the impact of this agreement on Uighurs from China in the country, although there were no reports of Uighurs forcibly returned to China during the year. The Government did not consider any asylum claims by Uighurs; however, it allowed the UNHCR to resettle some Uighur refugees to other countries during the year. In contrast to previous years, there were no reports of Uighur disappearances or questionable repatriations during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for a democratic government with universal suffrage for those over 18 years of age; however, in practice, the Government severely limited the right of citizens to change their government.

The Constitution concentrates power in the presidency, granting the President considerable control over the legislature, judiciary, and local government. The President appoints and dismisses the Prime Minister and Cabinet. Appointment of the Prime Minister, but not of cabinet members, is subject to parliamentary consent. Presidential appointments of the Procurator General and the KNB Chief require the consent of the Senate. The President has the power to dismiss Parliament and to appoint judges and senior court officials. The President also nominates, subject to parliamentary approval, the chairman and members of the Central Election Commission (CEC), who oversee presidential and parliamentary elections. The Parliament has never failed to confirm a presidential nomination. Modifying or amending the Constitution effectively requires the President's consent. President Nazarbayev was elected to a 7-year term in a 1999 election that was held nearly 2 years earlier than scheduled and fell far short of international standards.

The bicameral Parliament consists of the Mazhilis, the lower house, and the Senate, the upper house. Seats in the Mazhilis are filled by direct election, while seats in the Senate are chosen by oblast (regional) councils called Maslikhats. Maslikhat members are directly elected by constituents.

President Nazarbayev signed a new election law on April 15. According to an assessment by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), the amendments to the law represented considerable progress in terms of transparency, formation of more pluralistic election commissions, and creation of more equal conditions for candidates; however, the OSCE assessment called for further improvements to fully meet the country's international commitments for democratic elections, especially with regard to remaining limitations on civil and political rights. Areas for improvement included continuing limitations on candidates to campaign, limitations on rights of observers, vague provisions for invalidating election results, and lack of sufficient guarantees for inclusive representation on election commissions.

On September 19, elections were held for all seats in the Mazhilis, followed by runoff elections on October 3. In its assessment, the OSCE/ODIHR elections observer mission determined that although elections reflected improvements over previous parliamentary elections, the process fell short of international standards and a number of aspects of the new election law were not implemented in an effective and impartial manner. Some domestic monitors found the election violations to be worse than previous parliamentary elections, citing violations of electoral legislation and abuse of voter lists, multiple voting, vote count problems, and interference of local authorities. However, other domestic groups found that irregularities did not appear to alter election results.

The OSCE noted the following areas of concern: Deregistration of candidates due to apparently politically motivated criminal convictions or administrative reporting violations; unequal access to election commissions for opposition party representatives and nontransparent behavior of commissions; media bias in favor of

propresidential parties; ineffectiveness and lack of transparency in the appeals process; problems with counting and tabulation, including reports of protocols being altered or rewritten, and failure to publish final results broken down by polling station; improper pressure on voters; and haphazard introduction of electronic voting, which led to discrepancies in voter lists in parallel paper voting. The Constitution requires that results be published within 10 days; however, the CEC did not publish the results of the elections until October 31. Independent monitors stated that the final published results varied substantially from exit poll data and from preliminary CEC reports. Several opposition groups filed suits seeking vote recounts and claiming violations in television coverage; the suits remained pending at the end of the year.

There were some improvements in the conduct of the September Mazhilis elections, including improved voter education efforts and information campaigns and the extension of legal rights for domestic elections observers; however, these rights were not always observed in practice.

Although the law stipulates that the media must provide equal coverage of all parties, international and local elections observers and opposition parties cited strong media bias in favor of pro-administration parties, in terms of editorial content and access to advertising. Observers reported that this bias was most evident in the high percentage of television news coverage given to the President's Otan party and his daughter Dariga's pro-presidential Asar party by the largest television networks, in each of which the Nazarbayev family owns either significant or controlling shares. The opposition also criticized the disproportionate number of paid political announcements for Otan and Asar on state-owned stations.

The OSCE noted that, unlike in previous elections, no media outlets were shut down in the period prior to the elections, nor were journalists prosecuted; however, a local media advocacy group, the International Foundation for Protection of Freedom of Speech (Adil Soz), documented 39 separate incidents of journalists being denied access to information about the elections or being prohibited from covering voting or vote-counting, rights which are provided for by law.

During the year, 12 political parties were registered, including 3 denied registration in previous years (Democratic Choice of Kazakhstan (DCK), the Communist People's Party of Kazakhstan (CPPK), and Rukhaniyat). In addition, two blocs were registered: The Agrarian and Civic parties formed the Agricultural-Industrial bloc, or AIST; the Communist Party and DCK formed an opposition bloc. International observers reported that the role of political party participation increased in the lead up to the September 19 Parliament elections.

Joining a political party requires members to provide personal information, including date and place of birth, address, and place of employment. For many citizens, this requirement inhibited them from joining political parties. There were credible allegations that persons entering government service were required to join the propresidential Otan party. Prior to the September 19 Mazhilis elections, students and faculty at several educational institutions reported pressure from rectors or management to join the propresidential Asar party. There were credible reports that employers attempted to use their professional positions to force employees to join or vote for particular propresidential political parties. In one case, there were reports that a government official and leader in a propresidential party pressured a group of citizens who received benefits from the official's agency to vote for that official's party.

The Government restricted the functioning of the political opposition. On July 27, Bulat Abilov, one of five cochairmen of opposition party Ak Zhol, was convicted on criminal libel charges and received a suspended 1-year sentence, along with 2-years' probation, legally barring him from running in the September Mazhilis elections. On August 27, in a separate civil suit, Abilov was fined \$38,462 (5 million KZT) for causing "moral damage" to the plaintiff, M.P. Mukhtar Tinikeyev. Abilov had accused Tinikeyev in a television interview of both taking and offering bribes related to his selection to the Parliament.

On December 28, the Almaty Procurator began proceedings to liquidate DCK on charges that the party's December 11 statement, denying the legitimacy of the Government and calling for civil disobedience, undermined the security of the state and fanned social hatred.

Parliament exercised little oversight over the executive branch, although it has the constitutional authority to remove government ministers and to hold a no-confidence vote in the Government. Although Parliament must approve the state budget, the Constitution precludes Parliament from increasing state spending or decreasing state revenues without executive branch approval.

The executive branch exercises considerable power over the legislative branch. The President selected the date of the September 19 Mazhilis elections, pursuant

to constitutional requirements that the election take place not later than 2 months prior to the end of the 5-year term of the incumbent Parliament. On November 3, the President dissolved the outgoing Mazhilis, 1 month earlier than had been announced prior to the September 19 elections. Nearly all laws passed by Parliament originated in the executive branch. The executive branch controls the budget for Parliament's operations; it has not provided funds for members of Parliament to hire staff, a situation generally viewed as decreasing Parliament's effectiveness.

If Parliament fails to consider within 30 days a bill designated urgent by the President, the President can issue the bill by decree. Although in practice the President has never resorted to this authority, it gives him additional leverage with Parliament. While the President has broad powers to dissolve Parliament, Parliament can remove the President only for disability or high treason, and only with the consent of the Constitutional Council, of which the President appoints three of seven members.

Although Parliament continued to become more open by publishing some draft laws, some parliamentary debates, and in some instances, its voting record, many parliamentary activities remained outside public view. In October, the Mazhilis passed a draft of a controversial Law on Extremism; the Senate returned the draft to the Mazhilis for revision, where it remained at year's end. All parliamentary discussion and debate of the draft law was closed. At year's end, specific provisions of the draft law were not publicized.

Corruption was a serious problem, although the Government took measures to address it. Corruption was perceived to be an increasing problem, especially prevalent among various law enforcement agencies.

According to government statements, police corruption was pervasive (*see* Section 1.d.). On April 18, employees of the Western Kazakhstan Oblast branch of the KNB were assaulted by three policemen in the course of an anticorruption investigation. According to media reports, the KNB employees were intending to arrest Yuri Horeshko, the chief of the Burlinsk District Department of Internal Affairs (MVD), in the act of taking a bribe. On November 22, three Burlinsk MVD officers were sentenced to 2 years in prison.

President Nazarbayev announced on May 14 that he supported toughening penalties for judicial corruption. On June 25, the MVD announced the creation of regional commissions to investigate allegations of police corruption that had been reported through national hotlines. The Minister reported that between June 2003–04, 300,000 public complaints had been received through the hotlines (*see* Section 1.c.).

In August, the President established a special commission to investigate complaints against law enforcement agencies. Representatives from the MVD, the State Security Service, the Procurator General, and Parliament served on the special commission (*see* Sections 1.c. and 3). In October, the special commission announced that it had investigated 34 complaints and punished officials in 12 of the cases. The other 22 complaints were determined to be unfounded. While many details of the cases remained unavailable, some of the complaints were reportedly related to court rulings.

The Constitution provides that the Government, public associations, officials, and media outlets should provide citizens with information that affects their rights and interests; however, in practice, citizens' requests for information, such as the text of draft laws before Parliament, were not fulfilled in a timely manner.

There were 3 women in the 39-seat Senate and 7 women in the 77-member Mazhilis. There were four women in the cabinet, one of whom served as deputy prime minister. There were no legal restrictions on the participation of women and minorities in politics; however, traditional attitudes hindered women from holding high office or playing active parts in political life (*see* Section 5).

There were 8 non-Kazakhs in the 39-seat Senate and ethnic minorities were represented in the 77-member Mazhilis. There was one non-Kazakh cabinet member and one non-Kazakh deputy prime minister.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, international human rights groups reported that the Government continued to control the work of NGOs that worked on sensitive issues, and noted harassment including police visits, arbitrary tax investigations, and surveillance of NGOs. NGOs engaged in democratization and civil society development reported harassment increased preceding the September 19 parliamentary elections and at year's end.

The Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) and the Almaty Helsinki Commission were the most active of a small number of local human rights NGOs.

The Government did not prevent international NGOs and multilateral institutions dealing with human rights to visit the country and meet with local human rights groups as well as government officials. However, at times, the Government used tax and other administrative investigations to question international NGOs operating in the country on their activities; NGOs perceived these actions as an attempt to restrict their activities in the country. In May, the U.N. posted an international human rights expert in Almaty as a regional adviser to provide advice and training to government officials. In June, the U.N. Special Rapporteur on Independence of Judges and Lawyers visited the country. The Special Rapporteur will present his findings and recommendations to the Commission on Human Rights in April 2005.

The Presidential Commission on Human Rights is a 15-member consultative and advisory body that includes members from the public. The Commission coordinates government responses to human rights concerns rather than investigating individual complaints from citizens, which is handled by the Human Rights Ombudsman. The Commission also monitors fulfillment of international human rights conventions. On March 15, the Commission announced that most of the human rights violations reported were related to labor rights. The Commission reported that in 2003 approximately 700 workplace complaints were filed (*see* Section 6).

The Human Rights Ombudsman investigates complaints by citizens of violations of their rights by state agencies, although the Ombudsman is not authorized to investigate complaints concerning the President, Parliament, Government, Constitutional Council, Procurator General, CEC, or courts. In December, the President issued a decree extending the powers of the Ombudsman's Office to include the authority to appeal to Parliament to resolve citizens' complaints, to cooperate with international human rights organizations and NGOs, and to participate in court proceedings where a violation of human rights is at issue.

During the year the Ombudsman gave regular briefings to the press and reported that since the establishment of the Ombudsman's Office in 2002, the Ombudsman received over 4,000 complaints, including 1,514 claims in the first 11 months of the year. Many of the complaints were regarding court rulings over which the Ombudsman had no jurisdiction. The Ombudsman reported that 85 percent of the complaints from 2003 could not be resolved, in large part because the office acts only in an advisory capacity. NGOs believed that the Ombudsman was influenced by the Government and downplayed cases. In May, a group of European Commission experts visited the country and recommended that the Ombudsman report to the Parliament rather than the President, as well as a greater delineation of responsibilities between the Ombudsman and the Presidential Commission for Human Rights.

On November 2, the President issued a decree to set up a National Commission on Issues of Democratization and Civil Society, which would report directly to the President. The Secretary of the Security Council, Bulat Utemuratov was selected to be Chairman. Leaders of all registered political parties were also asked to join the Commission; however, opposition party leaders declined to join. Some NGOs and political parties questioned the need for this Commission and proposed instead that existing mechanisms, such as the Ombudsman's Office, be strengthened and given more independence from the Government. The Commission had its first monthly meeting in December, and formed committees to address issues of modernization, program execution, decentralization, judicial reforms, civil society development, and increased empowerment of Parliament.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution states that no one may be subjected to discrimination for reasons of origin, social position, occupation, property status, sex, race, nationality, language, convictions, place of residence, or any other circumstances; however, the Government did not enforce this provision effectively. The Government favored ethnic Kazakhs in government employment and, according to many citizens, in the process of privatizing state enterprises.

*Women.*—Violence against women, including domestic violence, was a problem. There is no specific domestic violence law; however, it can be addressed under assault and battery provisions of the Criminal Code. The maximum sentence for spousal assault and battery is 10 years in prison, the same as for any beating.

In September, Aitkul Samakova, Chairwoman of the National Commission on Women and Family Affairs and Minister of Environmental Protection, reported that in 2003, over 25,000 crimes against women were officially reported to law enforcement and that the actual number of crimes was higher. In 2003 in the capital, Astana, on average 6 women appealed to police each day as a result of violence. In

June 2003, the National Commission on Women and Family reported that 64 percent of women have been victims of violent crime. A 2002 MVD survey found that 52 percent of women had reported some form of domestic abuse, with the highest incidence in rural areas, and only 30 percent of domestic violence cases were prosecuted. Police often were reluctant to intervene in domestic disputes, considering them to be the family's business, unless they believed that the abuse was life threatening. The MVD stated in November 2003 that spousal rape incidents, in particular, increased each year for the past several years. Police indicated that victims of domestic violence often asked only for officers to talk with their spouses. When victims did decide to press charges for domestic violence or spousal rape, police sometimes tried to persuade them not to pursue a case. When domestic violence cases did come to trial, the charge was most often for light beating, for which domestic abusers were sentenced to incarceration at a minimum security labor colony and a minimum of 120 to 180 hours of work. Sentences for more serious cases of battery, including spousal battery, ranged from 3 months' to 3 years' imprisonment; the maximum sentence for aggravated battery was 10 years' imprisonment.

The Government reported that in 2002 police had registered 2,710 domestic violence crimes, of which 2,307 were referred to courts. In 2002, 1,000 persons (including 152 women) were convicted for domestic violence crimes.

The punishment for rape, including spousal rape, ranges from 3 to 15 years' imprisonment. The Government reported that it opened 1,870 criminal rape cases in 2003, in which 1,490 convictions were obtained. The MVD stated in 2003 that spousal rape incidents increased each year for the past several years. Under the Criminal Procedure Code, procurators cannot initiate a rape case, absent aggravating circumstances such as gang rape, unless the victim files a complaint; however, once a complaint is filed, the criminal investigation cannot be dismissed if the rape victim recants or refuses to cooperate further with the investigation. This provision is intended to protect victims from coercion. In 2003, there were unconfirmed reports that procurators sometimes interpreted this provision to require rape victims to pay for forensic testing, pay the expenses of prosecution, and prosecute rape cases personally.

Prostitution is not prohibited by law; however, forced prostitution or prostitution connected to organized crime is illegal and acts facilitating prostitution, such as operating a brothel or prostitution ring, are illegal. Prostitution was a serious problem.

Trafficking in women remained a problem (*see* Section 5, Trafficking).

Sexual harassment remained a problem; however, the Government took steps to address it. The law prohibits only some forms of sexual harassment, and legal and gender-issue experts regarded the legislation as inadequate to address the problem. There were reports of incidents of harassment, but in no instance was the victim protected under the law nor were cases prosecuted.

The law prohibits discrimination against women, but traditional cultural practices limited their role in society and in owning and managing businesses or property. Women were underrepresented severely in senior positions in state enterprises and overrepresented in low-paying and some menial jobs. In 2003, the head of the National Commission on Women and Family noted that women's salaries were, on average, 62 percent that of men's. Women had unrestricted access to higher education.

*Children.*—The Government was committed to children's rights; however, budget limitations and other priorities severely limited the Government's effectiveness in dealing with child welfare.

Education is mandatory through age 16, or the 9th grade. Primary and secondary education was both free and universal. The law provides for equal access to education by both boys and girls.

The law provides for access to public education for refugee or illegal migrant children; however, in practice, many of these children are denied access to schools or their parents do not attempt to enroll them out of fear of discovery and deportation.

The law provides for medical care to be provided to indigent children, irrespective of gender, and care was provided in practice.

There were reports of child abuse, although there was no societal pattern of such abuse.

Trafficking in girls was a problem. (*see* Section 5, Trafficking).

There was one local NGO that worked with juveniles released from prisons.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons remained a problem. There was no evidence of a pattern of official complicity in trafficking, although corruption amongst law enforcement officials was widespread.

Although no one provision of the law specifically prohibits trafficking in persons, several articles of the Criminal Code cover several forms of human trafficking. In

July 2003, the law that criminalizes the recruitment of any person for sexual or other exploitation was expanded to include all forms of trafficking. Trafficking for exploitation is punishable by a maximum 2-year prison term; if a minor is involved, the maximum penalty increases to 5 years' imprisonment, and if the exploited person is transferred abroad, the maximum penalty is 8 years' imprisonment. The purchase or sale of a minor is a crime, punishable by up to 10 years in prison.

Prosecutions were rare, despite the fact that the Law Enforcement Coordination Council (under the leadership of the Procurator General) issued detailed guidelines in August 2003 to law enforcement and procurators nationwide on how to investigate crimes under particular sections of the Criminal Code. Despite an increase in investigations, convictions were rare due to inadequacies in criminal statutes; to prove a case of trafficking for sexual exploitation, the procurator had to show that the victim was unaware that she would be working as a prostitute.

The Ministry of Justice reported that 25 cases of trafficking in persons were investigated during the year. Of these cases, the MVD confirmed that they had undertaken 12 investigations under the trafficking for exploitation law during the year, compared to 6 cases in 2003. At year's end, three cases had resulted in criminal convictions, three were dismissed or suspended, one case was being tried, and five investigations remained ongoing. Under the article of the Criminal Code that relates to trafficking of citizens from other CIS countries, 13 investigations were launched, resulting in 9 trials and 6 traffickers convicted. Several arrests were made in connection with these investigations, many of which were reported in the press.

Procurators used articles of the Criminal Code such as those concerning illegal prostitution and kidnapping to charge suspects whose activities may have included trafficking. Several victims of trafficking lost a civil suit against a travel agency, which recruited them into trafficking, for breach of contract during 2003; however, the civil trial led to the arrest for trafficking for exploitation of the woman who ran the travel agency, and criminal charges were filed against her.

The Minister of Justice coordinated all of the Government's antitrafficking activities. During the year, an antitrafficking Commission led by the Minister that included the Internal Affairs Minister, the KNB Chairman, the Procurator General, the Foreign Minister, Education Minister, and the Presidential Commission on Women and Family developed a comprehensive National Plan to combat trafficking. Also during the year, an interagency working group drafted, in consultation with NGOs and international organizations, a set of amendments to the Criminal and Administrative codes to specifically address legislative gaps in the fight against trafficking in persons. At the end of the year, executive agencies had approved the amendments, which were scheduled for a May 2005 parliamentary vote.

The Government sought cooperation with authorities in both destination countries where its citizens were trafficked and in source countries of victims brought into the country. In 2003, the Ministry of Foreign Affairs issued instructions to its Embassies abroad to assist victims of trafficking. During the year, pursuant to the country's National Plan to Combat Trafficking in Persons, consular officers at the country's embassies abroad were given further directions on providing nonmonetary assistance in repatriation of trafficking victims. During the first 6 months of the year, the country's embassies helped 16 victims return to the country. There were no cases in which the Government was asked to extradite a person charged with trafficking in another country.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year, but NGOs estimated there were several thousand. Many NGOs reported an increase in victims over the past year, which may be attributed to more awareness of the problem. Through its antitrafficking program, the International Organization of Migration (IOM) registered 173 victims of trafficking, 86 of whom were trafficked abroad, 40 to the country, and 38 who were transiting the country. The IOM estimated an average of 5,000 citizens were trafficked per year. Individuals were trafficked to the United Arab Emirates, South Korea, Turkey, Greece, Cyprus, Western Europe, Israel, Russia, and Syria. They were trafficked from the Kyrgyz Republic, Uzbekistan, and Tajikistan.

Traffickers primarily targeted young women in their teens and 20s. According to NGOs, most women were recruited with promises of good jobs or marriage abroad. Travel, employment, and marriage agencies often recruited victims through advertisements promising lucrative jobs abroad. Offers to participate in international beauty contests also were used. Previously trafficked women reportedly recruited new victims personally.

There was also evidence that young and middle-aged men were trafficked from the country, either for sexual exploitation or for labor. On September 26, Astana TV reported on a group of 100 Uzbek workers trafficked in early spring to work at a

farm near Astana. According to one of the victims, the workers were trafficked by an organized criminal channel operating in Astana. The employers and their trafficker accomplices usually held the trafficked workers' passports during their stay in the country.

Many trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes, but not that they would be working in slavery-like conditions. Most trafficked persons traveled to their destinations on forged passports obtained abroad, most often from Russia or the Kyrgyz Republic.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials was widespread. In some instances, airport border guards may have taken bribes to facilitate travel of trafficked women. In Taraz, an employee of the local procurator's office was convicted of trafficking for exploitation, but received a light sentence. An NGO providing assistance to the victim reported receiving anonymous death threats related to the case.

The Government provided material assistance and physical protection to trafficked women who returned to the country in very limited circumstances; however, NGOs ran crisis support centers, under Memoranda of Understanding with the Government, that provided legal and material assistance and counseling. In some cases, the Government provided NGOs with reduced rate leases and other support. The Government enjoyed a good working relationship with NGOs in efforts to combat trafficking and assist victims, though financial funding is limited as there are no separate funds earmarked for trafficking victims.

Trafficking victims from other countries were often fined and deported if they entered the country illegally. There are no special provisions in the law to treat foreign victims of trafficking differently than illegal migrants. However, NGOs working with foreign trafficking victims reported government cooperation, in terms of providing administrative support for repatriation.

The IOM, in conjunction with 19 NGOs across the country, continued an information campaign on the dangers of trafficking and maintained victim hotlines. The MOJ maintained additional hotlines nationwide for trafficking victims to report crimes and to receive information. The MVD's Gender Crimes Division provided instruction to its units around the country on recognizing trafficking cases. MVD coordinated trafficking in persons training for officers around the country with experts from IOM.

The Procurator General's Office enforced mandatory licensing for tourist agencies and conducted inspections throughout the year to uncover agencies involved in trafficking. Many criminal cases launched originated as a result of these inspections.

The Government continued airing a series of public service announcements provided by international organizations. Some privately owned media outlets ran the series as well. During the year, the Government encouraged publicizing and reporting on antitrafficking efforts. In most regions of the country, NGOs reported that local officials and law enforcement were willing participants in training programs on trafficking and that officials have provided access to schools for the same purpose. The Government also supported training programs for judges and procurators on dealing with trafficking cases. During the summer, NGOs conducted training for public relations departments of procurators' offices, including a component on publicizing investigation and prosecution of traffickers.

The Ministry of Education reported that curriculum of all high schools and universities added trafficking awareness segments to be taught within The Basic Elements of the Law courses. According to the Ministry of Education, most universities set up information and analysis centers that will deal with trafficking awareness issues, among other topics.

The Ministry of Culture, Information, and Sports produced materials on trafficking that government-run media were required to cover in their reporting. The materials included details of antitrafficking efforts by government agencies, information on hotlines, analysis of risks for those offered a job abroad, and stories of families whose trafficked relatives never returned home. These publications also covered successful investigations of crimes and were designed to build trust with law enforcement. The Ministry of Culture, Information, and Sports encouraged all media outlets to carry publications on trafficking issues.

*Persons With Disabilities.*—There was discrimination against persons with disabilities in employment, education, access to healthcare, and in the provision of other state services. The law mandates access to buildings for persons with disabilities; however, the Government did not enforce it. There were some improvements to facilitate access in Almaty and Astana, such as wheelchair ramps. Although citizens with disabilities were entitled by law to government assistance, assisting persons with disabilities was a low priority for the Government.

Mentally ill and mentally handicapped citizens could be committed to state-run institutions, which were poorly managed and inadequately funded. Citizens with mental handicaps could be committed to institutions without their consent or judicial review; however, in practice, persons were generally committed at a young age by their families. The NGO KIBHR observed that the Government provided almost no care for persons with mental disabilities due to a lack of funds.

*National/Racial/Ethnic Minorities.*—According to the Government, the population consisted of approximately 54 percent Kazakhs and 40.4 percent ethnic Slavs (Russians, Ukrainians, Belarusians, and others), with many other ethnic groups, including Uzbeks, Germans, Tatars, Uighurs, Koreans, Azeris, Turks, and others represented. The Government continued to discriminate in favor of ethnic Kazakhs in senior government employment (*see* Section 3).

According to the Constitution, the Kazakh language is the official state language, although it also states Russian may be used officially on an equal basis with Kazakh in organizations and bodies of local self-administration. Most ethnic Russians believed that Russian should be designated as a second state language. The Language Law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages; however, the Government had insufficient funding available to make Kazakh-language education universal. The Government encouraged education of children in the Kazakh language but did little to provide Kazakh-language education for adults.

*Other Societal Abuses And Discrimination.*—Although there were no press reports or official statistics on sexual orientation discrimination, there were some unconfirmed reports of discrimination based upon sexual orientation. Human rights observers reported incidents of abuse against injection drug users and sex workers, which they felt impeded access to HIV prevention services.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to organize and form unions freely; in practice, however, the Government restricted the exercise of this right, with the result that most workers were not able to join or form trade unions of their choice. The Government exercised considerable influence over organized labor and favored state-affiliated unions over independent unions.

The largest trade union association, the Federation of Trade Unions (FTU), contained the vestiges of formerly state-sponsored trade unions established during the Soviet period, and remains affiliated with the state in practice. Two other trade union associations, the Confederation of Free Trade Unions of Kazakhstan (CFTUK) and the Trade Union Center of Kazakhstan, also represented significant portions of unionized workers. At least one third of the workforce is unionized.

To obtain legal status, a trade union had to apply for registration with the MOJ. The registration procedure followed largely that of other membership organizations (*see* Section 2.b.); branches of unions were each required to register at MOJ branches in each region in which they were active. The MOJ did not deny registration to any union during the year. Courts can cancel a union's registration; however, there were no such cases during the year. Unions must have a minimum of 10 members.

The Constitution prohibits the operation of foreign trade unions and prohibits the financing of trade unions by foreign legal entities and citizens, foreign states, and international organizations.

Under the Constitution, workers are protected against antiunion discrimination; however, in practice, there were violations of this right. Members of some trade unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. Trade union leaders have reported that some workers who were ostensibly fired for other reasons were actually fired in retaliation for union activity; however, there were no court cases filed on this basis during the year.

*b. The Right to Organize and Bargain Collectively.*—The law permits collective bargaining and collective agreements; and trade unions and associations engaged in collective bargaining in practice. Collective bargaining agreements were allowed as long as they did not reduce protections afforded to workers in individual contracts or under law. Trade union associations gave widely varying estimates of the percentage of member unions that had negotiated collective bargaining agreements.

If a union's demands were not acceptable to management, the union could present those demands to a tripartite commission, composed of the Government, employer associations, and labor union representatives. The tripartite commission is responsible for developing and signing annual agreements governing approximately 80 aspects of labor relations. The Labor Law provides for an individual contract between employers and each employee.

The Constitution provides for the right to strike, but exercising this right is subject to numerous legal limitations, such as a prohibition of strikes at workplaces that operate around the clock; there was a list of enterprises providing essential services where strikes were not permitted. A few unions and individual workers exercised the right to strike during the year, primarily to protest the nonpayment of wages and to recover back wages. According to the law, workers may strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. In addition, the law requires that employers be notified that a strike is to occur no less than 15 days before it commences. In December, amendments to the labor code removed the explicit right of employers to break a union and fire employees because they had participated in an illegal strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, except at the sentence of the court or in the conditions of a state of emergency or martial law, but there were reports that such practices occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 16 years; however, 15-year-olds may work without restriction if they have completed compulsory education, and 14 year-olds may work with parental permission if jobs do not interfere with education or pose a health risk.

Children between 14 and 16 years can only work with parental permission. The law stipulates harsh punishment for employers who exploit children under the age of 16. The Ministry of Labor is responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MVD is responsible for criminal offenses. Child labor was used routinely in agricultural areas, especially during harvest season; but abuse of child labor generally was not a problem.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of \$36.76 (5,000 KZT) did not provide a decent standard of living for a worker and family; however, it was common for working class families to have more than one wage earner and most workers earned above minimum wage in urban areas. The monthly minimum wage was slightly below the minimum subsistence wage of \$37.70 (5,128 KZT).

The Law stipulates the normal workweek should not exceed 40 hours. The Law limits heavy manual labor or hazardous work to no more than 36 hours a week, and requires overtime to be paid at a rate of no less than one-and-a-half times normal wages for hours over the normal workweek. The Law requires that overtime not exceed 2 hours in a calendar day or 1 hour a day for heavy manual labor. Overtime is prohibited for work in hazardous conditions. The Law provides that labor agreements may stipulate the length of working time, vacation days, holidays, and paid annual leave for each worker.

In December, the Government passed several labor code amendments intended to strengthen worker protections, including expanded rights for pregnant women, women with small children, and employees suffering from temporary disability.

The Ministry of Labor enforced minimum wages, work hour restrictions, and limits on overtime established under the Labor Law. Ministry labor inspectors conducted random inspections of employers to enforce all laws and regulations under their purview. In spite of these random inspections, labor advocates reported that some employers regularly violated these laws.

The Constitution provides for the right to safe and hygienic working conditions; however, working and safety conditions in the industrial sector were often substandard. Workers in factories usually did not have protective clothing, such as goggles and hard hats, and worked in conditions of poor visibility and ventilation.

On February 27, a Law on Safety and Protection of Labor was enacted, which places increased legal responsibility on employers for injuries and deaths in the workplace. Management largely ignored regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. In August, the Ministry reported a staff of over 400 inspectors. Although the frequency of inspections remained insufficient to provide fully for occupational health and safety, the number of fines, penalties, and warnings to employers increased. According to a news report, 315 persons were killed in 2003 due to unsafe working conditions, compared to 355 persons in 2002. The mining and metallurgy industry produced the highest number of occupational casualties, followed by the construction industry.

The Labor Law requires employers to suspend work where its continuation could endanger the life or health of workers and to warn workers about any harmful and dangerous work conditions and about the possibility of any occupational disease. Although the Law does not specifically grant the right of workers to remove themselves from situations that endanger their health or safety without jeopardy to their

employment, this right is considered to be implied by general legal provisions on worker safety, and workers' inability to refuse to work under unsafe work conditions was not a problem in practice. The Chairman of the Constitutional Council stated at a February conference that there were 115,234 violations of labor legislation in 2003, compared with 107,000 violations of labor legislation in 2002.

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## KYRGYZ REPUBLIC

Although the 1993 Constitution defines the Kyrgyz Republic as a democratic republic, President Askar Akayev continued to dominate the Government. Serious irregularities marred 2003 a national constitutional referendum as well as presidential and parliamentary elections in 2000. In October, nationwide local elections were generally free from governmental interference and opposition candidates and parties were allowed to participate freely in the political process, although domestic monitors reported serious irregularities in some districts. The Constitution provides for an independent judiciary; however, the executive branch usually dominated the judiciary.

Law enforcement responsibilities are divided among the Ministry of Internal Affairs (MVD) for general crime, the National Security Service (SNB) for state-level crime, and the procurator's office for both types of crime. Civilian authorities generally maintained control of the MVD and the SNB, and maintained full control of the State Border Guard Service (SBGS). Some members of the security forces committed serious human rights abuses.

The country had a partial market-based economy based on a mixed balance of agricultural and industrial production and a population of approximately 5 million. According to official statistics, gross domestic product grew by 7.3 percent. Unemployed workers, pensioners, and government workers with low salaries or unpaid benefits continued to face considerable hardship. According to official estimates, 40 percent of the population lived below the poverty level, although this figure continued to drop. Wages kept up with inflation.

The Government's human rights record remained poor; although there were improvements in several areas, problems remained. Citizens' right to change their government remained limited and democratic institutions remained fragile. Members of the security forces at times beat or otherwise mistreated persons, and prison conditions remained poor. Impunity remained a problem, although the Government took steps to address it during the year. There were cases of arbitrary arrest or detention. Executive branch domination of the judiciary as well as corruption limited citizens' right to due process. The Government occasionally restricted freedom of speech and of the press, and individuals and companies close to the Government used financial means to control numerous media outlets. The Government used bureaucratic means to harass and pressure some independent media as well as nongovernmental organizations (NGOs). Although human rights groups were generally allowed to work freely, and a government Ombudsman's Office continued to work actively to advocate for individual rights, the Government continued to occasionally harass and pressure some groups. Violence against women and children was a problem. Child labor and discrimination against ethnic minorities were problems. Trafficking in persons was a persistent problem.

During the year, however, the Government's human rights record showed improvement in some areas. Prison conditions remained poor but continued to improve during the year. Numerous MVD officials were dismissed or prosecuted for abuses or misconduct. Harassment of opposition groups and independent media, including honor and dignity lawsuits against newspapers, declined considerably, and the Government allowed several independent media outlets to begin operations. Although the Government occasionally restricted freedoms of assembly and association, in October, the Constitutional Court struck down provisions of the law on public assembly that were widely considered vague and too restrictive, while the number of demonstrations disrupted by police declined considerably. A new Electoral Code signed into law in January was a significant improvement over the previous code and was welcomed by domestic NGOs and opposition parties, although it still fell short of international standards. Citizens' right to choose their government showed some improvement through local elections held in October, which were widely seen as more transparent. The Government took steps to combat trafficking in persons, with prosecutions and convictions of traffickers up significantly from 2003.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, on October 24, Tashkenbay Moidinov died while in police custody in a police station in the Bazarkorgon district of Jalalabad Oblast. Police authorities claimed that Moidinov died of a heart attack during interrogation. However, an autopsy revealed bruises on his body. An investigation into the case continued at year's end.

In February, an official investigation determined that drowning caused the 2003 death of Ernis Nazalov, a journalist who had been investigating government corruption when he died under suspicious circumstances. Following this determination the investigation was closed.

Unlike the previous year, there were no deaths due to landmines.

The case regarding the March 2003 killing of 19 Uighur Chinese citizens on a bus remained under investigation and no arrests had been made by year's end.

In March, two men arrested for the killing of a Chinese diplomat in 2002 were extradited to China where they were subsequently executed.

Unlike the previous year, Uzbekistan border patrols did not kill any Kyrgyz citizens.

*b. Disappearance.*—On November 16, political opposition figure Tursunbek Akunov disappeared in Bishkek while heading for what he claimed was a meeting with representatives of the SNB. Two weeks later Akunov reappeared at a Bishkek hospital. Akunov claimed that he had been taken by representatives of the MVD and held in a basement for that period. Akunov further alleged that members of the SNB had also been involved in his disappearance. Both the MVD and SNB immediately denied any involvement in Akunov's disappearance. At year's end, an investigation continued into Akunov's disappearance.

On April 8, four Kyrgyz government officials were reportedly taken hostage and then released by a group of Uzbekistani farmers near the Kyrgyz town of Aksy as part of an ongoing dispute over contested farmland between Kyrgyz and Uzbek farmers.

No other cases of politically motivated or government-sponsored disappearance were reported during the year.

Local human rights advocates reported that there were 13 Kyrgyz citizens serving sentences in Uzbek prisons who were kidnapped from Kyrgyzstan by the Uzbek Security Services, noting that figures reported in previous years were most likely inflated. Most of these individuals had earlier lived and studied religion in Uzbekistan.

There were no developments in the 2003 disappearance of mullah Sadykjan Rahmanov, which investigators attributed to the Uzbek National Security Service.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police and SNB forces employed them. At times, police used beatings to extract confessions. There were some credible reports that police mistreated human rights activists and demonstrators while in detention. Conditions for pretrial detainees remained poor.

In January, police in Bishkek reportedly tortured Valentina Khasanova, a murder suspect, by repeatedly holding a plastic bag over her head until she fainted. When Khasanova's attorney threatened to investigate the case, the police warned her not to open an investigation. Khasanova was never charged with a crime and was later released by the police.

On January 30, police detained and beat six men in Jalalabad accused of possessing literature from the banned Islamist political organization, Hizb ut-Tahrir. All of the men were released after several hours, and one was later charged with possession and distribution of materials inciting ethnic or religious hatred; however, the charges were eventually dismissed. After the men filed an official complaint, one of the officers involved was charged and convicted of exceeding official authority and given a 1-year suspended sentence.

On April 15, human rights advocate Aziza Abdirasulova reported that she had been punched in the stomach while in police detention following her arrest for taking part in a demonstration in Bishkek. She was released the same day.

In June, an official of the opposition Ar-Namys political party, Darman Jorobekov, was detained for violating the public order and reportedly beaten by police in the city of Jalalabad. According to Ar-Namys, Jorobekov was released from detention the same day with apologies from the police for mistreatment. Jorobekov filed a lawsuit against the police, which was pending at year's end.

Unlike the previous year, there were no reports that police harassed asylum seekers or homosexuals.

Prison conditions were very poor and included overcrowding, food and medicine shortages, poor health care/disease prevention facilities, and lack of heat and other necessities. However, conditions continued to improve since the transfer of authority over prisons to the Ministry of Justice (MOJ) in 2002. Penal Reform International reported that both food supplies and medical services provided to inmates improved during the year. Both morbidity and mortality rates also declined, particularly that resulting from tuberculosis (TB).

Prisoners detained by the SNB were kept in SNB facilities; after conviction they were held in a regular prison. Conditions in SNB facilities tended to be better than MOJ facilities due to less crowding.

During the year, the MOJ worked with the ICRC to implement a successful nationwide TB program in prisons. However, in May the MOJ reported that 68 percent of prison inmates suffered from serious diseases such as TB, hepatitis, HIV infections, and sexually transmitted diseases (STDs). Throughout the year the DSPI worked actively with the International Committee of the Red Cross (ICRC) and NGOs to improve conditions at prisons and jails around the country, including seminars for prison officials on protecting the human rights of inmates and projects to improve hygiene and health care in prison facilities. For the first time, the Department Supervising Penal Institutions (DSPI) medical service was able to examine nearly all prisoners for TB. As a result, 2,937 persons were diagnosed with different forms of TB. The DSPI also reported that timely diagnosis and better treatment reduced TB death rates by 27.1 percent during the year (from 231 deaths in 2003 to 148). During the year, prisoners were also examined for STDs, including HIV/AIDS.

Pretrial detention facilities were extremely overcrowded, and conditions and mistreatment generally were worse than in regular prisons. However, during the year two new pretrial facilities were opened, one for women and one for men.

On February 22, Ulugbek Kadirov was found dead in his cell in an MVD temporary detention center in the town of Kara-Suu. An autopsy revealed that he had been beaten to death. Although the victim's family alleged that jail officials had killed Kadirov, the victim's cellmate confessed to the killing and was awaiting trial at year's end.

On March 19, an inmate in a pretrial detention center in Naryn died as a result of self-inflicted wounds. A group of inmates, including the victim, cut their wrists in protest during a jail riot. An investigation continued into the circumstances behind the riot.

Male and female prisoners were held separately. Conditions in the women's prison were less overcrowded than in those for men. Juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners.

The Government usually permitted domestic and international human rights observers to visit prisons; however, access for domestic monitors to MVD and SNB pretrial facilities generally worsened during the year. The ICRC was allowed to visit detainees in MOJ and SNB prisons and pretrial detention centers in accordance with the ICRC's standard procedures and was granted access to inmates on death row. According to Prison Reform International (PRI), the prison system generally became more open to both NGOs and the media during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, police at times used false charges to arrest persons and solicited bribes in exchange for release.

Within the MVD there are nine regional offices, one in each of the seven regions and the cities of Bishkek and Osh. Under them are town and local police departments. Regional offices and their sub-offices report to both the MVD and to their respective local authorities such as governors and mayors.

Impunity remained a problem; however, during the year numerous MVD officials were dismissed and prosecuted for various offenses, including corruption, abuse of authority, and police brutality. Police brutality was prosecuted under provisions regarding abuse of power and exceeding authority. According to the MVD, during the first 6 months of the year, 50 criminal cases were opened against 64 police officers, of which 28 were for abuse of power or exceeding authority; 4 criminal cases for malfeasance and fraud were initiated; and 16 police officers were punished for taking bribes. Disciplinary actions were taken against 1,100 MVD employees; 150 employees were fired and 69 demoted. The MVD reported that during the first 6 months of the year, 304 complaints were filed for abuse or illegal conduct by police officials; 101 of the complaints resulted in disciplinary action being taken against police officials. Corruption, particularly the payment of bribes to avoid investigation or prosecution, was a major problem at all levels of the law enforcement organiza-

tions. The Government took significant steps to address the problem of corruption in the police force (*see* Section 3).

The prosecutor general's office determined who could be detained, arrested, and prosecuted. The prosecutor general must issue an arrest warrant before a person may be detained, and there were no reports that this provision was abused. The Criminal Code permits law enforcement officials to detain suspects for 72 hours before releasing them or charging them with a crime, and this was generally enforced in practice. The Criminal Procedure Code requires notification of a detainee's family by the investigator within 12 hours of detention; however, this requirement often was not observed in practice.

Persons arrested or charged with crimes have the legal right to defense counsel; if a suspect was charged, the procurator was required to advise defense counsel immediately. Defense counsel is permitted to visit the accused within the first 3 days of incarceration; however, at times the accused did not see defense counsel until trial. Human rights groups noted that children who were arrested usually were denied lawyers. Police often did not notify parents of children who were arrested, and generally neither parents nor lawyers were present during questioning, despite laws to the contrary. Children often were intimidated into signing confessions. In March, President Akayev signed into law numerous changes in the criminal code, making statements obtained from suspects in the absence of an attorney inadmissible in court. Other changes require the presence of a suspect's attorney in order to extend a suspect's time in detention. The law also authorizes house arrest for certain types of suspects.

The procurator has the discretion to hold suspects in pretrial detention for as long as 1 year, but regulations provide for provisional release before trial. There was a functioning bail system. After 1 year, the prosecutor general is required to seek an extension from Parliament or release the suspect. There have been no known instances in which Parliament was asked to extend a detention.

Unlike in previous years, there were no reports that the Government used charges of economic crimes, such as tax evasion, in order to arrest its opponents.

The Government detained demonstrators (*see* Section 2.b.).

The Government continued to express concern about groups that it viewed as extremist with either radical religious or political agendas. During the first half of the year security forces investigated 40 persons and initiated criminal proceedings against 32 for possession or distribution of literature inciting ethnic or religious hatred. Most of those investigated were associated with the extremist Islamist political organization Hizb ut-Tahrir, an extremist political organization founded in 1953 in Jordanian-administered East Jerusalem and headquartered in London. Although Hizb ut-Tahrir maintained that it was committed to nonviolence, the party's strongly anti-Semitic and anti-Western literature called for secular governments, including in the country, to be replaced with a world-wide Islamic government called the Caliphate.

Although Hizb ut-Tahrir was banned, police officials have stated publicly that membership in the organization itself is not a crime. Rather, Hizb ut-Tahrir members charged with crimes were usually accused of possession and distribution of its literature (*see* Section 2.b.).

On March 29, the Government signed an extradition agreement with the Government of China. The agreement grants no exemptions for suspects who may face politically motivated torture or execution upon their return to China.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch continued to dominate the judiciary.

Lawyers and citizens commonly believed that most judges were open to bribes or susceptible to outside pressure, and low salaries remained a mitigating factor. The Constitution gives the President the authority to appoint judges at all levels, who must be confirmed by the lower house of Parliament. The President may dismiss judges on the Supreme Court and Constitutional Court only with the approval of a two-thirds majority of the lower house of Parliament. The Constitution provides that local laws determine provisions for dismissal of judges of local courts.

Cases originate in local courts and can move to appeals courts at the district or regional level and finally to the Supreme Court. There were separate military courts as well as a separate arbitration court system for economic disputes.

Amendments to the Constitution in 2003 designated the Supreme Court the highest judicial body for civil, criminal, and administrative judicial proceedings. The Constitutional Court has responsibility for determining the constitutionality of laws, resolving disputes concerning the interpretation of the Constitution, and determining the validity of presidential elections. The Constitutional Court cannot intervene with actions of the Supreme Court, except in cases related to the Constitution.

Only the President, Parliament, the Cabinet of Ministers, and the Central Election Commission can appeal to the Constitutional Court. The Court has specific authority to determine the constitutionality of activities by NGOs, political parties, and religious organizations.

Defendants are afforded the same constitutional protections in both military and civilian courts, although military court proceedings can be closed to the public. A civilian can be tried in a military court if one of the co-defendants is a member of the military. Military court cases can be appealed to a military appellate court and ultimately to the Supreme Court.

Traditional elders' courts consider property and family law matters and low-level crime. Local elders' courts are under the supervision of the procurator's office but do not receive close oversight since many are located in remote regions. However, decisions of elders' courts can be appealed to the corresponding municipal court.

The procurator, not the judge, is in charge of criminal proceedings. The procurator brings cases to court and tries them before a judge and two people's assessors. The court may render one of three decisions: Innocent, guilty, or indeterminate. If indeterminate, a case is returned to the procurator for further investigation, in which case a suspect may remain under detention.

The law provides for defendants' rights, including the presumption of innocence; however, such rights were not always respected. The judicial system continued to operate, in many cases, under Soviet laws and procedures in which there was no presumption of innocence and the focus of pretrial investigation was to collect evidence sufficient to show guilt. The Criminal Procedure Code provides for an unlimited number of visits of unlimited duration between an attorney and a client. Although official permission for such visits is required, such permission usually was granted.

The law permits defendants and the defense counsel the right to access all evidence gathered by the procurator, attend all proceedings, which were usually public, to question witnesses, and to present evidence. However, these rights were not always respected in practice. Witnesses did not have to present their testimony in court; instead they could affirm or deny their statements with the procurator outside of court. Indigent defendants were provided attorneys at public expense.

Feliks Kulov, leader of the Ar-Namys Party and former parliamentary and presidential candidate, continued to serve concurrent sentences of 7 and 10 years for abuse of power and embezzlement convictions in 2001 and 2002 that resulted from apparently politically motivated prosecutions. On August 5, Kulov was denied parole by an administrative commission at the prison where he was being held. On August 13, the Sokuluk District Court upheld the commission's decision. On November 19, the Supreme Court upheld a lower court's decision that Kulov will not be eligible for parole until November 2005.

There were no reports of other political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government at times violated these prohibitions. The law requires the General Procurator's approval for wiretaps, searches of homes, interception of mail, and similar acts; however, the procurator can give telephone approval for searches, which means that in such cases no written proof exists to verify that a search was approved. In certain cases, law enforcement officers can commence a search and then seek approval within 24 hours. If approval was not given, any evidence seized is inadmissible in court.

In January, five parliamentary deputies discovered listening devices in their offices. In May, a Parliamentary Commission set up to investigate the case released a report that accused the SNB of planting the devices and using them to track the activities of the deputies. As a result of the report, the Legislative Assembly passed a resolution calling on President Akayev to hold the responsible officials accountable and establishing a standing committee to oversee the activities of the security services. No action had been taken to follow up on the Legislative Assembly's resolution by year's end.

On May 14, officials from both the Kyrgyz and Uzbek security services were seen covertly videotaping worshippers at a mosque in Karasuu. The officers were detained by worshippers, who forwarded the tape to the Ombudsman, who then filed an appeal with the General Procuracy and the SNB. Neither the Procuracy nor SNB have taken any action on the appeal.

Unlike in previous years, there were no reports that the SNB conducted surveillance on representatives of the Uighur community. There were unconfirmed reports by citizens active in politics or human rights that their communications were monitored. The Government continued to conduct widespread document checks of some foreigners.

Relatives and fellow villagers of political prisoner Felix Kulov reported SNB surveillance, harassment, and loss of employment because of their alleged support for him.

Family members of Tynchtyk Duulatov, a member of the political council of the Ar-Namys party, reported that unidentified persons made harassing phone calls to their residence and that police visited them several times during the year (*see* Section 4). In May 2003, Tynchtyk Duulatov fled the country to avoid prosecution for kidnapping, charges believed to be politically motivated.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government occasionally restricted these rights. The Constitution also prohibits censorship or dictating what ideas and opinions citizens may express. The law on mass media prohibits the dissemination of government and commercial secrets; inciting war, violence, or intolerance toward ethnic or religious groups; desecration of national norms, ethics, and symbols; pornography; and encroachment on the honor and dignity of a person, the country's libel provision.

Government newspapers, television, and radio continued to receive government subsidies, which permitted the Government to influence their coverage and to apply financial pressure on independent media by fostering unfair competition for scarce advertising revenue. Individuals with close ties to the Government owned and controlled, in part or in full, several major news outlets.

There were approximately 40 to 50 regularly printed newspapers and magazines, 8 of which were state-owned, with varying degrees of independence.

The state printing house, Uchkun, was the primary newspaper publisher in the country, with several small presses located inside and outside of the capital. The nongovernmental Media Support Center (MSC), which the Government registered in 2002, opened an independent printing press in November 2003, which provided a competitive alternative to state-owned printing presses. By October, the press was printing over 50 commercial and political newspapers.

During the year, the Government registered several new independent radio and television stations and no independent media outlets were reported to have closed down for political reasons. In October, the State Commission for Radio Frequencies issued 5-year licenses to nine independent radio and television stations. There were 150 print and 54 broadcast media outlets functioning in the country at year's end. Pyramida television functioned as the only truly independent station in Bishkek, although in August observers expressed concern after a telecommunications company linked to the President's family bought a stake in the station. Foreign media, including the British Broadcasting Corporation, Associated Press, Reuters, and Agency France Press, operated freely. Foreign ownership of media is prohibited by law; however, there was a small degree of foreign ownership of media, through local partners. A number of Russia-based media outlets also operated freely in the country, although the Government considered them local media because they were registered with the MOJ. 21 During the year, harassment of journalists decreased; however, unknown persons continued to commit acts of violence and intimidate members of the media. In January, the Public Association of Journalists reported that a government newspaper Osh Shamy had received intimidating telephone calls from authorities in response to articles critical of the local administration. Later that month the Osh Shamy office was vandalized; the perpetrator was arrested but later released without charge due to a history of mental illness.

In April, unknown persons beat the 21-year-old son of Zamira Sydykova, editor of independent newspaper ResPublica, resulting in his hospitalization. Sydykova alleged the assault was in retaliation for critical articles in the newspaper.

In June, unknown persons made telephone threats to a local employee of the MSC, as well as to his family. There was some evidence to suggest that the calls resulted from a dispute between the employee and a former colleague from the MSC. The calls stopped after a few weeks.

In February, police closed an investigation into the 2003 death of journalist Erniz Nazalov after determining that Nazalov had drowned (*see* Section 1.a.).

All media were required to register with the MOJ and receive ministry approval to operate. The Media Law states that registration should take no longer than 1 month, but in practice the process often took much longer. Part of the process included background checks on each media outlet's owner and source of financing, including international donor organizations.

Although the Constitution prohibits censorship, government interference with independent television and radio stations continued. In September, an election official warned an independent television station in Karakol against airing a program on impending local elections. The station ignored the warning and broadcast the

program anyway, without incident. The Government used its financial control of various media outlets to indirectly censor reporting.

In March, Pyramida television was forced to broadcast at low power on a UHF frequency for 6 weeks after a transmitter fire. Although the Government claimed that technical issues prevented Pyramida from going back to its usual frequency, employees of the station alleged the Government attempted to keep the station off the air.

In August, the telecommunications company Areopag Trade, reportedly close to President Akaev's son, announced the purchase of an unspecified number of shares of Pyramida TV. Soon after the announcement, most of the top management and news staff left Pyramida for another independent TV station, NTS, which had not yet begun operating. NTS is reportedly owned by a Russian energy company. NTS received a broadcasting license but had not begun to broadcast by year's end.

Libel was a criminal offense. In June, the Parliament refused to pass government-sponsored legislation to decriminalize libel for a second time. During the year, a limited number of government officials used libel suits to harass and apply pressure on both independent and state-owned media. However, there was a significant decline in the use of honor and dignity lawsuits against newspapers by government officials.

Ombudsman Tursunbay Bakir-uulu filed four honor-and-dignity suits, two against the independent progovernment newspaper Vecherniy Bishkek and two against government-owned media outlets, alleging biased and subjective reporting about his work. The Ombudsman offered to drop the lawsuits if the newspapers printed retractions of their stories; however, the newspapers did not print a retraction and lawsuits were still pending at year's end.

In April, a journalist in Talas was sued by a local government official and was found guilty of criminal libel for accusing the official of embezzling funds. The journalist was ordered to pay \$240 (10,000 KGS) to the plaintiff.

In June, Parliamentarian Davran Sabirov filed honor-and-dignity lawsuits against two different independent newspapers. In one of the cases the court opened a criminal libel case against the accused journalist, who was eventually acquitted of all charges.

Vicherny Bishkek filed an antimonopoly complaint against Moya Stolitsa-Novosti (MSN) reportedly in an effort to stifle the independent press. The court initially ruled against MSN and ordered them to raise their prices; however, the decision was being appealed at year's end.

There are no laws regarding Internet media, and there were no credible reports that the Government censored or blocked access to the Internet. The opposition Ar-Namys political party reported that unknown persons hacked into its website, forcing its closure for 2 weeks.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, on occasion the Government restricted this right in practice.

The law requires that authorities receive notification of public gatherings and provides authorities the right to prohibit gatherings under certain conditions.

In October, the Constitutional Court overturned articles of the law on public meetings, which required citizens to get permits for public gatherings, and were widely regarded as vague and too restrictive. The Court ruled that the law was not in compliance with the Constitution, which states only that demonstrators must notify the Government in advance of their intention to demonstrate, rather than requiring governmental permission.

A draft law proposed before Parliament sought to ban all public demonstrations that were not registered 9 days in advance and to designate several government buildings and transportation routes off-limits for any demonstration. Observers noted this effort was to limit opponents' activity in preparation for 2005 elections.

Protests, rallies, and demonstrations were held regularly in front of the President's office, Parliament, and in other public places throughout the country. In most cases, demonstrations took place without interference from authorities. However, there was at least one instance in which security forces forcibly disrupted a demonstration or meeting.

On April 15, dozens of protestors gathered in Bishkek to call for the release of Feliks Kulov. Police arrested 18 protestors before a march commenced. Those detained were charged with holding an unsanctioned march, fined, and released; however, demonstrators later admitted that they had not provided authorities with advance notice of the march. One demonstrator alleged abuse.

Investors in the defunct Renton Company reported that they were denied permission to hold demonstrations 14 times throughout the year. On August 26, police reportedly detained two Renton Company investor demonstrators for 8 hours.

The Constitution provides for freedom of association; however, at times local authorities restricted this right in practice. The Law on Public Organizations, which includes labor unions, political parties, and cultural associations, requires that organizations register with the MOJ. No domestic NGOs were denied registration by the MOJ during the year.

The Constitution prohibits activities of foreign political parties and NGOs, including their representative offices and branches that pursue political goals. The OSCE expressed concern that this provision could limit domestic monitoring and human rights groups, in addition to political parties. During the year, foreign-funded NGOs were generally able to pursue their work free from government interference, although articles critical of some foreign-funded NGOs appeared in state-owned or progovernment media.

The law on NGOs distinguishes them from political parties, labor unions, and religious organizations. In contrast to political parties, NGOs require only at least 3 members. An estimated 7,000–10,000 NGOs operated across the country (*see* Section 4).

In 2003, the Supreme Court sustained a verdict of the Lenin District Court of Bishkek that banned four organizations it deemed to be extremist for alleged ties to international terrorist organizations: Hizb ut-Tahrir, Islamic Party of Turkestan, Organization for freeing Eastern Turkestan, and Eastern Turkestan Islamic Party.

Arrests and prosecution of persons accused of possessing and distributing literature of the Hizb ut-Tahrir organization continued during the year. Most arrests occurred in the South and involved ethnic Uzbeks; those arrested typically were charged for distribution of literature inciting ethnic, racial, or religious hatred. The MVD reported that during the first half of the year 32 persons were prosecuted for distribution or possession of Hizb ut-Tahrir literature.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions on freedom of religion, particularly the activities of Islamic groups that it considered to be extremists and a threat to the country. Islam was the most widely practiced faith.

By year's end, Parliament was still preparing a draft law on religion, under discussion since 2001.

The State Commission on Religious Affairs (SCRA) is responsible for promoting religious tolerance, protecting freedom of conscience, and overseeing laws on religion. Under the law, all religious organizations, including schools, are required to register with the SCRA, and each congregation is required to register separately. Several religious organizations reported delays registering with the SCRA. The majority of these were small Christian congregations and Islamic organizations. Religious organizations are also required to register with the MOJ to obtain status as legal entities, which is necessary to own property, open bank accounts, and otherwise engage in contractual activities. Under the tax code, religious organizations are required to pay taxes on commercial activities. The Ministry's registration process is cumbersome, taking a month on average. In practice, the Ministry did not register religious organizations without prior registration by the SCRA.

On May 14, officials from both the domestic and Uzbek security services were seen covertly videotaping worshipers at a mosque in Karasuu (*see* Section 1.f.).

In December, police raided houses in Osh and the Aravan and Nookat districts, areas of traditional Islamic beliefs, following a recent grenade blast in Osh in November. On November 20, police took four men into detention for failing to supply identity papers and one of the men allegedly threw a hand grenade to escape. Officials maintained the incident was perpetrated by Islamic extremists. Local human rights observers disputed these connections, and alleged that the incident was being used to discriminate against Muslims as well as the country's Uzbek minority.

The Government was concerned about political extremism it believed was disguised as conservative Islam, particularly Wahhabist interpretations (*see* Section 2.b.).

Law enforcement authorities, including the MVD and the SNB, often played a role in investigating religious organizations and resolving inter-religious disputes. Representatives of smaller churches, such as the Church of Jesus Christ, complained of government attempts to hamper their activities.

In 2003, Asan Erkinbayev, a local administration official in the Jalalabad region, closed 7 of the 9 mosques, claiming that they were on state-owned land and that their imams were preaching contradictory views. All of the closed mosques were con-

verted into commercial or public buildings. One of the mosques has since officially registered with the SCRA but remained closed at year's end. Despite complaints from government officials in Bishkek, Erkinbayev refused to reopen any of the mosques.

The Church of Jesus Christ reported that a number of ongoing bureaucratic and legal problems remained unresolved. However, in May the Church reported that the Tax Inspectorate officially closed its investigation into the Church's finances and dropped all demands that the Church pay taxes on donations. Although the Church of Jesus Christ recognized some positive results in obtaining registration of its affiliates, its officials continued to experience difficulties in obtaining the land title for its main church in Bishkek from the SCRA and the Mayor's office.

In July, a representative of the Hare Krishna Society reported that the Society had been repeatedly denied registration with the SCRA since 1996. In August, officials from the SCRA and Interior Ministry visited an apartment used by the Society for religious services. The SCRA officials told the Society that until it is officially registered with the SCRA it can no longer hold even unofficial services. The Hare Krishna Society hired a lawyer to help it with its pending registration.

Missionary groups were required to register with the Government and the SCRA reported that as of July, 166 missionaries were operating in the country. On April 5, a government decree and plan of action was signed instructing the SNB to propose measures to "restrict and prevent the activities of missionaries who propagate religious fundamentalism and extremism and reactionary and Shiite ideas."

Among the proposed groups to be restricted were members of the Ahmadiyya community, a Muslim proselytizing movement, which originated in India and is considered un-Islamic by many traditional Muslims. In May, SCRA officials assured the Ahmadis that their inclusion was a mistake and that the Government would not target the group. There have been no reports of harassment of Ahmadis since May.

Female students who attended public schools continued to be forbidden from wearing religious headscarves (hijab) while in school. The SCRA stated that students who chose to wear clothing that indicated adherence to a particular religion should attend religious schools.

At two schools in the Jalalabad region, two girls were told not to wear the hijab to school; however, when the girls disobeyed the order, no action was taken to stop them and the girls continued to wear the headscarves to school at year's end.

The Government expressly prohibits the teaching of religion and alternate subjects in public schools. However, attendance of religious schools was permitted.

On June 28, Prime Minister Tanaev announced that the Government would create a special board to review religious literature, noting Hizb ut-Tahrir. The Prime Minister had not yet signed the order and no action was taken to create the special board.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, certain policies continued to complicate internal migration, resettlement, and travel abroad.

The law requires that citizens have an official government permit to work and settle in a particular area of the country. Applicants for such a residence permit must file a request for registration with the local police and be able to prove that they have a permanent residence in the area. Homeowners can only legally sell their property to buyers with such permits. Local administrations also tied the availability of utilities and social services to registration; individuals who did not register could be denied access to water, heat, light, subsidized health care, or schooling. Unlike the previous year, there were no reports that law enforcement agencies conducted sweeps and random checks to verify registration of residents. Authorities fined or imprisoned individuals without residence permits.

The law does not provide for or prohibit forced exile, and there were no reports that the Government employed it in practice. The president of the Kyrgyz Committee for Human Rights (KCHR) went into self-imposed exile abroad in May 2003 (see Section 4).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commission on Refugees (UNHCR) and other international humanitarian or-

ganizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

As of August 1, the UNHCR reported that there were 363 Afghan refugees and 128 Afghan asylum seekers, 5,543 Tajik refugees, 308 Chechen asylum seekers, 5 Uighur refugees from China, 5 Iranian refugees, 4 Iraqi refugees, and 6 Syrian refugees registered with the Government. According to the UNHCR and the Ministry of Foreign Affairs Migration Services Department, authorities provided temporary protection to Chechen asylum seekers. The Government did not grant Chechen refugees official refugee status but allowed them to obtain asylum seeker status, which provided them with some legal protection.

During the year, 14 Afghan refugees were voluntarily repatriated back to Afghanistan. In September, nearly all of the remaining Afghan refugees registered with the UNHCR and the Government either were voluntarily repatriated or accepted resettlement in third countries where they received asylum.

According to the UNHCR, Uighurs remained at risk of deportation or extradition, particularly if they were involved with political and religious activities in China.

The UNHCR maintained programs to provide medical aid, legal advice, and other services to refugees. The UNHCR also worked closely with the Government to develop documents for legal protection.

The Government controlled the movement of some foreign nationals and conducted sweeps in order to find undocumented foreigners. During the year, a total of 13 undocumented foreigners were reportedly arrested for visa violations. Of the 13 arrested, all were released without charges after intervention by the UNHCR. During the year, refugees and asylum seekers continued to be subject to heightened security measures.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully; however, in practice, the Government restricted citizens' ability to do so. President Akayev continued to dominate the Government.

A constitutional referendum held in 2003 was highly flawed and marred by serious irregularities, as were parliamentary and presidential elections held in 2000. During the referendum, election observers noted widespread electoral violations and disputed the Government's turnout and vote count figures. Observed violations included: Manipulation of the ballot count, forged voting results, multiple voting, and voting without supporting documents. There were many occasions in which election officials prevented independent observers from monitoring the election process.

The amended Constitution further increased the President's powers. Under the Constitution, he has a virtual veto on any legislative act and additional powers to dissolve the legislature and dismiss members of the Government, as well as immunity after leaving office. Despite constitutional limitations, Parliament demonstrated a degree of independence by initially rejecting one candidate for a cabinet post and by voting against the President on several important pieces of legislation. According to the Constitution, the Parliament may override Presidential vetoes, which it has done on occasion in the past. The Constitution provides for parliamentary elections every 5 years.

In October, nationwide local elections took place generally without government interference and opposition candidates and parties were allowed to participate freely in the political process; however, domestic observers reported that serious irregularities on election day, including vote tampering, intimidation of voters, and multiple voting, marred voting in some areas. Independent and opposition political parties and NGOs took advantage of provisions in the new electoral code allowing for their participation on electoral commissions. Their participation took place generally free from government harassment or interference; however, progovernment political parties dominated representation on electoral commissions. Several candidates in local elections noted that the new \$24 (1,000 KGS) fee imposed on potential candidates for election was too high for many candidates in poor areas.

During the year, there were 43 registered political parties. The Government occasionally sought to impede the functioning of opposition political groupings and the expression of opposition views in the media (*see* Section 2.b.). Some opposition politicians and members of prominent NGOs reported incidents of harassment.

On March 8, unknown persons beat Yuri Natochiy, a member of the opposition Ar-Namys party, near his house in Bishkek. After repeated requests by Natochiy and Ar-Namys, police opened an investigation into the case on April 1, resulting in the arrest of one person who was awaiting trial at year's end. On the same day, an unknown person threw a rock through a window on Natochiy's house.

On January 24, President Akayev signed a new election code into law. Domestic NGOs and opposition parties largely saw the new election code as a significant improvement over the previous code. The new code incorporated numerous suggestions from the OSCE and NGOs to improve transparency as well as NGO and political party participation in the electoral process. However, the OSCE determined it did not meet international standards due to vague provisions that could be used to restrict candidate, media, and party rights. There was no report of the Central Election Commission (CEC) using the code to this effect during the October local elections.

The CEC refused to register a number of the country's former ambassadors as candidates for upcoming 2005 parliamentary elections, based on a constitutional requirement that candidates for Parliament must have spent the previous 5 years in the country.

Corruption remained a serious problem at all levels of society. However, the Government took significant steps to address the problem. In February, President Akayev created a Good Governance Council, which was tasked with implementing a Government anticorruption program. In March, the Parliament passed legislation requiring government officials to disclose all sources of income.

The law gives persons the right to request information from the Government, and the Government generally complied with such requests but sometimes took a long time to do so.

There were 7 women in the 105-seat legislature. Women held several high-level government posts, including the Chief Justice of the Constitutional Court, the Minister of Justice, the Vice Prime Minister for Social Welfare, the Minister of Labor and Social Welfare, and the Governor of Issykul Oblast.

There were 19 minorities represented in the 105-seat legislature. Russians and Uzbeks were underrepresented in government positions, although members of minority groups held several top posts, including the Prime Minister, Minister of Agriculture, Minister of Defense, and Minister of Justice. Russian-speaking citizens alleged that a ceiling precluded promotion beyond a certain level in government service. They also alleged that some otherwise qualified candidates were disqualified in elections in previous years on the basis of exams, the fairness of which was questioned (see Section 5). In April, President Akayev signed a new language law requiring, among other provisions, that the President, Prime Minister, Speaker of Parliament, and a number of other unspecified public servants have proficiency in Kyrgyz; however, at the same time the President signed a decree delaying full implementation of the law until 2015 (see Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Human rights groups generally operated in a sometimes hostile environment and were faced with occasional government pressure to curtail their activities. Despite occasional harassment, the human rights groups faced considerably less pressure and harassment than in the previous year. The Government also made limited efforts to interact with some NGOs and most domestic independent human rights organizations were able to investigate and publish their findings on human rights cases.

Authorities at times made vague threats of criminal prosecution of or otherwise harassed high-profile activists involved in human rights and civil society NGOs and their family members.

For example, in April, three local NGOs reported that local security officials in Issykul region followed and harassed NGO representatives who were attempting to hold a series of roundtable discussions on human rights. In three villages in the region, local officials prevented the NGOs from holding roundtables altogether.

In July, unknown persons made threatening phone calls to the leader of the NGO Interbilim, Asiya Sasykbayeva, after she criticized the Government's handling of elections at a UNDP-sponsored election coordination meeting.

In September, police officials visited the home of a local employee of an international human rights NGO and later accosted the same person on the street after the employee published an article about torture in the country.

Members of the Kyrgyz Committee on Human Rights (KCHR) reported that police monitored their offices and frequently visited them asking questions about the whereabouts of KCHR president Ramazan Dyrlydayev.

Dyrlydayev remained in self-imposed exile in Vienna, saying he feared imminent arrest should he return to Kyrgyzstan. As of October, Dyrlydayev remained under investigation for undisclosed reasons, but no charges were filed.

On July 3, unidentified individuals broke into the house of Ainura Aitbayeva, Dyrlydayev's daughter, and assaulted her. Police immediately opened an investigation into the assault, but no arrests were made in the case by year's end.

A number of international groups reported on human rights problems in the country. The Government met with international NGOs regarding their work in the country, which was viewed as a positive step towards a constructive dialogue between the Government and NGOs. The Government generally cooperated with international governmental organizations.

The Ombudsman's Office, whose mandate is to act as an independent advocate for human rights on behalf of private citizens and NGOs, actively worked to advocate for individual rights. The Ombudsman has the authority to recommend cases for review to courts, including the Constitutional Court and Supreme Court. During the first half of the year, the Ombudsman's Office received 6,469 appeals, most having to do with official corruption. According to the Ombudsman, approximately one third of those appeals were resolved successfully. In July, the Ombudsman made two appeals to the MOJ regarding the case of Feliks Kulov, claiming that Kulov should have been eligible for parole in August.

Parliament's Committee on Human Rights drafts and approves legislation before it goes before the full Parliament. The Committee also reviews all draft legislation that has a human rights component. In addition, the Democratic Security Council under the President is nominally tasked with protecting human rights in the country; however, it remained relatively inactive during the year.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for the rights and freedoms of individuals and prohibits discrimination; however, in practice there was discrimination against women, persons with disabilities, and ethnic minorities.

*Women.*—The law specifically prohibits domestic violence and spousal abuse; however, violence against women remained a problem. Interior Ministry statistics indicated that during the year over 200 sexual crimes against women were reported, but actual figures were probably significantly higher. NGOs estimated the number could be up to ten times the reported figure. Some estimates indicated domestic violence constituted between 40 and 60 percent of all crimes committed against women. Many crimes against women were not reported due to psychological pressure, cultural traditions, and apathy of law enforcement officials.

Several local NGOs provided services for victims of domestic violence, including legal, medical, and psychological assistance, a crisis hotline, shelters, and prevention programs. Organizations involved with battered women also lobbied for new laws on domestic violence.

Rape, including spousal rape, is illegal. Activists noted that rape was more common, although it was not clear whether this was due primarily to increased reporting of attacks. There were 136 rapes reported during the first 8 months of the year, 92 of these cases resulted in prosecutions.

Although a law prohibits the custom, some rural inhabitants continued the traditional practice of kidnapping women and girls for forced marriage. One study indicated that up to one-third of ethnic Kyrgyz women living in the northern part of the country might be married against their will as a result of this practice. Many of the victims of forced marriage also reported to researchers that they were raped at the time that they were kidnapped. Cultural traditions discouraged victims from going to the authorities.

In December, the Government supported a NGO-sponsored Campaign Against Violence and Bride Kidnapping conducted for high school and college students, government officials, law enforcement officers, and medical personnel. Participating NGOs distributed information materials, produced television documentaries, performed a short play on bride kidnapping, and held discussions on domestic violence and trafficking in persons. NGOs reported an increase of calls to NGO antitrafficking hotlines following the campaign.

Prostitution was not a crime, although the Criminal Code outlaws the operation of brothels, pimping, and recruiting persons into prostitution, with penalties of up to 5 years. With no legal measures in place to regulate the industry, it was increasingly a problem.

Trafficking in women for the purpose of sexual exploitation and forced labor was a problem (*see* Section 5, Trafficking).

Sexual harassment is prohibited by law; however, it was a problem. Penalties range from fines to imprisonment.

The law gives equal status to women, and they were well represented in the work force, in professions, and in institutions of higher learning; however, discrimination against women persisted in practice. Family law prohibits divorce during pregnancy

and while a child is younger than 1 year of age. In February, the President signed a decree requiring analysis of all legislation from the point of gender equality. In November, the Government enacted an action plan to eliminate all forms of discrimination against women, based on the U.N. Convention on Elimination of Discrimination of Women, outlining activities and assigned government agencies responsible for implementation and reporting.

Women were prominent in law, medicine, accounting, and banking and played an active role in the rapidly growing nongovernmental sector. However, deteriorating economic conditions had a severe effect on women, who were more likely than men to lose jobs. Average wages for women were substantially less than for men. Women made up the majority of pensioners, a group that has particularly suffered as a result of the country's economic downturn. With the end of communism, traditional attitudes toward women reasserted themselves strongly in the countryside, where women were relegated to the roles of wife and mother, and educational opportunities were curtailed. Data indicated that women were less healthy, more abused, less able to work outside the home, and less able to dispose of their earnings independently.

The National Council on the Issues of Family, Women and Gender Development, under the President, is designated to address women's issues.

Over 200 NGOs dealing with women's problems operated in the country during the year. Women's organizations focused on violence against women, gender equality, women's reproductive health, women's involvement in politics, and education in women's rights.

*Children.*—The Government was generally committed to the rights and welfare of children; however, the Government lacked resources to fully address basic needs for shelter, food, and clothing.

The Constitution states that education is compulsory and free of charge for the first 9 years, or until age 14. The Law on Education and the Law on Protection of Children's Rights require that secondary education be free and universal; however, financial constraints prevented the Government from providing free basic education for all students. Families that kept children in public schools often had to pay burdensome administrative fees, despite the fact that charging such fees was illegal. Girls and boys attended school in equal ratios. In 2002, the primary school enrollment ratio was 98 percent for both girls and boys, according to UNICEF. The secondary school enrollment ratio was 75 percent for boys and 83 percent for girls. In 2003, only approximately 5 percent of students attending school dropped out during the year. The law penalizes parents who do not send their children to school or who obstruct their attendance; however, this law was only spottily enforced, particularly in rural areas. The Government has continued to fund the work of two programs to provide benefits for low-income children and children with disabilities, such as school supplies and textbooks.

The Government provided health care for children and boys and girls had equal access to care. According to UNICEF, the Government financed 18 percent of routine vaccinations. The system of residence registration restricted access to social services, including healthcare and education, for children that belonged to certain groups, such as refugees, migrants, internally displaced persons, and noncitizens (*see* Section 2.d.).

Child abuse continued to be a problem. Traditional social practices were inadequate to cope with social pressures that affect families.

Trafficking of children for the purposes of sexual exploitation and labor remained a problem (*see* Section 5, Trafficking).

There were increasing reports of abandonment due to parents' lack of resources to care for children, which led to larger numbers of children in institutions, foster care, or on the streets. State orphanages and foster homes also faced a lack of resources and often were unable to provide proper care. Some children too old to remain in orphanages were transferred to mental health care facilities, even when they did not exhibit mental health problems.

Child labor was a problem (*see* Section 6.d.).

Many children left home because of abusive or alcoholic parents or desperate economic conditions. The Government reported that the number of street children nationwide was approximately 2,000, although NGOs reported the number might be as high as 15,000. Approximately 80 percent of street children were internal migrants. Street children were detained and either sent home (if an address was known) or to a rehabilitation center or orphanage. The MVD maintained two centers, one each in Bishkek and Osh. The two rehabilitation centers were in poor condition and lacked sufficient food, clothes, and medicine.

Human rights groups and the Kyrgyz Children's Fund (KCF) monitored the condition of children and advocated for child rights. The Government's Commission on the Affairs of Under-Age Children worked as a focal point for the Government's activities to protect the rights of children and provided a forum for discussing and coordinating responses to children's problems.

The KCF had shelters in Bishkek and Issyk-Kul to provide food, clothing, and schooling for approximately 150 children. The Svetlii Put shelter received training assistance from UNICEF and cared for an average of 62 children per month during the year. The SOS Children's Village, funded by the Austrian organization Kinder Dorf International and other foreign and domestic organizations, also cared for approximately 120 orphans. In August 2003, the Meerim Fund established the Altyn Balalyk (Golden Childhood) Village.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within in the country. Trafficking remained a persistent problem and victims alleged that government officials facilitated, or were complicit in, trafficking. However, the Government made significant efforts to address trafficking including prosecuting several officials involved in trafficking and improving assistance to victims.

In 2003, the Government criminalized trafficking. Under the new law, trafficking in persons, including organizing illegal migration, is punishable by up to 20 years in prison. Other laws used to prosecute traffickers included kidnapping, trading in children, recruiting persons for exploitation, coercion into prostitution, rape, and deprivation of freedom. The maximum sentence for those prosecuted under these laws was 15 years. During the year, 51 trafficking-related cases were initiated, 12 of which were prosecuted under the new trafficking in persons law, resulting in a total of 16 convictions, 6 of which were under the new law. Prosecution was difficult due to victims' reluctance to file charges either out of fear, mistrust, or the social stigma attached to trafficking crimes.

In May, the Ministry of Internal Affairs officially opened a designated antitrafficking police unit. A National Council was responsible for coordinating government efforts to implement the 2002 Antitrafficking Plan of Action. Although the Government lacked adequate resources to implement many aspects of the program, it actively participated in and helped implement numerous NGO and other foreign-donor sponsored antitrafficking programs. The Government cooperated actively with both international organizations and other countries to combat trafficking in persons. Authorities developed antitrafficking cooperation with counterparts and maintained close working level relations with a number of countries to combat trafficking. The General Procurator's Office, SNB, and MVD continued to cooperate with the NGO Sezim.

The Government actively investigated firms that sent individuals to work abroad to ensure they were in compliance with licensing laws. The director of the Osh Region Migration Service reported that five companies illegally recruiting migrant workers were closed down and that criminal proceedings were initiated against two of them. An NGO in Osh reported that two other firms were closed for illegally recruiting people to work in the United Arab Emirates (UAE), Russia and Belarus.

Inadequate training of law enforcement officers in identifying and fighting trafficking in persons hindered their ability to effectively combat the problem. In April, the Government provided new office space and began paying the salaries for the two staff members of the National Council's Secretariat.

The country was primarily a source and transit point for trafficked persons, although there were a few reports of the country being a destination for women trafficked as prostitutes. Although there were no reliable estimates for the number of persons trafficked annually, the International Organization for Migration (IOM) reported that approximately 4,000 women and 7 boys were trafficked abroad in 1999. The NGOs Podruga and Sezim reported that they received over 2,500 calls to hotlines during the year.

The country was a transit point for individuals trafficked mostly from Uzbekistan and Tajikistan to the West, mainly to Turkey and Eastern Europe. The exact number of those in transit was unknown. The country was a source for trafficked women and girls, largely to the UAE, Turkey, and South Korea for the purpose of sexual exploitation; of labor migrants to Kazakhstan, Russia, and South Korea; and for trafficked persons largely to Kazakhstan and Russia for forced labor. Since 2002 the number of individuals trafficked to Kazakhstan and Russia for work in the agricultural and industrial sectors has declined largely due to bilateral agreements with Russia and Kazakhstan on labor migration. In May, the Ministry of Foreign Affairs estimated that there were approximately 2,500 women from the country working

abroad in the sex industry, some of whom may be trafficking victims, the majority of them in the UAE.

According to the Osh Migration Service, hundreds of destitute southerners were trafficked to Kazakhstan as forced laborers on tobacco plantations, although this practice declined significantly since the signing of a 2003 bilateral labor agreement between the country and Kazakhstan.

There were some instances of trafficking of children, some as young as age 10, for prostitution and labor (*see* Section 6.d.). A flourishing commercial sex industry drew girls as young as age 10 from destitute mountain villages.

Groups targeted by traffickers included young under- or unemployed women who were unable to earn a living. Poor economic conditions, high unemployment, particularly in the South, and gender inequality made young women and poor workers vulnerable to traffickers who exploited them by offering lucrative jobs or marriage offers to rich men abroad. Often women were lured abroad, via newspaper advertisements or announcements over loudspeakers in local bazaars. Women responding to job offers for waitresses, au pairs, or dancers, or to marriage agencies could find themselves abroad without documents or money for return tickets and forced to work for their traffickers.

Traffickers were often persons who previously operated local prostitution networks. Relatives or close family friends were also reportedly used to recruit trafficking victims. Tour agents, restaurants, and nightclubs supplemented their activities by trafficking young women to foreign prostitution rings. Traffickers of persons for sexual exploitation included organized crime rings that often use former trafficking victims as recruiters. Labor trafficking was much less organized and often involved freelancers who simply load persons onto buses and transport them to the country for work on farms.

Endemic corruption impeded the Government's progress on trafficking. Victims reported highly organized trafficking operations that often involved the cooperation of local police, immigration officers, and airport security. Observers believed that some government authorities facilitated or have otherwise been complicit in trafficking activities. In February, Kyrgyz police arrested three persons involved in a trafficking scheme, including an immigration official and a former employee of the state passport department. Two of the three were charged under the new trafficking in persons law; the third individual was still under investigation at year's end.

The Government does not provide foreign trafficking victims temporary residence status or criminal immunity for violations committed as a consequence of their trafficked condition. There were no reports that the Government deported foreign victims of trafficking during the year. Many of those who transited the country were abandoned by traffickers and lived in hiding out of fear of being discovered by authorities. The OSCE and IOM reported that many of those who returned from commercial work overseas stated that they were forced to pay bribes to law enforcement officials to avoid imprisonment for having improper or falsified travel documents, although border authorities reported that Kyrgyz victims who admitted to the use of false documents or illegal entry into the country were not penalized.

According to NGOs, the Government did not directly assist trafficking victims, including those repatriated, with any special services or care facilities, but it increasingly referred returned victims to private shelters such as Sezim. In November, the Government provided a 10-room space for Sezim as a replacement of its previous shelter quarters, free of charge. Sezim provided shelter for 80 adults and 24 children. Numerous NGOs conducted workshops for law enforcement officers. A number of NGOs, including Women's Support Center, TAIS-Plus, New Chance Sezim and Podruga, provided legal, medical, and psychological counseling and assistance, and economic aid to trafficking victims. In addition to the Sezim shelter, in July an IOM-sponsored shelter for trafficking victims opened in Osh. Several NGO-sponsored media articles, public service announcements, and a traveling theater show publicized the dangers of working abroad, and posters on public transport raised public awareness of the problem. Numerous NGOs ran hotlines for victims.

The IOM, OSCE, various local organizations, and foreign governments sponsored various preventive programs, including antitrafficking public service announcements, roundtables, and workshops to increase awareness among the government, nonprofit, tourism, and media sectors. During the year, the IOM provided assistance to 24 victims. The Government carried out or participated in a number of antitrafficking and education campaigns.

*Persons With Disabilities.*—There was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services. The law mandates access to buildings for persons with disabilities; however, the Government generally did not enforce these provisions in practice. The

law provides for convenient access to public transportation and parking for persons with disabilities, subsidies to make mass media available to the hearing or visually impaired, and free plots of land for the construction of a home; however, in practice, few special provisions were in place to allow persons with disabilities access to transportation, public buildings, and mass media. In addition, persons with disabilities often had difficulty finding employment because of negative societal attitudes and high unemployment among the general population. The lack of resources made it difficult for persons with disabilities to receive adequate education. Social facilities for persons with mental disabilities were severely strained, due to low budgets and heavy workloads.

A mental health advocacy group reported that respect for the rights of patients as well as conditions within psychiatric hospitals improved during the year; however, serious problems remained. The Government was unable to provide basic needs such as food, water, clothing, heating, and healthcare, and facilities were often overcrowded. Inadequate funding played a critical factor. Patients were often admitted involuntarily, including children too old to remain in orphanages. Patients were engaged in forced labor on hospital grounds (*see* Section 6.c.). The NGO Mental Health and Society continued its work with the Ministry of Health to develop programs aimed at improving conditions in psychiatric hospitals.

The Government provided support to a network of enterprises operated by the Society for Blind and Deaf and education programs for persons with disabilities. Numerous NGOs worked to improve conditions and provide services for children with disabilities.

*National/Racial/Ethnic Minorities.*—There were reports of discrimination in the treatment of citizens who were not ethnic Kyrgyz. Minorities alleged discrimination, including from officials at all levels, in hiring, promotion, and housing. The latest statistical data released in August reflected the following ethnic breakdown of the population: 67.4 percent Kyrgyz; 10.3 percent Russian; 14.2 percent Uzbek; 1.1 percent Dungan (ethnic Chinese Muslims); and 1 percent Uighur. Other ethnic groups, including Tatars and Germans, comprised 6.0 percent of the population.

Low-level authorities at times harassed and discriminated against Uighurs. Some Uighurs reported discrimination in employment and negative societal attitudes and media coverage of their community, although there was a large number of Uighur-owned small businesses that operated without harassment during the year.

In May, an Uighur representative alleged that unknown persons had threatened him over the telephone and warned him to stop his work with the Radio Free Asia Uighur-language service. Since then he has reported no further threats. The threats were believed to be mostly media driven.

In December, police raided houses in Osh and the Aravan and Nookat districts, where a large Uzbek community resides, following a recent grenade blast in Osh (*see* Section 2.c.).

The Constitution designates Kyrgyz as the state language and Russian as an official language and provides for preservation and equal and free development of minority languages. Russian-speaking citizens alleged that a ceiling precluded promotion beyond a certain level in government service. They also alleged that some otherwise qualified candidates were disqualified in elections in previous years on the basis of exams, the fairness of which was questioned. The Government did not take any action on a 2002 request by ethnic Uzbeks requesting that Uzbek be granted the status of a state language. However, both Uzbek and Russian are widely used both officially and unofficially. In April, President Akayev signed a new language law requiring, among other provisions, that the President, Prime Minister, Speaker of Parliament, and a number of other unspecified public servants have proficiency in Kyrgyz. However, at the same time the President signed a decree guaranteeing certain rights of non-Kyrgyz speakers and delaying full implementation of the new law until 2015.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all workers to form and belong to trade unions, and workers exercised this right in practice. The Federation of Trade Unions (FTU) remained the only trade union umbrella organization in the country, although unions were not required to belong to it. The Federation has 1.024 million members, or 56.4 percent of the country's employed workforce. Growing numbers of smaller unions were not affiliated with the umbrella organization. One of the largest of these was the Union of Entrepreneurs and Small Business Workers, with a membership of approximately 50,000. The Federation must approve all draft legislation affecting workers' rights.

*b. The Right to Organize and Bargain Collectively.*—The law recognizes the right of unions to organize and bargain collectively; however, there were no cases of workers exercising this right during the year. The Government set the minimum wage, after which each employer set its own wage level.

While the right to strike was not codified, it was not prohibited; however, there were no strikes during the year.

There are Free Economic Zones (FEZs) that function as export processing zones. The minimum wage law does not apply to the approximately 4,250 workers in FEZs; however, all other labor laws apply.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Sections 6.d. and 5).

The press continued to report that citizens were forced to work without pay on tobacco farms in Kazakhstan, although this practice declined significantly since the signing of a bilateral labor agreement between the Government and Kazakhstan. A number of NGOs also reported that up to 250 Kyrgyz citizens were being held against their will in China as collateral for loans.

The director of the Osh Region Migration Service reported that five companies that illegally recruited migrant workers were closed down and that criminal proceedings were initiated against two of them. An NGO in Osh reported that two other firms were closed for illegally recruiting persons to work in the UAE, Russia, and Belarus.

There were reports that patients in psychiatric hospitals were routinely used for unauthorized labor on hospital grounds and as domestic service for doctors and local farmers. The patients allegedly did not have a choice to refuse and were only paid with food.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—On August 4, the Government passed a new Labor Code, which provides for the protection of children from economic exploitation and from work that poses a danger to their health, or spiritual, physical, mental, or academic development. The National Human Rights Program for 2002–10 also contains provisions aimed at eradicating exploitative child labor. According to the Labor Code, the minimum age for basic employment was 16, except for certain limited circumstances including odd jobs such as selling newspapers.

The new Labor Code eliminates previously contradictory requirements for the minimum age of employment of children in work that could harm their physical and moral well-being (such as employment in casinos, bars, and night clubs). In addition, a 2002 decree banned the employment of persons under 18 in a wide variety of categories of employment involving difficult or dangerous conditions, including such sectors as the metal or oil and gas industries, mining and prospecting, food industry, entertainment, and machine building.

For children between 14 and 15 years of age, the maximum daily hours of work is 5 hours, and for children between 16 and 18 years it is 7 hours a day. These laws also apply to children with disabilities who work.

Child labor was a problem and was still widespread both in towns and rural areas. According to participants in a 2002 conference on child labor, child laborers were prevalent in the following sectors: Tobacco, cotton, rice, cattle breeding, gasoline sales, car washing, shoe cleaning, retail sales of tobacco and alcohol. Families traditionally were large, and they considered it necessary at times for children to work at an early age to help support the family. Children also were involved in family enterprises such as shepherding, bread baking, selling products at roadside kiosks, and growing fruits and vegetables.

According to reports from various NGOs, child labor was particularly evident in the South. During the fall, classes were cancelled, and children were sent to fields to pick cotton. During the summer, children worked during the tobacco harvest and were involved in all steps of production. Schools required children to participate in the tobacco harvest, some fields were located on school grounds, and the income went directly to the schools, not to the children.

Internal trafficking of children for the purposes of sexual exploitation and labor remained a problem (*see* Section 5). Children were generally trafficked from poor rural areas to Bishkek and Osh.

The procurator's office and the State Labor Inspectorate were responsible for enforcing employers' compliance with the Labor Code laws. During the year, the State Labor Inspectorate had 54 inspectors throughout the country. During the first 6 months of the year, the General Procurator's Office conducted 17 checks, resulting in 5 written notifications, 10 demands for immediate action, 11 warnings, and 1 disciplinary action. Since many children worked for their families or were "self-em-

ployed" in such occupations as selling newspapers, pushing handcarts at markets, and selling cigarettes and candy on the streets, it was difficult for the Government to determine whether their work schedules and environment conformed to government regulations. The Legislative Assembly's Committees of Health Protection, Women and Family, and Education, Science, and Cultural Affairs oversaw the legal protection of the interests of minors whenever new laws were discussed in Parliament. Compliance with the labor code was enforced by trade unions. The Federation of Trade Unions also had the right to carry out child labor inspections when it received a complaint; there were no inspections during the year.

Given its budget constraints and lack of resources, the Government was unable to enforce child labor laws adequately. Although employers caught violating the Labor Code could be charged with disciplinary, financial, administrative, or criminal penalties, punishment was usually minimal.

The Government supported several social programs to prevent the engagement of children in exploitative child labor. Araket, a national poverty reduction program, provided financial support for low-income families. New Generation, a children's rights program, worked to define suitable working conditions for children and to introduce new methods of monitoring employers' compliance with labor legislation.

The Government undertook additional initiatives to help protect minors from forced labor; however, since the budget was facing severe funding constraints, many children who were entitled to receive help did not receive it.

*e. Acceptable Conditions of Work.*—The Government mandated national minimum wage of approximately \$2.30 (100 KGS) per month did not provide a decent standard of living for a worker and family. However, industries and employers generally paid somewhat higher wages. The Federation of Trade Unions was responsible for enforcing all labor laws, including the Law on Minimum Wages; minimum wage regulations were largely observed. Salaries in the health care field were among the lowest, averaging \$21.60 (943 KGS) per month. Although the enforcement of labor laws was nonexistent in the growing underground economy, market forces helped wages in the unofficial sector keep pace with official wage scales.

The standard workweek was 40 hours, usually within a 5-day week. For state-owned industries, there was a mandated 24-hour rest period in the workweek.

Safety and health conditions in factories were poor. A deterioration in enforcement of existing regulations continued to hamper investment to improve health and safety standards. The State Inspectorate of Labor was responsible for protecting and educating workers as well as informing business owners of their respective rights and responsibilities. The law establishes occupational health and safety standards, as well as enforcement procedures. Besides government inspection teams, trade unions were assigned active roles in assuring compliance with these laws, but compliance was uneven among businesses. The State Labor Inspectorate was tasked with carrying out inspections for all types of labor issues but rarely did so in practice. Workers had the right to remove themselves from workplaces that endangered their health or safety without jeopardy to their employment, and workers exercised this right in practice.

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## LATVIA

Latvia is a parliamentary democracy. The Prime Minister, as chief executive, and the Cabinet are responsible for government operations. The President, as head of state, is elected by the Parliament, and Parliament elected Vaira Vike-Freiberga to a second 4-year term in June 2003. The 2002 elections for the 100-seat Parliament and the September 2003 national referendum on accession to the European Union (EU) were free and fair. The Constitution provides for an independent judiciary; however, although there were some improvements during the year, problems remained, including inefficiency and allegations of corruption.

The security forces consist of the national police and other services, who are subordinate to the Ministry of Interior; municipal police who are under local government control; the Military Counterintelligence Service and a protective service, which are under the Ministry of Defense; and the National Guard, an element of the armed forces. Civilian authorities generally maintained effective control of the security forces. Some members of the security forces, including police and other Interior Ministry personnel, committed human rights abuses.

The economy was largely market-based, although some large utility companies remained in state hands, including the national electric company and railroads. The country has a population of approximately 2.3 million. Unemployment was 8.5 per-

cent in November; at year's end, the inflation rate was 7.3 percent; and the overall economic growth rate was 8.5 percent through September.

The Government generally respected the human rights of its citizens and the large resident noncitizen community; however, there were problems in some areas. Police brutality was a problem. Prison conditions remained poor, but facilities for long-term convicts continued to improve. Lengthy pretrial detention was a problem; however, the incidence declined somewhat. The judiciary did not always ensure the fair administration of justice. Societal violence against women remained a problem. Child abuse and child prostitution were problems. Trafficking in women and girls for the purpose of sexual exploitation was a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were reports that some government officials employed them. The Government took steps to address the problem.

In February, the U.N. Committee Against Torture expressed concern about “allegations of serious ill-treatment of persons which in some cases could be considered as amounting to torture, by members of the police, especially at the time of apprehension and interrogation of suspects.” The Latvian Center for Human Rights and Ethnic Studies (LCHRES) received allegations of severe abuse of persons in custody.

Accurate statistics on allegations of police brutality were unavailable. The Ministry of Interior reported that there were 183 complaints of police brutality in 2003 (including regional and national police forces); internal investigations confirmed 9 acts of abuse, and 12 police officers were punished. During the year, the State Police received 107 complaints of police brutality; investigators confirmed 8 incidents, and police officials punished 5 officers. On February 18, the State Police launched a criminal case against two police officers who beat two individuals apprehended for public drunkenness.

LCHRES expressed concern that victims underreported incidents of police brutality. In February, LCHRES conducted a study in which it operated an anonymous hotline to collect allegations of police brutality. Over a 3-day period, LCHRES received 283 complaints regarding police misconduct, 130 of which referred to police brutality. The Latvian National Human Rights Office (NHRO) received 11 written and 23 verbal complaints regarding misconduct during the year. The NHRO reported that the Ministry of Interior and police officials were cooperative in resolving complaints of police brutality, and the NHRO arranged for meetings between complainants and relevant law enforcement agencies where, according to NHRO officials, the Ministry of Interior collected testimony that it used to identify police officials guilty of abuse.

Prison conditions remained poor, despite renovations and improvements. Progress continued in renovating older facilities. Prisons also continued to be overcrowded; however, overcrowding declined somewhat from 2003. The prison hospital was a major concern, and the Council of Europe (COE) stated that placing inmates in Riga's dilapidated Central Prison hospital amounted to torture. There were 28 short-term facilities in the country designed to house detainees for no more than 72 hours, and both the COE and NHRO stated that conditions such as poor ventilation, and damp, dark, and unsanitary cells violated human rights standards in at least half of these centers.

Female prisoners were held separately from male prisoners, and juveniles were held separately from adults. Persons in pretrial detention (34 percent of the total prison population) had limited contact with outside nongovernmental organizations (NGOs) or family and suffered from considerably worse living conditions than prisoners in general. Pretrial detainees were held separately from convicted criminals.

The Government permitted independent human rights observers to visit prisons. Domestic groups, such as LCHRES, closely monitored prison conditions during the year.

Illegal immigrants were held at the Olaine Detention Camp for Illegal Immigrants. According to an LCHRES report, the camp's physical conditions were acceptable, but the detainees (numbering 10 in October) did not have access to information about their rights and had limited recreation opportunities.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The national police and other services, such as the Special Immigration Police and the Border Guards, are subordinate to the Ministry of Interior; municipal police are under local government control; and the National Guard, an element of the armed forces, also assists in police activities. Allegations of corruption and bribery within law enforcement ranks were frequent and affected the public's perception of police effectiveness. During the year, the State Police Internal Affairs Unit opened corruption-related criminal cases against 19 law enforcement officials, including 13 police officers for bribery; an additional 6 police officers were convicted of bribery.

The law requires the Prosecutor's Office to make a formal decision whether to charge or release a detainee within 72 hours after arrest. Charges must be filed within 10 days of arrest. The courts have responsibility for issuing arrest warrants. Detainees have the right to have an attorney present at any time. These rights are subject to judicial review but only at the time of trial. A bail system exists; however, it was infrequently used and applied most often in cases of economic crimes.

The law limits pretrial detention to no more than 18 months from the first filing of the case; however, lengthy pretrial detention was a problem, which the Ministry of Justice took steps to address. During the year, the court adjudicated cases for the majority (63.7 percent) of defendants facing criminal charges in fewer than 3 months; the court heard 80.5 percent of criminal cases in fewer than 6 months. The court imposed pretrial detention only in violent cases and where pretrial flight was a concern. Fewer defendants experienced pretrial detention of greater than 1 year compared to the previous year. During the year, the country initiated plea-bargaining for the first time. Prosecutors and defendants negotiated pleas and sentencing details in more than 700 cases during the year. The problem of lengthy pretrial detention of juveniles lessened, as courts enforced a 6-month limit for detaining juveniles prior to trial. Longer-term detention requires special circumstances and a court order. During the year, the number of minors in pretrial detention decreased to 116 from 239 in 2003.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, significant problems, including inefficiency and allegations of corruption, remained.

The judicial system is composed of district (city) courts; regional courts, which hear appeals from district courts; a separate Administrative Court adjudicates administrative violations; the Supreme Court, which is the highest appeals court; and the seven-member Constitutional Court, which hears cases regarding constitutional issues at the request of state institutions or individuals who believe that their constitutional rights were violated. For more serious criminal cases, two lay assessors join the professional judge on the bench at the district and regional levels.

Corruption in the judicial system was allegedly widespread. The Anti-Corruption Bureau (ACB) was active. During the year the ACB initiated 35 criminal cases, compared with 21 in 2003. During the year, the Prosecutor General's Office secured a conviction and 10-year sentence against one of its former prosecutors for accepting and soliciting bribes. The ACB arrested and launched a criminal case against another prosecutor for corrupt practices. The Prosecutor General dismissed the accused prosecutor, and the criminal case was ongoing at year's end.

Most judges had inadequate judicial training, and many of the judiciary's decisions were not enforced, due primarily to the lack of an effective bailiff or sheriff system. The law allows for alternative punishments, including community service, and the courts have been using this more frequently. In 2003, the courts sentenced 1,359 defendants to community service, compared with 183 in 1999. Through the first 6 months of the year, 755 defendants received community service sentences.

A time-consuming judicial process and a shortage of judges overloaded the courts. Concern about pretrial detention remained, but the incidence was falling. The NHRO received 108 complaints (including criminal and civil cases) during the first 6 months of the year regarding slow judicial proceedings.

Trials may be closed if government secrets might be revealed or to protect the interests of minors. All defendants have the right to hire an attorney, and the Government provided funds to indigent defendants for this purpose. Defendants have the right to read all charges, confront all witnesses, and may call witnesses and offer evidence to support their case. They also may make multiple appeals.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. The Press Law prohibits censorship of the press or other mass media; however, the Law on the Media contains a number of restrictive provisions regulating the content and language of broadcasts. During the year, the Constitutional Court overturned a law that had limited the hours of television programming that could be broadcast in languages other than Latvian.

The Government generally did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the authorities may not prohibit public gatherings; however, organizers of demonstrations must provide advance notice to local authorities, who may change the time and place of public gatherings for such reasons as fear of public disorder. The law also requires protesters to remain specified distances from foreign diplomatic missions, the Parliament, the Prosecutor's Office, and certain other public institutions. Independent human rights organizations argued that the law's provisions were contradictory and confusing. Nevertheless, numerous demonstrations took place peacefully and without government interference during the year.

In August, two NGOs staged a small, unauthorized protest in front of the Parliament against the country's nominee to the European Commission. The Administrative Court sanctioned the organizers. The President and other members of the Government criticized the NGOs, stating that their attempts to influence government decisions violated the Constitution and declared that if NGOs want to engage in politics then they should register as political parties. The NGOs expressed concern that these criticisms could dampen political expression or lead to self-censorship. Subsequently, the President publicly noted the important role that NGOs play in civil society.

The Constitution provides for freedom of association, and the Government generally respected these rights in practice; however, the law bars the registration of Communist, Nazi, or other organizations whose activities would contravene the Constitution. Noncitizens may join and form political parties, but there must be at least 200 citizens in the party, and at least half of the total membership must be citizens (see Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, bureaucratic problems for minority religions persisted.

There is no state religion; however, the Government distinguishes between "traditional" (Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish) and "new" religions.

Although the Government does not require the registration of religious groups, the law accords religious organizations certain rights and privileges when they register, such as status as a separate legal entity for owning property or for other financial transactions.

According to Ministry of Justice officials, most registration applications were approved once proper documents were submitted; however, the law does not permit simultaneous registration of more than one religious union (church) in a single confession, and the Government has denied applications on this basis.

Foreign evangelists and missionaries were only permitted to hold meetings and to proselytize if domestic religious organizations invited them to conduct such activities. Foreign religious denominations criticized this provision.

The law provides that only representatives of the Evangelical Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish religions may teach religion to students in public schools on a voluntary basis. The State provides funds for this education. Students at state-supported national minority schools also may receive education on the religion "characteristic of the national minority" on a voluntary basis.

In September 2003, vandals overturned tombstones and sprayed anti-Semitic graffiti on the walls of Riga's New Jewish Cemetery; national leaders condemned the act and city authorities quickly repaired the damage. There were no such incidents reported during the year.

The Latvian Nationalist Front, an extremist organization, published anti-Semitic statements in its newspaper, "Deoccupation, Decolonization, Debolshevisation" (DDD). The Ministry of Social Integration referred DDD to the Prosecutor's Office to evaluate whether the publication breaches laws against inciting ethnic hatred.

In October, a nationalist organization distributed a commemorative envelope bearing the likeness of a citizen aviation pioneer who also participated in the Holocaust. The Foreign Minister condemned the activity.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law stipulates that registered permanent resident noncitizens enjoy the right to establish and change residences, travel abroad, and return to the country, and provides for the issuance of a noncitizen travel document that certifies these rights; however, certain rights are denied to noncitizen residents (*see* Section 3). They are prohibited from working as armed guards or criminal trial attorneys. Noncitizens may own land only under complex procedures and may not purchase land in the border zones. The Government has readmitted noncitizens who claimed refugee status in a foreign country or who voluntarily abandoned their permanent residence and then decided to return to the country to live and work. Noncitizens who left the country as refugees during the Soviet era had no difficulty returning on foreign refugee travel documents for business reasons or for family visits. The Government also extends protections to noncitizen residents who travel abroad.

The law prohibits forced exile, and there were no reports that the Government employed it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return to a country where they feared prosecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

Special immigration police and border guard units helped prescreen asylum requests. Decisions of the Citizens and Migration Affairs Office may be appealed to the Asylum Appeals Board in the Ministry of Justice. In 2003, five persons (three from Egypt, one from Belarus, and one from Azerbaijan) sought but were not granted asylum, and there were eight persons in the country with refugee status. According to government statistics neither asylum nor refugee status was granted to any applicants during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Free and fair elections for Parliament were held in 2002, and the Parliament elected the President in June 2003.

In February, Einaris Repse resigned as Prime Minister. The President invited Indulis Emsis to form a new government. The Parliament approved Emsis' new minority government in March. The Emsis government collapsed on October 28 when the Parliament failed to support amendments to the budget. A new government under Prime Minister Kalvitis was formed in December.

The country entered the EU in May. In June, citizens elected representatives to the EU Parliament.

Only citizens have the right to vote in national and local elections. The Organization for Security and Cooperation in Europe's High Commissioner for National Minorities recommended that the country grant long-time noncitizen residents the right to vote in municipal elections. Noncitizens may join and form political parties, but there must be at least 200 citizens in the party, and at least half of the total membership must be citizens.

The election law prohibits persons who remained active in the Communist Party or various other pro-Soviet organizations after January 1991 or who worked for such institutions as the former Soviet Committee for State Security from seeking elected office. During the year, the European Court of Human Rights ruled that barring Tatyana Zhdanok, a citizen and former Communist, from running for Parliament violated the right to free elections and assembly and ordered the Government to pay her approximately \$28,000 (15,000 lats) in compensation. In June, voters elected Zhdanok to serve in the EU Parliament.

There was a widespread perception of corruption throughout all levels of the Government. The ACB initiated 35 criminal cases during the year (compared with 21

in 2003). In the most prominent corruption case, the Prosecutor General secured a conviction and 10-year prison sentence against a prosecutor.

A 1999 Cabinet of Ministers regulation provides a mechanism for public access to government information. The Government generally respected the regulation in practice.

There were 21 women in the 100-member Parliament, which was chaired by a woman. There were 4 women in the 18-member Cabinet of Ministers. The President was a woman. The Speaker of the Parliament was a woman.

Nonethnic Latvians, including ethnic Russians and Poles, served in various elected bodies. According to the Parliament's website, the 100-seat Parliament included 15 ethnic Russians, 1 ethnic Pole, 1 Jew, 1 Karelian, and 4 others who declined to list their ethnicity.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

NHRO is an independent governmental institution with a mandate to promote human rights, provide information on human rights, investigate individual complaints, and initiate its own investigations into alleged violations. The office acted as a general ombudsman on social issues and handled a variety of individual complaints, primarily concerning problems with receiving social benefits.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination due to race, gender, language, or disability; however, societal discrimination against women was a problem.

*Women.*—Observers reported that domestic violence was a significant and underreported problem. Victims of abuse often were uninformed about their rights and were reluctant to seek redress through the justice system. Human rights groups asserted that the legal system, including the courts, sometimes did not take domestic violence cases seriously, and that the police were often reluctant to make arrests in such cases.

There were no shelters designed specifically for battered or abused women. There are no specific rape or assault hotlines; however, NGOs managed two crisis hotlines.

The law specifically criminalizes rape but does not recognize spousal rape. During the year, the court convicted 54 persons on rape charges, 15 persons for sexual abuse, and 15 persons for sexual abuse of children under the age of 16. A local NGO, the Skalbes Crisis Center reported that rape laws were ineffective and stated that rapes were underreported due to a tendency by the police to blame the victim.

Prostitution is legal (although procuring is not), but the NHRO reported that adult prostitutes had no legal protections. Prostitution was widespread and often was linked to organized crime. According to the State Police's vice squad, 300 women in Riga worked regularly as prostitutes. The police further noted that prostitution was becoming less prevalent as the economy continued to grow. There were no state institutions to assist prostitutes; however, the private Latvian Center for Gender Problems provided medical help and social support for prostitutes.

Trafficking in women for sexual exploitation was a problem (*see* Section 5, Trafficking).

Sexual harassment of women in the workplace, although illegal, reportedly was common. Cultural factors tended to discourage women from coming forth publicly with complaints of abuse.

The law prohibits employment discrimination; however, in practice, women frequently faced hiring and pay discrimination, especially in the emerging private sector. The law puts the burden of proof in gender discrimination cases on the employer; however, NHRO reported that a lack of public awareness limited the law's effectiveness. The law also prohibits women from performing "hard jobs or jobs having unhealthy conditions," which are specified in a list agreed upon by the Cabinet and labor unions.

The law prohibits work and pay discrimination based on gender and requires employers to set equal pay for equal work. Some local NGOs questioned the ability of the Government to enforce gender equality laws, claiming that the police agencies responsible for enforcing such laws lacked the skills to do so.

*Children.*—The law on the rights of the child and constitutional provisions on children provide various protections, including health care and legal protections against physical abuse; however, these provisions were not enforced fully in practice. School-

ing is mandatory through the 9th grade, between the ages of 7 and 16, and free through the 12th grade, or age 18.

Abandonment and child abuse, including sexual abuse, were relatively widespread. NGOs reported that laws against child abuse were enforced effectively. Law enforcement authorities have won court suits to remove children from abusive parents and secured convictions in child molestation cases. Children who were from families that were unable to care for them had access to government-funded boarding schools that provided adequate living conditions; however, these schools offered lower educational standards than regular state schools.

The Dardedze Center Against Abuse in Riga continued to provide support to abused children. The center offered multidisciplinary treatment and rehabilitation to victims of child abuse and their families.

Child prostitution was a problem; however, police reported that, due to the imposition of severe penalties for rape and sexual exploitation of minors, the reported incidence of child prostitution sharply declined during the year. According to the police, previous estimates that 12 to 15 percent of prostitutes were between the ages of 8 and 18 were exaggerated and noted that there were only a few reported cases during the year. Nevertheless, legal protections for children were enforced rarely in the case of child prostitutes.

Trafficking in young girls for sexual exploitation abroad remained a problem (see Section 5, Trafficking).

There is a national Center for the Protection of the Rights of the Child. A few children's advocacy groups were active, particularly in lobbying for legislation to protect children's rights and for increased welfare payments for children.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women and girls remained a problem.

The law specifically prohibits "trafficking in persons"; however, most traffickers were prosecuted under a statute of the Criminal Code that prohibits sending persons abroad for sexual exploitation. The law provides for sentences of up to 15 years' imprisonment for trafficking in persons and for sentences of up to 6 years' imprisonment for sending persons abroad for sexual exploitation. During the year, the number of investigations into crimes related to trafficking increased. During the first 8 months of the year, a total of 13 persons were convicted, 11 of them received conditional sentences, which are similar to probation. Although there were severe penalties under the law against trafficking in persons, the courts in all cases only applied those sections of the law that criminalize pimping and alien smuggling for sexual exploitation and did not carry severe penalties.

Cooperation between the border guards, police, and NGOs increased and contributed to the effective control of the border areas. International cooperation in investigations and prosecutions was well established with Denmark and Germany. In comparison with previous years, cooperation with Swedish, Lithuanian, Estonian, and Finnish law enforcement agencies improved. The Border Guard Service managed an information database used to reveal trafficking trends.

On March 2, the Cabinet approved the National Action Plan to Combat Trafficking in Persons. A high-level working group on trafficking at the Ministry of Interior, including representatives from the State Police, Citizenship and Migration Department, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Welfare, the Ministry for Children Issues, and NGOs, was the principal government body implementing the action plan.

During the year, the working group successfully guided two amendments to the Criminal Law through the Parliament. The first amended the law to expand the definition of trafficking in persons to include internal trafficking. The second amendment made sending persons abroad for sexual exploitation a felony, increased the penalty under the law to 6 years' imprisonment, and made victims of the crime eligible for special protection. In addition, the working group made the Ministry of Interior's Mucenieki Refugee Center available as a shelter for trafficking victims, developed an anti-trafficking curriculum for high schools, and initiated a study of the problem of sex tourism in the country.

The country was primarily a source and transit point for trafficked victims. The main countries of destination were Germany, Denmark, Switzerland, and England. There were reports, including from the European Police Service, that trafficking in women and girls for prostitution abroad increased. Trafficking within the country also occurred, and women from poor districts were often trafficked for sexual exploitation to Riga, Liepaja, and Ventspils.

Traffickers, primarily organized criminal groups, usually lured victims through offers of false employment for jobs such as dancers, bartenders, and babysitters in European countries. A large number of victims were drawn from the economically de-

pressed areas of the country's eastern regions. While some victims were recruited through job advertisements or modeling and travel agencies, most victims were solicited through direct contact with traffickers. Traffickers often recruited their victims at cafes and clubs, and victims themselves recruited new victims for the traffickers.

There were some assistance programs, principally organized by NGOs and the International Organization for Migration (IOM); however, the Government recognized a need for more government involvement. The Council of Youth Health Centers continued its operations to educate adolescents regarding trafficking issues and to organize local working groups to combat trafficking in Riga and Liepaja. The IOM and several NGOs sponsored conferences on trafficking, and there were multiple anti-trafficking education campaigns. In addition, the IOM sponsored an aggressive advertising campaign warning of the dangers of accepting attractive employment offers from abroad. The IOM and others supported a project to invite high school and college students to screenings of the film *Lilya 4-Ever*, which depicts the life of a young trafficking victim.

The Government recognizes its responsibilities for the protection of trafficking victims in the National Action Plan to Combat Trafficking in Persons; however, lack of resources and competing budget priorities have limited its ability to provide direct assistance to trafficking victims. Currently, most assistance to trafficking victims comes from local NGOs. Marta Centers, operating in cooperation with the IOM and partially funded by foreign grants, offered assistance to trafficking victims in the form of crisis counseling, professional referrals, and reintegration assistance. The Government did provide its Mucenieki Refugee Center as a shelter for trafficking victims. At year's end, only 15 victims had sought available assistance.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

The law mandates access to buildings for persons with disabilities; however, most buildings were not accessible. Some larger cities, including Riga and Ventspils, have undertaken an extensive wheelchair accessible program at intersections.

No law documents the rights of persons with mental disabilities, nor is there a mechanism for appealing compulsory admission and treatment for mental illness. In March 2003, the LCHRES and the Mental Disability Advocacy Centre (Budapest) stated that "the review procedure for detention on grounds of mental disability fails to meet human rights standards, the criteria for compulsory admission into psychiatric institutions are too broad, and the provisions on consent to treatment does not meet international principles." The NHRO further stated that committed patients suffered abridged rights that prevented them from corresponding with relatives and placed arbitrary restrictions on freedom of communication.

*National/Racial/Ethnic Minorities.*—There was public debate about the existence of discrimination on the basis of ethnicity, particularly with respect to the country's language laws and education reforms, which Russian-speaking minority groups publicly criticized.

Approximately 1 million residents are of non-Latvian ethnicity, including 677,000 ethnic Russians, 92,000 ethnic Belarusians, 61,000 ethnic Ukrainians, and 58,000 ethnic Poles. More than 78 percent of the country's inhabitants are citizens, including more than 450,000 persons who belong to national or ethnic minorities. There are 470,000 resident noncitizens, of whom an estimated 67 percent are Russian; 13 percent Belarusian; 9 percent Ukrainian; and smaller percentages of Poles, Lithuanians, Jews, Roma, Germans, Tatars, Estonians, and Armenians. Due to the Russification policy pursued during the Soviet era, ethnic Latvians constitute only 58.7 percent of the population, and 75 percent of citizens—and less than 50 percent of the population in four of the country's seven largest cities, including the capital city of Riga.

The country's Romani community nearly was destroyed during the Holocaust. A report by LCHRES in 2003 estimated that the Romani population is between 13,000 and 15,000. While the community received some support from the Government, the LCHRES study reported high levels of unemployment and illiteracy among the Roma. More than 40 percent of Roma have a fourth grade or lower education, and more than 95 percent do not have official employment.

The Government supported education in both Latvian and Russian, as well as in seven other minority languages. However, under the revised Education Law, the Government continued to implement a bilingual education program at the elementary school level, with the goal of providing more than half of the course-content in Russian-language secondary schools in Latvian. Although all non-Latvian-speaking students in public schools were supposed to learn Latvian and to study a min-

imum number of subjects in Latvian, there was a shortage of qualified teachers. State-funded university education was in Latvian, and incoming students whose native language was not Latvian must pass a language entrance examination. Several private institutions offered higher education in Russian.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law stipulates that workers, except for the uniformed military and police, have the right to form and join labor unions of their own choosing. Union membership was 180,000 out of a workforce of approximately 1 million in 2003.

*b. The Right to Organize and Bargain Collectively.*—Labor unions have the right to bargain collectively and are generally free of government interference in their negotiations with employers. Collective bargaining agreements were common and were negotiated by industry or company. The law recognizes the right to strike, subject to limitations including prolonged prestrike procedures and prohibition of some types of solidarity strikes and political strikes.

Workers exercised the right to strike during the year. Labor regulations prohibit certain professions from striking: Judges, prosecutors, police, fire fighters, border guards, employees of state security institutions, prison guards, and military personnel. A labor law addressing disputes identifies arbitration mechanisms that unions and members of the professions forbidden from striking may use in lieu of striking. There are no special laws or exemptions from regular labor laws in the four special economic zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law restricts employment of those under the age of 18 by prohibiting night shift or overtime work. The statutory minimum age for employment of children is age 15, although children between the ages of 13 and 15 may work in certain jobs outside of school hours.

Children were trafficked for sexual exploitation and child prostitution was also a problem (see Section 5).

Inspectors from the Ministry of Welfare's State Labor Inspectorate were responsible for enforcing the child labor laws.

*e. Acceptable Conditions of Work.*—The legally mandated monthly minimum wage of approximately \$146 (80 lats) did not provide a decent standard of living for a worker and family. Through September, the actual average monthly wage was \$378 (206 lats).

The law provides for a mandatory 40-hour maximum workweek with at least one 42-hour rest period weekly, 4 weeks of annual vacation.

The laws establish minimum occupational health and safety standards for the workplace. In the first 6 months of year, 27 fatal workplace accidents and 605 workplace injuries were reported. Workers have the legal right to remove themselves from hazardous work situations without endangering their continued employment; however, authorities did not enforce this right.

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## LIECHTENSTEIN

The Principality of Liechtenstein is a constitutional monarchy with a parliamentary government. Prince Hans-Adam II is the head of state. On August 15, Hereditary Prince Alois took on the duties of head of state, exercising the rights of office on behalf of the Reigning Prince. All legislation enacted by the popularly elected Parliament (Landtag) must have the concurrence of the Monarch and the Prime Minister. The amendments of the Constitution, adopted in a national referendum in March 2003, took effect in September 2003. The Parliament nominates and the Prince appoints the members of the Government. The Parliament was elected in 2001; the dominating Progressive Citizen's Party holds all cabinet seats. The judiciary is independent.

Civilian authorities maintained effective control of the security forces, which are composed of the regular and auxiliary police under the Interior Ministry. There is no standing military force. There were no reports that security forces committed human rights abuses.

The country had a prosperous, highly industrialized, free-enterprise economy with a vital services sector. It participated in a customs union with Switzerland and used the Swiss franc as its national currency. Its 34,294 citizens enjoyed a very high standard of living. Inflation remained low at 0.8 percent.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

Men and women were held separately. Facilities were available to hold juvenile prisoners separately from adults in a pretrial detention facility, but there were no cases of juvenile imprisonment during the year. If a juvenile offender was convicted of a crime requiring imprisonment, the convicted juvenile could be transferred to a youth facility in Austria. Pretrial detainees were held separately from convicted criminals.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Police automatically report allegations of misconduct to the prosecutor's office, and any person subject to wrongful police action also can file a complaint with the chief of police. A failure of either the prosecutor's office or the chief of police to open an investigation can be appealed to the Government and, subsequently, to the administrative courts.

Within 24 hours of arrest, police must bring suspects before an examining magistrate who must either file formal charges or order release. The law grants suspects the right to legal counsel of their own choosing, and counsel was provided at government expense to indigent persons. Release on personal recognizance or bail is permitted unless the examining magistrate has reason to believe that the suspects are a danger to society or would not appear for trial.

In July, the U.N. Human Rights Commission (UNHRC) expressed concern about shortcomings in the protection of arrested or detained persons, noting that the law does not require informing them of their right to remain silent, their right to be brought promptly before a judge, and to have access to legal counsel.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

In July, the UNHRC expressed concern that the mechanism for appointment and tenure of judges, revised under 2003 constitutional amendments, may not be compatible with the principle of the independence of the judiciary.

The judicial system has three tiers: A court of first instance, the appellate court, and the Supreme Court. The court of first instance is the National Court (Landgericht). In addition, an Administrative Court hears appeals against government decisions. The State Court (Staatsgerichtshof) protects the rights accorded by the Constitution, decides conflicts of jurisdiction between the law courts and the administrative authorities, and acts as a disciplinary court for members of the Government.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Citizens had the right to counsel and the right to appeal, ultimately to the Supreme Court (Oberster Gerichtshof). Trials involving minor offenses were heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases, including murder, by a public jury.

The Constitution authorizes the Prince to alter criminal sentences or pardon offenders. However, if the offender is a member of the Government and is sentenced for a crime in connection with official duties, the Prince may take such action only if the Parliament requests it.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution establishes the Roman Catholic Church as the official state church, and its finances are integrated directly into the budgets of the national and local governments. The Catholic Church is entitled to annual State contributions of \$242,000 (300,000 Swiss francs). The Government also supported denominations other than the Catholic Church, and it continued to seek a wide consensus on a new agreement on the relationship between the State and the Catholic Church.

In July, the UNHRC expressed concern about the unequal treatment of different religious denominations in the allocation of public funds and urged the Government to review its policies to ensure an equitable distribution of these funds.

Roman Catholic or Protestant religious education was compulsory in all primary schools, but the authorities routinely granted exemptions for children whose parents requested them. Secondary school students were offered a choice between traditional confessional religious education (provided for by the Catholic or the Protestant Church) or non-confessional classes on “ethics and culture.” Denominations other than the Catholic and the Protestant Church were free to regulate their own religious education.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Neither the law nor the Constitution prohibits forced exile, but the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against *refoulement*, the return to a country where they feared prosecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The overall number of asylum requests increased following the 1998 asylum law; however, it leveled off in recent years. During the year, the Government received 74 applications for asylum, and granted residency on humanitarian grounds in 7 instances.

The Government also provided temporary protection to persons who may not qualify as refugees under the 1951 Convention or the 1967 Protocol; however, since the country lacks an airport or international train station, it received few requests.

A trilateral agreement with Switzerland and Austria requires the Government to return persons who enter from Austria or Switzerland without permission to the respective authorities.

The Government used a list of “safe countries of origin” to decide asylum applications; the list was identical with list being used by the government of Switzerland.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a constitutional monarchy and a parliamentary democracy. The monarchy is hereditary in the male line. The 25-member unicameral legislature is elected every 4 years through secret balloting and universal suffrage for adults over the age of 18. Political parties operated freely. Citizens regularly voted on initiatives and referendums.

On August 15, the country’s National Day, Prince Hans-Adam II passed on the duties of office of head of state to Hereditary Prince Alois, his eldest son. Alois is to exercise the rights on behalf of his father, who remains Reigning Prince and

Head of State. The appointment of the Hereditary Prince as permanent representative of the Reigning Prince was intended to smooth the transition of power from father to son.

The law requires the Government to inform the public of its activities, and government information was available freely to all persons living in the country, including foreign media.

There were 3 women in the 25-seat Parliament and 1 in the 5-seat Cabinet. A growing number of women were active in politics. Women served on the executive committees of the major parties.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, sex, language, or social status. The law also prohibits public incitement to violence or public agitation or insult directed against a race, people, or ethnic group.

A government working group on issues of social discrimination recommended extending the mandate of the Government's Office for Gender Equality to address discrimination based on national origin, disability, religion, or sexual orientation and to increase its staff.

In July, the UNHRC welcomed the measures taken by the Government to promote equality and integration of noncitizens but regretted that the principle of equality before the law for all the individuals was only indirectly recognized in the Constitution. It was also concerned about the persistence of xenophobia and intolerance, especially against Muslims and people of Turkish origin. The Commission urged the Government to amend the Constitution to provide for the principle of equality before the law for all individuals under its jurisdiction and to intensify its efforts to combat right-wing extremism and other expressions of xenophobia and religious intolerance.

*Women.*—The law prohibits all forms of domestic violence. According to police, there were 29 police interventions for cases of domestic violence during the year, in which 22 male aggressors were prevented from reentering the family home for 10 days and 9 for a further period of 3 months. The Government may file charges without a complaint from the victim. Frauenhaus, a woman's shelter nongovernmental organization (NGO), stated that one out of five women was a victim of domestic violence.

The Government concluded a joint project with Swiss and Austrian neighboring regions to combat domestic violence with additional awareness-raising activities and issued a best-practice guideline in several languages for affected friends and relatives.

Spousal rape has the same penalties as rape under other circumstances. The sentence may be lowered if the victim decides to remain with the abusive spouse.

Frauenhaus provided refuge for 12 women and 14 children during the year. The shelter also provided refuge for nonresidents. Annual government financing for the shelter was approximately \$258,000 (320,000 Swiss francs). NGOs believed that, as in neighboring countries, trafficking in women occurred; however, no specific cases were documented during the year.

Both the Penal Code and the Equal Opportunity Law prohibit sexual harassment, which is punishable by up to 6 months in prison or a fine. Employers are required to take reasonable measures to prevent sexual harassment, and failing to do so may entail damages to a victim of up to \$32,000 (40,000 Swiss francs). There were nine proceedings for sexual harassment during the year of which six were closed and three remained pending at year's end.

Societal discrimination continued to limit opportunities for women in fields traditionally dominated by men. Men earned more than women, and women generally did not receive equal pay for equal work. The Constitution provides for women's rights, and a significant number of laws provide for equality of treatment among men and women to eliminate discrimination and sexual harassment and to create conditions that allow both men and women to combine work and family. The law mandates the division of retirement benefit claims in the case of divorce, under which the benefit claims accrued during the time of marriage are split between the parties, whether they worked outside the home or not. In a precedent ruling on gender discrimination in 2003, a court upheld a woman's claim for equal pay for equal work and ordered the payment of the salary difference since she began legal action.

Each spring, the Government adopts an action plan to promote equal opportunity for both women and men, and, each autumn, the Government's Bureau for the Promotion of Equal Rights for Women and Men publishes a progress report. The action plan this year concentrated on the representation of women in political bodies as well as promoting equal opportunities in business life. During the year, the Government organized mentoring classes for women to motivate and promote female candidates for the 2005 parliamentary elections.

*Children.*—The Government was strongly committed to children's rights and welfare and funded a system of public education and health care. Education is universal and compulsory until the 9th grade; it is free through the end of high school. It provided free health care for children under the age of 16.

The Government supported programs to protect the rights of children and matched contributions made to three NGOs that monitored children's rights. The Office for Social Services oversaw the implementation of government-supported programs for children and youth.

There were some reports of abuse of children, although there was no societal pattern of such abuse. During the year, there were no convictions for child abuse. The Commission for the Coordination of Professionals in Cases of Sexual Offenses Against Children consists of experts from different backgrounds and focuses on assisting professionals (counselors, therapists, and physicians) who deal with sexual offenses against children. The commission has undertaken public awareness-raising campaigns. In 2003, it was contacted in 12 cases of suspected sexual abuse.

Possession of child pornographic material is a statutory offense. The Government also extended the statute of limitation for sexual offenses against children. A special police unit on computer crime continued to monitor child pornography on the Internet; however, no investigations were opened during the year.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country; however, some NGOs believed that trafficking in women occurred but was not reported.

Prostitution is legal, however, any person leading another into prostitution faces up to 6 months in prison or heavy fines, or both, and up to 3 years in prison if the victim was under 18. The police closely monitored prostitutes' working conditions and salaries but acknowledged that some Swiss middlemen employed women working in the country.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law requires that government buildings and services be made accessible for persons with disabilities, and the Government generally enforced these provisions in practice.

Although the law does not prohibit discrimination against persons with disabilities, complaints of such discrimination may be pursued in the courts. The law provides for compensatory payments by the Government to companies that employ persons with disabilities. The law increased opportunities for their integration into the workforce and promoted their right to be independent.

*National/Racial/Ethnic Minorities.*—Rightwing extremists, including skinheads, were publicly active during the year, but there were no more than 20 to 40 activists. The Government continued to monitor right-wing groups. A government advisory commission attempted to raise public awareness in order to address the problem of acts of violence in the public areas such as schools and playgrounds.

There were some reports of skinhead incidents but none involving racially motivated attacks on foreigners or ethnic minorities during the year. On February 21, police detained nine skinheads involved in a mass brawl following a carnival music concert in the town of Schaan but did not bring charges because no one was seriously injured.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including foreigners, are free to associate, join unions of their choice, and select their own union representatives, and workers exercised these rights in practice. Due to the country's small size and population, there was only one trade union, which represented approximately 13 percent of the work force. The law does not prohibit anti-union discrimination, although it states that anti-union discrimination should be avoided.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and bargain collectively. However, collective bargaining agreements usually were adapted from those negotiated by Swiss employers and

unions. Workers have the right to strike except in certain essential services. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children less than 16 years of age. However, exceptions may be made for the limited employment of youths age 14 and over and for those who leave school after completing 9 years of compulsory education (*see* Section 5). Children age 14 and older may be employed in light duties for not more than 9 hours per week during the school year and 15 hours per week at other times.

The Government devoted adequate resources and oversight to child labor policies. The Department for Worker Safety of the Office of the National Economy effectively supervised compliance with the law. Inspections by the Department for Worker Safety were adequate.

*e. Acceptable Conditions of Work.*—There was no national minimum wage; however, the average daily wage provided a decent standard of living for a worker and family.

In 2003, the social security office assisted 1,198 persons, 477 of whom received financial assistance to obtain a yearly minimal income. The social security office supported the monthly living allowance for a three-person household, excluding rent and other fixed costs, with up to \$1,500 (1,880 Swiss francs). The law sets the maximum workweek at 45 hours for white-collar workers and employees of industrial firms and sales personnel and 48 hours for all other workers. The law provides for mandatory rest periods, and, with few exceptions, Sunday work was not allowed. Workers over the age of 20 received at least 4 weeks of vacation; younger workers received at least 5 weeks.

The law sets occupational health and safety standards, and the Department for Worker Safety of the Office of the National Economy generally enforced these provisions. The law provides for a hearing in cases in which workers removed themselves from dangerous situations. The law provides for the right of workers to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment.

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## LITHUANIA

Lithuania is a constitutional parliamentary democracy. The Constitution establishes a 141-member unicameral Parliament; a directly elected President; and a government whose ministers are nominated by the Prime Minister, appointed by the President, and approved by the Parliament. The Government held presidential and European Parliamentary elections in June and national parliamentary elections in October. These elections were generally free and fair. The Government exercises authority with the approval of the Parliament and the President. The judiciary is independent.

A unified national police force under the jurisdiction of the Interior Ministry is responsible for law enforcement. The State Security Department is responsible for internal security and reports to Parliament and the President. The civilian authorities maintained effective control of the security forces. Members of the security forces committed a number of human rights abuses.

The country, with a population of approximately 3.4 million, has a functioning market economy. The Government continued to privatize the few remaining large-scale enterprises, such as energy, gas, alcohol, and shipping companies; most housing and small businesses have been privatized. The largest single privatization took place in March, when the Government sold a 34 percent shareholding in the country's gas utility to the Russian company Gazprom. The largest number of workers (17.5 percent) worked in the manufacturing sector. Gross domestic product grew by 6.7 percent in the first 9 months of the year, and wages kept up with inflation.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The International Commission to Investigate the Crimes of Nazi and Soviet Occupation Regimes in Lithuania continued its activities during the year (*see* Section 4).

From January to September, the Prosecutor General's Office initiated six investigations of genocide cases, war crimes, and crimes against humanity related to Nazi crimes committed against Jews during World War II. As of December, there were over 30 ongoing cases related to Nazi crimes.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits inhuman or degrading treatment or punishment; however, at times, police beat or otherwise physically mistreated detainees, although such incidents continued to decline. The Constitution does not specifically prohibit torture; however, it could be considered an aggravating factor in the commission of other crimes.

Local media reported that a person died in June following a clash between police and soccer fans in Klaipeda. Authorities closed the case without final determination of police culpability. In August, a suspect complained to parliamentary controllers that officers from Kaunas assaulted and tortured him while escorting him to interrogation. The parliamentary Ombudsmen subsequently instructed local police to abide by the law. In September, relatives complained that an individual fell into a coma following injuries sustained during a narcotics raid in Klaipeda. In September 2003, a Parliament controller publicly criticized several instances of police violence against juveniles, under arrest and en route to police facilities. The controller said that the authorities shielded police officers suspected of violence against juveniles. In May, local media reported that police in the town of Telsiai beat a 17-year-old crime suspect.

The practice of hazing recruits by noncommissioned officers continued; however, the number of incidents decreased during the year. From January to July, the military police opened one criminal case related to hazing, compared to six cases in 2003.

Prison conditions remained poor and life threatening; however, there were a few improvements during the year. Sanitation improved and overcrowding decreased; however, they both remained problems at year's end. As of May, three correctional institutions remained seriously overcrowded; however, the Government was reconstructing 6 of the 15 correctional facilities. The Government increased funding for prisoner rehabilitation. In October, Parliament controllers instructed the Prisons Department to improve accounting practices for prison labor, having determined that a number of inmates in a Vilnius facility received pay for only 2 hours of work per day despite working 12 hours per day; the legal limit to the workday is 8 hours.

A significant number of pretrial detainees reported mistreatment, abuse, and violence, which Parliament controllers, public prosecutors, and judges acted to address. The Parliament controllers noted a marked decrease in complaints from investigation wards and prisons; however, they noted that prolonged transfer of suspects to interrogation facilities continued, prison authorities arbitrarily restricted rights of prisoners who had good conduct records, and that there was poor access to medical services in police detention facilities. Arrested and detained persons generally suffered worse living conditions than did convicted persons.

Violence among juveniles in detention remained a problem. In May, the Government adopted a Juvenile Justice Program for 2004–08, which aims to reduce asocial and criminal behavior among juveniles.

From January to August, there were 157 criminal offenses committed in prisons, compared with 138 during the same period of 2003. Authorities attributed the increase to their enforcement efforts to prevent the spread of drugs. Prison personnel were charged with committing three criminal offenses. From January to August, the Parliament controllers investigated 206 noncriminal complaints (62 deemed justified), mostly related to prison conditions and actions of Prison Department personnel. In March, the Prison's Department adopted an Ethics Code for its officials and personnel, codifying among its key principles respect for the individual and equal justice.

During the year, the Ombudsman deemed the use of force against protesting inmates at the Alytus prison in August 2003 to be legitimate. Women and men were held separately; juveniles were held separately from adults; and pretrial detainees were held separately from convicted criminals. There were reports that individuals in police custody for minor offenses were held together with criminal suspects.

The Government permitted visits to prisons by independent human rights observers, and there were visits during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, there were instances of prolonged pretrial detention.

A unified national police force, under the jurisdiction of the Interior Ministry, is responsible for law enforcement. The State Security Department is responsible for internal security and reports to Parliament and the President. The Office of Inspector General and the Internal Investigation Division at the Police Department investigate, on the orders of the Minister of Interior, abuses committed by the police. Prosecutors and the Parliament controller carry out independent investigations. From January to July, cases of abuse of power and abuse of office were initiated against 11 police officers. By the end of August, controllers investigated 125 complaints regarding police activities and determined 34 to be justified. Police found guilty were disciplined.

Warrants are required for arrest. Under the law, police may detain suspects for up to 48 hours, based upon reliable evidence of criminal activity and approval by an investigator or prosecutor. Bail is available and was used widely. The Constitution provides for the right to an attorney from the moment of detention; however, this right was not always respected. In February, police in the city of Panevezys interrogated two schoolgirls without informing their parents or lawyers.

Pretrial detention applies only in the case of felonies, to prevent flight, to allow unhindered investigation if the suspect might commit new crimes, or when there is an extradition request. A pretrial judge may order a suspect detained for up to 3 months, which may be extended to no longer than 18 months (12 months in the case of juveniles) in exceptional cases. The detainee or his or her counsel may appeal to a higher court against the imposition or extension of detention. The Civil Code provides for liability for damage caused by the unlawful actions of pretrial investigation officials, prosecutors, judges, and courts. From January to August, the Parliament controllers received a number of verified complaints of prolonged detention in transfer cells of the Siauliai interrogation facility. In May, local media reported that the administration of the major Pravienskis correctional facility delayed the early release of prisoners for good behavior in order to retain staff positions.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The Constitution and the Law on Courts provide for a four-tier court system: The Supreme Court; the Court of Appeals; district courts; and local courts. The local courts are tribunals of first instance for all cases that are not assigned to some other court by law. The Constitution also provides for a Constitutional Court and specialized courts for consideration of cases involving administrative, labor, and family issues. District courts hear juvenile criminal cases and cases related to children's rights.

The Prosecutor General exercises oversight responsibility for the whole judiciary through a network of district and local prosecutors who work with investigators to prepare evidence for the courts. In October 2003, a study commissioned by the non-governmental organization (NGO) Open Society Fund Lithuania criticized the court system for lack of transparency and accountability. In June, a local expert panel of independent lawyers said that judges do not always follow established court procedure.

The Constitution provides for the right to legal counsel for defendants; however, in practice, this right was abridged by the shortage of trained lawyers. The law provides for legal assistance for indigent persons; however, despite Government efforts such legal assistance was not always available. Defendants have access to government evidence and may present evidence and witnesses. A judge may hold a closed trial in a limited number of circumstances. Defendants have the right to appeal. The law permits trials in absentia when a defendant is outside the country and avoids trial. Local human rights experts criticized these provisions.

In the early 1990s, the Government rehabilitated over 50,000 persons charged with anti-Soviet crimes in the Stalin era, including those involved with crimes against humanity during the Nazi occupation. During the year, 17 individuals were "de-rehabilitated" under a special judicial procedure, making them ineligible for some social welfare benefits. There was a total of 167 de-rehabilitations since 1996.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, there were reports that the Government did not respect these prohibitions in practice. The law prohibits indiscriminate monitoring of the correspondence or communications of citizens; however, local human rights groups alleged that the Government did not properly enforce this. In February, unverified media reports stated that 2,000 permits for phone tapping were issued in 2003 and 250 in January alone. In November, Parliament accepted

the conclusions of its ad hoc commission that law enforcement officials were unlawfully involved in wiretapping and selective anticorruption raids on the eve of presidential elections. The Criminal Process Code requires a judge's authorization for the search of premises of an individual. The seizure, monitoring, and recording of information transmitted through telecommunications networks or surveillance must also be court-ordered. The media frequently broadcast recordings of searches of suspects or their homes, which violated privacy laws.

From January to August, the State Data Protection Inspectorate conducted 244 investigations, examined 43 complaints, screened draft legislation, and provided numerous consultations. Most violations involved failure to report the fact of processing of personal data, violation of processing rules, and failure to inform individuals that their personal data was processed. Institutions found to have committed violations included the State Social Insurance Fund, the police, the Special Investigations Service, and a major bank. In May, the State Data Protection Inspectorate acquired the right to fine those alleged responsible for privacy and personal data protection violations.

In August, local human rights experts told an ad hoc parliamentary panel that broadcast and publication of the President's conversations in 2003 was a violation of his human rights. They also criticized, on privacy grounds, the parliament-ordered publication over the summer of recorded conversations and personal information of several legislators and businessmen suspected of corruption. In March 2003, the media reported that anticorruption service personnel responsible for protecting top state officials collected information about writers for a political television show without authorization.

The media reported that doctors occasionally divulged confidential data about patients to employers and others. There were reports that privacy of HIV/AIDS-infected patients was violated.

In June, the European Court of Human Rights ruled that the Government discriminated against and violated the privacy of Kestutis Dziautas and Juozas Sidabras, former KGB employees. The two had complained that the Government had barred them from seeking employment in various private-sector fields until 2009 and had subjected them to daily embarrassment on account of their past. Several similar cases were pending.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice, and did not restrict academic freedom.

The independent print media were active and expressed a wide variety of views. Radio and television included a mix of independent and state controlled stations. International media was generally allowed to operate without restriction; however, in September, the Government Ethics Commission recommended blocking transmission of cable broadcasts of the First Baltic Channel (registered in Latvia and transmitting a major Russian television channel throughout the Baltics) for violating ethics, disseminating disinformation, and issuing calls to violate the territorial integrity of the country, in violation of the Law on Public Information, after it broadcast a program reinterpreting the 1939 Ribbentrop-Molotov Pact. In October, the Latvian National Radio and Television Council fined the channel for broadcasting inaccurate information. In February, the periodical *Laisvas Laikrastis* complained that prosecutors questioned a journalist reporting on a major contraband case possibly involving public figures, in an attempt to intimidate him.

In November 2003, Parliament formed a 9-member ad hoc commission to investigate charges that President Paksas had links with organized criminal groups. The commission found that Paksas had links with organized criminal groups and that he was and remained vulnerable to such groups to the extent that it constituted a threat to national security. Parliament confirmed the findings of the commission and impeached Paksas for violating the Constitution and his oath of office. In March, the Constitutional Court stated in its ruling that President Paksas' public statements regarding the activity of and conclusions reached by the ad hoc parliamentary commission were incorrect and not applicable to the head of state. The Court ruled, however, that Paksas' statements did not violate the Constitution. Paksas contended that the parliamentary commissions' conclusions were part of a plot of the political elite to unseat him. In June, state-owned television refused to air an election ad of the Liberal Democratic Party, supporters of the impeached President Paksas.

In September, Prime Minister Brazauskas filed a lawsuit for slander against television journalist Ruta Grineviciute, who aired pretrial investigation material implicating the Prime Minister in corruption.

A court may order journalists to reveal their sources if concealment would violate other constitutional rights or privileges.

The Government did not generally restrict access to the Internet; however, at times, the Government attempted to control its content. In April, the Constitutional Court accepted a request to investigate a Government regulation regarding control of information on the Internet. The decision was pending at year's end. In September, the State Security Department asked the Journalists and Publishers Ethics Commission to consider whether the Kavkaz website's publication of an article reporting that rebels had offered \$20 million (55 million LTL) for assistance leading to capture of Russian President Vladimir Putin instigated ethnic hatred. The website was operated by supporters of Chechen independence. The Russian Foreign Ministry demanded that the Government shut down the Chechen website. In September, the Government closed the website for the second time (it was first closed in 2003). In November, after the main Kavkaz site had moved to Sweden, a local service provider opened a duplicate Kavkaz site.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice; however, the Government continued to ban the Communist Party of Lithuania and other organizations associated with the former Soviet regime (see Section 3).

In August, officials at the Foreigners Registration Center in Pabrade used tear gas and handcuffs to suppress a riot of intoxicated illegal immigrants protesting efforts to curb the production and consumption of homemade alcohol on the Center's premises.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There is no state religion; however, some religious groups enjoyed special government benefits.

The Constitution divides religious communities into state-recognized, traditional groups, and all others; however, in practice, a four-tier system exists: Traditional, state-recognized, registered, and unregistered communities. Traditional religious communities receive special exemptions and rights not available to any other religious group. Both traditional and nontraditional religious communities that are state-recognized may receive state subsidies; however, in practice, only the traditional groups received the subsidies regularly. Registered religious communities did not receive the benefits and exemptions enjoyed by traditional and state-recognized communities, but they may act as legal entities and thus rent land for religious buildings. Unregistered communities have no juridical status or state privileges, but there were no reports that any such groups were prevented from worshipping or seeking members.

The Government did not restrict activities of foreign missionary groups within the country; however, the Government appeared to continue preferential treatment for missionaries from the nine traditional religions.

The law stipulates that state educational institutions may offer religious instruction only of traditional and other state-recognized religions; however, participation in the religious classes was not mandatory.

The Government and Vilnius city continued a program using private funds to rebuild parts of the Jewish quarter in Vilnius, with the understanding that the Jewish community will have use of some of the space upon completion of the project. In September 2003, the Government returned 46 Torah scrolls (in addition to 309 such scrolls turned over in January 2002) to an Israeli spiritual and heritage group for distribution among Jewish congregations worldwide. In November, the Vilnius city government participated in erecting a monument at the site of the former Jewish cemetery.

The political leadership of the country and the national press generally criticized anti-Semitic statements when they occurred; however, there was an increase in anti-Semitic remarks made by the media and some politicians. In February, popular national daily Respublika carried a series of editorials with obvious anti-Semitic undertones; the Prosecutor General's Office and the State Security Department launched pretrial investigations of Respublika's editor-in-chief for inciting ethnic and racial hatred. The case was pending at year's end. During the year, the Government acted against anti-Semitic statements made by individuals seeking political office; the distribution, including through the Internet, of anti-Semitic proclamations and other materials; acts of vandalism against Jewish graves and monuments; and anti-Semitic statements made during public gatherings. In December, the Municipality of Varena asked the police to investigate the desecration of a mass burial site of Jews killed during WWII. Unknown vandals painted over the memorial plaques

and damaged markers erected months earlier. Police immediately launched an investigation, although there were no findings by year's end.

In April, the Parliament formed a working group to draft legislation increasing the penalties for inciting discord, anti-Semitism, racism, and xenophobia.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The Law on Citizenship generally allows emigrants to retain citizenship. Jewish and Polish minorities criticized the provisions because they create special conditions enabling "ethnic Lithuanian" emigrants to retain dual citizenship but do not allow this for local minorities when they "repatriate" to their "homeland" (for instance, Jews to Israel or Poles to Poland).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 U.N. Convention/1967 Protocol; however, in April 2003, the European Commission against Racism and Intolerance drew attention to the practice of granting temporary residence permits to asylum-seekers on humanitarian grounds, rather than full refugee status under the 1951 Convention. Asylum seekers coming from a safe country of transit are prohibited from entering the country. The right of an asylum seeker to appeal a decision denying entry into the country is limited. In April, the Parliament adopted a law on the "Legal Situation of Foreigners," bringing asylum regulations in line with European Union norms. The new law establishes expedited procedures but also tightened regulations by narrowing eligibility requirements for asylum applicants. It defined 3 forms of asylum: Refugee status, supplementary protection (temporary residence for up to 1 year, followed by an annual review), and temporary protection. From January to November, the Government granted supplementary protection to 380 applicants and refugee status in 11 cases. In 2003, authorities granted asylum in 3 cases and residence in 485 cases. In 2003, 376 foreigners were expelled from the country, mostly citizens of Russia, Vietnam, Belarus, India, and Ukraine.

*Section 3. Respect for Political Rights: The Citizens' Right to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Of 141 seats in the Parliament, 71 are elected directly, and 70 are elected through proportional representation. In March, the country became a member of NATO, and, in May, it joined the EU. Presidential elections are held at least every 5 years.

In January 2003, former Prime Minister and Liberal Union Party leader Rolandas Paksas defeated incumbent president Valdas Adamkus in a runoff presidential election. The election was considered free and fair, although campaign financing lacked transparency.

In April, the Parliament impeached President Paksas for violating the Constitution and his oath of office. In May, the Constitutional Court issued a ruling barring any person who violated the Constitution and oath of office from holding a high level government position for life. As a result, a special presidential election was held in June that was deemed generally free and fair; however, campaign financing lacked transparency in this election, and there were allegations that a major political corruption investigation may have influenced the elections.

In October, a Vilnius district court acquitted former President Paksas of charges that he divulged state secrets to Russian businessman Yuri Borisov, the principal financial backer of Paksas' 2002–03 election campaign. Also in October, the Prosecutor General's Office terminated a pretrial investigation of the charge that Paksas misused the power of his office to interfere in a dispute between two private companies. Local experts claimed that these two decisions did not invalidate the Constitutional Court's March ruling that Paksas violated the Constitution and his oath of office on three counts (granting citizenship to Borisov, divulging state secrets, and abuse of power), which served as the basis for Paksas' April impeachment. In Octo-

ber, Paksas filed suit claiming his rights to a fair trial and defense had been violated.

In June, the country held presidential and European Parliament elections. Valdas Adamkus was elected President for a second (but nonconsecutive) term. In October, there were two rounds of parliamentary elections. These elections were generally free and fair; however, there were complaints that campaign financing lacked transparency in both and reports of vote buying during parliamentary elections.

In March, six political parties (most without representation in the Parliament) objected to amendments to the Law on Political Parties, which entered into force in April. The amendments increased the party registration threshold from 400 to 1,000 members and introduced the requirement to provide the Ministry of Justice with the list of party members ahead of elections. The Government banned the Communist Party.

In August, the Parliament passed a new Law on Funding and Funding Control of Political Parties, Political Organizations, and Political Campaigns, which put stricter limits on campaign financing and introduced greater accountability. The local branch of Transparency International (TI) alleged that the new law stopped short of ensuring the transparent financing of political parties and candidates.

Polls indicated that corruption was most prevalent among mid-level civil servants, among the traffic police, in the health sector, and in universities. Corruption was also a concern in public procurement, border protection service, customs, and the judiciary. Nepotism was a problem.

In July, the Parliament voted to reject the recommendation of an ad hoc parliamentary commission to strip three ranking lawmakers of their parliamentary immunity in order to permit investigation and possible prosecution for corruption. The lawmakers denied the allegations and resigned. Other major corruption investigations centered on the 2003 Vilnius municipal election, land restitution fraud, and health care procurement corruption.

The Government made significant efforts to curb corruption. The Government increased oversight over the administration of EU transfers and fought corruption in the State Border Protection and Customs Services, including the February removal of the Chief of the Border Protection Service for abuse of office; however, efforts to combat corruption stalled due to protracted disputes among politicians, prosecutors, and the Government's Special Investigative Service (STT) about how to proceed. In September, the STT Chief resigned as a result. Parliament failed to pass a Code of Ethics for either civil servants or politicians. According to TI, 1 in 12 persons admitted paying bribes to government officials in 2003. Those polled identified customs, political parties and Parliament, the courts, law enforcement, and the health care system as the most corrupt institutions.

The law provides for public access to government information; however, during the year, the Parliament controllers received numerous complaints regarding the failure of prosecutors, the Ministry of Defense, and the State Security Department employees to provide information.

There were 31 women in the 141-seat Parliament and 2 women in the 14-member Cabinet. There were 10 members of Parliament of Russian, Polish, Jewish, or Belarusian ethnic origin. One of the ministers was an ethnic Russian and another was an ethnic Belarusian.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Human Rights Monitoring Institute, the Association for the Defense of Human Rights in Lithuania, the Human Rights Association in Lithuania, and the Lithuanian Center for Human Rights were the major human rights groups.

The Ministry of Justice monitors law, draft legislation, and legal practice to determine whether they are in accord with the country's international obligations.

There are three ombudsman institutions. The Parliament's controllers investigated complaints of the abuse of power by public servants. The controllers have the right to forward their cases for prosecution, to initiate a reprimand or removal from office of public servants, to initiate a compensation claim, to propose changes in laws and rules, and to inform the Parliament and the President about their findings. In November, a revised law on Parliament controllers clarified the definition of abuse of power, extended the controllers' oversight to cover notaries and bailiffs, and gave the controllers the right to investigate complaints about pretrial investigations. The Office of the Equal Opportunities Ombudsman exercised similar functions for complaints of discrimination and sexual harassment (*see* Section 5). The Office

of the Ombudsman for Children's Rights controlled the implementation of relevant laws, oversaw local children's rights protection services, and investigated complaints of abuse of children's rights.

The Government continued to support the International Commission to Investigate the Crimes of Nazi and Soviet Occupation Regimes in Lithuania. The Commission (which includes historians, human rights representatives, representatives of international Jewish organizations, and both Lithuanian and foreign lawyers) produced new reports during the year, continued to implement a program of Holocaust education, and organized conferences and seminars to promote the development of a tolerant civil society.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, social status, or ethnic background; however, discrimination against women in employment and other areas persisted. The Law on Equal Opportunities, which forbids discrimination based on age, sexual orientation, disability, religion, or beliefs was not fully implemented by year's end.

*Women.*—Societal violence against women, particularly alcohol-related domestic violence, was a serious problem. A 2002 study by the Women's Information Center indicated that 80 percent of women experienced psychological abuse in the workplace or at home, 35 percent experienced physical violence, and 17 percent were sexually abused.

The law does not specifically criminalize domestic violence; however, domestic violence was prosecuted under general assault laws. If such violence takes place in the home, the victim must file a complaint. Few domestic violence victims reported abuses to the police because they preferred to avoid publicity and were not confident that the courts would punish their assailants. Most conflicts did not reach criminal court, although there were a few criminal cases. The maximum penalty rendered by courts was 2 years imprisonment.

Thirteen women's shelters provided assistance to victims of violence. In July 2003, the Government co-founded an NGO, The Center for Development of Equal Opportunities, to reduce violence against women. During the year, the NGO organized a series of seminars on equal opportunities in politics and culture, conducted awareness campaigns with local governments, communities, and future members of Parliament, and was also involved in charitable projects. The NGO Women's Information Center, founded in 1996, continued to provide support to women in the areas of equal opportunities, empowerment, combating prostitution and trafficking, and domestic violence.

The law specifically criminalizes rape, including spousal rape. Persons convicted of rape generally received sentences of 3 to 5 years' imprisonment. From January to August, 159 rapes were reported. Prostitution is illegal under the Criminal Code and was a problem. The penalty for prostitution is a fine of \$107 to \$178 (300–500 LTL) for a first offense. Trafficking in women for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking).

Sexual harassment was prohibited by law; however, it was a problem. In February, it was reported that 14 percent of university students surveyed, most of them female, experienced sexual abuse from professors and university staff.

The Constitution provides for equal rights for men and women; however, women continued to face discrimination. The Equal Opportunities Ombudsman is an independent agency, accountable to the Parliament, which oversees the implementation of the law and investigates complaints concerning age and gender discrimination, as well as sexual harassment. The Ombudsman also has some enforcement powers in this regard, and the Criminal Code contains criminal sanctions for discrimination or harassment. The Law on Equal Opportunities provides for positive discrimination (affirmative action) toward women.

Official policy requires equal pay for equal work; however, in practice women were often paid less than their male counterparts. In 2003, a woman's average wage was 81 percent that of a man; in the public sector, their wage was 75 percent that of men. Women were underrepresented significantly in some professions, business, and the managerial sector as a whole.

From January to September, the Ombudsman received 34 complaints, initiated 10 investigations, and imposed 10 fines. Most complaints concerned discrimination against men in entertainment facilities' entrance fees, discrimination under old legislation, and discrimination against women in the workplace and in the labor market.

The Ombudsman, together with women's organizations, continued a public awareness campaign and a number of projects to advance gender equality.

*Children.*—The Government was committed to children's rights and welfare; it funded a system of public education and medical care. The Government provided compulsory, free, and nearly universal education for children through the age of 15. Approximately 1 percent of children in this age group did not attend school. The Government provides school transportation for children in the countryside, low-cost health care for all children, and a free school meal for one-third of children. The Civil Code addresses relations between parents and children.

The Government continued to replace the Soviet-style orphanage (boarding) schools with residential homes or foster families, which permitted children to attend regular schools; however foster families often did not ensure good conditions for children: In October 2003, authorities confirmed reports that a 6-year-old girl from Avikliai foster family house had suffered sexual abuse for almost a year.

Child abuse, particularly in connection with parental alcohol abuse, was a problem; as of January, approximately 39,000 children lived in abusive and dysfunctional families. The penalties for violence and cruelty against underage persons are prison terms of 1 to 2 years; however, the press reported cruelty to children, including sexual abuse, intentional starvation, beatings, and killings, was common. Authorities reported that 13 children were killed due to family violence during the first 7 months of the year. Authorities may remove children subjected to parental violence from the family and place them in the care of a temporary guardian; however, the Ombudsman reported in 2003 that assistance for children who experienced abuse was insufficient.

There were rare reports of abuse of children at state correctional institutions or in arrest facilities.

The Penal Code provides for up to 13 years' imprisonment for sexual abuse of a child; however, sexual abuse was prevalent. For example, in December, local media reported that a coach of a children's soccer team was arrested following complaints of sexual abuse from four juveniles and their parents. From January to August, 23 cases of sexual abuse of children were registered (excluding rapes, for which separate data for children is not available). In May, a study by a Vilnius hospital and the polling agency RAIT indicated that 31 percent of 18- to 20-year-olds surveyed had experienced sexual abuse in their childhood and adolescence. The Government operated a children's rehabilitation center to provide special care for sexually abused children, and, in June, the Government selected a number of NGOs and other organizations to provide assistance to sexually abused children.

Trafficking in girls for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking). Exploiting children in the production of pornography is illegal; however, there were a few cases of this reported during the year. In June, the police detained a high school teacher suspected of distributing child pornography on the Internet.

Several thousand children reportedly lived on the street. Sixty regional government children's rights protection agencies, other institutions, and numerous NGOs routinely assisted these children. Street children had full access to free state services. There were no reports of police abuse against street children.

The Children's Rights Ombudsman controls the implementation of relevant laws and conventions, oversees children's rights protection institutions, investigates complaints, and advises the Government on improving the protection and legal interests of the child. In 2003, the Ombudsman received approximately 215 complaints and initiated a number of investigations regarding violations of child protection laws.

*Trafficking in Persons.*—The Criminal Code prohibits trafficking in persons; however, trafficking in women and girls for the purpose of sexual exploitation was a problem. International and local NGOs claimed that the problem increased despite significant efforts by the Government to fight it.

The legal penalties and fines for trafficking-related activities are: Trafficking in persons, up to 8 years' imprisonment; profiting monetarily from prostitution or pimping, up to \$8,900 (25,000 LTL) and up to 4 years' imprisonment; profiting monetarily from prostitution or pimping of a minor or engaging, organizing, and/or heading prostitution activities involving a minor, 2 to 8 years' imprisonment; organizing or heading prostitution rings or transporting a person for the purpose of prostitution, up to 6 years' imprisonment; engaging in prostitution, up to \$4,400 (12,500 LTL) and 3 years' imprisonment; forcing individuals into prostitution by means of coercion or fraud and engaging a minor in prostitution, from 2 to 7 years' imprisonment; engaging in the trade in children, from 2 to 10 years' imprisonment.

The Government opened 22 criminal cases related to trafficking in persons, referring 13 to the courts. Four prosecutions ended in convictions, with sentences ranging from fines to 3 years' imprisonment. Law enforcement officials continued to co-

operation with other government on trafficking and participated in over 10 joint investigations.

The country was a source, transit point, and destination for trafficking in women and girls. Women from the country were primarily trafficked to Western Europe. Most women trafficked into or transiting the country were from Eastern Europe.

According to Europol, every year approximately 1,200 Lithuanian women fell victim to trafficking or left the country against their will. Twenty women (3 under the age of 18) were reported to the police as victims of trafficking during the year.

Traffickers particularly targeted the socially most vulnerable groups: Young females from poor, asocial, or unstable families. Traffickers also commonly targeted young women from ethnic minorities. Many were lured by deceptive offers of jobs such as household helpers, bar dancers, nannies, nurses, models, or waitresses, or through false marriage advertisements. In many cases, close relatives or friends made the offers. Victims' compliance was ensured via threats and the withholding of their documents. Families often were unaware of their predicament and believed that they had been kidnapped. Boarding schools that also serve as orphanages were new targets of traffickers. In 2003, criminal police detained five Lithuanian, Italian, and Spanish nationals believed to be members of an organized trafficking group, the first operation in the country that resulted in the arrest of leaders of an international trafficking ring. These cases were still pending at year's end.

Organized groups, some belonging to international trafficking rings, and individuals, some of them formerly involved in the used-car trade between the country and Western Europe, engage in trafficking.

The Government funded the establishment of victim protection centers in Kaunas and Klaipeda and local NGOs that were involved in prevention and victim assistance. There were 15 working day centers, which provide aid for various groups at risk, including victims of trafficking.

The Government relied heavily on NGOs to organize and run programs to combat trafficking in persons. In one campaign, the International Organization for Migration (IOM) counseled 3,000 job seekers on legally obtaining work abroad. IOM trained 102 social workers and 107 police officers on preventing trafficking and launched an information program for teachers, parents, and students. The Government and NGOs organized three international conferences on reintegration of victims and interagency cooperation. Local NGOs also provided training to over 80 women at high-risk for trafficking and built 10 municipal trafficking information networks.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. In October, a visually impaired individual was elected to Parliament. The law mandates access to buildings for persons with disabilities; however, the Government generally did not enforce this provision in practice, although most new buildings ensured such access. Individuals involuntarily declared as incapacitated have no right to appeal the decision in court.

Many persons with disabilities lived in poverty because the state pension for a person with disabilities was lower than the minimum wage. However, every local government ran home help services for persons with disabilities, and the Government financed a network of facilities for them, including daycare centers, state children care houses, and residential care homes for mentally ill adults. During the year, a government-business partnership supplied computers with Internet access to some 25 centers for persons with disabilities. The Government financed the National Program of Social Integration of the Disabled, which was coordinated by the Disabled Persons' Affairs Council, the Government, and NGOs.

In May 2003, a study on the rights of persons with mental disabilities recommended that the Government end the care of disabled persons in large social and health care institutions, determine minimum service quality standards, and create a system to provide disabled persons with prophylactic technology and special education services.

*National/Racial/Ethnic Minorities.*—Minority ethnic groups—including Russians, Poles, Belarusians, Ukrainians, Tatars, and Karaites constituted approximately 16.5 percent of the population. Although the law prohibits discrimination of ethnic or national minorities, intolerance persisted.

The small Romani community (approximately 3,000) suffered discrimination in many areas of daily life, including education, employment, health care, housing, services, citizenship, and contacts with the police. In June, the Government adopted a program designed to increase tolerance towards minorities and to reduce discrimination; however, it had not been implemented by year's end. The Government ran a social center and community school for the Roma.

In December, the Parliament Ombudsman stopped the Vilnius municipal authorities from destroying an allegedly illegal house in a Roma village and referred the matter to the courts. Local minority experts criticized the city government for indiscriminately targeting Roma while doing little to help their integration into the broader community. Following talks between the city government and Roma, some families agreed to move to public housing in other parts of the city.

The Penal Code provides for a sentence of from 2 to 10 years' imprisonment for the incitement of racial or national hatred or incitement of violence against foreigners. The State Security Department initiated several investigations into reports of acts tending to incite racial or national hatred but closed them either because the suspects apologized or because the cases would have been difficult to prove in court.

Public sector employees are required to have a functional knowledge of the Lithuanian language; there was no documented evidence of job dismissals based on this language law. The authorities indicated that while the law's intent is to encourage competence in Lithuanian as the official language of the State, no one would be dismissed solely because of an inability to meet the language requirements.

*Other Societal Abuses and Discrimination.*—The local Human Rights Monitoring Institute reported that homosexuals suffered permanent social exclusion. Representatives of the Lithuanian Gay League complained that they suffered physical abuse and insults on the street and in the mass media.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law recognizes the right of workers and employees, including members of the police and armed forces, to form and join trade unions, and workers exercised this right in practice.

Unions must have at least 30 founding members in large enterprises or a membership of one-fifth of all employees in small enterprises to legally register. Individuals employed in enterprises where there was no union were free to join an established regional union, but this practice was not widespread.

Approximately 10 percent of the workforce was unionized.

Unlike in the previous year, there were no reports of direct discrimination against members of unions; however, most employers did not favor workers participating in trade unions.

Large retail stores hired workers only on the basis of short-term contracts in order to avoid having a unionized workforce and employers often did not renew contracts of workers that belonged to unions.

Age discrimination figured prominently in the labor market.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining and the right of unions to organize employees; however, it does not allow collective bargaining by government employees involved in law enforcement and security-related work. The law provides unions the right to negotiate nationwide, branch, and territorial collective agreements; however, collective negotiations regarding labor relations, including wages, are not widespread. Workers often took their complaints directly to their employers. There was no collective bargaining in approximately 90 percent of enterprises, since most of them did not have labor unions. According to the Lithuanian Labor Federation, collective bargaining was very rare in the private sector since employers discouraged organizing unions. There were no cases of employers being punished for such actions.

The Labor Law, effective in January 2003, establishes collective bargaining as the main tool to regulate labor relations, restricts short-term contracts, including at retail stores, subjecting them to collective bargaining, and gives employees the right to be represented in collective bargaining by unions or by a work council elected by a secret ballot. Leaders of the Solidarity labor union complained about the Government's failure to eliminate illegal, undeclared wages, which reduced employees' social security benefits and their future pensions.

Managers often determined wages without regard to union preferences, except in larger factories with well-organized unions. The Government periodically issued guidelines for state enterprise management in setting wage scales.

The unions criticized provisions of the Code of Civil Procedure, which do not allow labor unions to represent their members at the Supreme Court; members must engage their own counsel.

The law provides for the right to strike, except for workers in essential services; however, labor code procedures made it difficult to exercise this right and there were no official strikes during the year. The law provides that only a union or a union's strike committee may call a strike, thus employees at any of the approximately 90 percent of enterprises without unions could not strike.

There are no special laws or exemptions from regular labor laws in the export processing zone in the port city of Klaipeda.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were some reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the exploitation of children in the workplace and this law was generally enforced effectively; however, there were some reports of problems. Statistics indicated that 10 percent of working children did so illegally, mostly in the agricultural sector where children were employed for meager pay. There was also evidence of child labor in the form of prostitution and pornography (see Section 5).

The Labor Law sets the minimum employment age at 16, and persons of 14 may be hired to perform light jobs. Children from age 14 to 16 may be hired, provided that the job does not preclude their attending school and that the parents and school provide written consent. The law provides for reduced working hours for children: Up to 2 hours per day during the school year or 12 hours a week; or 7 hours per day and 32 hours per week when school is not in session. These laws were generally enforced effectively in practice.

There were isolated cases of trafficking of teenagers and two cases during the year related to child pornography (see Section 5).

The State Labor Inspectorate is responsible for control and receipt of complaints related to employment of people under 18. The Ministry of Social Security and Labor, the Ministry of Education, the Ministry of Health, and the Ministry of Interior ran programs aimed at the protection of children's rights. From January to June, the State Labor Inspectorate conducted 1,957 inspections of illegal employment; however, no investigations were related to illegal child labor, although there were three instances of minor violations of special conditions applied to employees under 18.

*e. Acceptable Conditions of Work.*—The legal minimum wage, which in May was increased to \$178 (500 LTL) per month, did not provide a decent standard of living for a worker and family. According to the Department of Statistics, the average gross wage in the second quarter of the year was \$427 (1,222 LTL) per month, which provided a decent standard of living for a worker and family.

The law provides that maximum working hours within a 7-day period, including overtime, may not exceed 48 hours. Overtime can be allowed only in cases stipulated by law and, along with night work, must be compensated at a minimum of 1.5 times the hourly rate.

The Constitution provides that workers have the right to safe and healthy working conditions, and the State Labor Inspection Service is responsible for implementing the Labor Safety Law. From January to October, the Labor Inspection Service conducted 16,691 inspections of companies. The most numerous abuses included wage arrears, illegal employment (working without a written contract), the violation of labor contracts, time off and work time accounting, harmful working conditions, and the unsatisfactory investigation of accidents. Workers have the right, both in law and practice, to remove themselves from dangerous work environments without jeopardizing their continued employment. From January to November, the State Labor Inspection Service recorded 161 fatal accidents at work and 190 other serious work accidents.

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## LUXEMBOURG

Luxembourg is a constitutional monarchy with a democratic, parliamentary form of government. The role of the Grand Duke is mainly ceremonial and administrative. The Prime Minister is the leader of the dominant party in the popularly elected Chamber of Deputies (Parliament). On June 13, free and fair national elections took place. The Council of State, whose members are appointed by the Grand Duke, serves as an advisory body to the Parliament. The judiciary is independent.

Civilian authorities maintained effective control of the only security forces, the Grand Ducal Police. There were no reports that security forces committed human rights abuses.

The country had a market economy with active industrial and service sectors. As of January 1, the population was approximately 451,600. The standard of living and the level of social benefits were high.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings by the Government or its agents; however, one person died in prison under unknown circumstances (see Section 1.c.).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards and the Government permitted visits by independent human rights observers. Men and women were held separately in prisons. Juveniles and adults were held in separate facilities. Pretrial detainees were held separately from convicted criminals.

During the year, there was one death at the penitentiary in Schrassig, and an autopsy was ordered. According to the prison authorities, the detainee was suffering from a lung infection at the time of death. The autopsy also revealed a relatively high, but not lethal, quantity of methadone in his system. Prison authorities were unable to determine how he had obtained the methadone. According to the final statement of the prosecutor's office, both the lung infection and the methadone likely contributed to his death.

Protests by inmates highlighted overcrowding in the penitentiary in Schrassig, which currently holds 580 prisoners. A steady rise in criminality and sometimes lengthy waits for trials have led to a rise in the prison population. The Director of Prisons stated that, due to increasing difficulties hiring guards and the consequent shortage of personnel, two prison facilities were closed, which caused up to three inmates to share the same room.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Grand Ducal Police and its investigative branch, the Judiciary Police, are under the direction of the Ministry of Justice and provide law enforcement services to the entire country.

Judicial warrants are required for arrests except in cases of hot pursuit. The law requires police to lodge charges and bring suspects before a judge within 24 hours of arrest. Suspects are given immediate access to an attorney, at government expense for indigents. The presiding judge may order release on bail.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The Supreme Court, whose members are appointed by the Grand Duke, heads the judicial system. One of the country's three Justices of the Peace has jurisdiction over minor criminal, civil, and commercial cases, and one of two district courts hears more serious cases. The Youth and Guardianship Court ruled on matters concerning the protection of young persons. An administrative court system reviews citizen challenges to legislation.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants are presumed innocent and have the right to a public trial. Defendants are free to cross-examine witnesses and to present evidence. Either the defendant or the prosecutor may appeal a ruling; an appeal results in a completely new judicial procedure, with the possibility that a sentence may be increased or decreased.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There is no state religion, but the Government provided financial support to some churches. Specifically, it paid the salaries of Roman Catholic, some Protestant, Orthodox, and Jewish clergy. Several local governments maintained sectarian religious facilities. In 2003, the Government signed a convention to extend support to the Anglican Church. Legislation required to complete this convention was passed in June. The Muslim community's agreement in 2003 to name a national representative and single interlocutor allowed the Government and the community to discuss the possibility of that community receiving similar government funding. The Muslim community designated a Shura Committee, which was discussing the issue of funding with government representatives at year's end.

There were no known acts of anti-Semitism, violence, or discrimination against religious minorities during the year. The Government sponsors an annual Remembrance Day to commemorate the deportations that occurred during WWII.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it in practice.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

After pledging in 2002 to deport several thousand persons whom it had determined did not qualify for asylum status, the Government proceeded with the voluntary or involuntary deportation of 708 individuals in 2003, the largest number (555) to Montenegro. In August, 1,415 individuals whom the Government had determined did not qualify for asylum status remained in the country and were subject to deportation to their home country. More than 1,000 came from Serbia-Montenegro, including 345 from Kosovo.

Authorities deported 13 persons for having irregular immigration status after police arrested them in March 2003 on suspicion of Muslim extremist activities.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National parliamentary elections are held at least every 5 years. The most recent national parliamentary elections were held on June 13.

Public documents were available on the Government's website and the Internet and were widely disseminated. A new law on freedom of expression for the media was passed on June 8. It does not provide free access to information that is not already in the public domain.

There were 14 women in the 60-member Chamber of Deputies and 3 women in the 14-member Cabinet.

One member of the Government is a foreign-born citizen.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

In February, the Council of Europe Human Rights Commissioner, Alvaro Gil-Robles, visited the country to assess its human rights record. His report on the visit recommended that the Government cease issuing "artiste visas" to women in order to deter trafficking (see Section 5, Trafficking.)

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits racial, sexual, or social discrimination, and the Government enforced these provisions.

*Women.*—There were instances of domestic violence, which the Government took steps to address. In November 2003, a new law on domestic violence took effect that stipulates that a batterer will be removed from the house for 10 days; this period can be extended an additional 3 months, based on a request made by the police to the Public Prosecutor's office. The law is gender neutral. Police are responsible for filing charges to protect victims from being intimidated into dropping charges. Penalties for domestic violence may include fines and imprisonment. In addition, if a possible victim has been to a nongovernmental organization (NGO) for assistance, the police are required to interview the person. Starting in December 2003, the country provided a hotline for victims. During 2003, shelters provided refuge to 428 women and 519 children, compared with 399 and 460, respectively, in 2002. In addition, the Government provided financial assistance to domestic violence victims. Information offices set up to respond to women in distress reported that they received 3,013 telephone calls during 2003, compared with 4,708 calls in 2002. The Government funded organizations that provided shelter, counseling, and hotlines for victims.

The law specifically makes rape, including spousal rape, illegal and the Government enforced the law effectively.

Women enjoyed the same property rights as men under the law. In the absence of a prenuptial agreement, property is divided equally upon the dissolution of a marriage. The law mandates equal pay for equal work, and the Ministry for the Promotion of Women had a mandate to encourage a climate of equal treatment and opportunity; however, according to government reports, women were paid 20 to 30 percent less than men for equal work. The Government cited the interruption in the careers of women caused by childbirth and their maternal roles as one reason for the disparity. There were no work-related discrimination lawsuits. Women constituted 37.4 percent of the work force, compared to 33 percent in 2003.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and health care. The law mandates school attendance for children between the ages of 4 and 15, and school attendance is universal for children of those ages. Schooling was free through the secondary level, and the Government provided some financial assistance for post-secondary education.

There were some reports of abuse of children, although there was no societal pattern of such abuse. A physicians' organization estimated that approximately 200 cases of child abuse required treatment in hospitals each year and resulted in legal proceedings. The Government's hotline for young persons in distress received 615 calls during 2003.

The law sets criminal penalties for adults who traffic children, facilitate child prostitution, or exploit children through pornography and extends the country's criminal jurisdiction to citizens and residents who engage in such activities abroad. According to the law, offenders charged with the sexual exploitation of children may receive a sentence of from 1 month to 2 years in prison, including a fine from \$325 to \$16,250 (251 to 12,500 euros). In July, 16 persons were arrested for possessing pornographic documents of minors. Subsequently, they received sentences ranging from 3 to 15 months' imprisonment. The investigation was part of a larger international investigation to combat child pornography.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no official reports that persons were trafficked to, from, or within the country.

There were no government services specifically designated for victims of trafficking; however, two NGOs fully financed by the Government provided shelter and counseling assistance to women in distress. The Ministry for the Promotion of Women had awareness programs for victims of domestic violence, although none specifically targeted trafficked victims.

In April, five individuals were arrested and charged with recruiting and transporting two women for prostitution. Two of the individuals arrested facilitated applications for artiste visas issued by the Government to foreign women who, if the visas were issued, were permitted to work as dancers in the country's cabarets for periods of 6 months. The other individuals arrested were two cabaret owners and a lawyer who were found to have violated the terms of the contracts signed with the women as the basis for the visa being issued. The women had voluntarily applied for the visas and traveled to the country. Once in the country, the women were

pressured by their employers to engage in prostitution; however, there was no claim of coercion.

One month after the arrests and following a recommendation by the Commissioner for Human Rights at the Council of Europe, the Minister of Justice ended the artiste visa program. The termination was meant to prevent trafficking of women. The program's termination resulted in approximately 700 women losing the right to remain in the country to work in the cabarets. The women subsequently were required to return to their home countries.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services. The Government assisted persons with disabilities in obtaining employment and professional education. Businesses and enterprises with at least 25 employees must by law fill a quota for hiring workers with disabilities and pay them prevailing wages. The quotas were fixed according to the total number of employees; employers who did not fulfill them were subject to sizable monthly fines. The Government provided subsidies and tax breaks for employers who hired persons with disabilities. There were no known complaints of noncompliance with the disability laws. However, the Government acknowledged that laws establishing quotas for businesses that employ over 25 persons were not applied or enforced consistently, and there was a particular problem in the case of persons with mental disabilities.

The law does not directly mandate accessibility for persons with disabilities, but the Government paid subsidies to builders to construct “disabled-friendly” structures. Despite government incentives, only a small proportion of buildings and public transportation vehicles were modified to accommodate persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers had the constitutional right to associate freely and choose their representatives, and they exercised this right in practice. Of the working population, about 50 percent, including workers who commuted from neighboring countries, belonged to a trade union.

*b. The Right to Organize and Bargain Collectively.*—The law does not specifically allow unions to conduct their activities without interference; however, unions operated free of interference, and the Government protected this right in practice. The law provides for and protects collective bargaining, which was conducted in periodic negotiations between unions and employers. The Constitution provides for the right to strike, except for government workers who provide essential services. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced and compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16. Apprentices who are 16 years old must attend school in addition to their job training. Workers under the age of 18 have additional legal protection, including limits on overtime and the number of hours that can be worked continuously. The Ministries of Labor and Education effectively monitored the enforcement of child labor laws.

*e. Acceptable Conditions of Work.*—The law provides for minimum wage rates that vary according to the worker's age and number of dependents. The minimum wage for a single worker over the age of 18 was approximately \$1,820 (1,403 euros) per month for unskilled workers, and \$2,190 (1,684 euros) per month for skilled workers. The minimum wage was not sufficient to provide a decent standard of living for a worker and family; however, most employees earned more than the minimum wage.

The law mandates a maximum workweek of 40 hours. Premium pay was required for overtime or unusual hours. Sunday employment was permitted in continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel; other industries could request permission for Sunday work, which the Government granted on a case-by-case basis. Work on Sunday, allowed for some retail employees, must be entirely voluntary and compensated at double the normal wage or with compensatory time off on another day equal to the number of hours worked on Sunday. The law requires rest breaks for shift workers and limits all workers to a maximum of 10 hours per day, including overtime. All workers received at least 5 weeks of paid vacation yearly, in addition to paid holidays.

The law mandates a safe working environment. An inspection system provided severe penalties for infractions. The Labor Inspectorate of the Ministry of Labor and the Accident Insurance Agency of the Social Security Ministry carried out effective

inspections. No laws or regulations specifically provided workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, every worker has the right to ask the Labor Inspectorate to make a determination regarding workplace safety, and the inspectorate generally did so expeditiously.

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## MACEDONIA

Macedonia is a parliamentary democracy with multiethnic party representation and a popularly elected president. In 2001, the country experienced an insurgency conducted by Kosovar and indigenous ethnic Albanians. In August 2001, domestic political parties signed the Framework Agreement (FWA) that called for implementation of constitutional and legislative changes to lay the foundation for improved civil rights for ethnic minority groups. Parliament had completed nearly all remaining FWA-mandated legislative actions by year's end, including new laws on fiscal and administrative decentralization and municipal boundaries, which provided for enhanced minority civil rights and devolution of power to local governments. In April, following the death of former president Boris Trajkovski, Branko Crvenkovski was elected President in elections deemed generally free and fair by international observers. Former Interior Minister Hari Kostov became Prime Minister in May, but resigned after less than 6 months in office. Former Defense Minister Vlado Buckovski became Prime Minister in December. The Constitution provides for an independent judiciary; however, corruption, coercion and political influence at times limited its ability to function efficiently.

The Ministry of Interior (MOI), which oversees the uniformed police, the non-uniformed police, the police reservists, the internal intelligence service, and the newly-formed Border Police, is under the control of a civilian minister; a parliamentary commission oversees operations. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country, with a population of approximately 2 million, had a mixed market-based economy. The gross domestic product grew by less than 2 percent during the year. According to the labor force survey, unemployment remained at approximately 37 percent; however, that figure did not reflect the large gray market economy. Wages kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Law enforcement officers occasionally beat suspects, particularly during initial arrest and detention. In contrast with previous years, arbitrary arrest and prolonged pretrial detention occurred infrequently. The Government showed progress on investigating allegations of human rights abuses that arose during the year, as well as in investigating cases that arose from previous years. On some occasions, the judiciary did not effectively investigate or prosecute state agents and civilians for alleged human rights abuses. In some cases, police continued to compel citizens to appear for questioning despite requirements that they first obtain a court order. Implementation of an Amnesty Law for former 2001 combatants not accused of war crimes was completed by year's end.

Several judges were dismissed during the year on charges of unprofessional and unethical behavior. The International Criminal Tribunal for the Former Yugoslavia (ICTY) continued to investigate alleged war crimes cases with cooperation from the Government. Violence and discrimination against women (particularly in the Roma and ethnic Albanian communities) remained problematic. Societal discrimination against minorities, including Roma, ethnic Albanians, and ethnic Turks, also remained a problem. Trafficking in women and girls for prostitution was a problem; however, the Government continued to aggressively combat trafficking.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, security forces killed at least four individuals during the year.

On March 7, police shot and killed two armed men and injured a third in the village of Zerovanje, near Tetovo, as they attempted to arrest the individuals for committing armed robberies of taxi drivers. The officers opened fire after the suspect attempted to run over a police officer with his car. The MOI Professional Standards

Unit (PSU) launched an immediate investigation and concluded that the use of firearms was justified.

On August 13, police shot and killed an Albanian citizen in Debar during an arrest attempt. The victim, wanted by police in connection with organized crime, approached the officers with a live hand grenade. Two police officers were injured in the incident. A PSU investigation found that the officers used appropriate force.

On December 25, police killed one person in a shootout as they attempted to arrest armed criminal Lirim Jakupi in an apartment in Tetovo. The victim, a 21-year-old male student, was harboring Jakupi in his apartment at the time he was shot. Jakupi escaped to Kosovo following the failed arrest and was later arrested by UNMIK forces in Pristina. One police officer was injured in the shootout.

The Government made progress in investigating the Rastanski Lozija case, involving the police killing of seven illegal immigrants in 2002. Due to pressure from international observers and human rights organizations, the Government reopened the investigation during the year. On April 28, police detained six persons in connection with the case. On April 29, the Parliament voted to revoke then-M.P. Boskovski's parliamentary immunity, and, on May 4, the MOI issued a warrant for Boskovski's arrest. On September 1, Boskovski was arrested and charged in Croatia, after the Government submitted evidence on the case to Croatian authorities. At year's end, Boskovski was in detention, awaiting trial in Croatia.

On November 15, the trial of four of the six persons arrested in April in connection with the Rastanski Lozja case began in Skopje and was ongoing at year's end. Two of the six persons arrested in April agreed to testify against their former co-workers in exchange for reduced sentences.

Charges against Selam Selami, who was detained in connection with the shooting of two ethnic Macedonian police officers near Gostivar and severely beaten by police in 2002, were dropped in 2003. A PSU investigation determined that no excessive force was used. As of year's end, there had been no further investigation into the allegations of police abuse. International observers continued to question the quality of the PSU investigation, and the MOI agreed to review Selami's case; however, a new investigation had not been opened by year's end.

There was progress in the investigation of human rights abuse cases from past years. In October, the MOI and international community representatives agreed to establish a mechanism for reviewing older cases that remained unresolved. The MOI began additional field investigations in the first of these cases in mid-December and planned to proceed case-by-case until all outstanding cases were closed.

There were no new developments in the case of an ethnic Albanian who was killed in 2002 by the Macedonian Border Brigade after the car he was in ran through an illegal crossing in the village of Belanovce. The case of the "Lion" (member of a now-disbanded special police unit of the same name) who shot and killed an ethnic Albanian man on the Tetovo-Gostivar highway in 2002 was re-opened and additional investigation was underway at year's end. A police officer present at the scene of the 2002 police killing of an ethnic Albanian man at a checkpoint in Tetovo gave evidence to the investigative judge and a civil case was pending. In December, MOI officials were carrying out additional field investigations related to the case.

Unlike the previous year, there were no deaths as a result of landmine incidents.

Three ethnic Albanians were sentenced to 12-year prison terms for planting an explosive device along the Kumanovo-Sopot road in 2003; the explosion killed two Polish NATO soldiers and two civilians, and seriously injured two others. Seven ethnic Albanians were tried on charges of terrorism for planting explosives in the center of the city and on the railway tracks near Kumanovo in 2003, killing one and injuring several others. Each of the seven was convicted and sentenced to a maximum of 7-years in prison.

Demining and unexploded ordnance disposal efforts in former conflict areas continued at year's end. The Office of Civil Protection in the Ministry of Defense was responsible for de-mining and mine-awareness education.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

The International Committee on Missing Persons (ICMP), in cooperation with the Government and family members, identified 8 of the 20 persons missing since the 2001 conflict.

Two of the Macedonian cases in which the ICTY has asserted primacy deal with missing persons (*see* Section 4).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police at times used excessive force during the apprehension of criminal suspects and sometimes tortured and abused prisoners.

In October, police reportedly beat two of several ethnic Albanians arrested near Stenkovec and charged them with attempted murder of a taxi driver and illegal possession of firearms. The MOI stated that force was used because the suspects tried to fire their weapons at police. The PSU investigation, in cooperation with Proxima, concluded that the allegations of abuse could not be confirmed; however, international observers were reviewing the case at year's end. The PSU report prescribed additional training on the appropriate use of force for the officers involved.

In 2003, a court sentenced Sulejman Sulejmani to 10 years in prison for planting a landmine in Sopot that killed two Polish NATO soldiers and two citizens. Sulejmani's lawyer appealed the conviction; a Supreme Court appeal was pending at year's end. Sulejmani denied the allegations against him and claimed harassment by police and detention in an unknown location for 2 days after his arrest. The PSU report found no evidence of police abuse of authority or use of excessive force. Copies of the report were delivered to the Helsinki Committee, the Ombudsman's Office, the NGO Arka in Kumanovo, and the Organization for Security and Cooperation in Europe (OSCE).

In June 2003, security and counter-intelligence officers in Kumanovo allegedly unlawfully detained and severely mistreated Avni Ajeti, who was suspected of planting a mine on the Skopje-Belgrade railroad and a bomb in the Kumanovo central square. In December 2003, Ajeti was sentenced to 7 years' imprisonment for terrorism; his appeal was pending at year's end. A PSU investigation found no evidence of mistreatment in Ajeti's case, but international observers continued to doubt the thoroughness of the investigation.

There were credible reports of occasional police violence and harassment against Roma.

On July 5, three police officers beat Trajan Ibrahimov and Bergiun Ibrahimovic, both Romani men from Skopje, outside Ibrahimov's home. The police approached the home in search of a fugitive, and despite Ibrahimov's response that he was not the fugitive, the officers proceeded to beat both men on the head and body and arrested them. Both men were then taken to a police station and held for more than a day. The European Roma Rights Center (ERRC) filed a criminal complaint of maltreatment as well as a private criminal complaint against the officers for inflicting bodily injuries. A PSU investigation found that police use of force was justified. According to the PSU report, officers acted on an anonymous tip that fugitive Tahir Ibrahimovic, for whom they had an arrest warrant, was located inside the house. The police informed the two men that they were searching for a fugitive named Ibrahimovic, and asked for the men's identification. Trajan Ibrahimov reportedly slapped one of the officers, who struck back in an attempt to subdue him. Bergul Ibrahimov then struck the officer in the knee. The two men were taken into custody and asked to submit to alcohol testing, which they refused. Police filed criminal charges against both men for assault on a police officer during execution of his duties.

Two Romani men who filed civil charges against four police officers in Kumanovo in connection with alleged ill-treatment in 2003 reached an undisclosed financial settlement out of court two weeks after the event.

The case against former MOI Boskovski for injuring four persons during a Lion's live-fire training exercise in 2002 remained stalled at year's end. Boskovski is in detention in Croatia facing several unrelated charges.

There were no developments during the year in the following cases from 2002: The alleged torture by police of Dusko Aranglovi; the reservist police officer shooting of an 11-year-old girl in Skopje; the beatings of at least seven ethnic Albanians by members of the Lions special police unit. A 2002 PSU report concluded that the police beating of Plasnica Mayor Ismaili Jaoski was not an excessive use of force.

Charges against six to eight police officers who severely beat an OSCE observer at a bar in 2002 were dismissed shortly thereafter, when the observer declined to pursue the case and left the country.

Prison conditions generally met international standards, and prisons met basic diet, hygiene, and medical care requirements. Men and women were held separately. Pretrial detainees were held separately from convicted criminals. Juvenile prisoners were supposed to be physically separated from adults; however, juveniles often served their sentences with adults.

The Government permitted visits to convicted prisoners by independent humanitarian organizations such as the International Committee of the Red Cross (ICRC) and the Human Rights Ombudsman. The Criminal Code was amended during the year to allow access to pretrial detainees for family members, physicians, chiefs of diplomatic missions, and representatives from the European Committee for the Prevention of Torture (CPT) and ICRC, following the approval of the investigative

judge. The ICRC was initially denied access to detainees after the passage of the new law; however, by year's end, access had been granted.

The CPT was authorized to visit all places of detention on a regular and ad hoc basis, as well as numerous police stations. In July, the CPT carried out a week-long visit; the report on the visit was not available at year's end.

*d. Arbitrary Arrest or Detention.*—The Constitution specifically prohibits unlawful arrest; however, arbitrary arrest and detention were problems.

The Macedonian National Police, within the MOI, is a centralized force with two major components: Uniformed police and criminal (civilian) police. In March, a Border Police was established within the MOI that took over responsibility for border operations from the military. By year's end, the Border Police had complete control over all border operations in southern and eastern parts of the country. They were expected to assume full responsibility for the northern and western parts of the country by the end of 2005.

MOI officials in Skopje control, supervise, and direct all subordinate regional offices, which allows little opportunity for regional and local commanders to design and implement policies that specifically address the needs in their jurisdictions.

The 185-member European Union (EU) Police Mission Proxima was deployed in December 2003 to perform an advisory role, assisting the police in former conflict areas and advising on MOI reforms. The EU granted Proxima a 12-month extension in October at the request of the Government.

The police force remained largely ethnic Macedonian; however, the Government took steps to improve ethnic representation, such as maintaining a 22 percent recruiting quota for ethnic minority recruits and beginning a training course for an additional 345 "non-majority" police officers. Ethnically mixed patrols operated in predominantly ethnic Albanian areas.

The MOI took concrete steps to reform the police. In October, it opened the police academy to update and institutionalize the processes of selection, training, and continuous education of police officers, and to create a merit-based, professional police cadre. The Academy's first class of 141 candidates included 99 ethnic Macedonians, 23 ethnic Albanians, 3 ethnic Turks, 7 ethnic Serbs, 3 ethnic Roma, 2 ethnic Bosnians, 2 ethnic Vlachs, and 2 of other ethnicities. Human rights training was mandated for all recruits at the Academy.

MOI officials were slow at times to complete investigations and bring charges in outstanding human rights cases from previous years. In October, international observers noted improved MOI response to investigating individual cases of police misconduct and more frequent and consistent disciplining of officers found guilty; however, they cited a limited range of disciplinary options as an issue that sometimes precluded appropriate sanctions.

The PSU, which is responsible for investigating corruption, completed a major corruption-related investigation in which it demoted 70 traffic police officers, and terminated 8 for misuse of position, misappropriation of funds and receiving bribes. All 70 officers, including 2 police station commanders and 8 section leaders, were reassigned to other positions. Disciplinary procedures were initiated against 42 officers. Of these, 34 received a 15 percent pay cut for 1 to 6 months, depending on specific aspects of the case, while 8 were terminated. The PSU filed criminal charges against two MOI administrators for their involvement in the same case. Proceedings were ongoing at year's end.

In April, a pilot community policing project, the second in the country, was initiated by the MOI in Skopje. In April, a 1-year training course for 345 "non-majority" police officers, including 280 ethnic Albanian police cadets, 40 ethnic Macedonian cadets, and 25 cadets representing the other ethnicities, was initiated in accordance with the FWA.

The law requires warrants for arrest and detention. There were fewer reports during the year that this procedure was violated. The Constitution states that a detainee must be arraigned in court within 24 hours of arrest; however, police at times violated this requirement, often by transferring the suspect from one police station to another so as not to exceed a 24-hour period of police detention at the location. The accused is entitled to contact a lawyer at the time of arrest and to have a lawyer present during police and court proceedings; however, detainees were at times denied access to an attorney during police and investigative proceedings, which caused additional problems during later stages of the criminal proceedings.

Suspects occasionally claimed ill-treatment by the police during initial detention periods (*see* Section 1.c.).

There is a functioning bail system that was used primarily by the courts in "property related crimes" such as fraud, embezzlement, and abuse of official position. The

courts were reluctant to approve bail for defendants accused of violent crimes or crimes against children.

The police have no legal powers to coercively detain a person for an interview unless that person is arrested while committing a crime; however, there were several reports of police detaining individuals for “informative talks,” although according to official information, all individuals were either released within 24 hours, or taken to an investigative judge for further proceedings. For example, in May, police in Prilep brought a group of young Roma to the police station for “informative talks,” stating that there was an increase in the percentage of Romani youths using narcotics and that the youths were brought in as a preventative measure.

The maximum length of pretrial detention is 180 days; however, pretrial detention exceeding 180 days after indictments entered into force was a problem, and detainees at times were held on weak evidence. In October, Slobodanka Sukleva, the former director of the Gevgelija Medical Center, was released from 4 months of pretrial detention on corruption and embezzlement charges although criminal proceedings were ongoing at year’s end.

Investigative judges determine the legality of detention. The law provides for access by attorneys and other interested individuals to pretrial detainees, but such access has to be approved by an investigative judge and the warden of the detention facility; in practice, investigative judges and wardens regularly approved such access. If the judge determines that an arrested person should be further detained, the judge must immediately inform the public prosecutor. If the prosecutor does not file a request for a criminal investigation within 24 hours, the investigative judge must release the arrested person. This generally occurred in practice.

NGOs, as well as other legal experts, contended that the judiciary sometimes abused its pretrial detention authority. During the year, there were fewer allegations than in previous years that the judiciary succumbed to pressure by the executive branch to order long detentions; however, on several occasions the opposition claimed that investigative judges, under pressure from the Government, improperly extended pretrial detention, allegedly for politically motivated reasons, in serious corruption-related cases.

The Amnesty Law was regularly implemented and respected. Under provisions of the law, persons accused of fighting with or actively supporting the NLA up until the date of the NLA’s disbandment in 2001 were granted amnesty; however, the law did not apply to persons accused of war crimes as defined in the ICTY statute. More than 900 persons were given amnesty; by year’s end, the amnesty process had been completed.

The ICTY continued to investigate alleged war crimes and was expected to make its decisions regarding indictments in early 2005.

In the case of 10 ethnic Albanians accused of abducting 5 ethnic Macedonians along the Tetovo-Gostivar highway in 2002, all were convicted and sentenced to 7 to 10 year prison terms in September. Lawyers for the defendants planned to appeal the case.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary was generally weak, at times inefficient, and sometimes influenced by political pressure, intimidation, and corruption.

The media reported that the Chief Prosecutor accused some lower courts of being biased or influenced by political factors, which resulted in prolonged trials and an inability to reach final judgments in politically sensitive cases. The State Anticorruption Commission reviews cases of alleged corruption, conflict of interest, and nepotism. It issued opinions, which frequently included recommendations that the prosecutor initiate criminal actions against those judges against whom there is sufficient evidence of corruption. During the year, the Republic Judicial Council (RJC) proposed to the Parliament that 13 judges be dismissed on the grounds of unprofessional and/or unethical behavior; 7 were removed.

In one case, a former judge from Strumica was sentenced to a 1-year prison term for receiving bribes. In December, the Public Prosecutor’s Office initiated criminal proceedings against a judge from Kochani on abuse of official position charges. The Government publicly expressed its discontent with the low number of court judgments in general.

The State Anticorruption Commission criticized the Public Prosecutor’s Office for a lack of cooperation in following up on cases brought by the Commission. The Chief Public Prosecutor responded by accusing one member of the Commission of conflict of interest for holding several public positions simultaneously. The Commission also challenged the president of the RJC for failing to submit her financial statements as required by the Law on Prevention of Corruption.

Other judicial shortcomings included lengthy legal procedures, poor case management, lack of coordination between key legal institutions, political influence on the judiciary, and judicial corruption.

The court system is three-tiered and composed of basic courts, appellate courts, and a Supreme Court. The Constitutional Court is not considered part of the judicial branch and deals with matters of constitutional interpretation and certain human rights protection issues.

The FWA stated that the judiciary should better reflect the ethnic composition of the population and that one-third of the judges on the Constitutional Court, the Ombudsman, and three members of the Judicial Council should be chosen by the Parliament, including by a majority of the ethnic minority M.P.s, to ensure minority representation. Of the nine judges on the Constitutional Court, six were ethnic Macedonians, two were ethnic Albanians, and one was an ethnic Turk. Of the seven members of the RJC, four were ethnic Macedonians, two were ethnic Albanians, and one was an ethnic Serb. Of the 23 sitting Supreme Court Justices, there were 16 ethnic Macedonians, 6 ethnic Albanians, and 1 ethnic Turk. One additional seat was unfilled at year's end.

The Constitution provides for a fair public trial, and the Government generally respected this right in practice. Trials are presided over by judges appointed by the RJC (an independent agency) and confirmed by Parliament. Two to three community-member consulting jurors assist each judge in determining the verdict, although the judge makes the final decision regarding the sentence. The law also provides for the presumption of innocence, the right to a lawyer in pretrial and trial proceedings, the right to an appeal, and the right to stand trial within a reasonable period of time after charges have been pressed. These rights were generally respected in practice; however, lengthy legal procedures and delays were a problem. Court hearings and the rendering of verdicts were open to the public except in some cases, such as those involving minors and those in which the personal safety of the defendant was of concern. Trials could only be televised when authorized by the Supreme Court under special circumstances. International community members, including NGOs and other human rights observers, were regularly allowed to monitor high profile trials.

The law provides that trials may be held in absentia so long as they are repeated if the convicted individuals later become accessible to justice officials. Two of eight codefendants tried in 2003 in absentia for planting several explosive devices in and around Kumanovo were later detained by the U.N.-authorized, NATO-led peacekeeping force in Kosovo. During the year, both were extradited to the country, retried, convicted, and sentenced to a maximum of 7 years in prison.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions and the Government generally respected these prohibitions in practice; however, it was reported that the Ministry of Interior used an illegal wiretap in October to catch suspects in a criminal case. The suspects' defense attorney complained to the Deputy Public Prosecutor; however, a PSU investigation concluded the MOI had used lawful surveillance methods.

In 2003, the ERRC filed a pre-application letter with the European Court of Human Rights (ECHR) in Strasbourg against the Government to prevent the forced movement or expulsion of Kosovo Roma, Egyptian, and Ashkali refugees to Kosovo or to Serbia and Montenegro. According to an ERRC affiliate in Stip, during the year, the Government stopped the forced movement and allowed the refugees to start the asylum procedure. Approximately 700 of the refugees received "humanitarian protection," while some voluntarily returned to Kosovo.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the media was not completely independent, as some media outlets were closely aligned with political interests, and some news and information were reported from a political perspective. The Government did not restrict academic freedom. Media were divided along ethnic lines, with the most striking divisions visible in reports on controversial political issues. There was no government-controlled print media.

The Government stopped providing a yearly financial subsidy to the print media. The elimination of financial subsidies was strongly opposed by the Association of Print Media, composed of 14 daily and weekly publications. As of April, Pristina-based Koha Ditore started issuing a Macedonian edition of its Albanian-language daily, which rapidly attracted readership. Fakti is the other major Albanian-language daily.

Distributors of foreign newspapers and magazines no longer had to obtain permits from the MOI, and they were available throughout the country.

Macedonian Radio and Television (MRTV) was the sole public broadcaster in the country, with distribution reaching over 90 percent of the population. MRTV broadcast in Macedonian and generally favored the government point of view on political issues.

There were an estimated 150 local radio and television stations registered in the country. The Broadcasting Council of Macedonia recommended concessions, which the Government awarded, to radio and television broadcasters.

A1 Television and Sitel Television were the only private television broadcasters with nationwide coverage until July, when the Government granted three additional licenses for nationwide coverage to Skopje-based Telma TV and Kanal 5 TV, and Gostivar-based entrepreneur Vebi Velija. Over 50 private local television stations existed. There were two private Albanian-language television stations in Skopje, TV Era and TV Toska, as well as two stations that broadcast in the Romani language, TV-BTR and TV Sutel. TV EDO was a Bosniak language station.

In December, the Vienna-based Southeast Europe Media Organization (SEEMO), of which the Macedonian Association of Private Electronic Media (APEEM) was a member, protested against alleged government restrictions on freedom of movement of journalists in the Skopje suburb of Kondovo after journalists from all major print and broadcast media claimed that they had been limited in their reporting on an armed ethnic Albanian group there. However, international observers following the developments in Kondovo did not report any government restraints on media coverage.

There were two news agencies: State-owned Macedonian Information Agency (MIA) and private Makfax.

Political influence on journalism, from ruling as well as opposition parties, was largely through economic pressure and indirect censorship. Methods of influencing the media included threats of advertising blackmail and denial of access to information sources.

Defamation and slander are regulated according to the Penal Code; sanctions include prison sentences and fines. The Association of Macedonian Journalists unsuccessfully attempted to negotiate a decriminalization of defamation during the year. The Parliament adopted an amended Penal Code with few significant improvements.

There were no new cases of slander brought before the courts; however, several slander cases concluded during the year. In April, a Bitola court sentenced journalist Mende Petkovski to a conditional 4-month prison term for libeling Bitola Court of Appeals judge Nexhat Ajro. Petkovski wrote a story in 2002 that alleged judge Ajro was driving a car without registration plates. Petkovski appealed the decision with the Skopje Court of Appeals, and his appeal was pending at year's end.

In May, Start magazine journalist Zoran Bozinovski was kept in detention for 6 days for not responding to a court subpoena after a private criminal lawsuit was filed against him on slander charges.

In January, a court acquitted Goran Mihajlovski, editor-in-chief of Daily Vest, of charges of slander filed on behalf of former Prime Minister Ljupco Georgievski over a series of 2002 investigative reports alleging Georgievski was involved in property and financial fraud.

In November 2003, Skopje Court 1 convicted Utrinski Vesnik journalist Sonja Kramarska, former A1 TV journalist Dragan Antonovski, and Zum weekly journalist Zoran Markozanov in three separate slander cases brought in 2001. The Association of Print Media strongly protested these court decisions, claiming that they were an attempt by the former government to intimidate journalists and impose control over the media. All three verdicts were contested before the Court of Appeals: In the case of Dragan Antonovski, the court had not ruled on the appeal by year's end; Zoran Markozanov's case was returned to the First Instance Court for review; and Sonja Kramarska's appeal was rejected.

The trial of Start journalist Marjan Gjurovski on charges of slander filed by former director of the Public Security Bureau Goran Mitevski was ongoing at year's end.

There were no investigation results in the investigation of the 2002 attack by an unknown gunman on the printing facility of now-defunct Global magazine in Mala Recica and the destruction of the vehicle of Global's co-owner and Start owner Ljupco Palevski at year's end.

At year's end, the trial was ongoing against Nikola Tasev, former General Manager of Nova Makedonija, and Besnik Fetaj, former Minister of Economy, who were charged with abuse of power for selling 70 percent of Nova Makedonija's shares on

the eve of 2002 parliamentary elections. Nova Makedonija was the largest publishing house before its liquidation in 2003.

No progress was made in the two police investigations into a June 2003 incident in Aracinovo, where local residents physically prevented MTV, Sitel TV and Telma TV from reporting on an incident and several journalists sustained injuries.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

Advance notification to authorities of large public meetings was optional. Religious gatherings, if they occur outside of specific religious facilities, could only be convened by registered religious groups and must be approved in advance by the MOI (see Section 2.c.).

On July 22, police used shock bombs and tear gas to control a rioting crowd of protesters who were throwing rocks and Molotov cocktails at the local headquarters of the ruling SDSM party in Struga, with Defense Minister Buckovski and others trapped inside. Up to 30 persons were injured during the riot, including a Proxima police officer, and several police vehicles were also burned by the crowd. PSU and EU Proxima investigations found that police did not use excessive force.

On July 26, a related protest in Skopje remained peaceful, and police leaders exercised restraint in responding to occasionally violent provocations by youth protesters.

Political parties and organizations are required to register with a court. More than 64 political parties were registered, including parties of Albanians, Turks, Serbs, Bosniaks, and Roma.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the law places some limits on religious practice by restricting the establishment of places of worship. The Constitution specifically mentions several religious denominations and faiths, including the Macedonian Orthodox Church (MOC), the Methodist Church, Islam, Catholicism, and Judaism; however, none of these religious communities had official status or privileges.

The Law on Religious Communities and Groups contained a number of specific requirements for the registration of religious groups that were struck down by the Constitutional Court in 1999. Consequently, there was confusion over which registration procedures still applied. According to the law, only one religious community or group may be registered per confession. In November, the Government rejected an application filed on behalf of the Ohrid Archbishopric, an affiliate of the Serbian Orthodox Church, citing this provision of the law.

The Government requires that religious groups be registered to request visas for visiting foreigners. It is no longer necessary to have a government “opinion” to own a “religious facility”; however, a government opinion is legally required to obtain a permit to build such a facility. After a recent Constitutional Court ruling struck down sections of the Law on Religious Communities and Groups that authorized the Government to provide such an opinion, religious groups were effectively blocked from constructing worship facilities pending planned amendments to the law. The Government generally did not take action against religious buildings lacking permits; however, there were exceptions. On October 15, building inspectors demolished an illegally built church belonging to the Bishop Jovan of the Serbian Orthodox Church (SOC) in the village of Nizepole.

The law places some restrictions on the establishment of places of worship. A provision exists for holding services in other places, not included in the law, provided that a permit is obtained at least 15 days in advance. No permit or permission is required to perform religious rites in a private home. The law also states that religious activities “shall not violate the public peace and order, and shall not disrespect the religious feelings and other freedoms and rights” of persons who are not members of that particular religion. The Government did not actively enforce most of these provisions of the law, but acted upon complaints when they were received.

On January 11, police acting on complaints from building residents alleging disruption of peace and order arrested Zoran Vraniskovski, also known as Bishop Jovan, along with 11 of his followers after they conducted a liturgy in Vraniskovski's Bitola apartment, and submitted a misdemeanor complaint. Soon afterwards, the Bitola Public Prosecutor's Office filed criminal charges against Jovan for inciting religious and ethnic hatred based on the alleged publication and distribution of a religious calendar containing text considered offensive by members of the MOC. The text calls the MOC “the last fortress of communism” and its believers “heretics.” Jovan admitted to writing the text, but not to producing and distributing the cal-

endar. On August 19, the Bitola Basic Court found Jovan guilty of the charges of inciting religious and ethnic hatred and sentenced him to 18 months in prison. At year's end, Jovan remained free pending appeal of his case.

The law also requires that foreigners entering the country with the intent to carry out religious work and/or perform religious rites receive approval from the Government's Commission on Relations with the Religious Communities. When applying for visas, persons planning to perform religious work must submit a letter of invitation from representatives of a registered religious group in the country to the Commission, which then issues a letter of approval to be submitted with the visa request. Approvals were normally issued within 2–3 days.

Education laws restrict the establishment of all private primary schools, including parochial schools; however, there were no restrictions placed on religious education that took place in religious spaces (churches, mosques, etc.). In 2002, the Government granted work visas to employees at the Timothy Academy, an evangelical Christian academy operated by foreigners for foreign children, and legally registered the school as an NGO. In 2003, Timothy Academy's initial request for renewed work visas was denied due to insufficient documentation. In December, after bureaucratic delays, Timothy Academy's request for renewed work visas was approved.

At year's end, the Jewish Community reported that all outstanding property claims of the Community had been resolved; however, problems remained with the restitution of properties belonging to the Holocaust Fund of the Jews from the Republic of Macedonia. The Jewish Community expressed some frustration with the slow pace of developments concerning these properties. The Jewish Community received a partial decision restoring some of these properties to the Fund in November, but was still awaiting full restoration.

On March 4, several spectators hung banners with swastikas at a handball match between two local teams near the city of Bitola. Police officials present did not confront the individuals responsible for the banners, and pictures of the policemen standing in front of the banners appeared in newspapers the following day. Several newspapers published editorials critical of the police's inaction, and the MOI later disciplined the officers in question.

In February, an explosion occurred in Bitola at the Asan Baba mosque. There were no injuries and few details emerged about the incident, apart from a report that grenades were used and that the location had also been attacked by ethnic Macedonians during the 2001 riots in Bitola related to the ethnic Albanian insurgency. In March, during the unrest in Kosovo, unknown attackers threw several Molotov cocktails on the roof of a mosque in Kumanovo. There was no damage to the mosque beyond scorching of ceramic tiles. In April, two churches in Tetovo reportedly were vandalized following Easter services.

There were isolated reports of vandalism of religious properties.

At year's end, the ongoing ownership dispute between the Bekteshi religious sect and the Macedonian Islamic Community over the Bekteshi religious facility remained unresolved. The Bekteshis had filed suit against the Government for not reversing the former Yugoslavia's nationalization of their Tetovo compound as well as against the Macedonian Islamic Community, armed members of which took over the complex in August of 2002. Although the armed intruders left by the end of 2002 under international community pressure, Islamic Community leaders continued to hold services on these grounds and members of the Bekteshi community were not allowed to worship there at year's end.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. According to the Minister of Justice, the Amnesty process was completed during the year. Individuals could still initiate legal procedures to obtain a formal amnesty; however, no one had done so by year's end.

The Constitution prohibits forced exile, and the Government did not employ it.

Under the Constitution, any Yugoslav citizen who had legal residence in the country in 1991 could acquire citizenship by simple application; however, unresolved citizenship status of long-term habitual residents remained an ongoing problem. Many former Yugoslav citizens were unable to acquire Macedonian citizenship. As a result, they often were unable to obtain valid identity documents.

In 2003, the Parliament approved the law on citizenship, which reduced the residency requirement for aliens from 15 to 8 years and provides more favorable conditions for acquiring citizenship for foreigners married to Macedonian citizens, persons without citizenship, and persons with refugee status. Former President Trajkovski

vetoed the legislation in January; however, Parliament overrode Trajkovski's veto on January 23 and the law came into effect.

At the height of the country's internal conflict in 2001, the U.N. High Commissioner for Refugees (UNHCR) estimated that approximately 170,000 persons, approximately 8 percent of the population, were displaced from their homes. A majority of these internally displaced persons (IDPs) and refugees have returned to their homes. According to UNHCR, approximately 1,424 IDPs remained displaced in the country in December. The ICRC supported approximately half of the IDPs with income-generating projects in the agricultural, livestock-rearing and handicraft sectors, but expected this to be the last form of material support they would provide. According to the UNHCR, approximately 837 refugees from the country remained in Kosovo as of November.

IDPs and refugees often did not return to their hometowns because their houses were still badly damaged or entirely destroyed as a result of the 2001 conflict. The UNHCR and foreign governments led efforts to rehabilitate homes that suffered minor damage. The European Agency for Reconstruction (EAR) continued to rebuild badly damaged homes. At year's end, approximately 6,243 homes, of a total of some 6,643 destroyed or damaged homes, had been rehabilitated or rebuilt. In some cases, persons did not return to their homes in ethnically mixed locales because they felt unsafe. Arsonists reportedly burned some of the rebuilt homes in Opaje and Jeduarce. Overall, UNHCR and EAR recorded fewer cases of arson and vandalism of rebuilt homes than in the previous year.

The new asylum law provides for the granting of asylum and refugee status to persons who meet the definition in the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The Government had established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared prosecution; however, in 2003 the Government expelled two Kosovo refugees by dropping them off at the Serbian border (not the Kosovo portion).

At year's end, there were approximately 1,233 asylum seekers; 957 persons enjoying "humanitarian protection" (a form of asylum under the Law on Asylum and Temporary protection which can last for up to a year and is renewable); 23 recognized refugees; 24 Bosnians permitted to remain in the country under the Aliens Act; and 6 rejected asylum seekers. Approximately 2,311 persons had applied for asylum by October. Few asylum seekers were granted that status, but those who were denied had the opportunity to appeal to the Supreme Court. As of year's end, the Supreme Court had not ruled on any of the appeals it received during the year.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. During the year, 124 refugees voluntarily returned to Serbia and Montenegro (including Kosovo). A total of 2,239 refugees from Kosovo, almost all of whom were Roma, remained. These refugees benefited from a limited temporary humanitarian protection status that did not provide for self-reliance or local integration rights. Refugees were sheltered in private accommodations, with the exception of 14 asylum-seekers who were housed at the Gazi Baba reception center. The UNHCR closed the collective center in Katlanovo, near Skopje, in mid-year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage.

By year's end, Parliament had completed nearly all FWA-mandated legislative actions, which was designed to enhance minority civil rights and devolution of power to local governments. In particular, laws regarding the use of languages and flags had not yet been debated in the Parliament.

On February 26, President Trajkovski died in a plane crash. Presidential elections were held April 14 and 28. Then-Prime Minister Branko Crvenkovski of the ruling coalition partner Social Democratic Union of Macedonia (SDSM) won the election, and was inaugurated President on May 12. International observers characterized both rounds of the election as satisfactory, but noted serious second-round irregularities in parts of the country. Opposition VMRO-DPMNE challenged the election results on the basis of the irregularities; however, international observers concluded that these did not significantly influence the final outcome. The Parliament confirmed Hari Kostov, former Interior Minister, as Prime Minister on June 2. Prime Minister Kostov resigned on November 15, after less than 6 months in office. Former Defense Minister Vlado Buckovski was confirmed as Prime Minister on December 17.

In August, the Parliament passed a package of decentralization laws mandated by the FWA. Among these were several controversial laws on revised municipal boundaries. Opponents of the new municipal redistricting plan had begun a referendum drive in February, and collected enough signatures by the end of August to compel the Government to hold a referendum. The referendum, on November 7, asked citizens to vote for or against re-establishing municipal boundaries as defined in a 1996 law. The referendum failed due to low voter turnout and paved the way for FWA-mandated fiscal and administrative decentralization and increased devolution of power and resources to local communities.

Corruption was a problem in the executive and legislative branches of the Government. The State Anticorruption Commission was responsible for investigating charges of corruption as well as complaints submitted by citizens. During 2003, the Commission initiated 15 investigations and responded to 603 civil complaints concerning the work of state bodies, privatization procedures, judicial procedures, and other relevant cases. Of the 15 cases, 5 resulted in recommendations for continued investigations or court proceedings, 5 were dismissed or resolved without further proceedings, and 5 were stalled pending additional information from relevant persons or state bodies. The Commission acted on 427 of the civil complaints, of which 10 percent were ultimately submitted to competent state bodies for continued investigation. In 2003, the Customs Administration began operating a free, anonymous hotline for citizens to report suspected cases of smuggling and corruption among customs officials. As of year's end, seizures of smuggled products had more than doubled from the previous year.

There were 23 women in the 120-seat Parliament, 21 of whom were ethnic Macedonians and 2 of whom were ethnic Albanians. Out of the 19 ministers in the Government, 3 were women—the Foreign Minister, the Justice Minister and one of three Deputy Prime Ministers. The law requires women to constitute 30 percent of each political party's list of candidates in elections at both the national and municipal levels. In Muslim communities, particularly among more traditional ethnic Albanians, many women were disenfranchised due to the practice of family or proxy voting through which male family members voted on their behalf.

There were 26 ethnic Albanians, 1 Macedonian Muslim, 1 Roma, 3 Turks, 2 Serbs, 2 Bosniaks and 1 Vlach in the 120-seat Parliament. Four ethnic Albanian parties and a Roma party had M.P.s; the ruling government coalition included one of the three major ethnic Albanian parties, as well as the Roma party, a Bosniak party, a Serb party, and a Turk party.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of international and domestic human rights groups generally operated without government restriction, while investigating and publishing their findings on human rights cases. The OSCE led international community efforts to engage the Government on human rights issues. Government officials were generally receptive to the views of human rights groups.

There were more than 4,000 registered NGOs, including the MRC, FORUM, Transparency International, MOST, Macedonian Helsinki Committee, and many local NGOs devoted to specific causes, including Roma rights, human trafficking, and voters' rights.

The OSCE and EU monitoring missions continued to assist with implementation of the FWA and to work on restoring confidence between ethnic Macedonians and ethnic Albanians.

The ICTY continued to investigate five alleged war crimes cases over which it asserted primacy in 2002, including the killing of ethnic Albanian civilians by police at Ljuboten in August 2001. Two of the cases in which the ICTY asserted primacy dealt with missing persons. ICTY planned to announce by year's end which of these cases would be tried by the Tribunal and which would be returned to the country for possible prosecution. The Government generally cooperated with the Tribunal.

The FWA gives the Ombudsman the mandate to improve nondiscrimination and equitable representation of non-majority communities. The Ombudsman's Office opened six decentralized offices in Bitola, Kumanovo, Tetovo, Stip, Strumica and Kicevo during the year; however, six deputy ombudsmen had not been appointed by year's end. The Ombudsman has the legal right to visit all persons detained, including those in pretrial detention, at any time, in private, and without prior authorization and it was able to freely to exercise this right during the year.

According to its published annual report, the Ombudsman ascertained that state institutions violated individuals' rights in 550 cases, approximately 20 percent of the total complaints received in 2003. The largest number of cases concerned violations of judicial, labor and property rights. The Government acted on the Ombudsman's

recommendations in 356, or 65 percent of these cases. The Ombudsman's Office described overall official cooperation as "good and improving." For the first time during the year, the Parliament held a 2-day session to review the annual report of the Ombudsman.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal rights for all citizens regardless of their sex, race, color of skin, national or social origin, political beliefs, property, or social status; however, societal discrimination against ethnic minorities persisted, and the protection of women's rights remained a problem.

*Women.*—Domestic and other violence against women was a persistent and common problem. Legal recourse is available to rape victims, including victims of marital rape; however, cultural norms discouraged the reporting of such violence, and criminal charges on the grounds of domestic violence were very rare. In March, Parliament adopted two amendments to the Criminal Code that specifically addressed domestic violence and increased the maximum sentence to life imprisonment. In June, Parliament adopted changes to the Family Law to include provisions for civil restraining orders; however, police did not receive formal training related to domestic violence. Police in some police stations in Skopje did receive a briefing on new regulations concerning family violence, but there are no internal practical police guidelines in place for investigating cases of family violence. Victims of family violence often were reluctant to bring charges against perpetrators because of the shame it would inflict on the family, and police were limited in their ability to respond to allegations of domestic violence and spousal rape if the crime did not occur in police presence.

According to some surveys, one out of four women claimed to have been a victim of domestic violence, either physical or psychological. Public concern about violence against women was not evident in the media, although some women's groups were working to raise awareness of the issue. NGOs and the Government operated shelters for victims of spousal abuse, and three new government shelters were opened during the year in Bitola, Kocani and Strumica. A hotline remained open, but had limited hours. The Government offered some limited support for victims of domestic violence, but relied heavily on international donor support to maintain the hotline and shelters.

Rape is specifically addressed in the Criminal Code; however, rape convictions require proof of both penetration and active resistance on the part of the victim. These regulations are more stringent than the requirement for any other violent crime. Penalties for rape or forcible sexual assault range from a minimum of 1 year to a maximum of 15 years' imprisonment. There were some rape cases tried during the year.

Trafficking in women for sexual exploitation was a problem (*see* Section 5, Trafficking).

Sexual harassment of women in the workplace was a problem, particularly in the private sector; however, there was little public attention paid to the issue. Sexual harassment was not specifically addressed by law; however, it could be prosecuted as a criminal act under antidiscrimination legislation. In practice, this did not happen. Women remained underrepresented in the higher levels of the government and private sectors, although some professional women were prominent.

Women from some parts of the ethnic Albanian community did not have equal opportunities for employment and education, primarily due to traditional and religious constraints on their full participation in society and schools. In some ethnic Albanian communities, women were disenfranchised due to the practice of family and proxy voting through which men vote on behalf of women family members (*see* Section 3).

The Office of Gender Equality in the Ministry of Labor and Social Policy was responsible for ensuring the legal rights of women. In January, the Government submitted its first report to the U.N. Committee on the Elimination of Discrimination Against Women.

Women's advocacy groups included the Humanitarian Association for the Emancipation, Solidarity, and Equality of Women; the Union of Associations of Macedonian Women; and the League of Albanian Women. These groups worked to combat domestic violence and trafficking, increase women's political involvement, improve women's access to legal services, and promote female establishment of small and medium enterprises, among other activities. A Women's Parliamentary Lobby comprised all female M.P.s.

*Children.*—The Government was committed to the rights and welfare of children; however, it was significantly limited by resource constraints. The Office of the Ombudsman contained a special unit for children, partially funded by UNICEF.

Education is mandatory through the eighth grade or to the age of 16; however, some children did not enter the education system at all. The Ministry of Education reported 95 percent enrollment; however, no other official data was available on children's school attendance or the number of children who did not have access to education. Primary and secondary education was free; however, students had to provide their own books and other materials.

Almost 90 percent of the children who finished primary school continued on to secondary school; however, at both the primary and secondary levels, girls in some ethnic Albanian communities remained underrepresented in schools, and only approximately half of ethnic minority students went on to high school. This was due in part to lack of available classes in minority languages at the secondary level and in part to many rural, ethnic Albanian families' conviction that girls should be withdrawn from school at age 14.

According to Romani community leaders, up to 10 percent of Romani children never enrolled in school. Of those who did enroll, 50 percent dropped out by the fifth grade and only 35 to 40 percent finished the eighth grade. The Ministry of Education encouraged ethnic minority students, particularly girls, to enroll in secondary schools.

As in previous years, poor physical conditions of schools and insufficient classroom space were common complaints, particularly in the predominantly ethnic Albanian western parts of the country, and parents and students sometimes protested these conditions. Parents in Dobarce and Brodec—two villages near Tetovo—boycotted the start of the school year in protest of poor physical conditions at their children's schools.

Interethnic fights and beatings remained commonplace in the country's public schools.

Medical care for children was adequate; however, it was hampered by the generally difficult economic circumstances of the country and by the weak national medical system.

There were reports of the abuse of children, although there was no societal pattern of such abuse. According to MOI statistics, the number of reported cases of sexual abuse against children decreased; there were 37 reported cases during the year.

Girls were trafficked for sexual exploitation (*see* Section 5, Trafficking.)

Romani children were often organized into groups by Romani adults and made to beg for money at busy intersections, street corners, and in restaurants and cafes (*see* Section 6.d.).

According to some estimates, there were between 500 and 1,000 street children in the country. In Skopje, the Government operated a daycare center for street children, who were predominantly Roma. The government-funded center, which served between 60 and 100 children daily, was staffed by social workers, psychologists and teachers and offered an alternative approach to rehabilitating street children.

The Ombudsman's Office for Children continued to investigate complaints regarding violations of children's rights.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons remained a serious problem. Amendments to the 2002 trafficking law adopted in April provide for the arrest, prosecution, and sentencing of important traffickers; however, significant challenges, primarily in the judiciary, remained in eliminating trafficking and related activities. In some isolated instances, police were complicit in the trafficking of persons.

It is a criminal offense to traffic persons for sexual exploitation, forced labor or servitude, slavery, or a similar relationship. The trafficking law mandate a minimum of 4 years imprisonment for most trafficking crimes and a minimum of 6 months for the destruction of identification documents of trafficked persons. Persons convicted of organizing human trafficking receive a mandatory minimum prison term of 8 years and 1 to 10 years for complicity in the crime of human trafficking. The new Criminal Code provision adopted in April introduces a method of plea bargaining by waiving criminal sentences for coconspirators who provide evidence against the organizers of human trafficking crimes. A minimum sentence of 6 months is also mandated for persons who wittingly use, or enable another person to use, sexual services from a trafficked person. The Criminal Code increased the mandatory minimum prison term for trafficking in children from 4 to 8 years, while simultaneously increasing the mandatory minimum prison term for knowingly using trafficked children and juveniles for sexual exploitation to 8 years. The mandatory

minimum sentence for persons who destroy or withhold a person's passport or identity documents in the course of committing a crime of human trafficking is 4 years.

The new statute subjects legal entities to criminal liability and a fine of at least \$2,000 (94,000 denars) for human trafficking.

In 2003, Parliament approved a constitutional amendment legalizing special investigative methods to be used in trafficking investigations, including wiretapping.

As of August, the MOI had brought charges in 40 cases of criminal offenses committed by 80 individuals. Nine were said to be direct cases of human trafficking and involved 31 alleged perpetrators. In 20 other cases, charges were brought against 35 persons for dealing in prostitution. Charges were also brought for the smuggling of migrants across international borders, and for transportation of persons for purposes of sexual slavery.

In May, one case was brought to trial in Gostivar, with a victim from Ukraine testifying against the alleged trafficker. In June, in another case in Gostivar, a victim from Moldova testified against a person who was charged with mediation in prostitution. In the Ohrid Basic Court, three victims from Ukraine and one from Romania testified, leading to the indictment of three persons for mediation in prostitution. At year's end, verdicts in these cases were pending.

Although some trafficking trials were ongoing during the year, no traffickers were sentenced.

The MOI's Department of Organized Crime was the lead government body on antitrafficking activities and detailed several law enforcement personnel to work full time in its main trafficking unit in Skopje. It also deployed antiorganized crime police officers to combat human trafficking on a local level. The Government routinely cooperated with neighboring countries national organizations, most notably the Southeast European Cooperative Initiative.

While the country remained primarily a transit and destination country, officials and others acknowledged that it was also a country of origin for a small number of trafficking victims. Reliable trafficking statistics were not available, but according to experts, including the OSCE and others working in the field, the general estimate was that between 200 and 400 women were trafficked to or through the country during the year primarily for the purpose of sexual exploitation. MOI officials reported a downward trend in human trafficking during the year, although the number of persons internally trafficked rose. Ukraine, Moldova, Romania and Bulgaria remained the primary sources of trafficked victims and victims trafficked through the country were most often in route to Serbia and Montenegro (including Kosovo), Albania, and Western Europe.

Trafficked women were forced to work in prostitution, often under the guise of dancers, hostesses or waitresses in local clubs. Police raids and testimony by victims confirmed that trafficking victims were subjected to threats, violence, physical and psychological abuse, and seizure of documents to ensure compliance.

There was one documented case of police complicity in trafficking in Gostivar, in which an officer was suspended from duty pending two criminal charges for misuse of official position and trafficking in persons. The pretrial criminal procedure concluded; however, a hearing had not been scheduled by year's end. Two police officers who testified on behalf of trafficker Dilaver Bojku were under investigation for possible complicity in trafficking.

During the year, the International Organization for Migration (IOM) assisted 24 victims of trafficking at its local shelter, which it operated with support from the Government and a local NGO. Of these 24 victims, 4 were under 18 years old. However, the total number of women who were assisted in the transit shelter center was 38, of whom 12 were under age 18. Two of the assisted persons were citizens.

There were modest signs of increased witness facilitation activity during the year. According to MOI sources, the Ministry offered support and protection to at least seven victims and witnesses who testified against traffickers in four prosecuted cases. The IOM repatriated all self-identified trafficking victims who voluntarily agreed to participate in the repatriation program, including victims who testified against their traffickers. In cases when victims of trafficking were brought into the country to testify against their traffickers, they were returned to their countries of origin as part of the program for witness facilitation. In May, one case was brought to trial in Gostivar, with a victim from Ukraine testifying against the alleged trafficker. In December, a victim from Bulgaria testified in a case leading to an indictment on human trafficking charges. At year's end, verdicts in these cases were pending.

The Government's National Commission for Prevention and Suppression of Trafficking in Persons, which consisted of representatives from several ministries, coordinated the Government's efforts to combat trafficking. A Secretariat provided rec-

ommendations to the National Commission and assisted in the implementation of the Government's national action plan.

*Persons With Disabilities.*—The law prohibits discrimination on the basis of disability; however, there was discrimination against persons with disabilities in employment, education, access to health care, and in the provisions of other state services. No laws or regulations mandate accessibility to buildings for persons with disabilities, and many public buildings remained inaccessible for persons with physical disabilities.

A recent survey, conducted by the Enterprise for Research, Consultancy and Services (BSC ESTEK) found that only 9 percent of 170 private businesses surveyed employed persons with disabilities.

The Inter-Party Parliamentary Lobby Group (IPPLG) for the Rights of People with Special Needs worked to develop and promote legislation promoting the rights of disabled persons. In March, amendments to the Law for Employment of People with Disabilities, which more clearly define employees' rights and employers' obligations, were adopted by Parliament.

UNICEF worked with the Government on several projects aimed at mainstreaming children with disabilities; however, it reported that the Government was reconsidering its support for these programs. The Ministry of Labor and Social Policy operated 8 daycare centers for disabled children.

*National/Racial/Ethnic Minorities.*—Based on the 2002 census, 64.18 percent of the country's population are ethnic Macedonian; 25.17 percent are ethnic Albanian; 3.85 percent are ethnic Turkish; 2.66 percent are Roma; 1.78 percent are ethnic Serb; 0.84 percent are Bosniak; and 0.49 percent are ethnic Vlach.

Inter-ethnic relationships remained strained, and these tensions were visible throughout the year. During the referendum campaign, the new municipal boundaries were frequently referred to as "territorial division," drawing heightened attention to the increased number of majority-Albanian municipalities under the new laws. Pro-referendum events often featured nationalist rhetoric, although these events generally remained peaceful. On August 4, a pro-referendum motorcade passed through the Skopje neighborhood of Cair, where ethnic Albanians reportedly threw stones at the vehicles.

On August 26, ethnic Albanian villagers in Celopek protested the planned installation of a plaque commemorating two ethnic Macedonians who were killed at the site of the Motel Brioni during the 2001 conflict. The motel site was at the center of a property dispute between ethnic Albanian and ethnic Macedonian villagers, and disagreement over its usage took on an ethnic dimension.

Interethnic tension in schools remained a problem. On November 15, an attempt to reintegrate a technical school in Kumanovo failed after returning ethnic Albanian students alleged ill treatment by ethnic Macedonian students and returned to their separate schools. On November 29, ethnic Macedonian and ethnic Albanian students clashed at Niko Nestor high school in the town of Struga. Following the incident, students and parents went on "strike," citing safety concerns and deteriorating interethnic relations at the school.

Students from different ethnic groups often studied in separate shifts, or entirely separate facilities, frequently at their parents' request. In Kumanovo, which was severely affected by the 2001 conflict, ethnic Macedonian, Albanian, and Serbian students continued to study separately, contributing to growing segregation in the area. In Shemsevo, ethnic Macedonian parents refused to send their children to mixed local schools, and instead sent them to monoethnic schools in the nearby towns of Jegunovce and Zilce. In Celopek, ethnic Macedonian and Albanian students traveled to school on separate buses, and ethnic Macedonian parents complained that their children were forced to use substandard classroom facilities. Poor material conditions in schools exacerbated tensions.

There also were incidents of societal violence and discrimination against Roma during the year. There were credible reports of occasional police violence against Roma, including beatings during arrest and while in detention (*see* Section 1.c.).

All citizens are equal under the law and the FWA; however, ethnic tensions and prejudices remained problems and some governmental institutions discriminated on the basis of ethnicity. The ethnic Albanian community was concerned about the slow progress in reaching equitable representation goals in government ministries, while ethnic Macedonians often claimed that they were targeted for downsizing regardless of job performance. Implementation of the FWA-mandated legal changes was slow, and ethnic Albanians and Roma, particularly, continued to complain of widespread discrimination.

Some ethnic Albanians and Roma reported that they were effectively disenfranchised by discrimination in citizenship decisions (*see* Section 2.d.).

Although some progress was made, underrepresentation of ethnic Albanians in the military and police remained a problem (*see* Section 1.d.). In April, a 1-year training course for 345 “non-majority” police officers was initiated and included 280 ethnic Albanian police cadets, 40 ethnic Macedonian cadets, and 25 cadets representing the other ethnicities in the country.

The military continued its efforts to recruit and retain minorities by placing increased numbers of recruiters in the field; bringing in noncommissioned officers (NCOs) through its NCO academy, where minorities comprise over half of each graduating class; and actively recruiting ethnic Albanian specialists in medical and technical fields.

The constitutional amendments mandated by the FWA stated that Albanian must be recognized as a second, official language in areas where it is spoken by 20 percent or more of the population. The FWA stipulates that the Albanian language would be used officially in Parliament for the first time in October 2002 by M.P.s newly elected in 2002, with interpretation in the Macedonian language provided for ethnic Macedonians and others. In areas where ethnic minorities constitute more than 20 percent of the population, citizens had the right to communicate with local offices of the central Government in the language of the minority group, receive responses and personal documents in the same language; however, this did not always occur in practice. Under the law, those accused of crimes have the right to translation at state expense of all relevant judicial proceedings and documents; however, this did not occur in practice.

The FWA allowed for ethnic minority groups to display their national emblems next to the emblem of the Republic of Macedonia on local public buildings in municipalities in which they are a local majority.

The Constitution provides for primary and secondary education in the languages of the ethnic minorities and primary education was available in Macedonian, Albanian, Turkish, and Serbian. The number of ethnic minority students who received secondary education in their native languages continued to increase; however, ethnic Albanians complained that distribution of public educational resources was not proportional to ethnic groups’ representation within the general population.

At the university level, ethnic minorities remained underrepresented, although there was progress in increasing the number of minority students. In January, the Parliament passed a law officially recognizing Tetovo University as a state-funded, Albanian language university. This was a major step towards fulfilling the FWA requirement that state funding be provided for university-level education in languages spoken by at least 20 percent of the population. Tetovo University began operating officially in October with approximately 1500 students, including 40 ethnic Macedonians.

Ethnic Turks also complained of governmental, societal, and cultural discrimination. Their main concerns centered on the lack of Turkish majority municipalities in the new municipal redistricting proposal, as well as a lack of Turkish language education and media.

Roma had the highest rate of unemployment and the lowest personal and family incomes, were the least educated, and had the highest birth and mortality rates of any ethnic group in the country. The Government provided very little in the way of social services to Roma. According to the 2002 census, Roma made up 2.66 percent of the population, but Romani leaders claimed that the actual number of Roma was 3 or 4 percent higher due to difficulties in enumerating the Roma population.

In 1999, approximately 6,000 Roma fled Kosovo and took up residence in the country in response to both the Kosovo conflict and the hostility of ethnic Albanian Kosovars. At year’s end, 2,239 of these Romani refugees remained in the country. The presence of these Romani refugees was not welcomed among the country’s ethnic Albanians, who largely had hostile views concerning Roma (*see* Section 2.d.). Ethnic Macedonians also expressed irritation at the arrivals, many of whom settled in Skopje, and some of whom frequented busy traffic intersections to beg, wash car windows, or sell small items. These Roma were often targets of harassment and verbal abuse, such as ethnic slurs.

*Other Societal Abuse and Discrimination.*—Homosexuality was decriminalized in the country in 1996; however, while societal prejudice against homosexuals did exist, there were no reported incidents of violence towards homosexuals during the year. In June, the NGO Center for Civil and Human Rights challenged the Law on Service in the Macedonian National Army as unconstitutional, contending that it discriminated on the basis of sexual orientation.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form and join trade unions, and the Government generally respected these rights in practice.

The Ministry of Labor and Social Policy is responsible for registering independent trade unions. According to the law, all independent unions are free to register. Although several independent trade unions have been registered, some reported encountering obstacles, such as being told that only trade unions belonging to the Confederation of Trade Unions of Macedonia (SSM) may legally register. More than 50 percent of the legal workforce was unionized, and unions were particularly strong in the garment industry and the public sector.

Interest among workers for forming independent labor unions outside of SSM was growing. In recent years, there have been several newly formed unions, including of journalists, policemen, and farmers.

The SSM encompassed approximately 17 autonomous branch unions organized according to government or industry sectors. Membership was voluntary and fee-paying members made up almost 75 percent of the employed labor force. SSM's largest member union, SONK (Teachers' Union), suspended its dues payments because of disagreements with the SSM president.

SSM is independent from the Government, and all branch unions are part of SSM. The president of the SSM generally maintains close ties with Government officials.

The law prohibits antiunion discrimination; however, it existed in practice. Workers in private companies on several occasions were fired for participating in union activities. Because of the slow pace of the court system, at times, it took 2 to 3 years to regain employment legally.

Employers sometimes became involved in the internal affairs of unions. Most often, they dominated union election campaigns or ran their own candidates in elections. Consequently, workers sometimes were afraid to run for local union office and union elections were not always free and fair.

*b. The Right to Organize and Bargain Collectively.*—The Constitution implicitly recognizes employees' right to bargain collectively, and most branch and local unions have collective bargaining agreements. However, the concept of collective bargaining remains in its infancy, and many collective bargaining agreements were outdated and have failed to keep pace with changes in the environment and workplace. Collective bargaining took place, but in the country's weak economic environment, employees had very little practical negotiating leverage. Collective agreements were negotiated between the unions and the Ministry of Labor and Social Welfare.

The SSM was the Government's main negotiating partner on labor issues, along with the Chamber of the Economy. The SSM negotiated two national collective bargaining agreements with the Government, covering the public and private sector. The branch unions negotiated directly on a national level with the Chamber of Commerce and on a local level with each enterprise where they have members.

The Constitution provides the right to strike and workers exercised this right in practice during the year.

Some members of the military and the police were permitted to strike but only if they adhered to restrictive guidelines and continued to perform essential duties; however, unlike in previous years, there were no reports of police strikes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5, Trafficking and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 15-years old, and 17-years old for work considered hazardous. Working minors are placed under special protection of the law, which declares that minors may not be employed in work that is detrimental to their health and morality.

Reported violations of child labor laws increased during the year, and child labor was used in the "gray economy" (including begging on the streets and selling cigarettes and other small items at open markets, in the streets, and in bars or restaurants, sometimes at night) and in illegal small businesses. Such violations received only token punishment, if any, and children remained vulnerable to exploitation. Children legally could not work nights or more than 40 hours per week. The Ministry of Labor and Social Welfare was responsible for enforcing laws regulating the employment of children.

Efforts to eliminate child labor abuse have been largely ineffective, with reported violations of child labor laws increasing over the year. While the necessary legal infrastructure was in place, there has been little practical implementation of the policy and laws, and little was done to raise public awareness on child labor abuse. The NGO sector was active in organizing workshops on children's rights. There were some programs and projects intended to prevent children from working, such as the

Project for Children on the Streets, which organized shelters for abandoned children, and the MOI's Transition Center for women and children involved in prostitution.

*e. Acceptable Conditions of Work.*—The average monthly wage was approximately \$244 (12,182 denars). The minimum wage is set differently across sectors; however, the average wage did not provide a decent standard of living for workers and their families. Many persons took on supplemental work, often in the “gray market.” The Government Statistics Office estimated that 30.2 percent of the population lived below the poverty line.

The country has an official 40-hour workweek with a minimum 24-hour rest period and vacation and sick leave benefits. According to the collective agreement, employees have a right to overtime of 35 percent of regular pay and employees cannot work over 10 hours of overtime per week. According to labor regulations, an employee is entitled to 18 to 26 days of paid vacation, not including weekends. However, high unemployment and the fragile condition of the economy led many employees to accept work conditions that did not comply with the law. In particular, small retail businesses often required employees to work far beyond the legal limits.

The Constitution provides for safe working conditions, temporary disability compensation, and leave benefits. Although there are laws and regulations on worker safety, they were not enforced strictly by the Ministry of Labor and Social Welfare. Workers have the right to remove themselves from situations that endangered their health or safety without jeopardy to their future employment; however, employers did not always respect this right in practice.

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## MALTA

Malta is a constitutional republic and a parliamentary democracy. The chief of state (President) is appointed by the unicameral Parliament. The President appoints as Prime Minister the leader of the party that gains a plurality of seats in the Parliamentary elections. General elections in 2003 returned the Nationalist Party to power. During the year, the country joined the European Union and elected representatives to the European Parliament. The judiciary is independent.

The Police Corps is responsible for internal security, for maintaining law and order and for enforcing the law, with backup support from the armed forces. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The economy was a mixture of state-owned and private industry, with manufacturing and services, including tourism, the largest sectors. Residents enjoyed a moderate to high standard of living. Per capita income was \$11,704. The population is approximately 399,000. The estimated nominal gross domestic product growth rate during the year was 2.1 percent.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of addressing individual instances of abuse.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Men and women were held separately, as were juveniles and adults. Pretrial detainees were also held separately from convicted prisoners.

The Government permits visits by independent human rights observers; a delegation from the Council of Europe's Committee for the Prevention of Torture visited the country during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution and the law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions.

The Police Corps maintained internal security with backup support from the armed forces. The armed forces were responsible for defense, with an emphasis on

protecting the country's territorial waters and airspace. The appointed commissioner who commands the police was under the effective supervision of the civilian Minister of Justice and Home Affairs, while the commander of the armed forces was under the direct supervision of the Prime Minister.

The police may arrest a person for questioning on the basis of reasonable suspicion but within 48 hours must either release the suspect or file charges. Arrested persons have no right to legal counsel during this 48-hour period. Persons incarcerated pending trial were granted access to counsel. Bail normally was granted. Detention cells were in use at police headquarters.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

In a case that drew considerable attention in the local media, criminal corruption charges remained outstanding against a former Chief Justice and a second judge who resigned over bribery charges in 2002. At year's end, no date had been set for a trial.

The President, on the advice of the Prime Minister, appoints the Chief Justice and 16 judges. The highest court, the Constitutional Court, interprets the Constitution and has original jurisdiction in cases involving human rights violations and allegations relating to electoral corruption charges. The Civil Court of Appeal hears appeals from the civil court, court of magistrates, and special tribunals, while the Court of Criminal Appeal hears appeals from the criminal court.

Criminal courts, composed of a judge and nine jurors, hear criminal cases. The civil court's first hall hears civil and commercial cases that exceed the magistrates' jurisdiction; the civil court's second hall offers voluntary jurisdiction in civil matters. The court of magistrates has jurisdiction for civil claims of approximately \$2,900 (1,000 Maltese lira) and for lesser criminal offenses. Juvenile courts hear cases involving persons less than 16 years of age.

The Constitution provides for the right to a fair public trial before an impartial court, and an independent judiciary enforced this right. Defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants enjoy a presumption of innocence, may confront witnesses and present evidence, and have the right of appeal.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; violations were subject to effective legal sanctions.

Police officers with the rank of inspector and above were allowed to issue search warrants based on reasonable grounds for suspicion of wrongdoing. Under the law, special powers such as telephone tapping are available to the security services only under specific written authorization of the Minister for Home Affairs or the Prime Minister; such actions are permitted only in cases related to national security, including combating organized crime. Authorizations are examined by a special commission and security committee; the Prime Minister, the leader of the opposition, and the Ministers of Home and Foreign Affairs were on this committee and oversaw the service's work.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the law prohibits foreign participation in local politics during the period leading up to elections, although this provision rarely was used. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

The independent media were active and expressed a wide variety of views without government restriction. The international media operated freely.

In July, the Broadcasting Authority, an independent statutory body that is responsible for television and radio broadcasting, fined an independent television station for broadcasting an interview with an independent candidate for the European Parliament on the grounds that his statements as broadcast could incite racial hatred or encourage criminality in breach of the law. The station filed a counter lawsuit in response. The case was ongoing at year's end.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution establishes Roman Catholicism as the state religion.

There are numerous non-Catholic religious groups, including an Islamic community and a small Jewish community, practicing freely.

The Government and the Catholic Church participated in a foundation that finances Catholic schools. While religious instruction in Catholicism was available in all state schools, the Constitution establishes the right not to receive this instruction if the student or guardian objects. This right was practiced freely.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. A magisterial inquiry that investigated the 2002 case of 220 persons deported to Eritrea, who subsequently disappeared and were believed to have been killed, found no evidence of irregular or illegal practices and concluded that the Government had exercised due discretion and diligence throughout the entire deportation process and had provided the Eritrean nationals full information about their rights. This included the right to request refugee status, which the Eritreans did not request.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The law provides for refugee status, access for refugees to free social services and education, residence permits, and travel documents. Work permits for refugees were issued on a case-by-case basis. A refugee commission and an appeals board review asylum applications.

The law provides that due process and protections be made available to refugees applying for asylum. During the year, some procedural amendments to the law were enacted, including provisions for the appointment of assistant refugee commissioners and procedures for the establishment of additional chambers of the Refugee Appeals Board. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it to approximately 560 persons during the year.

During the year, the refugee commission received 997 applications for refugee status. It approved 49 of these and refused 259; 141 remained pending and included some applications that were filed in previous years; and 560 persons were offered temporary humanitarian protection. Approximately 20 applications were withdrawn.

In order to handle the increase in refugee and asylum seekers, the Government began identifying sites for new centers for detained immigrants. In addition, the Cabinet assigned to the Ministry for Family and Social Solidarity responsibility for the welfare, accommodation and general management of persons released from detention. The ministry was also responsible for welfare services provided to detainees. Irregular immigrants awaiting a decision on their cases occasionally protested against being detained or attempted to escape.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens could freely choose and change the laws and officials that govern them. Parties and candidates may freely propose themselves for public office. Candidates can propose themselves either as independent or as affiliated with a party. The last general election was held in April 2003.

There were 6 women in the 65-seat House of Representatives. Two women held ministerial rank in the 14-member Cabinet. One woman was Parliamentary Secretary. There were four women in the Magistrates' Court. Approximately 13 percent of senior government officials were women. One woman, a former ambassador, was appointed Permanent Secretary at the Ministry of Foreign Affairs, the most senior civil service position within the Ministry.

There were no members of ethnic or racial minorities in the House of Representatives or the Cabinet.

*Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The country has a presidentially appointed ombudsman who is responsible for conducting investigations of government operations on his/her own initiative and in response to complaints or grievances lodged by citizens against government departments and public entities. The Office of the Ombudsman operated independent of government or party influence and exercised its duties freely.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and law prohibit discrimination based on race, place of origin, political opinion, color, creed, or gender. Alleged victims of job discrimination were allowed to apply directly for redress to the Employment Commission of the first hall of the Civil Court in the appropriate jurisdiction.

*Women.*—During the year, reports of domestic violence against women showed a small decrease. During the year, the Police Domestic Violence Unit received 233 reports of domestic violence, an average of 19 per month, compared with 260 reports for 2003 or an average of 22 per month. A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hotline to assist victims of abuse through counseling and referrals to legal assistance shelters. The Government provided support to victims of domestic violence through the Department of Welfare for the Family and its Social Welfare Agency known as Appogg; a Government-supported shelter for women and children operated during the year. The Government also maintained an emergency fund and subsidized shelters. The Government provided financial support to a shelter operated by the Catholic Church.

Rape and violent indecent assault carry sentences of up to 10 years' imprisonment. The law treats spousal rape in the same manner as other rape. Divorce is not available. However, if obtained legally abroad, it can be enforced in the country. Both legal separation and civil annulment are available.

Prostitution is a criminal offense. Although exact figures were not available, there were a number of prosecutions during the year. The law was enforced in such cases and included prison sentences of between several months and 2 years.

The Constitution provides that all citizens have access, on a nondiscriminatory basis, to housing, employment, and education.

There has been a significant increase in the number of women pursuing higher education. In 2003, women university graduates outnumbered their male counterparts. There has been an increase in female participation in courses such as information technology and engineering, while the law student body was mainly made up of women.

While women constituted a growing portion of the work force, they were underrepresented in management and generally earned less than their male counterparts.

During the year, the Council of Europe Parliamentary Assembly suspended the voting rights of the country's delegation at an Assembly session because it did not include a woman. The Parliament subsequently changed the composition of the delegation to include a female representative.

During the year, the court found a commercial cargo handling company owned by the largest trade union, the General Workers Union, guilty of gender-based discrimination against three female employees and was ordered to pay damages to the employees.

The Ministry for the Family and Social Solidarity and the National Commission for the Promotion of Equality for Men and Women, set up during the year, handled gender equality issues. The Commission's program focused on broader integration of women into society. It advised the Government on the implementation of policies in favor of equality of the sexes.

Women enjoyed equality in matters of family law, and the Government promoted equal rights for all persons regardless of gender. The Government took steps to provide gender-neutral legislation, and redress in the courts for sexual discrimination was available.

*Children.*—The Government was strongly committed to children's rights and welfare. It provided free, compulsory, and universal education through age 16. Close to 100 percent of school age children attend school. The Government provided universal free health care to all citizens.

The Government addressed concerns for children's rights and welfare within family law. A law establishing the Commissioner for Children to oversee children's rights came into force in December 2003, and the commissioner was appointed in January.

The number of reported cases of child abuse increased from the previous year, although there was no societal pattern of abuse of children. As of the end of June, 516 cases of child abuse had been reported. Prison sentences were handed down in a number of cases involving sexual abuse of minors.

All criminal proceedings related to the family, particularly cases involving children, were transferred from the Magisterial Courts to the newly established Criminal Section of the Family Court.

*Trafficking in Persons.*—The criminal code prohibits trafficking in persons. During the year, the Criminal Court handed down a jail sentence in the case of three persons who were found guilty of trafficking foreign women for the purpose of sexual exploitation, but the sentence was suspended. The law prohibits procurement for prostitution, pornography, sexual offenses, defilement of minors, illegal detainment, unlawful carnal knowledge, and indecent assault. Traffickers may be prosecuted under the criminal code or under the Immigration Act for unlawful entry or unregulated status.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

The law requires the private sector to apply the same equal employment guarantees as exist in the public sector. For example, private development project plans must include access for persons with disabilities. The Employment Training Corporation was responsible for registering unemployed persons with disabilities to ensure compliance with the law, which requires that every company employing more than 20 persons hire at least 2 percent of its workforce from the Register for Unemployed Disabled Persons.

*National/Racial/Ethnic Minorities.*—A few thousand persons of Arab, African, and Eastern European origin lived in the country. Owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments.

The law criminalizes racial hatred, but no court cases were reported by year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Approximately 63 percent of the work force was unionized. Although all unions were nominally independent of political parties, the largest, the General Workers' Union, generally was regarded as having close informal ties with the Labor Party. Noncivilian military and police personnel are not allowed to strike or to join a union.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for workers to organize and bargain collectively, and they did so in practice. Under the law, the responsible minister may refer labor disputes either to the Industrial Tribunal (a government-appointed body consisting of representatives of government, employers, and employee groups) or to binding arbitration at the request of only one of the parties. Workers have the right to strike, and they exercised this right in practice. There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children younger than age 16. The Department of Labor enforced the law effectively but allowed summer employment of underage youth in businesses operated by their families; some underage children were employed as domestics, restaurant kitchen help, or vendors.

*e. Acceptable Conditions of Work.*—The weekly minimum wage was approximately \$140 (48 lira) for persons under age 17; \$144 (50 lira) for 17-year-olds; and \$152 (52 lira) for persons aged 18 and over. In addition, an annual mandatory bonus of approximately \$620 (214 lira) was paid, as well as a one time per year \$110 (38

lira) cost of living increase allowance. This minimum wage structure provided a decent standard of living for a worker and family with the addition of government subsidies for housing, health care, and free education.

Wage councils, composed of representatives of government, business, and unions, regulated work hours; the standard workweek was 40 hours, but in some trades it was 43 or 45 hours. Government regulations provide for a daily rest period, which is normally 1 hour, and 1 day of rest per week. The law mandates an annual paid vacation of 4 workweeks plus 4 workdays. The Department of Labor generally enforced these requirements.

Enforcement of the Occupational Health and Safety Authority Act was uneven, and industrial accidents remained frequent. Workers were allowed to remove themselves from unsafe working conditions without jeopardy to their continued employment, a protection also enforced by the Department of Labor. Allegations of physical and sexual abuse existed, but they were rarely made public, and even more rarely were they the subject of court proceedings.

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## MOLDOVA

The Constitution provides for a multiparty representative government with power divided among a president, cabinet, parliament, and judiciary. Parliamentary elections in 2001 were generally free and fair; however, authorities in the separatist Transnistria region interfered with the ability of residents there to vote. In 2001, the Parliament elected Communist Party leader Vladimir Voronin President. The Constitution provides for an independent judiciary; however, judges were reportedly subject to outside influence and corruption.

Separatist elements, assisted by Russian military forces in the area, have declared a "Transdnister Moldovan Republic" in Transnistria between the Dniester River and Ukraine. The Government does not control this region. Unless otherwise stated, all references herein are to the rest of the country.

The Ministry of Internal Affairs is responsible for the police, and the Information and Security Service (ISS) has jurisdiction over crimes against the security of the state. Four other separate agencies—the Customs Department, the Department of Border Guards, the Center for Combating Economic Crimes and Corruption, and the Prosecutor General's Office—have law enforcement functions. The Parliament has constitutional oversight over the activities of the Ministry of Internal Affairs and the ISS. Civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country has a population of approximately 3.36 million, of which approximately 580,000 live in Transnistria. The country is transitioning from a centrally planned to a market economy and has a shadow economy that represents a large share of economic activity. Agriculture and food processing are the most important sectors, followed by trade, transportation, communications, and manufacturing. During the year, the gross domestic product grew approximately 8 percent and the inflation rate was approximately 12.4 percent. According to the World Bank, approximately 23 percent of the population lived below the poverty line in 2003.

The Government generally respected the human rights of its citizens; however, there were problems in some areas, and the human rights record of the Transnistrian authorities was poor. Citizens generally had the right to change their government; however, authorities expanded their selective use of power to harass and intimidate sources of political opposition. In Transnistria, the right of citizens to change their government was severely restricted. In June, an alleged witness to the mistreatment of the "Ilascu group" during their imprisonment in Transnistria disappeared under unclear circumstances. Authorities reportedly tortured and beat some persons, particularly persons in police custody and Roma. Prison conditions remained harsh, and attempts to improve them were hampered by lack of funding. Security forces were widely believed to monitor political figures through unauthorized wiretaps and, at times, conducted illegal searches. In June, unknown persons seriously beat a journalist who had reported on possible corruption involving the Minister of Interior. During the year, libel was removed from the criminal code; however, other laws that encouraged self-censorship in the media remained. A few religious groups continued to encounter difficulties in officially registering. Societal violence and discrimination against women, children, and Roma persisted. Trafficking in women and girls remained a very serious problem. The Government maintained some limits on workers' rights.

Transnistrian authorities reportedly continued to use torture and arbitrary arrest and detention. Prison conditions in Transnistria remained harsh, and two members of the Ilascu group remained in prison despite a July ruling in their favor by the European Court for Human Rights (ECHR). Human rights groups were permitted to visit prisoners in Transnistria, but obtaining permission from the Transnistrian authorities was difficult. Transnistrian authorities mistreated and arrested one journalist from the government-controlled area, harassed independent media and opposition lawmakers, restricted freedom of association and of religion, and discriminated against Romanian-speakers.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents in the country or its separatist region.

*b. Disappearance.*—In July, Sergei Gavrilov, who was imprisoned in Transnistria during the early 1990s and allegedly witnessed the mistreatment of members of the “Ilascu Group” (see Section 1.e.) while in prison, disappeared under unclear circumstances. The Moldovan police were investigating the case at year’s end.

Authorities had not completed their investigation of the 2002 kidnapping of opposition political figure Vlad Cubreacov. After continued public pressure, in June 2003, the Prosecutor General released photographs of three suspects in the case, which were published in two newspapers.

In May 2003, authorities reportedly released for lack of evidence three of five suspects detained in 2003 in connection with the 2002 disappearance of Deputy Director of the Department of Information Technologies Petru Dimitrov. As of year’s end, the Ministry of Internal Affairs reported its investigation was still ongoing, but declined to release further information.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were reports that police employed cruel and degrading arrest and interrogation methods and that guards beat prison inmates. The law does not consider torture to be a crime, making it difficult to prosecute the abuse.

Nongovernmental organizations (NGOs) reported several cases of cruel, inhuman, or degrading treatment of prisoners and detainees. For example, the local Helsinki Committee for Human Rights reported that Petru Calamanov, who was sentenced to 10 days of administrative arrest on September 11, was beaten and interrogated without a lawyer several times during his detainment. He was reportedly shocked with electric wires and beaten with an iron bar on the bottoms of his feet. Authorities denied Calamanov’s lawyer and Helsinki Committee representatives permission to visit him for several days after the incident.

Conditions in most prisons in the country and in Transnistria remained harsh, and in some instances were life threatening, with serious overcrowding. Cell sizes did not meet local legal requirements or international standards. The incidence of malnutrition and disease, particularly tuberculosis, was high in all prisons. Conditions were particularly harsh in facilities for persons awaiting trial or sentencing. Amnesty International reported that one detainee, Oleg Talmazan, suffered a heart attack on March 27, but was not hospitalized until April 8, even though the ambulance called at the time of the attack recommended immediate hospitalization. Other detainees reported being denied food and water and being held in underground facilities without medical care, fresh air or ventilation, or sanitary facilities.

Local NGOs continued programs to provide medicine, warm clothes, and radios for prisoners, and the Institute of Penal Reforms continued a training program for prison staff.

To resolve the dispute between the Transnistrian city of Bender and the central Ministry of Justice over inmates with tuberculosis in a Bender prison hospital, authorities transferred inmates to a new hospital for prisoners with tuberculosis in a prison outside of Chisinau. Approximately 250 prisoners remained at the Bender prison, and Transnistrian authorities continued to cut off utilities to the facility. In August, the Supreme Court of Justice ordered the Bender prosecutor’s office to take action to resolve the situation, but the prosecutor’s office had taken no action by the end of the year.

Male and female prisoners were held separately. Children convicted of crimes were sent to adult prisons, where they were held in separate cells. Pretrial detainees were held separately from convicted prisoners, although there were reports of convicted prisoners remaining in detention facilities due to prison overcrowding.

Government and independent human rights observers were generally permitted to visit prisons. The Moldovan Center for Human Rights made regular prison visits during the year. The Government cooperated with the International Committee of the Red Cross (ICRC) and permitted visits to prisoners. After repeated attempts to receive permission from the Transnistrian authorities to visit the Ilascu group members, ICRC was allowed to see the prisoners for the first time in August 2003. In April, a second official visit took place.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice.

The national police force is the primary law enforcement body in the country. The police force is subdivided into regional and city police commissariats, which are subordinated to the Minister of Internal Affairs. Police corruption remained a problem. During the first 7 months of the year, 119 criminal cases were brought against police officers for bribery, robbery, and abuse of office. The Prosecutor General's Office is responsible for investigating the activities of the police. An internal affairs unit, reporting to the Minister of Interior, investigated minor incidents of corruption.

Judges issue arrest warrants based on cases presented by prosecutors. Under the law, authorities must promptly inform detainees of the reason for their arrest and the charges against them. Suspects may be detained without charge for 72 hours. The Constitution provides accused persons the right to a court hearing on the legality of their arrest.

Once charged, a detainee may be released on personal recognizance pending trial; in some cases, to arrange release, friends or relatives were allowed to give a written pledge that the accused would appear for trial. The law provides for a system of bail; however, it was rarely used. Authorities generally did not release detainees accused of violent or serious crimes before trial.

Detainees had the right to a defense attorney; however, at times this right was restricted. Authorities generally did not grant detainees access to a lawyer until they had been detained for 24 hours. Police often told persons that they were considered witnesses in a case and questioned them without a lawyer present, then changed their status to that of suspect. Detainees were often presented with the charges against them without a lawyer present. The Government requires the local bar association to provide an attorney to defendants that are unable to afford one. However, the Government was unable to pay ongoing legal fees, and defendants often did not have adequate counsel. Detainees were generally allowed access to family members.

Local and international NGOs reported arbitrary detention and arrests of Roma without cause or warrants, often without access to a lawyer (*see* Section 5).

In July, authorities rearrested Ivan Burgudji, an official of the Gagauz autonomous region and well-known Gagauz nationalist, for violating his parole in May. In June 2003, the Tribunal Court of Chisinau sentenced Burgudji to 5 years in prison for abuse of power and malicious hooliganism in connection with his opposition political activities. He is currently serving the remaining years of his original sentence.

On December 3, officials of the Center for Combating Economic Crime and Corruption detained the leader of the opposition Democratic Moldova Bloc and mayor of Chisinau, Serafim Urechean, 5 hours for questioning (*see* Section 3).

At year's end, authorities had not brought Constantin Becciev, head of the Chisinau water utility, to trial. Authorities held Becciev in preventive detention for 6 months in 2003 while investigating him for possible fraud. Critics charged that the detention was part of a broader, politically motivated campaign against persons associated with the Chisinau city government. Becciev continued to run the utility after his release.

The laws permit pretrial detention for an initial period of 30 days. The courts may extend pretrial detention to 12 months on an individual basis, based on the severity of the alleged crime. Detentions of several months were fairly frequent; in some rare cases, pretrial detention was extended for several years. As of mid-August, 2,438 out of 10,600 persons in prison were detainees awaiting trial.

It was common practice for Transnistrian authorities to detain persons suspected of being critical of the regime for periods of up to several months. On September 6, plainclothes police mistreated and arrested a cameraman from the government-owned television station, Moldova 1 (*see* Section 2.a.). The journalist was sentenced to 15 days in prison for "unauthorized filming in the security zone" but was released September 13 following the demands of the Joint Control Commission, which monitors compliance with the 1992 ceasefire.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, official pressure and corruption of judges remained a problem. There

continued to be credible reports that local prosecutors and judges extorted bribes in return for reducing charges or sentences, and observers charged that courts were sometimes politically influenced. Political factors have played a large role in the re-appointment of judges.

The judiciary consists of lower courts, courts of appeals, and the Supreme Court of Justice. A separate Constitutional Court has exclusive authority in cases regarding the constitutionality of draft and final legislation, decrees, and other government acts. The Constitutional Court was the only court generally regarded as fair and objective.

The Prosecutor General's office is autonomous and answers to Parliament. It is responsible for overseeing criminal investigations, presenting charges before a court, and protecting the rule of law and civil freedoms. Prosecutors may open and close investigations without bringing the matter before a court, giving them considerable influence over the judicial process.

By law, defendants in criminal cases are presumed innocent; in practice, a prosecutor's recommendation carried considerable weight and limited a defendant's actual presumption of innocence. Trials were generally open to the public. Cases were presented to a judge or panel of judges depending on the complexity of the case. Defendants have the right to a lawyer, to attend proceedings, to confront witnesses, and to present evidence. The law requires the local bar association to provide an attorney to defendants who are unable to afford one; however, since the Government was unable to pay ongoing legal fees, defendants often did not have adequate counsel. Prosecutors occasionally used bureaucratic maneuvers to restrict lawyers' access to clients. Defense attorneys were able to review evidence against their clients when preparing cases. Persons who are convicted have the right to appeal to a higher court.

The Constitution provides for the right of the accused to have an interpreter both at the trial and when reviewing documents of the case; however, due to a lack of resources, persons requiring an interpreter often had their hearings repeatedly postponed. If the majority of participants agree, trials may be conducted in Russian or another language instead of Romanian.

There is no juvenile justice system, and children accused of crimes usually were tried by the criminal courts. However, in March, the Prosecutor General's Office issued a decision allowing for the assignment of specialized prosecutors to cases dealing with minors. In May, the Superior Court of Magistrates issued a similar decision, appointing judges in each region and Chisinau to specialize in cases involving minors.

The country has a military justice system, whose courts have generally the same reputation as civilian courts.

On June 2, Transnistrian authorities released Alexandru Lesco, one of four members of the "Ilascu Group" who were convicted in 1993 of killing two Transnistrian officials, after serving a 12-year sentence. On July 8, the ECHR ruled that Transnistrian authorities should release the two remaining prisoners and directed that the Moldovan and Russian governments pay damages to the prisoners. Transnistrian authorities refused to comply with the ruling, and Transnistrian leader Igor Smirnov stated they would serve the remaining 3 years of their sentences.

There were no reports of political prisoners other than those in Transnistria.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not respect these prohibitions in practice.

It was widely believed that the security agencies conducted illegal searches, including wiretaps, without proper authorization. Courts did not exclude evidence that was obtained illegally. By law, only a judge can authorize wiretaps and may do so only if a criminal investigation is underway; however, in practice the judiciary lacked the ability to control the security organizations and the police or to prevent them from using wiretaps illegally. It was widely believed that security agencies electronically monitored residences and telephones.

During the year, police reportedly informed persons of Middle Eastern origin that they were being carefully monitored. Several opposition politicians reported that government authorities were illegally monitoring them.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government sometimes restricted these rights. The Government selectively applied the electoral law and the Civil Code against critics and intimidated some journalists into practicing self-censorship.

The print media expressed a wide variety of political views and commentary. The Government owned two newspapers and a news agency; national and city govern-

ments subsidized a number of newspapers. Political parties and professional organizations, including trade unions, also published newspapers, most of which had a circulation of less than 15,000 copies. The Government did not restrict foreign publications; however, most were not widely circulated due to high costs. Russian newspapers were available, and some published special Moldovan weekly supplements.

There were several independent radio stations, including one religious station. Most stations rebroadcast programs from Romania and Russia and had only a limited amount of locally produced programming. The Government controlled a radio station and a television station (Teleradio Moldova) that covered most of the country. Some local governments, including in Chisinau and Gagauzia, operated television and radio stations as well as newspapers. The country received television and radio broadcasts from Romania, Ukraine, France, and Russia. A number of cable subscribers received a variety of foreign television programs, including news programs.

The number of media outlets that were not owned and operated by the Government or a political party increased. However, many of these independent media remained in the service of, and secured large subsidies from the Government, political movements, and commercial interests.

On June 23, unknown persons seriously beat and robbed investigative journalist Alina Anghel of the independent newspaper Timpul outside her home in Chisinau. Anghel, as well as Timpul's management, associated the attack with a series of articles that Anghel published in January suggesting officials were profiting from a business deal with an automobile importer and accusing the Minister of Interior of accepting a free automobile. After the articles were published, unknown persons reportedly began making telephone threats to Anghel that she would be physically harmed if she did not stop her investigation. A suspect was arrested on unrelated charges; however, Anghel stated publicly that she did not believe the suspect was involved in the attack.

There were no developments in the case of Nicolae Roibu, another Timpul journalist, who was attacked by unknown persons near his home in November 2003 and had his dictaphone and tape recordings stolen. Roibu associated the attack with his work and, in particular, with an interview published in October 2003 that contained material critical of President Voronin.

The law prohibits foreign governments from funding or supporting domestic publications. In practice, Romanian government-supported publications complied with the law by receiving funds from "foundations" created for this purpose. The Government did not prosecute publications receiving funds from other states. A law that a least 65 percent of broadcasting must be in the Romanian language was interpreted to mean that 65 percent of locally produced content (not total airtime) must be in Romanian.

During the year, controversy continued over alleged government control of Teleradio Moldova. In November 2003, Parliament amended the law on Teleradio Moldova to provide for the liquidation of the company, dismissal of all staff, and the creation of a new public institution. However, critics argued that this made it easier to dismiss journalists for political reasons. In August and September, Teleradio Moldova employees held public protests, charging that selection of employees for the new company was biased against journalists who were critical of the Government. Several journalists who had been dismissed brought a suit against Teleradio Moldova's administration that was ongoing at year's end.

Several international organizations sponsored a monitoring project that showed that Teleradio Moldova continued to limit coverage of the opposition and focused almost exclusively on the activities of the Government.

In February, a Chisinau court convicted the editor-in-chief of the weekly *Accente*, who was arrested and released in 2002, on charges of bribery; a decision on his appeal had not been made by year's end. Following the conviction, the newspaper was taken over by new leadership and some observers charged that the case was meant to put an end to *Accente's* critical reporting on the Government.

In February, the Audio Visual Coordinating Council (AVCC) suspended the activities of media outlets operated by the Chisinau municipality, Euro TV and Antena C radio, on the grounds that they were not properly registered as legal entities. The international community and media-related NGOs raised concern that the suspension, which some believed to be politically motivated, would deprive citizens of an alternative source of information. In April, after 2 months of protests by Euro TV and Antena C staff, the AVCC negotiated an agreement that allowed the two outlets to register and resume broadcasting.

In July, the Supreme Court rejected a complaint filed by the independent newspaper *Moldavskie Vedomosti* against the President's office for repeatedly refusing

accreditation to its editor in chief. Moldavskie Vedomosti contested this decision, and the case was ongoing at year's end.

Journalists and media outlets continued to face libel suits under the Civil Code, which does not provide a ceiling for fines. In February, the Daac-Hermes Company filed a lawsuit alleging nearly \$2 million (24.8 million lei) in damages against the independent Romanian-language weekly newspaper Timpul for publishing "calumnious" information. In a different case, the head of the government-owned Moldovan Railroad filed a civil suit against the independent Russian-language newspaper Moldavskie Vedomosti, asking for \$50,000 (620,000 lei) for "moral damages." Both lawsuits were ongoing at year's end.

Both print and broadcast journalists reportedly practiced self-censorship due to government and public figures' use of civil defamation and calumny laws and complaints from authorities about news coverage.

The Government did not restrict academic freedom.

Of the two major newspapers in Transnistria, one was controlled by the separatist authorities, and the other by the Tiraspol city government. There was one independent weekly newspaper in Bender and another in the northern Transnistrian city of Ribnitsa. At times, the independent newspapers criticized the Transnistrian regime, for which the separatist authorities harassed them. Other print media in Transnistria did not have a large circulation and appeared only on a weekly or monthly basis; some of them also criticized local authorities. Most Moldovan newspapers did not circulate widely in Transnistria, although they were available in Tiraspol.

During the year, Transnistrian authorities used threats of violence to force schools to curtail teaching in the Romanian language using Latin script, rather than Cyrillic script (see Section 5).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

The Transnistrian authorities usually did not permit free assembly, and on those occasions when they did issue permits for demonstrations, they often harassed organizers and participants.

The Constitution provides for freedom of association and states that citizens are free to form parties and other social and political organizations; however, the Constitution also prohibits organizations that are "engaged in fighting against political pluralism," the "principles of the rule of law," or "the sovereignty and independence or territorial integrity" of the country. Small parties that favor unification with Romania charged that this provision is intended to impede their political activities; however, no group has been prevented from forming as a result of this provision. Private organizations, including political parties, were required to register, but applications were approved routinely.

The law provides that the Ministry of Justice may suspend a party for up to 1 year for violating the Constitution or the law if it does not desist in an illegal activity after receiving a written warning. During election campaigns, only the Supreme Court of Justice may suspend a party's activity.

Transnistrian authorities restricted freedom of association by intimidation and prosecution for alleged offenses or on invented charges. For example, in June, the Transnistrian authorities prevented a human rights seminar in Tiraspol organized by opposition Transnistrian lawmakers and Moldovan NGOs. One NGO representative was allowed to enter Transnistria, but upon his arrival, he and the lawmakers were assaulted by a crowd, which splashed them with paint, sour milk and eggs. The NGO representative claimed Transnistrian law enforcement was complicit in the assault.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the law includes restrictions that inhibit the activities of some religious groups. There is no state religion; however, the Moldovan Orthodox Church received some special treatment from the Government. For example, the Metropolitan of Chisinau and All Moldova and other high-ranking Orthodox Church officials have been issued diplomatic passports.

The law requires religious groups to register with the State Service for Religions (SSR). Unregistered religious groups are not permitted to buy land or obtain construction permits for churches or seminaries. The SSR may ask a court to annul the registration of a group if its activities are found to be political or harm the independence, sovereignty, integrity, security, or public order of the country.

At year's end, the SSR had not registered the True Orthodox Church of Moldova, despite a 2002 Supreme Court ruling in the Church's favor. The SSR and the Government attempted a variety of appeals and were still ordered to register the Church. According to the SSR, the wording of the Court decision, which obliges the

Government rather than the SSR to register the Church, has prevented the Church's registration. The Church of Jesus Christ of Latter-day Saints (Mormons) and the Spiritual Organization of Muslims in Moldova also continued to encounter bureaucratic obstacles to registration. The SSR claimed the application of the Mormons was pending, while the SSR monitored the activities of the church. In the case of the Muslims, the SSR claimed they failed to present the necessary documents for registration.

The law prohibits "abusive proselytizing," which is defined as "an attempt to influence someone's religious faith through violence or abuse of authority." However, the Government has not taken legal action against individuals or organizations for proselytizing.

Nondenominational "moral and spiritual" instruction is mandatory for primary school students and optional for secondary and university students. During the year, the Ministry of Education began implementing the program by introducing it in the first through third grade. Some schools have a specific class on religion, but student participation requires parental consent.

The legal provision that provides for restitution of property confiscated during the Nazi and Soviet regimes to politically repressed or exiled persons has been extended to religious communities; however, claims of the Moldovan Orthodox Church have been favored over those of other religious groups, and the Church has recovered nearly all of its property. In cases where property was destroyed, the Government offered alternative compensation. However, property disputes between the Moldovan and Bessarabian branches of the Orthodox Church have not been resolved and, representatives of the Bessarabian Orthodox Church claimed that their property rights were still being violated. The Jewish community has experienced mixed results in recovering its property but has no claims that are still pending. Members of the Molocan community had a property claim that remained unresolved at year's end.

The Spiritual Organization of Muslims reported that police frequently showed up at their local office during Friday prayers, checked participants' documents and took pictures. On March 5, the police raided their meeting place after Friday prayers, detained several members, and subsequently deported three Syrian citizens for not having proof of legal residence. The authorities claimed the services were illegal because the organization was not registered and because the meeting place was not being used in accordance with the organization's status as a charity.

The Baptists reported interference from government authorities in construction of places of worship. In May, authorities stopped construction of a Baptist church in the village of Capriana and opened an investigation into the legality of the project; however, the Baptists and the local mayor claimed that all the necessary permits and legal documents, which were issued in 2001, had been obtained legally.

Between March 14 and March 30, unknown persons desecrated more than 70 tombstones in the Jewish cemetery in the Transnistrian city Tiraspol. Swastikas and other Nazi symbols were painted on monuments, and many tombstones were damaged beyond repair. On May 4, unknown persons unsuccessfully attempted to set the Tiraspol synagogue on fire with a Molotov cocktail. Transnistrian authorities believed the attacks were perpetrated by the same individuals and claimed they were investigating the incidents. They had not made any arrests in either case by year's end.

There were no developments in the February 2003 destruction by unknown persons of eight tombstones in a Jewish cemetery in Balti. According to a leading Rabbi in Chisinau, it was not clear whether the act was motivated by anti-Semitism.

Members of Jehovah's Witnesses from various regions of the country have complained that local town councils and Orthodox priests and their adherents had impeded their ability to practice their religion freely. In November 2003, the mayor and residents of the village of Cruzesti physically blocked members of Jehovah's Witnesses from the public cemetery for not respecting the customs of the Orthodox religion. Baptists have also reported that local townspeople physically and verbally abused them at the instigation of local Orthodox priests.

There were a few reports of negative press articles about non-Orthodox religions. Members of Jehovah's Witnesses were the target of articles criticizing their beliefs and legitimacy, and the Baptists in Transnistria claimed that press reports about their religion were negative.

In recent years, Transnistrian authorities have denied registration to Baptists, Methodists, and the Church of the Living God. Unregistered religious groups were not allowed to hold public assemblies, such as revival meetings. The law in Transnistria prohibits renting houses, premises of enterprises, or "cultural houses" for prayer meetings. Transnistrian authorities have told evangelical religious groups meeting in private homes that they did not have the correct permits to use their

residences as churches. The Jehovah's Witnesses in Transnistria have reported several incidents of administrative fines and unjust arrests of their members.

In July, the Transnistrian Supreme Court ruled to limit the activities of the Jehovah's Witnesses to the city of Tiraspol; however, the court rejected the Tiraspol public prosecutor's 2002 request to annul the group's registration and prohibit its activities altogether. Transnistrian authorities reportedly accused Jehovah's Witnesses of lacking patriotism and spreading Western influence and reportedly developed school teaching aids that contained negative and defamatory information regarding the Jehovah's Witnesses.

Non-Orthodox groups in Transnistria complained that they were generally not allowed to rent property and were often harassed during religious services.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and law provide for these rights, and the Government generally respected them in practice; however, Transnistrian authorities sometimes restricted travel to and from the separatist region.

Transnistrian authorities applied a transit fee to Moldovan nationals crossing through Transnistria and often stopped and searched incoming and outgoing vehicles and hindered movement by representatives of the Organization for Security and Cooperation in Europe (OSCE) and U.N. agencies on several occasions. Transnistrian authorities prevented farmers from Government-controlled villages in the Dubassari region of Transnistria from traveling to areas outside Transnistria to sell their produce and, in some cases, blocked farmers' access to their fields.

The law prohibits forced exile, and the Government did not employ it.

Citizens generally were able to depart from and return to the country freely; however, there were some restrictions on emigration. Persons wishing to emigrate must meet all outstanding financial obligations to other persons or legal entities before emigrating. Close relatives who are dependent on a potential emigrant for material support must give their concurrence. The Government also may deny permission to emigrate if the applicant had access to state secrets; however, no such cases have been reported for several years.

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status and asylum. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. However, Amnesty International reported that Chechen asylum-seekers experienced delays in having their applications adjudicated and in some cases no decisions were taken.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice in most of the country through periodic, free, and fair elections held on the basis of universal suffrage; however, authorities in Transnistria restricted this right.

The Constitution provides for a parliamentary form of government with a president as head of state and a prime minister as head of government. Parliament elects the president, who appoints the prime minister, who in turn names a cabinet. Parliament must approve both the prime minister and the cabinet. A three-fifths vote by secret ballot in Parliament is required to elect a president.

In 2001, citizens voted in multiparty parliamentary elections that the OSCE considered to be generally free and fair; however, election observers noted some shortcomings, such as inaccurate and incomplete voter lists and excessively restrictive media provisions in the Electoral Code. Transnistrian authorities interfered with residents' ability to participate in the country's elections. International observers were not present at either the Transnistria Supreme Council elections in 2000 nor the 2001 "presidential" elections, and the elections were not considered free and fair.

Because many small parties failed to win the minimum number of votes required for representation, only three parties—the Communist Party, Our Moldova Alliance, and the Christian Democratic People's Party (PPCD)—have seats in Parliament. In June, the Our Moldova Alliance joined a centrist coalition, the Democratic Moldova Bloc, which also included the extra-parliamentary Social-Liberal and Democratic parties.

The Government selectively enforced regulations, including inspections and tax auditing, for individuals and businesses that belonged to or supported opposition parties.

In May and June 2003, local elections for mayors and city councils were held nationwide. Voters also chose regional councils in all areas except the Gagauz autonomous region. International observers concluded that while the vote itself generally met international standards, the Government's conduct during the campaign fell short of the generally good record established in previous elections. The negative developments in the campaign included heavily biased state media reporting, the arrest of two opposition mayors, and the use of administrative resources for campaign purposes. The OSCE noted that the elections were preceded by a very biased media campaign, with the government media providing distorted information to voters, dedicating significant time to government candidates and allowing opposition candidates only limited time to respond. Although regulations prohibited broadcast media from presenting candidates on the news, the two main candidates for Chisinau mayor—the incumbent mayor and the Minister of Transportation and Communications—could often be seen on television in their official capacities.

A Christian Turkic minority, the Gagauz, enjoyed local autonomy in Gagauzia in the southern part of the country. Gagauz opposition figures claimed that government interference in 2002 local elections continued during the May 2003 mayoral races in the region. Two rounds of voting for the Gagauzia Popular Assembly in November 2003 generally met international standards, but were marked by irregularities including group voting, multiple voting, open voting, mobile ballot box fraud, proxy voting, and unauthorized persons in polling stations. In March, the Popular Assembly removed the opposition mayor of Comrat, accusing him of incompetence and embezzlement. The mayor argued that the Popular Assembly abused its authority and violated the laws and that he could only be removed through a court decision or a recall referendum. The international community, including the OSCE and several Western diplomatic missions, expressed its concern over the circumstances of the mayor's removal. On July 18, the interim mayor lost the mayoral election to the Communist Party candidate.

In late November, officials of the Center for Combating Economic Crime and Corruption announced they were investigating the leader of the opposition Democratic Moldova Bloc and mayor of Chisinau, Serafim Urechean, for misusing city funds and, on December 3, detained him for questioning for 5 hours. The Democratic Moldova Bloc accused the authorities of politically motivated harassment. Many local observers saw the investigation as politically timed to coincide with the electoral campaign for parliament.

Throughout the fall, the Center for Combating Economic Crime and Corruption and the Prosecutor General's Office opened criminal investigations and arrested several Chisinau city officials. The arrests were indirectly supported by President Voronin, who called the Chisinau Mayoralty "a Mafia nest" in a televised interview.

In November, the Communist majority in Parliament authorized an investigation into the businesses of opposition MP Iurie Rosca. Observers argued that the investigation was politically motivated.

In Transnistria, opposition lawmakers Alexander Radcenko and Nicolai Buchatsky were repeatedly harassed by "government"-backed NGOs. During the summer, their homes were vandalized with dye and motor oil. On December 19, Radcenko was prohibited from entering Transnistria's Supreme Soviet building by protesters who splashed him with water and burned his picture. In December, a referendum scheduled for 2005 was organized to recall Radcenko from his position in the Supreme Soviet for allegedly undermining Transnistrian society. The OSCE expressed concern over the situation and called on the Transnistrian authorities to end the harassment of Radcenko and Buchatsky.

Corruption was believed to be pervasive throughout the Government. This belief was reflected in numerous public opinion polls and widely reported by NGOs. Although the Government has acknowledged corruption to be a problem and formed special law enforcement and judicial units to combat it, some critics have charged that the Government used these units to persecute political opponents. On October 15, President Voronin dismissed Defense Minister Victor Gaiciuc following the discovery in August of missing ammunition and weapons from a depot near the Bulboaca training range. Six Ministry of Defense employees were charged in the theft, and several more were investigated.

The law provides for free access to official information; however, there were several cases when authorities denied access to public information. During the summer, the Supreme Court rejected a complaint filed by the opposition-leaning independent newspaper Timpul against the Parliament for refusing to provide access to transcripts of several 2002 Parliament sessions. The Court ruled that Timpul had no

right to the transcripts, quoting an internal regulation of the Parliament. Timpul contested the decision, and the case was ongoing at year's end.

There were 13 women in the 101-seat Parliament and 2 women in the 18-member cabinet. Speaker of Parliament Eugenia Ostapciuc was the highest-ranking female political figure in the country.

There were 49 members of minorities in the 101-seat Parliament and 1 member of a minority in the 18-member cabinet. Russian, Ukrainian, Bulgarian, Gagauz, Azeri, and Georgian minorities were represented in Parliament, with deputies elected from nationwide party lists rather than local districts.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases, except in the Transnistrian region; however, officials were generally not responsive to their views.

The local Helsinki Committee for Human Rights maintained contacts with international human rights organizations, and Amnesty International maintained a satellite office in Chisinau and was active in the country. Transnistrian authorities impeded the activities of human rights groups in that region.

The Government cooperated with the OSCE, which maintained a mission in the country to assist efforts to resolve the Transnistrian conflict. The OSCE participated in the Joint Control Commission that reviews violations of the cease-fire agreement. Transnistrian authorities have occasionally limited OSCE access to the region, including to the Security Zone dividing Transnistria from the rest of country.

The law provides for three parliamentary advocates (ombudsmen) and an independent center for human rights, the Moldovan Human Rights Center. Parliament appoints the three advocates, who have equal rights and responsibilities, for 5-year terms; in practice, the parliamentary advocates dealt mostly with low-level cases. Advocates may be removed from office only by a two-thirds vote of Parliament. Parliamentary advocates are empowered to examine claims of human rights violations, advise Parliament on human rights problems, submit legislation to the Constitutional Court for review, and oversee the operation of the Moldovan Human Rights Center. Center personnel provided training for lawyers and journalists, visited jails, made recommendations on legislation, and organized round tables. The Moldovan Human Rights Center presents an annual report to Parliament; however, the center did not publish a report during the year, reportedly due to a lack of resources.

Transnistrian authorities have attempted to control NGOs in the region by reportedly having security officials "invite" NGO representatives to their offices and by pressuring landlords not to renew office leases for some. On June 17, officers from Transnistria's "ministry of security" "invited" Oxana Alistratova, head of the Transnistrian NGO Interaction, to their offices and interrogated her for 5 hours in the presence of her minor daughter. Upon release, Alistratove called the action "preventive intimidation" intended to discourage the activity of her NGO. In June, Transnistrian authorities forced the Helsinki Committee to cancel a 3-day human rights seminar in Tiraspol (see Section 2.b.).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides that persons are equal before the law regardless of race, sex, disability, or social origin; however, societal discrimination against women and some ethnic minorities, particularly Roma, persisted.

*Women.*—Domestic violence against women was a widespread problem. The law does not specifically address domestic assault, and there is no law against spousal rape. Women abused by their husbands may file charges under general assault laws; however, the Government rarely prosecuted domestic assault crimes. During the first 9 months of the year, the Ministry of Internal Affairs received 3,707 domestic violence complaints, including 64 severe cases of spousal abuse, of which 29 resulted in serious bodily injury and 35 resulted in either murder or attempted murder. There were 209 cases of rape reported in the first 8 months of year. Women's groups asserted that the numbers of rapes and incidents of spousal abuse were underreported.

The Government supported educational efforts, usually undertaken with foreign assistance, to increase public awareness of domestic violence and to train public and law enforcement officials how to address the problem. The city of Chisinau operated a women's shelter for victims of domestic violence. Private organizations operated services for abused spouses, including a hot line for battered women.

Prostitution is not a crime; however, it is a violation of civil law that is punishable by a fine or administrative detention of up to 30 days. Prostitution was widespread,

and observers noted a growing sex tourism industry, which was particularly prevalent in upscale Chisinau hotels.

Trafficking in women was a serious problem (*see* Section 5, Trafficking).

The law does not prohibit sexual harassment, and it was a problem.

The law provides that women and men enjoy equal rights, and in practice women received pay equal to that of men for equal work; however, women did not hold high-paying jobs in the same proportion as men. There were significant numbers of female managers in the public sector and in banking. The Ministers of Finance and Justice and the president of the country's largest bank were women. Women made up approximately 50 percent of the workforce.

*Children.*—There is extensive legislation designed to protect children, and the Government provided supplementary payments for families with many children.

Under the Constitution, the Government is to provide free, compulsory, and universal education for 9 to 10 years, which may be followed either by technical school or other further study; the requirement may vary at the discretion of the Minister of Education. However, many inadequately funded schools, particularly in rural areas, charged parents for school supplies. While not illegal, such charges contradicted the Government's policies and resulted in many parents keeping their children at home. Statistics from NGOs and international organizations indicated that approximately 7,000 children aged 7 to 16 were not attending school at the beginning of the school year. Each year, the Government and local authorities provide assistance in amounts ranging from approximately \$7.40 (100 lei) to approximately \$22.20 (300 lei) each to children from vulnerable families to buy school supplies. The health system devoted a large portion of its limited resources to childcare, but childcare professionals considered the amount inadequate.

The law prohibits child neglect; however, child abuse is believed to be widespread. During the year, the National Center for Child Abuse Prevention registered 115 cases of abuse; however, no comprehensive statistics on the extent of the problem exist. The Criminal Code does not refer to "abuse" as such, but to forms of it: violence, neglect, forced begging, etc.. Observers alleged that women begging on the streets of Chisinau often sedated their babies in order to spend long hours begging.

Trafficking of children for the purpose of sexual exploitation and begging remained a problem (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

The situation of children in orphanages was generally very poor. Due to lack of funding, children's institutions had major problems including inadequate food, "warehousing" of children, lack of heat in the winter, and disease. Statistics from local NGOs indicated that there were approximately 12,016 institutionalized children. An additional 5,000 children lived in adoptive homes, and 4,500 more lived in foster homes or with legal guardians. Not all institutionalized children were orphans; the number of children entrusted to the Government by needy parents or by parents leaving the country to look for work reportedly grew. The Government estimated that parents of approximately 20,000 children worked abroad and placed their children with boarding schools or entrusted them to relatives.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons was a very serious problem. There were reports of involvement by some government officials in this trade; however, authorities opened investigations against only low-level government officials and did not arrest or prosecute any officials during the year.

The law prohibits trafficking and provides for severe penalties, ranging from 7 years to life imprisonment. Sentences for trafficking in children range from 10 years to life imprisonment. The penalty is 15 years to life imprisonment and confiscation of property for repeated or serious offenses, such as trafficking of groups, minors, or pregnant women; through kidnapping, trickery or abuse of power; with violence; or by a criminal organization.

In the first 6 months of the year, authorities opened 244 trafficking related investigations. The Department for Juveniles and Combating Trafficking in Persons in the Prosecutor General's Office reported that, at mid-year, the Government had almost doubled the number of trafficking-related convictions over the previous year. While most of these cases were prosecuted as common "pimping" crimes, there were two convictions under the trafficking law where defendants received prison sentences of 10 and 11 years, respectively. The courts convicted 32 persons for trafficking-related activities in the first 6 months of the year, compared with 34 convictions for all of 2003. The courts gave most persons convicted of pimping either fines or suspended sentences, although two persons were given prison sentences for aggravated pimping, one for 6 years and the other for 10 years. The Government im-

proved cooperation with Southeast European Cooperative Initiative (SECI) countries during the year, resulting in a number of convictions abroad.

The country was a major country of origin for women and children trafficked abroad for forced prostitution and men and children who were trafficked to Russia and neighboring countries for forced labor and begging. The country was also a transit country for victims trafficked from Ukraine to Romania. Women and girls were trafficked to Turkey, Cyprus, Italy, Hungary, and the Balkan countries for prostitution. There also were reports that women were trafficked to Lebanon, Syria, Israel, Saudi Arabia, the United Arab Emirates, Portugal, France, Thailand, the United Kingdom, Spain, and Australia. NGOs reported recent cases of victims trafficked to Saudi Arabia and Afghanistan. At least one case each was recently identified in the United States and in Pakistan. Women and girls reportedly were trafficked to Italy and Greece through Romania, Serbia and Montenegro, and Albania. According to the International Organization for Migration (IOM), victims have increasingly been directed to Asia, Russia, Turkey, Western Europe, and the Middle East. Israel (via Moscow and Egypt) has become a well-established destination. The IOM reported that the country was the main origin in Europe for women and children trafficked for forced prostitution in the Balkans, Western Europe, and the Middle East and that the country was the source of more than 50 percent of the women working in prostitution in Kosovo.

While many different individuals have become trafficking victims, the primary target group is the female population between the ages of 15 and 30. The IOM reported that, of the victims they have assisted, 12 percent were minors at the time of return and 40 percent were minors at the time of their initial trafficking. Victims often came from rural areas where economic desperation had already driven many residents to look for work abroad. Women and girls typically accepted job offers in other countries, ostensibly as dancers, models, nannies, or housekeepers. In many areas, friends, relatives, or acquaintances approached young women and offered them help getting good jobs abroad. According to the IOM, trafficking recruiters were frequently former victims, some of whom were acting under coercion. Victims were also lured by newspaper advertisements promising well-paying jobs abroad.

According to the Center for Prevention of Trafficking in Women, parents or husbands pressured some young women to work abroad. Traffickers commonly recruited women from rural villages, transported them to larger cities, and then trafficked them abroad.

Another trafficking pattern involved orphans who were required to leave orphanages when they graduated from school, usually at the age of 16 or 17, and had no funds for living expenses or continuing education. Some orphanage directors reportedly sold information on when orphan girls were to be turned out of their institutions to traffickers, who approached them as they left.

Widespread corruption and lack of resources prevented adequate border control and monitoring of traffickers, particularly in Transnistria. Border guard and migration officials' salaries were low and frequently not paid regularly, making them vulnerable to bribery.

Observers alleged that corrupt low- and high-level government officials were involved in, or routinely turned a blind eye, to trafficking crimes; however, no high-level officials were prosecuted during the year. According to the Prosecutor General's Office, one police lieutenant from the Riscani police district was convicted of trafficking women to Russia and received 5 years probation. In another case, the police were investigating officials of the Department of Youth and Sports for issuing false documents used to obtain Western visas, with the intent of either trafficking or smuggling individuals. The investigation was ongoing at year's end.

The Government took some steps to prevent the trafficking of persons and assist victims through a government working group, the National Committee on Antitrafficking. Local committees in each region of the country, and officials of various ministries and local governments were required to present reports on their antitrafficking efforts to the National Committee. During the year, the National Committee developed four working groups focusing on legislation reform, child trafficking, reintegration of victims and prevention with cochairs from international organizations assigned to each. At the end of the year, all local committees submitted reports including statistical data on the number of people who had left their district, the number of trafficking cases, as well as efforts to reintegrate and rehabilitate victims.

In September, Parliament passed a law to discourage trafficking in minors. The new initiative stipulates that minors have the right to leave the country only when accompanied by a legal guardian, a person authorized by the latter under a notarized declaration, or when permitted by child welfare authorities. The law requires

that minors older than 10 have passports to leave the country, whereas before they needed only birth certificates.

A special law enforcement unit within the Ministry of Internal Affairs continued to operate, and the Government provided specialized training to trafficking investigators through the Ministry of Internal Affairs and the Ministry of Labor, funded by the OSCE and the Council of Europe. The country also participated in a SECI Human Trafficking Task Force. The Government cooperated with Belarus, Ukraine, and Russia in investigating trafficking cases, as well as with Interpol in cases in Serbia and Montenegro and the United Arab Emirates. There were no government-operated assistance programs for victims.

With foreign assistance, several NGOs worked to combat trafficking through information campaigns, repatriation assistance, temporary housing and medical care for victims, and job training. The NGO Save the Children worked with trafficking victims, particularly repatriated girls. Local NGOs operated public school programs to educate young women about the dangers of prostitution. During the year, the IOM organized a prevention campaign around the film "Lilya 4-ever," which portrays the realities of trafficking, free of charge in cinemas and schools. The IOM also operated a women's shelter that provided temporary emergency housing, job training, and medical care. In the summer, the IOM started a new information program aimed at providing citizens who have decided to go abroad with information to help them avoid exploitation.

*Persons With Disabilities.*—There were no reports of discrimination against persons with disabilities in employment, education, access to healthcare, or in the provision of other state services. There are no laws mandating access to buildings, and there were few government resources devoted to training persons with disabilities. The Government provided tax advantages to groups that assisted persons with disabilities. The Social Assistance Division in the Ministry of Labor and Social Protection and the National Labor Force Agency are responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Ukrainians and Russians are the two largest minorities. A Christian Turkic minority, the Gagauz, makes up a small percentage of the population and live primarily in the south of the country. Official statistics put the number of Roma at 11,600; however, the OSCE and Romani NGOs have estimated the number of Roma at 20,000 to 200,000.

Roma suffered violence, harassment, and discrimination. Local and international NGOs reported that Roma were victims of police beatings in custody, arbitrary arrest and detention, unlawful confiscation of personal property, harassment by law enforcement officials, and were subjected to societal violence and harassment. The European Roma Rights Center reported that officials discriminated against Roma with regard to housing, education, and access to public services.

The Roma were the poorest of the minority groups and often lived in segregated communities in unsanitary conditions lacking basic infrastructure. These conditions often led to segregated education with even fewer resources than in the rest of the country's schools. Many Romani children did not attend school, very few received a secondary or higher education, and there was no Romani-language education.

Minority rights and language were closely related problems. Romanian is the only official language; however, Russian has served as a language for interethnic communication and is well-established in practice. However, Russian speakers were not subject to discrimination in education or employment and a citizen has a legal right to choose the language of interaction with government officials or commercial entities. Officials are required to know both Romanian and Russian "to the degree necessary to fulfill their professional obligations." The Constitution provides parents the right to choose the language of instruction for their children, and the Government observed this right in practice.

Authorities in the separatist Transnistrian region continued to discriminate against Romanian speakers. They refused to observe the country's language law, which requires the use of Latin script, and the region's schools were required to teach Romanian using the Cyrillic alphabet. Many teachers, parents, and students objected to this requirement, asserting that it disadvantaged persons who wished to pursue higher education opportunities in the rest of the country or in Romania, where the Latin script was used.

In July, Transnistrian authorities closed four Latin script schools that were registered with the Moldovan Ministry of Education and attempted to close two more. Police forcibly closed the Latin-script schools in Ribnita and Tiraspol, removing all furniture and school materials and sealing the premises. They also closed two schools in Dubasari and Corjova; students from these schools were transferred to Latin-script schools in villages under the control of the Moldovan authorities. Police

were impeded from closing a Latin-script school and orphanage in Bender by parents, teachers and children who guarded the facilities throughout August and September. Authorities claimed the institutions violated Transnistrian law, which requires the schools to register locally and to use the Cyrillic alphabet for instruction. In September, the OSCE helped negotiate a formula to allow the Latin-script schools in Bender, Dubasari, and Corjova to register, although authorities continued to impose logistical and legal hurdles to prevent the schools from functioning normally. Later, the schools in Ribnita and Tiraspol were also allowed to register for 1 year under the OSCE-negotiated formula. The Tiraspol school was scheduled to open in January 2005 after undergoing substantial repairs for damage in the summer by Transnistrian police. The Ribnita school was open but operating out of a different building after the Transnistrian authorities refused to let the school return to its original building.

*Other Societal Abuses and Discrimination.*—There were reports of governmental and societal discrimination based on sexual orientation.

According to Gender-DocM, lack of community recognition, negative media portrayals, and condemnation by the Orthodox Church often led to public ostracism of gays, lesbians, and their families. At the third annual Gay Pride events in Chisinau in May, there were reports of groups shouting epithets and intimidating persons at the gatherings. Gender-DocM reported that there were several incidents of gay children being asked to leave home by their parents and villages shunning a family because of a gay child. The NGO reported that schoolteachers and university professors have been dismissed due to their homosexuality, and that police regularly threatened gays and lesbians with public exposure if they did not pay bribes. In 2003, the postal service in Gagauzia refused to distribute a gay-themed news magazine published by the main NGO for gay and lesbian issues, Gender-DocM, because of its content.

In Transnistria, homosexuality was illegal and gays and lesbians were subject to governmental and societal discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and law provides workers the right to establish or join unions; however, there were reports that the Government attempted to pressure individual unions to leave the confederation with which they were affiliated and join a confederation that supported government policies. Approximately 50 percent of the workforce belonged to a union.

There were two unions—the Trade Union Confederation of Moldova (TUCM) and the Confederation of Free Trade Unions Solidaritate (Solidarity). The latter advocated government positions, and the Government was widely believed to support it. After the 2001 parliamentary elections, the Government reportedly made several attempts to pressure TUCM unions to convert to Solidaritate. During the year, the Government allegedly pressured several local teachers' unions successfully to quit TUCM and join Solidaritate. The National Public Sector Union, which was a member of TUCM, split into two organizations, with one remaining in TUCM and the other joining Solidaritate. In response to these events, TUCM leaders and the International Confederation of Free Trade Unions called on the Government to stop interfering in the internal affairs of the union movement.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, the right to organize, and the right to conduct activities without government interference; however, the Government did not always respect these rights in practice (*see* Section 6.a.). The law provides for the right to strike; however, workers in essential services were not allowed to strike.

The Government, management, and unions negotiated national minimum wages in tripartite talks. Branch unions for particular industries negotiated with management and the ministries responsible for that industry. Tripartite negotiations could, and often did, set wages higher than the national minimum, particularly in profitable industries. At the enterprise level, union and management negotiated wages directly and could set wages higher than negotiators at the industry level. Arbitration committees typically settled workplace labor disputes. If an arbitration committee failed to settle a dispute, it could be taken to the Court of Appeals. Court decisions involving salary restitution or hiring/promotion practices were not implemented in all cases.

Government workers and workers in essential services such as health care and energy do not have the right to strike; the law provides for arbitration of disputes in these sectors with court mediation as a final option to ensure due process.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor Practices and Minimum Age for Employment.*—The law sets standards for child labor, including minimum age for employment, hours of work, and working conditions, and prohibits the worst forms of child labor; however, the Government did not effectively enforce these protections. The law provides for 10 to 15 years' imprisonment for persons' involving children in the worst forms of child labor; under aggravated circumstances, sentences could be life imprisonment. Child labor was a problem. Due to the poor economic conditions, children were often sent to work in the fields or to find other work, and those living in rural areas often assisted in the agricultural sector.

The minimum age for unrestricted employment was 18 years. Persons between the ages of 16 and 18 were permitted to work under special conditions, including shorter workdays, no night shifts, and longer vacations.

Trafficking in persons, including trafficking of children, remained a serious problem (see Section 5, Trafficking.)

Efforts to enforce child labor laws were not sufficient to deter violations. The Labor Inspection Office in the Ministry of Labor and Social Protection is responsible for investigating possible child labor violations; however, the office has not uncovered any child labor violations since its creation in 2002.

In April, the ILO, in cooperation with the Government, established an international program for the elimination of child labor (IPEC) in the country. ILO-IPEC developed and began implementing programs to strengthen local antitrafficking committees, establish community-based youth centers, train representatives of employers' organizations and trade unions, promote employment for at-risk youth and parents, and improve care for child victims of trafficking.

*e. Acceptable Conditions of Work.*—During the year, the legal minimum monthly wage was raised to approximately \$17 (200 lei) for public sector employees and to approximately \$37 (440 lei) for private sector employees, neither of which provided a decent standard of living for a worker and family. The Labor Inspection Office within the Ministry of Labor and Social Protection is responsible for enforcing the minimum wage regulation and it opened some administrative cases against employers who violated it. Due to severe budgetary constraints, both the Government and private sector employers often did not meet employee payrolls and, by December, salary arrears in the public sector amounted to \$12.7 million (158 million lei).

The Constitution sets the maximum workweek at 40 hours with extra compensation for overtime, and the law provides for at least 1 day off per week.

The Government is required to establish and monitor safety standards in the workplace. The Labor Inspection Office in the Ministry of Labor and Social Protection is responsible for enforcing health and safety standards; however, health and safety standards were not adequately enforced. Workers have the right to refuse to work if working conditions represent a serious health threat; however, there were no reports that workers exercised this right in practice. In practice, poor economic conditions have led enterprises to economize on safety equipment and show little concern for worker safety. According to the Labor Inspection's preliminary data, there were 101 serious workplace accidents during the year, of which 53 resulted in deaths.

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## MONACO

Monaco is a constitutional monarchy in which the sovereign Prince plays a leading role in governing the country. The Prince appoints the four-member Government, headed by a Minister of State chosen by the Prince from a list of candidates proposed by France. The other three members are the Counselor for the Interior (who is usually French), the Counselor for Public Works and Social Affairs, and the Counselor for Finance and the Economy. Each is responsible to the Prince. Legislative power is shared between the Prince and the popularly elected 24-member National Council. The last National Council election was held in February 2003 and was considered free and fair. There also are three consultative bodies whose members are appointed by the Prince: The 7-member Crown Council; the 12-member Council of State; and the 30-member Economic Council, which includes representatives of employers and trade unions. The judiciary is independent.

In addition to the national police force, the "Carabiniers du Prince" carry out security functions. Government officials effectively controlled the security forces. There were no reports that security forces committed human rights abuses.

The population was approximately 32,000, and the principal economic activities were services and banking, light manufacturing, and tourism. The economy provided residents with a high standard of living.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. Authority to change the Government and initiate laws rests with the Prince. The Penal Code prohibits public denunciations of the ruling family. The Constitution distinguishes between those rights that are provided for all residents and those that apply only to the approximately 7,100 residents who hold Monegasque nationality. Some remnants of legal discrimination against women persisted, particularly with regard to the transmission of citizenship.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

Women were held separately from men, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners.

Persons convicted and sentenced are transferred to a French prison to serve out their prison term.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The primary role of the police is the maintenance of law and order within the Principality and to ensure the safety of visitors and citizens alike.

Arrest warrants are required and issued by an appropriate legal entity, except when a suspect is arrested while committing an offense. Police must bring detainees before a judge within 24 hours to be informed of the charges against them and of their rights under the law. Most detainees are released without bail, but the investigating magistrate may order detention on grounds that the suspect either might flee or interfere with the investigation of the case. There is a functioning bail system, and it was used depending on the type and severity of the crime. The magistrate may extend the initial 2-month detention for additional 2-month periods indefinitely. The magistrate may permit family members to see detainees, and detainees are provided prompt access to a lawyer.

*e. Denial of Fair Public Trial.*—Under the Constitution, the Prince delegates his judicial powers to the judiciary. The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The legal system includes: A Court of First Instance, a Court of First Appeal, a Higher Court of Appeal, a Criminal Court, and the Supreme Court. The Supreme Court is composed of 5 chief members and 2 assistant judges named by the Prince on the basis of nominations from the National Council in conjunction with other governmental bodies. The Supreme Court is the highest court for judicial appeals and also interprets the Constitution when necessary. The legal system is closely related to France's and is patterned after the Napoleonic Code.

The law provides for the right to a fair trial, and the independent judiciary generally enforced this right. As under French law, a three-judge tribunal considers the evidence collected by the investigating magistrate and hears the arguments made by the prosecuting and defense attorneys.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

##### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights and did not

restrict academic freedom; however, the law prohibits public denunciations of the ruling family, a provision that the media generally observed.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. Roman Catholicism is the state religion.

No missionaries operated in the principality, and proselytizing was strongly discouraged. However, there is no law against proselytizing by religious organizations that are registered formally by the Ministry of State. Organizations regarded as religious “sects” routinely have been denied such registration; however, there were no reports of religious organizations being denied registration during year.

There were no reports of anti-Semitic discrimination or violence.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

Residents moved freely within the country and across its open borders with France. Nationals enjoyed the rights of emigration and repatriation; however, they can be deprived of their nationality for specified acts, including naturalization in a foreign country. Only the Prince can grant or restore nationality, but he is obliged by the Constitution to consult the Crown Council on each case before deciding.

In light of its bilateral arrangements with France, the Government does not grant political asylum or refugee status unless the request also meets French criteria for such cases. The number of such cases was very small.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system of providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Authority to change the Government and to initiate laws rests with the Prince. The Constitution cannot be suspended, but it can be revised by common agreement between the Prince and the elected National Council. The last National Council election was held in February 2003 and was considered free and fair. The Prince played an active role in Government. He names the Minister of State (in effect, the Prime Minister) from a list of names proposed by the French Government. He also names the three Counselors of Government (of whom the one responsible for the interior is usually a French national). Together the four constitute the Government. Each is responsible to the Prince.

Only the Prince may initiate legislation, but the 24-member National Council may propose legislation to the Government. All legislation and the adoption of the budget require the Council’s assent. Elections for National Council members, which are held every 5 years, are based on universal adult suffrage and secret balloting.

The Constitution provides for three consultative bodies. The Prince on certain questions of national importance must consult the seven-member Crown Council, composed exclusively of Monegasque nationals. He may choose to consult it on other matters as well. The President and three members of the Crown Council are chosen directly by the Prince for 3-year terms. The three other members are proposed by the National Council, also for 3-year terms; the Prince then ratifies their selection.

The 12-member Council of State, which is not restricted to Monegasque citizens, advises the Prince on proposed legislation and regulations. The Council of State is presided over by the Director of Judicial Services, usually a French citizen. The Minister of State nominates the Director and other members of Judicial Services, and the Prince ratifies their nominations.

There were no reports of corruption, and the Government provided free and open access to official information.

One member of the Crown Council, five members of the National Council, and four members of the Economic Council were women.

Government participation is limited to citizens and French nationals, and there were no minorities in the Government.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While the Government imposed no restrictions on the establishment or operation of local groups devoted to monitoring human rights, there were no such groups within the Principality. Foreign groups did not seek to investigate human rights conditions in the country.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides that all nationals are equal before the law. It differentiates between rights that are accorded to nationals (including preference in employment, free education, and assistance to the ill or unemployed) and those accorded to all residents, for example, freedom of inviolability of the home.

*Women.*—Reported instances of violence against women were rare. The law strictly prohibits marital violence, and any wife who is a victim may bring criminal charges against her husband.

Rape is illegal, and the Government effectively enforced the law in practice.

Prostitution is legal; however, it was not considered a problem.

Women were represented fairly well in the professions; however, they were represented less well in business. Women received equal pay for equal work. The law does not prohibit sexual harassment; however, there were no reports of sexual harassment.

The law governing transmission of citizenship provides for equality of treatment between men and women who are nationals by birth; however, women who acquire Monegasque citizenship by naturalization cannot transmit it to their children, whereas naturalized male citizens can.

*Children.*—The Government was committed fully to the protection of children's rights and welfare and had well-funded public education and health care programs. The Government provided compulsory, free, and universal education for children up to the age of 16.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form or join unions without previous authorization or excessive requirements, and they exercised this right. Less than 10 percent of workforce was unionized.

*b. The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively was recognized and exercised freely, and the Government protected this right in practice. The law provides for the right to strike, and workers generally exercised this right in practice; however, government workers may not strike. There were no strikes during the year. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law and government policy protected children from exploitation in the workplace, and the Government effectively implemented the law and policy in practice.

The minimum age for employment is 16 years; those employing children under that age can be punished under the law. Special restrictions apply to the hiring, work times, and other conditions of workers 16 to 18 years old.

*e. Acceptable Conditions of Work.*—The legal minimum wage for full-time work was the French minimum wage, which was \$10.27 (7.61 euros) per hour, plus 5 percent. The 5 percent adjustment was intended to compensate for the travel costs of the three-quarters of the workforce who commuted daily from France. The minimum wage provided a decent standard of living for a worker and family. The legal maximum workweek was 39 hours.

Health and safety standards are fixed by law and government decree. These standards were enforced by health and safety committees in the workplace and by the Government Labor Inspector. Workers have the right to remove themselves from dangerous work situations without jeopardizing their employment, and the Government effectively enforced this right.

## THE NETHERLANDS

The Netherlands is a constitutional monarchy with a bicameral parliamentary legislative system. Parliamentary elections were held in January 2003. The Prime Minister and a Cabinet representing the governing political parties (traditionally a coalition of at least two major parties) exercise executive authority. The judiciary is independent.

Regional police forces are primarily responsible for maintaining internal security. The civilian authorities generally maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The market-based economy was export oriented and featured a mixture of industry, services, and agriculture. The country's population was approximately 16.3 million. Living standards and the level of social benefits were high. Unemployment was approximately 6.2 percent, with an additional 10 percent of the workforce on full or partial disability. Long-term unemployment, particularly among ethnic minorities, remained a problem.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. On November 2, film director Theo van Gogh was killed in an attack with religious/political motives. The killing led to instances of violence between the Muslim and non-Muslim communities, including arson attacks on religious schools, churches and mosques. Discrimination and some violence against minorities continued to be a concern. Violence against women and children was a problem. Trafficking in women and girls for prostitution was a problem. The Government took steps to deal with all of these problems, including new legislation, improved social services, public outreach, and modified administrative procedures.

Aruba and the Netherlands Antilles are two autonomous regions of the Kingdom; they also feature parliamentary systems and full constitutional protection of human rights. In practice, respect for human rights in these islands generally was the same as in the Netherlands; however, the islands' prison conditions remained substandard.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On November 2, film director Theo van Gogh was killed on the street in a religiously and/or politically motivated attack. Van Gogh was well known for inflammatory rhetoric and extreme forms of expression in his art, including criticism of Islamic practices. Police arrested a 26-year-old Dutch man of Moroccan descent, who was awaiting trial at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

There were incidents of rightwing and racist violence against religious and ethnic minorities. There was an upsurge of attacks against Muslim and Christian institutions after the November van Gogh killing (*see* Section 2.c.).

Prison conditions in the country generally met international standards, and the Government permitted visits by independent human rights observers.

Male and female prisoners were held separately. In addition, juvenile prisoners were held separately from adults, and pretrial detainees were held separately from convicted criminals.

During the year, the Governments of the Netherlands Antilles and Aruba improved prison staffing and capacity to address concerns by the Council of Europe's Committee for the Prevention of Torture. Authorities expanded prison activities, health care, and amenities, lessening inmate tensions. Prisoners also were eligible for early release. Both governments took steps to alleviate overcrowding. They com-

pleted renovations at the Rio Canario Detention Center on Curacao and expanded Aruba's Correctional Institute Aruba (KIA) prison to house 300 prisoners, up from 250. Despite these improvements, problems remained. On Curacao, illegal immigrants vandalized their barracks in protest over their treatment. On Aruba, 90 KIA prisoners, including 9 who sewed their mouths shut, held a hunger strike over prison conditions, including lack of recreational time and poor food. On Bonaire, the Chief Public Prosecutor ordered the release of a large number of detainees (mostly drug couriers arrested at the airport) from the Police Detention Center because of overcrowding and poor conditions. The Government of the Netherlands continued to provide assistance to improve prison conditions and management.

The Governments of the Netherlands Antilles and Aruba permitted access by independent human rights observers to prisons; however, no such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice.

Regional police forces have primary responsibility for maintaining internal security. The Royal Constabulary and investigative organizations also have specified responsibilities for internal and external security. The police were effective, conducting their investigations in a highly professional manner with due respect for the human rights of suspects. There were no indications of systematic police corruption or imputations of widespread improprieties. However, at year's end, the military police, which is responsible for Amsterdam Schiphol airport and border control generally, acknowledged that it had been investigating credible allegations of drug trafficking and corruption involving baggage handlers, customs personnel, and shop personnel at Schiphol Airport. At year's end, 18 employees of private organizations working at Schiphol had been prosecuted and were awaiting a final court verdict.

Police officers, acting under the authority of the public prosecutor, conduct criminal investigations. A prosecutor or senior police officer must order arrests. Police officers may question suspects for a maximum of 12 hours and may detain a suspect for up to 6 days upon an order of the public prosecutor. If the prosecutor believes an investigation is necessary, he must request a preliminary judicial inquiry from the investigative judge, who then assumes responsibility over the investigation. Defense attorneys have the right to be present during any questioning.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system is based on the Napoleonic Code. A pyramidal system of cantonal, district, and appellate courts handles both criminal and civil cases. The Supreme Court acts as the highest appellate court and ensures the uniform interpretation of the law.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law requires that defendants be informed fully at every stage of criminal proceedings. In criminal trials, the law provides for a presumption of innocence and the right to public trial, to counsel (virtually free for low-income persons), and to appeal. There is no provision for bail.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government provided subsidies to religious organizations that maintained educational facilities.

In its latest report covering the period between May 2003 and May, the Center for Information and Documentation on Israel registered 334 anti-Semitic incidents, compared to 359 in 2002, the first decrease (7.5 percent) in anti-Semitic incidents since 2000. In addition, the number of serious incidents (physical violence, threat with violence, and defacing of cemeteries and synagogues) decreased by 40 percent.

Provisional statistics covering the first 4 months of the year confirmed this trend. A considerable number of offenders were of North African origin.

The National Expertise Center for Discrimination dealt with cases of discrimination that come under criminal law, registering all criminal cases in this area. In 2002 and 2003, the joint prosecutor offices recorded 242 and 204 discrimination cases respectively, of which about a quarter concerned cases of anti-Semitism. Although the Government has repeatedly condemned any form of anti-Semitism, it rejected a 2003 request from Parliament for a separate policy designed to combat anti-Semitism, noting that it presented a comprehensive action plan in 2002 to combat any form of discrimination.

In the two weeks following the November 2 public killing of film director Theo van Gogh by a Dutch man of Moroccan descent, unknown persons carried out upwards of 30 arson attacks against mosques, Muslim schools, churches, and other property. For example, on November 8, unknown persons firebombed the Tariq Ibnu Zyad Islamic elementary school in Eindhoven. On November 9, unknown persons burned an Islamic elementary school in the town of Uden and left writing on the school walls linking the crime to the Van Gogh killing; on the same day, there were arson attacks on churches in Utrecht and Amersfoort. By year's end, there had been 12 arrests of suspects allegedly belonging to a terrorist organization, including six from a criminal/terrorist cell linked to the murder of Van Gogh.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. Asylum seekers were permitted to apply for residence status, except those who came from a so-called safe country of origin or stayed for some time in a safe country of transit. The Government's asylum policy was designed to protect genuine refugees while excluding economic migrants and illegal immigrants. The Government pursues an active policy aimed at returning screened-out asylum seekers and illegal immigrants to their home country and offers assistance to those prepared to return voluntarily. It provided protection against refoulement, the return of persons to a country where they feared prosecution. In August, Amnesty International criticized the Government for returning persons to Somalia where it claimed two were killed; however, the Government rejected any causal link between their expulsion and subsequent violent death.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. These constitutional rights also apply to the Netherlands Antilles and Aruba.

Parliamentary elections were held in January 2003.

The law requires the executive branch to provide full information on administrative matters unless publication of such information runs counter to the public interest. Exceptions are clearly defined, and administrative courts review any dispute.

There were no restrictions in law or in practice that hindered the participation of women and minorities in government and politics. There were 60 women in the 150-seat Second Chamber of Parliament, and there were 5 female ministers in the 16-member Cabinet. The Government pursued an active policy of promoting the participation of women in politics and public administration. Women also held positions in the parliaments and cabinets of the Netherlands Antilles and Aruba.

There were approximately 15 members of minorities—Turkish, Moroccan, Iranian, Surinamese, and Somali—in the 150-seat Second Chamber of Parliament. There were no ethnic minority political parties or movements specifically represented in Parliament.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human

rights cases. Government officials were very cooperative and responsive to their views.

The Government has a long tradition of hosting international legal tribunals, including the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia, and the headquarters of the International Criminal Tribunal for Rwanda.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, gender, disability, language, social status, political preference, or sexual orientation. Under the Equal Treatment Act, complainants may sue alleged offenders under civil law.

*Women.*—Domestic violence against women was a problem. According to a 2004 Justice Ministry report, more than 15 percent of women had been sexually abused by relatives before reaching the age of 16; 11 percent of women ages 20 to 60, mainly from ethnic minority groups, had suffered from physical violence in a relationship over a long period of time. Only about 12 percent of cases were reported to the police. The maximum sentence for marital rape is 8 years' imprisonment. Spousal abuse carries a one-third higher penalty than ordinary battery. During the year, approximately 800 men were prosecuted for beating their partners. Societal costs caused by violence against women were estimated at \$202 million (150 million euros) per year.

In 2003, the Justice Ministry opened a special website on domestic violence with information for victims and welfare organizations. In July, the Government established a national network of advisory and assistance centers for victims and perpetrators of domestic violence and allocated \$10.5 million (7.8 million euros) for the period through 2007, and \$4.1 million (3 million euros) in the years thereafter. The Government also decided to build more shelters for battered women.

Female Genital Mutilation (FGM) is prohibited. According to a current report from the Ministry of Public Health, Welfare, and Sport, there are no reliable figures on the scale of the problem, especially of immigrant girls who undergo FGM in their countries of origin and return to the country. In April, the Government established a special FGM committee to advise on the complex legal, ethical, human rights, medical, and social questions surrounding prevention and monitoring measures. The FGM committee is expected to release its report in March 2005.

Prostitution is legal for persons who are at least 18 years of age and engage in the work voluntarily; however, organizing the prostitution of another person is a crime even if done with the consent of the prostitute. It is illegal to force a person into prostitution. The Government has strict licensing standards for brothel operators and has improved working conditions and health care for prostitutes, while at the same time prohibiting the employment of minors and illegal immigrants and making prostitution less susceptible to criminal organizations. Trafficking of women for sexual exploitation remained a problem (*see* Section 5, Trafficking). There were approximately 25,000 prostitutes; roughly two-thirds were from non-European Union (EU) countries.

The law requires employers to take measures to protect workers from sexual harassment; however, a study by the Applied Science Research Institute's labor division showed that 5.3 percent of female workers were sexually intimidated in the workplace in 2003. The Government funded an ongoing public awareness campaign and has taken measures to counter harassment among civil servants.

The law mandates equal pay for equal work, prohibits dismissal because of marriage, pregnancy, or motherhood, and provides equal treatment in other employment-related areas. There is an Equal Treatment Commission that investigated complaints of discrimination in these areas as well as allegations of pay discrimination.

Although women increasingly entered the job market, traditional cultural factors and an inadequate number of daycare facilities discouraged women from working. Female unemployment was approximately 7 percent. The social welfare and national health systems provided considerable assistance to workingwomen with families. Women were eligible for 16 weeks of maternity leave with full pay. The law allows both parents to take unpaid full-time leave for 3 months and to extend that leave for more than 6 months to care for children up to 8 years of age. Persons working fewer than 20 hours per week also were entitled to parental leave.

The Social Affairs Ministry reported that women often were underemployed, had less chance of promotion, and held lower level positions than men, primarily because of their part-time work status. According to the Ministry of Social Affairs and Employment, women working in the private sector on average earned 23 percent less than men, although, when adjusted for level of experience and expertise required for the jobs, this differential fell to 7 percent.

The Government provided affirmative action programs for women, and collective labor agreements usually included provisions to strengthen the position of women.

*Children.*—The Government worked to ensure the well being of children through numerous well-funded health, education, and public information programs. Compulsory education ends at age 16, or after at least 12 years of education. Education was free for children between the ages of 4 and 16, although schools could ask for a voluntary contribution from parents. Vocational education was also free, except for the cost of books and materials. Approximately 10 percent of students left secondary school before attaining a certificate. Government-licensed Islamic schools were obliged to follow the same curriculum requirements as other schools.

Child abuse was a problem. According to the Child Abuse Reporting and Advisory Center (AMK), approximately 50,000–80,000 children were victims of child abuse each year, although only 28,000 formal reports of abuse were registered in 2003, about 13 percent more than in 2002. Approximately 50 children reportedly die each year as a result of abuse. According to the AMK, a national child abuse information campaign, which began in December 2003, led to increased reports of victims, and therefore, longer waiting lists for assistance. The Council for the Protection of Children, which operated through the Ministry of Justice, enforced child support orders, investigated cases of child abuse, and recommended remedies ranging from counseling to withdrawal of parental rights. The Government also maintained a popular hotline for children and a network of pediatricians who tracked suspected cases of child abuse on a confidential basis.

The age of consent is 16. Sexual intercourse with minors under age 12 is a criminal offense. The law provides for the prosecution of sexual abusers of children between the ages of 12 and 16 without requiring that affected parties file a complaint. The law provides maximum penalties of 6, 8, and 10 years' imprisonment for sex (in the context of prostitution) with minors under the ages of 18, 16, and 12, respectively. Under the law, citizens and noncitizens permanent residence in the country who abused minor children in foreign countries could be tried and convicted even if the offense is not a crime in the country where it took place.

The maximum penalty for the distribution of child pornography is 6 years' imprisonment. The law allows for provisional arrest, house searches, and criminal financial investigations of child pornography. The possession of child pornography is also punishable by law. Under the law, persons under the age of 18 are not allowed to perform in pornographic films. The law also criminalizes the electronic manipulation of images of children for sexual purposes. The Government continued its campaign against child pornography on the Internet. The Child Porn Reporting Center and the national police reported 6,000 cases of Internet child pornography in 2003, down from 6,119 reports in 2002. In 2003, approximately 100 child pornography cases were prosecuted, compared to 80 in 2002 and 30 in 2001.

*Trafficking in Persons.*—The law criminalizes alien smuggling and trafficking in persons; however, trafficking in persons was a problem.

Legislation became effective on January 1, 2005 raising the maximum sentence for trafficking in persons to 12 years' imprisonment in case of serious physical injury and 15 years' imprisonment in case of death, which is commensurate with penalties for other grave crimes (i.e. rape) and in conformity with U.N. and EU protocols. The law also expands the definition of people trafficking to all forms of modern slavery. It defines exploitation as "exploitation of another in prostitution, other forms of sexual exploitation, forced or compulsory labor or services, slavery and practices that can be compared to slavery or bondage." The law prohibits the employment of prostitutes under the age of 18.

In 2003, authorities prosecuted approximately 189 trafficking cases, compared to 165 in 2002. In February, an Alkmaar district court imposed prison sentences varying from 3.5 to 12 years on 4 men suspected of having trafficked 3 East European women into the country for prostitution. In May, the Lelystad police arrested three men and two women for having lured African women from Brussels to the country, where they were forced to work as prostitutes and act in pornographic videos. In June, the Friesland police arrested two men and one Romanian woman suspected of having trafficked East European women. In July, The Hague police arrested 6 persons, and the Alkmaar police arrested the owner of an escort service suspected of having exploited minors. In August, the Rotterdam court sentenced 3 persons to 3 to 21 months' imprisonment for having lured 2 girls into prostitution. All these cases were still pending in court at year's end.

The Government actively combated trafficking in persons. The Ministries of Justice, Internal Affairs, Foreign Affairs, Welfare and Health, and Social Affairs were involved, and a number of local police forces established special units to deal with trafficking. A National Police team with authority over approximately 500 police fo-

cused exclusively on trafficking investigations and provided specialized training to police in the identification and protection of possible trafficking victims. The National Rapporteur on Trafficking in Persons, an independent, publicly funded agency, reported annually to the Government on the nature, extent, and mechanisms of trafficking as well as on the effects of national policies. Authorities participated in international investigations and set up a Joint Investigation Team with the United Kingdom, Belgium, Germany, and the European Police Agency (Europol) to combat trafficking in persons in Bulgaria. The Government also cooperated closely with other governments on trafficking, and Europol, established in The Hague, provided analytical support and administrative expertise to law enforcement agencies on trafficking matters.

The country was a destination and transit point for trafficked persons. Non-governmental organizations (NGOs) and the police estimated that the number of women and girls trafficked for the purpose of sexual exploitation ranged from 1,000 to 3,600. The Foundation against Trafficking in Women registered 257 victims in 2003, of whom 134 came from Central and Eastern Europe; lesser numbers came from African countries, primarily Nigeria and Sierra Leone, and from South America, China and Thailand. In 2002, the Rapporteur reported that 625 trafficking victims contacted organizations offering assistance to victims.

Trafficking within the country was also a problem. The National Rapporteur reported that of approximately 55 police investigations, 24 percent related to internal trafficking. The victims were young, mostly immigrant girls, who were recruited internally by so-called "lover boys," primarily young Moroccans or Turks living in the country, who lured them into prostitution. In July, the Government announced an action plan to step up the fight against this specific problem. Various organizations and local governments initiated specific assistance and prevention programs for potential victims of "lover boys."

The Government effectively eliminated from refugee centers the disappearances of single underage asylum seekers, who were later found in the illegal prostitution business, by tightening immigration regulations and controls and security at refugee centers.

A 2003 report of the Foundation Against Trafficking in Women listed Bulgaria, Nigeria, Romania, Brazil, and Russia as the top five originating countries for women trafficked to the country. Of the 257 victims registered in 2003, approximately 20 were under age 18.

According to the reports by the National Rapporteur and the police, practically all trafficked women are forced to work in the illegal prostitution sector.

Under the law, illegal residents, who may have been victims of trafficking, may not be deported before investigations are completed. Victims are allowed 3 months to consider pressing charges, and victims who did so were allowed to stay in the country until the judicial process was completed. During this period, victims received legal, financial, and psychological assistance. In special circumstances, residence permits were granted on humanitarian grounds. After completion of the judicial process, illegal prostitutes were eligible for temporary financial assistance before returning to their native countries.

The Government subsidized NGOs working with trafficking victims, including the Dutch Foundation Against Trafficking in Women, an independent organization offering social support, legal advice, medical aid, shelters, and counseling to victims.

The Justice Ministry co-financed the La Strada program, aimed at preventing trafficking in women in Central and East European countries. Other prevention initiatives included the Travel Agents' Association distribution of warnings about trafficking and sex with minors and public awareness campaigns aimed at tourists and travel agencies meant to deter sexual exploitation of children.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, according to the Dutch Council for Chronic Patients and the Handicapped, public buildings and public transport often were not easily accessible.

Approximately 10 percent of the work force was on full or partial disability. The Equal Treatment Act of Handicapped People and the Chronically Ill, which became effective in May, requires the equal treatment of persons with disabilities and those who suffer from chronic diseases. The law bans discrimination against persons with disabilities in employment, education, and public transport. Complaints may be filed with the Equal Treatment Committee.

*National/Racial/Ethnic Minorities.*—Approximately 20 percent of the population (3 million persons) is of foreign origin, including 1.6 million who belong to ethnic minority groups, principally Turkish, Moroccan, Surinamese, and Antillean.

Following the November 2 killing of film director Theo Van Gogh by a Dutch man of Moroccan decent, there was a brief upsurge of incidents, mostly minor but also including a dozen or so instances of arson attacks against property both of the minority Muslim community and Christian churches. There were numerous minor incidents, including intimidations, brawls, vandalism, and spraying of abusive texts, almost all of which ended by December.

Incidents of physical assault against minorities were rare, but such minorities frequently were confronted with verbal abuse and intimidation and were denied access to public venues, such as discotheques.

Members of immigrant groups faced some discrimination in housing and employment. The Government has worked for several years with employers' groups and unions to reduce minority unemployment levels to the national average. Despite these actions, unemployment among ethnic minorities appeared to be growing again to more than 10 percent. The minority unemployment rate remained 3 times that of the ethnically Dutch workforce.

The Government pursued an active campaign to increase public awareness of racism and discrimination. Civil and criminal courts, the Equal Opportunities Committee, the National Ombudsman, the Commercial Code Council, as well as the Council for Journalism, the European Court of Justice, and the European Human Rights Court addressed complaints about racism and discrimination. The majority of criminal cases concerned racist defamation. Civil lawsuits often concern discrimination in the supply of services, such as supplemental conditions for nonethnic Dutch persons to obtain a mobile phone or to gain access to clubs. The Equal Opportunities Committee primarily addresses incidents of discrimination in the labor market, including discrimination on the work floor, unequal pay, termination of labor contracts, and preferential treatment of non-ethnic employees. There was societal criticism of Muslims for such perceived problems as the poor integration of Muslim immigrants into society, the high level of criminal activity among Muslim youth, and the conservative views of orthodox Muslims on topics such as women and corporal punishment.

The police have a contact person for discrimination in each of the 25 regional police forces, a National Bureau of Discrimination Cases (which acts as a clearing house and database for police forces nationwide), and a national registration system of cases of racism and discrimination to provide a comprehensive database of such cases.

The Prosecutor's Office also has established a National Expertise Center on Discrimination that collects information, maintains a database on cases, and provides courses to prosecutors handling cases of discrimination. The government-sponsored National Association of Anti-Discrimination Bureaus registered approximately 3,600 complaints in 2003, two-thirds of which were based on racial discrimination. The number of complaints was about 9 percent lower than in 2002.

With the proliferation of Internet websites, the dissemination of racial and discriminatory material increased. The Discrimination on the Internet Registration Center registered 1242 complaints compared to 1496 statements on the Internet in 2003, a slight increase over 2002. A reported 649 statements concerned racist statements, and 514 were anti-Semitic in nature. The Center observed a sharp increase in anti-Muslim and anti-Semitic statements on ultra rightwing sites such as the new Nazi "Stormfront" website. The Government argued that it could not take action against "Stormfront" because it used a foreign Internet service provider. In other cases, the Center requested the drafters of statements on Dutch sites to remove them from Internet, which usually happened. In the few cases in which drafters refused to do so, the Internet service provider either issued a warning at the Center's request or blocked the customer's account. A handful of the most serious cases were reported to the public prosecutor, but convictions remained rare.

*Other Societal Abuses and Discrimination.*—Homosexuals increasingly faced harassment by pockets of mainly Muslim youth in the larger cities. The Government started an information campaign to counter homophobia among Muslim youth.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are entitled to form or join unions of their own choosing without prior government authorization, and workers exercised this right in practice. Membership in labor unions is open to all workers including armed forces personnel, the police, and civil service employees.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The Constitution provides for the right to organize, and specific laws provide for the right to collective bargaining; workers exercised this right in prac-

tice. The law provides for the right to strike, and workers exercised this right in practice, except for most civil servants, who have other institutionalized means of protection and redress. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 16 years. Those in school at the age of 16 may not work more than 8 hours per week. The law prohibits persons under the age of 18 from working overtime, at night, or in areas dangerous to their physical or mental well-being. The tripartite Labor Commission, which monitored hiring practices and conducts inspections, enforced these laws effectively.

Holiday work and after school jobs are subject to very strict rules set by law. The Social Ministry's Labor Inspection Office oversaw observance of the rules. Although child labor is prohibited, an increasing number of children worked for pay during holidays. Labor inspectors reported on the parents of such children, and the Public Prosecutor could prosecute the parents for violating the prohibition on child labor. In 2004, labor inspections found that 28 percent of companies violated the regulations applying to holiday work, including by employing children under the age of 13.

*e. Acceptable Conditions of Work.*—The minimum wage for adults is established by law and may be adjusted every 6 months to reflect changes in the cost of living index. The minimum wage and social benefits available to minimum wage earners provided an adequate standard of living for a worker and family.

The law sets a 40-hour workweek. The average workweek was 30.6 hours (38.7 hours for full-time and 20 hours for part-time workers). Anyone working more than 4.5 hours per day was entitled to a 30-minute break.

Working conditions, including comprehensive occupational safety and health standards set by law and regulations, were monitored actively and enforced effectively by the tripartite Labor Commission. The Ministry of Labor and Social Affairs also monitored standards through its Labor Inspectorate. Workers could remove themselves from dangerous work conditions without jeopardizing their continued employment.

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## NORWAY

Norway is a parliamentary democracy and constitutional monarchy with King Harald V as the head of state. It is governed by a prime minister, cabinet, and a 165-seat Storting (Parliament) that is elected every 4 years and cannot be dissolved. Free and fair elections to the modified unicameral Storting were held in September 2001. The judiciary is independent.

The national police have primary responsibility for internal security. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country, which is an advanced industrial state with a mixed economy combining private and public ownership that provides a high standard of living for residents, had a population of approximately 4.5 million. The key industries were oil and gas, metals, engineering, shipbuilding, fishing, and manufacturing. The economy was characterized by low unemployment and labor shortages in many sectors.

The Government generally respected the rights of its citizens, and the law and the judiciary provided effective means of addressing individual instances of abuse.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers; however, there were no such visits during the year.

Men and women were held separately. Juveniles were not held separately from adults; however, it was extremely rare for juveniles to be held in prison, and social welfare authorities generally cared for them. Pretrial detainees were held separately from convicted prisoners.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The national police have primary responsibility for internal security; however, in times of crisis, such as internal disorder or natural catastrophe, the police may call on the armed forces for assistance. In such circumstances, the armed forces are under police authority.

The law requires warrants for arrests, and police arrested a person based on a warrant authorized by a prosecutor. Police must file charges within 4 hours against detained persons. An arrested suspect must be arraigned within 24 hours, at which time the arraignment judge determines whether the accused should be held in custody or released pending trial. Arrested persons were allowed prompt access to a lawyer of their choosing or, if they could not afford one, to an attorney appointed by the Government.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system consists of the Supreme Court, the Supreme Court Appellate Court, superior courts, county courts for criminal cases, magistrate courts for civil cases, and claims courts. Special courts include the Impeachment Court (composed of parliamentarians), the labor court, trusteeship courts, fishery courts, and land ownership severance courts.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trials are public and juries are used. Charges are stated clearly and formally, and there is a presumption of innocence. All defendants have the right to be present, to have counsel (at public expense if needed), to confront witnesses, to present evidence, and to appeal.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The state church is the Evangelical Lutheran Church of Norway, which is supported financially by the Government and to which 86 percent of the population nominally belongs. The Constitution requires that the King and at least one-half of the Cabinet belong to this church. Public debate on the relationship between church and state continued during the year. Other denominations operated freely.

A religious community is required to register with the Government only if it desires state support, which is provided to all registered denominations on a proportional basis in accordance with membership.

The law provides that the subject “religious knowledge and education in ethics” be taught in public schools. The course covers world religions and philosophy and promotes tolerance and respect for all religious beliefs; however, the course devotes the most time to Christianity. The course is mandatory, and there are no exceptions for children of other faiths; students may be exempted from participating in or performing specific religious acts such as church services or prayer, but they may not forgo instruction in the subject as a whole. Organizations for atheists as well as Muslim communities have contested the legality of forced religious teaching. The Supreme Court reaffirmed the law in 2001. Schools provided a standard form to parents to request exemptions for their children from parts of the class, and some students reportedly availed themselves of the exemption. The Norwegian Humanist As-

sociation also lodged a complaint about the law with the U.N. Human Rights Commission (UNHRC). In November, the UNHRC ruled against the law.

The Workers' Protection and Working Environment Act permits prospective employers to ask applicants for employment in private or religious schools and day care centers whether they will respect and teach Christian beliefs and principles.

In 2003, the majority of the approximately 40 reported anti-Semitic incidents involved verbal harassment of primary and secondary Jewish students by non-Jewish students. A small number of incidents in 2003 involved threats against Jewish persons. However, during the year, anecdotal evidence from Jewish organizations suggests that there was a marked decrease in the level of verbal harassment. There were no reports of anti-Semitic violence or vandalism.

The Government is vigilant in fighting anti-Semitism and promoting religious tolerance. In April, Prime Minister Bondevik met with two Jewish children who had been harassed because of their religion and, at the conclusion of the meeting, issued a strong statement condemning anti-Semitism and calling on the public to fight anti-Semitism more actively.

In the past, Muslims have encountered some difficulties in obtaining local permission to build mosques in areas where they are concentrated. Since 1975, the town council in Drammen had regularly turned down applications to build a mosque. However, during the year, the Muslim community in Drammen received permission to build a mosque. No other problems with permission to construct mosques have been reported.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement, Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. During the year, the Government granted refugee status to approximately 1,000 claimants for their physical protection and to an additional 620 persons for humanitarian reasons.

The Government required asylum seekers to make their claims in "safe countries" through which they traveled. During the year, the Government implemented a "fast track" system for processing asylum claims from nationals of "safe countries" within 48 hours of application. Persons were not excluded from consideration for asylum because they were from a "safe country."

### *Section 3. Respect for Political Rights: Citizens' Right to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Elections to the Storting were held in September 2001.

The law provided for public access to government information, and the Government provided it in practice.

There were no restrictions in law or practice on women's participation in government and politics. There were 57 women in the 165-seat Storting; women headed 8 of the 19 government ministries.

There was only 1 minority member of the 165-seat Storting and none in the 19-member Cabinet.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, disability, language, or social status, and the Government generally enforced this prohibition in practice.

*Women.*—Societal violence against women was a problem. In 2003, there were 87 rape convictions. The police believed that increases in reported rapes and domestic abuse were due largely to greater willingness among women to report these crimes. The police investigated and prosecuted such crimes and also have instituted special programs to prevent rape and domestic violence and to counsel victims. Public and private organizations ran several shelters. Each of the country's 19 counties had a number of such shelters. In 2003, the country's shelters registered 48,619 overnight stays by 2,498 women.

Prostitution is legal, but organized prostitution or "pimping" is illegal. Foreign women comprised at least 50 percent of the country's prostitutes.

The Gender Equality Ombudsman—charged with enforcing the Gender Equality Act—processed complaints of sexual discrimination. In 2003, there were 476 complaints and 476 telephone inquiries to the ombudsman; women filed approximately 50 percent of the complaints, men filed 30 percent, organizations filed 15 percent, and the ombudsman's office directly filed 5 percent. The ombudsman was generally effective in processing and investigating complaints.

An amendment to the Working Environment Act provides that "employees shall not be subjected to harassment or other unseemly behavior." Employers that violate these provisions, including the harassment clause, are subject to fines or prison sentences of up to 2 years, depending on the seriousness of the offense.

The law protects the rights of women and provides that women and men engaged in the same activity shall have equal wages for work of equal value. According to the Gender Equality Ombudsman's office, which monitors enforcement of the law, women generally received 10 to 15 percent less pay and benefits than men for equal work.

In 2003, the Storting passed a resolution that mandates that 40 percent of publicly listed companies' directorships be held by women by 2005. Starting in 2007, the Government will penalize non-complying companies by removing them from the Oslo Stock Exchange.

*Children.*—The Government is strongly committed to children's rights and welfare; it amply funded systems of education and medical care. The Government provides free education for children through the postsecondary level. Education is compulsory for 10 years, or through the ninth grade; most children stay in school at least until the age of 18. An independent Children's Ombudsman Office, within the Ministry of Children and Families, is responsible for the protection of children under the law.

During the year, authorities reported 1,948 child visits to abuse shelters.

*Trafficking in Persons.*—The country was a destination for an unspecified but believed to be small number of women trafficked for the purpose of prostitution, particularly from Russia, Eastern Europe, and the Baltic states.

The maximum sentence for trafficking in persons is 10 years' imprisonment. Traffickers can also be charged with violating pimping, immigration, and other laws. During the year, there were no prosecutions for such offenses; however, the Government charged a number of persons in connection with two major trafficking investigations that were ongoing at year's end. In one of these two investigations, authorities collaborated with their German counterparts, who arrested two persons in May. The Government has requested their extradition. The case was in the pretrial phase at year's end.

In 2003, the Government allocated \$15 million (NOK 100 million) over a 3-year period to prevention, prosecution, and protection programs under its National Action Plan Against Trafficking. The Ministry of Justice and Police is responsible for coordinating implementation of the action plan.

Foreign victims of trafficking have the same legal rights as other foreigners to apply for residency, asylum, welfare, social aid, and emergency health care. The Government, in cooperation with public services, a crisis center, and nongovernmental organizations (NGOs), is responsible for assisting possible victims of trafficking. In 2003, the Government implemented a "reflection period," during which expulsion decisions concerning victims of trafficking may be suspended for 45 days to provide time for practical assistance and counseling to the individuals concerned.

Government officials provided for public awareness of trafficking by raising the issue in a number of speeches and other forums. NGOs conducted outreach programs to provide trafficking victims with information on their legal rights and available health and other services.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to public buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

*Indigenous People.*—The Government has taken steps to protect the rights of the indigenous Sami by providing Sami language instruction at schools in their areas, radio and television programs broadcast or subtitled in Sami, and subsidies for newspapers and books oriented toward the Sami. A deputy minister in the Ministry of Local Government and Regional Affairs deals specifically with Sami issues.

In addition to participating freely in the national political process, the Sami elect their own constituent assembly, the Sameting. Under the law establishing the 39-seat body, the Sameting is a consultative group, which meets regularly to deal with “all matters, which in [its] opinion are of special importance to the Sami people.” In practice, the Sameting has been most interested in protecting the group’s language and culture and in influencing decisions on resources and lands where Sami are a majority. A report on the activity of the Sameting is submitted to the Storting annually, and every 4 years a report on the main principles of Sami policy is presented to the Storting.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 60 percent of the workforce was unionized.

*b. The Right to Organize and Bargain Collectively.*—All workers, including government employees and military personnel, have and exercised the right to organize and bargain collectively. The law provides for the right to strike, and workers exercised this right in practice; however, the Government has the right, with the approval of the Storting, to invoke compulsory arbitration under certain circumstances. During the year, the Government invoked compulsory arbitration twice, once in response to a North Sea oilrig workers strike and once in response to a transportation strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Children 13 to 18 years of age may be employed part-time in light work that will not affect adversely their health, development, or schooling. Minimum age rules were observed in practice and enforced by the Directorate of Labor Inspections (DLI).

*e. Acceptable Conditions of Work.*—There is no legislated or specified minimum wage, but wages normally fall within a national scale negotiated by labor, employers, and the Government at the local and company level. During the year, wages increased by approximately 4 percent. The average daily wage provided a decent standard of living for a worker and family.

The law limits the normal workweek to 37 hours and provides for 25 working days of paid leave per year (31 days for those over age 60). The law mandates a 28-hour rest period on weekends and holidays.

The law provides for safe and physically acceptable working conditions for all employed persons. Specific standards are set by the DLI in consultation with non-governmental experts. Under the law, environment committees composed of management, workers, and health personnel must be established in all enterprises with 50 or more workers, and safety delegates must be elected in all organizations. Workers have the right to remove themselves from situations that endanger their health. The DLI effectively monitored compliance with labor legislation and standards.

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## POLAND

Poland is a multiparty democracy with a bicameral parliament. Executive power is shared by the Prime Minister, the Council of Ministers, and, to a lesser extent, the President. Alexander Kwasniewski was reelected President in a 2000 election. The social democratic Democratic Left Alliance (SLD) continued in a minority coalition government with the Union of Labor. The judiciary is independent; however, it was inefficient.

Local police, a national office of investigation, and city guards (uniformed, unarmed officers) maintain internal security. The Minister of Interior oversees the internal security forces. The civilian Minister of Defense has command and control authority over the military chief of the general staff as well as oversight of military

intelligence. Civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country continued its transition from a centrally planned to a market economy and had a population of approximately 39 million. The primary sectors of the economy were services, industry and manufacturing, and construction. The gross domestic product growth rate was estimated at 5.7 percent. Wages kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Prison conditions remained generally poor. Lengthy pretrial detention occurred occasionally. The court system was hampered by a cumbersome legal process, poor administration, and an inadequate budget, and court decisions frequently were not implemented. The Government maintained some restrictions in law and in practice on freedom of speech and of the press. Women continued to experience serious discrimination in the labor market and were subject to various legal inequities. Child prostitution was a problem. There were reports of some societal discrimination and violence against ethnic minorities. Some employers violated worker rights, particularly in the growing private sector, and antiunion discrimination persisted. Trafficking in women and children was a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, in May, police shot two persons in riots that followed a soccer game in Lodz, killing a 19-year-old man and injuring a 23-year-old woman. The police claimed they accidentally used live ammunition instead of rubber bullets to quell the disturbance. Several area police officials resigned as a result of the incident.

In May, the retrial of former Interior Minister Czeslaw Kiszczak for his role in the 1981 killings at the Wujek mine concluded. He was found guilty and sentenced to a 4-year prison sentence, which was later reduced to a 2-year suspended sentence.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions remained generally poor. Overcrowding and insufficiency of medical treatment were the chief problems in a prison system that urgently needed additional funding.

In May, prison inmates in Wroclaw and Poznan staged a 3-day hunger strike to protest crowded cells and demand better food and medical care. The protest ended peacefully, but with no resolution of the grievances.

The Ombudsman for Human Rights continued to complain about the safety of prisoners, noting that inmates were often the victims of violent attacks by other prisoners and wardens. The ratio of prisoners to rehabilitation officers was very poor.

Women, who constituted 2 percent of the prison population, were held in 21 detention facilities, 5 of which were only for women. In the remaining 16 facilities, inmates were segregated by gender. Convicted minors (defined as 15- to 17-year-olds) were segregated from the adult prison population. Juveniles (17- to 21-year-olds) accused of serious crimes were usually sent to pretrial detention.

Juveniles were generally separated from adults; however, in accordance with the law, at times juveniles and adults were housed together. According to the Prison Service Central Administration, there were no reported cases of an adult abusing a juvenile in mixed adult-juvenile detention.

The Government permitted prison visits by independent human rights organizations. During the year, the Human Rights Ombudsman monitored 21 detention facilities, and the Helsinki Foundation visited 7 detention centers; some of these visits were unannounced.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police force, consisting of 100,000 employees, is a national body with regional and municipal units. While the public generally regarded the police positively, low-level corruption within the police force was considered widespread. Instances of corruption and serious criminal misconduct were investigated by the National Police's office of internal affairs. The personnel division handled minor disciplinary offenses. There was also concern over the extent to which political pressure was brought to

bear on the police. In October 2003, national police commander Antoni Kowalczyk resigned after it was revealed that he had changed his testimony during the investigation into the “Starachowice affair,” a corruption scandal in which senior officials alerted suspects to an impending raid by the national police’s Central Bureau of Investigation. In October, the prosecutor’s office in Rzeszow charged Kowalczyk with failing to report the improper release of classified information and with perjury. Two parliamentary officials and a former Deputy Interior Minister were charged with obstructing justice in this affair. Their trial concluded in late December, and a verdict was expected in early 2005.

The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pretrial detention order. Defendants and detainees may consult with attorneys during their detention and before and during court proceedings. Bail was available, and most detainees were released on bail pending trial.

Detainees may be held in pretrial detention for up to 3 months and may challenge the legality of an arrest by appeal to the district court. The court may extend the pretrial detention period every 6 to 12 months, but total detention time before the court issues a first sentence may not exceed 2 years. Under certain circumstances, however, the Supreme Court may extend the 2-year period.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary remained inefficient and lacked resources and public confidence.

There is a four-tiered court and prosecutorial structure. The courts consist of regional, provincial, and appellate divisions, as well as a Supreme Court. These tiers are subdivided further into five parts: Military, civil, criminal, labor, and family. Regional courts try original cases, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while enjoying original jurisdiction for the most serious offenses. Appellate courts handle appeals tried at the provincial level; the Supreme Court only handles appeals on questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate, and regional offices. Criminal cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. The seriousness of the offense determines which court has original jurisdiction.

Judges are nominated by the National Judicial Council and appointed by the President. They are appointed for life, guaranteed complete immunity from prosecution, and can be reassigned but not dismissed, except by a court decision. The Constitutional Tribunal rules on the constitutionality of legislation. Constitutional Tribunal decisions are final and binding.

The court system remained cumbersome, poorly administered, inadequately staffed, and underfunded. The courts had numerous inefficiencies—most notably, many districts had more criminal judges than prosecutors—that contributed to a lack of public confidence. Court decisions frequently were not implemented. Bailiffs normally ensured the execution of civil verdicts such as damage payments and evictions; however, they were underpaid, subject to intimidation and bribery, and had a mixed record on implementing decisions. Civil and administrative rulings against public institutions such as hospitals often could not be enforced due to a lack of funds. Simple civil cases took as long as 2 to 3 years to resolve, and the pretrial waiting time in criminal cases could be several months. The long wait for routine court decisions in commercial matters was an incentive for bribery and corruption. The Government implemented administrative measures to alleviate the backlog of cases within the courts, including the hiring of additional court personnel and a new land and property register system. In 2003, there were over 2.1 million cases pending. During the year, the 2003 backlog of pending cases was reduced to less than 1.9 million. In addition to reducing the backlog of cases, average case length was also reduced by 1 month. The continuing backlog and the high cost of legal action deterred many citizens from using the justice system, particularly in civil matters such as divorce. Measures passed by the Sejm in July to streamline the Civil Procedure Code were scheduled to enter into force in February 2005.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants are presumed innocent until proven guilty. Once a verdict is rendered, the defendant has 7 days to request a written statement of the basis for the judgment. The court then has 7 days to produce a written decision. A defendant has the right to appeal within 14 days of the written decision on the basis of new evidence or procedural irregularities.

Defendants are allowed to consult an attorney, who is provided at public expense if necessary. Defendants must be present during trial and may present evidence and

confront witnesses in their defense. Prosecutors can grant witnesses anonymity if they express fear of retribution from the defendant. This provision, designed to help combat organized crime, impairs defendants' right to confront their accusers. Trials are usually public; however, the courts reserve the right to close a trial to the public in some circumstances, including cases of divorce, cases in which state secrets may be disclosed, or cases whose content might offend public morality (*see* Section 1.f.). The courts rarely invoked this right. A two-level appeal process is available in most civil and criminal matters.

The law allows a defendant and a representative, in addition to the prosecutor, to be present for a provincial appellate court's examination of a verdict.

There were no reports of political prisoners.

The Government has not established a program for restitution or compensation for individual private property seized during the Communist or Nazi eras, although a system addressing the restitution of communal property does exist (*see* Section 2.c.). The Treasury estimated that there were 56,000 claims outstanding for property valued at approximately \$16.7 billion (50 billion PLN). Despite the lack of a national law, some property nationalized illegally has been restored and compensation provided, amounting to approximately \$183 million (550 million PLN) for 500 property claims over the past 10 years.

Legislation which became effective at the beginning of the year, extinguished the state's obligation to compensate certain claimants for property abandoned as a result of post-World War II border changes. In June, the European Court of Human Rights (ECHR) ruled that this legislation violated a provision of the European Convention on Human Rights dealing with protection of property. The ECHR directed the Government to "secure claimants' property rights through appropriate legal measures and administrative practices" or provide equivalent compensation. The Government estimated that the ruling could affect approximately 80,000 claimants.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not always respect these prohibitions in practice. The Constitution provides for the general right to privacy; however, there is no legislation that provides for this right.

The law prohibits arbitrary forced entry into homes and requires search warrants issued by a prosecutor for entry into private residences. In emergency cases, when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. In the most urgent cases, police may enter a private residence after showing their official identification if there is no time to consult the police commander. There were no reports that police abused search warrant procedures.

The law prohibits the collection of information about a person's ethnic origin, religious convictions, health, political views, or membership in religious, political, or trade union organizations. However, the law allows the release of personal data to carry out the statutory objectives of churches and other religious unions, associations, foundations, and other non-profit-seeking organizations or institutions with a political, scientific, religious, philosophical, or trade-union aim. Other exceptions include provision of information necessary for medical treatment, the establishment of legal claims, and scientific research, so long as the results are not published. All exceptions are subject to some restrictions. In practice, some private organizations have persisted in asking for information such as nationality in questionnaires; although violators are subject to prosecution, there were no known cases during the year.

The law permits police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involving serious crimes, narcotics, money laundering, or illegal firearm sales. The Criminal Code requires the Minister of Justice and the Minister of Interior to authorize these investigative methods. In emergency cases, the police may initiate wiretaps or open private correspondence while simultaneously seeking authorization. Unlike in previous years, there were no reported cases of wiretapping without judicial review or oversight.

There was no independent judicial review of surveillance activities, nor was there any control over the use of the information thus derived. A number of agencies had access to wiretap information, and the Police Code allows electronic surveillance for the prevention of crime and investigations.

Under the law on "lustration," designed to expose officials who collaborated with the Communist-era secret police, persons caught lying about their past may be prohibited from holding public office for 10 years. The law requires officials to provide sworn affidavits concerning their cooperation with the secret police; the public interest spokesman (lustration prosecutor) verifies the affidavits and brings cases of mis-

representation before the lustration court, a special 3-judge panel whose decisions may be appealed.

Many cases were closed to the public because they involved classified documents (see Section 1.e.). Critics continued to voice concern that the vetting procedure may be unfair because secret police records were subject to loss or tampering.

Both men and women are permitted to marry at the age of 18. In certain cases, a court may allow women to marry at age 16 if it is determined to be in the family's best interest.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights and did not restrict academic freedom; however, there were a few restrictions in law and practice. The Criminal Code states that an individual who “publicly insults or humiliates a constitutional institution” of the country is subject to a fine or imprisonment of up to 2 years, while an individual who insults a public functionary is subject to a fine or imprisonment of up to 1 year. Offending religious sentiment through public speech is punishable by a fine or a 3-year prison term. Individual citizens and businesses may also use the Criminal Code to protect their good name. The independent media were active and expressed a wide variety of views without restriction.

The National Radio and Television Broadcasting Council (KRRiTV) has broad power to monitor and regulate programming on radio and television, allocate broadcasting frequencies and licenses, and apportion subscription revenues to public media. Council members are legally required to suspend their membership in political parties or public associations.

Private television, including satellite and cable services, was available across most of the country. Private television broadcasters operated on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. Government-owned Polish Television (TVP) (4 channels) was the most widely viewed television, with a 54 percent market share, but had strong competition from the private TVN and Polsat networks. Cable television and various satellite services carried the main national channels, as well as local, regional, and foreign stations, to viewers throughout the country.

Public Radio consisted of four national radio stations and an additional station aimed at foreign audiences. Although not government-owned, Public Radio's supervisory board was nominated by the National Broadcasting Council, consisting of persons nominated by the Sejm, Senate, and the President. Private radio flourished on the local, regional, and national levels alongside public radio. To cut costs, small regional radio stations set up several networks to facilitate advertising and programming.

Books expressing a wide range of political and social viewpoints were widely available, as were periodicals and other publications from abroad.

The law provides for the protection of journalistic sources, except in cases involving national security, murder, and terrorist acts. The law stipulates that programs should not promote activities that are illegal or against state policy, morality, or the common good and requires that all broadcasts, “respect the religious feelings of the audiences and, in particular, respect the Christian system of values.” The law also requires public television to provide direct media access to the main state institutions, including the presidency, to make presentations or explanations of public policy. Both public and private radio and television stations provided coverage of all ranges of political opinion.

In May 2003, the Supreme Court ruled in favor of the newspaper *Zycie's* appeal of a 2003 judgment by a Warsaw district court ordering it to apologize to President Kwasniewski for publishing untrue information. The case was returned to the lower court for further review, and, in September, the Warsaw court again ordered *Zycie* to apologize. *Zycie* initiated a new appeal of the September judgment, which was pending at year's end.

The trial of journalist Jerzy Urban for publication of an article in *Nie*, which criticized the Pope for senility and made other derogatory remarks shortly before the 2002 Papal visit to Poland, opened in a Warsaw regional court in September.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Permits are not necessary for public meetings but are required for public demonstrations; demonstration organizers must obtain permits from local authorities if a demonstration might block a public road. Organizers also are required to inform the local police of the time and place of large demonstrations and their planned route. Every gathering must have a chairperson who is required to open the dem-

onstration, preside over it, and close it. Authorities issued permits for public gatherings on a routine basis.

On three occasions, the mayor of Warsaw refused to issue a permit for a gay rights parade in June, following disturbances during a similar march in Krakow (see Section 5). He justified this denial as necessary to avoid violence but also cited its potential to "offend religious and moral feelings." The governor of Mazowieckie Province overturned the mayor's first two denials, and the mayor's refusal to consider the group's third request for a permit was appealed to the Provincial Administrative Court, which had not ruled on the legality of this action by year's end.

Private associations were required to register with the local district court and obtain government approval to organize. The organization must sign a declaration committing it to abide by the law. In practice, the procedure was complicated and subject to the discretion of the judge in charge. There were no reports that private associations were routinely denied registration, or that any registration was denied for political reasons.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There are 15 religious groups whose relationships with the State are governed by specific legislation outlining their internal structure, activities, and procedures for property restitution. There are 139 other religious communities. Although the Constitution provides for the separation of church and state, crucifixes hang in both the upper and lower houses of Parliament, as well as in many government offices. State-run radio broadcast Catholic mass on Sundays, and the Catholic Church was authorized to relicense radio and television stations to operate on frequencies assigned to the Church, the only body outside the National Radio and Television Council allowed to do so. Approximately 95 percent of the population was Roman Catholic.

Religious education classes continued to be taught in public schools. The Government employed Catholic Church representatives to teach religious classes in schools, which constituted the vast majority of all religious education. However, parents could request religious classes in any registered religion, including Protestant, Orthodox, and Jewish religions. Non Catholic religious instruction existed but was uncommon. The Ministry of Education paid instructors, including priests, for teaching religion classes. In addition, Catholic Church representatives were included on a commission that determined which books qualified for school use.

Of approximately 10,000 communal property claims filed for restitution of religious property, more than 4,100 have been resolved, and more than 1,200 properties have been returned as of November.

Relations between various religious communities were generally amicable. There were reports of sporadic incidents of harassment and violence against Jews and occasional desecration of Jewish cemeteries, committed by skinheads and other marginal elements of society.

In April, the leader of the Self-Defense Party expressed admiration for Adolf Hitler in an interview, stating that Hitler had a "really good program" which "put Germany on its feet" and eliminated unemployment.

In an April incident in Gdansk, the rector of the St. Brigid Church told parishioners that "Jews killed Jesus and the prophets" and displayed posters asserting that only Christians could be true Poles. The incident was reported in national media as one of a number of improprieties (including financial) associated with this particular cleric.

In June, police in Krakow discovered the desecration of a 19th Century Synagogue. Vandals painted swastikas and a Star of David hanging from gallows on the Tempel Synagogue. The desecration occurred a few days before the opening of an International Festival of Jewish Culture in Krakow's Kazimierz district.

Proceedings were closed in the 2002 cases of desecration of tombstones in Czeladz and in a Jewish cemetery in Wroclaw, with no perpetrators having been found.

The investigation by Katowice authorities into the 2001 anti-Semitic, anti-European Union (EU) demonstration by approximately 400 Polish ultranationalists was also closed without identifying a culpable party.

In March, acting under the Religious Communal Property Restitution law, the town of Slubice transferred ownership to the Jewish community of the final portion of the Slubice Jewish Cemetery, which was partially destroyed during the Second World War and was later the site of a communist-built bus station and hotel. Most of the cemetery was transferred to the Jewish community in 2002.

The Government provided grants to a number of organizations involved in anti-bias education, including the public-private Jewish Historical Institute (ZIH) in Warsaw. ZIH is the largest depository of Jewish-related archival documents, books, journals, and museum objects in the country. The Government also provided grants

to the Jewish Historical Association, which produces educational materials on Jewish culture, the Holocaust and religious tolerance, and to other non-governmental organizations.

The Institute of National Remembrance—Commission for the Prosecution of Crimes against the Polish Nation (IPN) was created by Act of the Sejm in December 1998. IPN is under the direction of a president, who acts independently of Government control, and is elected for a 5-year term. One of the three principal departments of IPN is the Public Education Office, which produces materials for schools, teachers and students. The office also holds competitions and sponsors exhibitions on historical themes, as well as supporting workshops, seminars and other activities. Educational materials included a major research and documentation project on “The Extermination of Jews in Poland” during the Second World War. This project included a critical review of Polish attitudes towards the Jewish population during the war, and instances of collaboration with the Nazis, as well as activities undertaken by underground organizations and individuals to rescue Jews.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of refugee and asylee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they fear persecution, and granted asylum and refugee status. Persons recognized as refugees under the Convention are granted permission to remain in the country permanently. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The law provides all prospective refugees access to a procedure for adjudicating refugee status. Prospective refugees may appeal negative status decisions by the Ministry of Internal Affairs to an independent board. The Bureau of Repatriation and Aliens (BRA) controlled the various refugee centers and agencies and had some political control over the border guards.

The BRA has 6 months in which to render a decision on an application for refugee status. An alien may appeal the denial of a petition to the BRA’s refugee board within 2 weeks of delivery of the initial decision. If the board finds a claim to be “manifestly unfounded,” the alien may file an appeal within three days of the initial finding. The BRA refugee board’s decisions may be appealed in administrative courts. While the law calls for a decision granting or denying asylum to be rendered within 6 months from the date of the initiation of the procedure, the average application processing time was 8 months, with some cases taking as long as 18 months. The length of processing time left applicants living in legal limbo, unable to work legally, while awaiting decisions on their cases. The BRA reported that 8,078 persons applied for refugee status during the year. Approximately 3.5 percent of applicants were granted refugee status.

There were no reports of harassment of refugee camp inhabitants by local residents or mistreatment of refugees by police.

There continued to be reports during the year that large numbers of refugees or asylum applicants left the country or abandoned the procedure. For example, approximately three-quarters of Chechen refugees left the country before their status was adjudicated. There was no accurate way of determining how many refugees had abandoned the process and either left the country or remained in the country illegally. Although the Border Guards maintained a computer system to track the status of asylum applicants, many asylum-seekers did not provide the Border Guards with updated contact information when they moved.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens 18 years of age and older have the right to vote and cast secret ballots, and voting is voluntary. Multiple candidates from various political parties participated in the elections and had access to the media. In May, the country was admitted to the EU and participated in June elections for the European Parliament. Average voter turnout was 22 percent. The most recent national elections took place in 2001. Average voter turnout for these parliamentary elections was 46.3 percent. The elections were regarded as free and

fair. Only minor irregularities (for example, registering of hospital patients, ballot boxes too small to hold the number of ballots cast) were reported.

There was widespread public perception of corruption in government. Citizens considered political parties, parliament, the health care system, and the judiciary to be the most corrupt public institutions, according to a Gallup Institute poll commissioned by Transparency International.

Corruption in government continued to be a primary focus of Polish media, with the “Rywingate” and “Orlengate” scandals predominating. Both were the focus of parliamentary investigations, as well as criminal investigations by federal prosecutors’ offices. Rywingate centered on accusations that noted film producer Lew Rywin, acting as an agent for then-Premier Leszek Miller’s SLD, sought a \$17.5 million bribe in July 2002 from the publisher of a major Polish daily newspaper. The purpose of the bribe was reportedly to secure changes to a media bill that would have benefited the publisher. In April, Rywin was sentenced to 2 years in prison for his role in the scheme. The sentence was reduced to 2 years in December, when the court determined that Rywin was acting as an agent, and not alone.

The Orlengate scandal surfaced in October, when notes obtained from the Government’s security service indicated that the country’s richest businessman had a meeting with a former Russian spy, in which he suggested he had official approval to negotiate the sale of state-owned Rafineria Gdanska, the country’s second-largest oil refinery. The alleged conversation would have been illegal, since Poland’s corruption law bars any state officials, with the exception of Treasury Ministry officials, from negotiating business transactions, including asset sales, on the government’s behalf. Parliamentary and criminal investigations were ongoing at year’s end.

Public access to government information is provided for in the Constitution and in the Law on Access to Public Information; and in practice, the Government provided such access for citizens and non-citizens, including foreign media. Refusals of requests for information must be based on exceptions provided in the law related to government secrets, personal privacy restrictions and propriety business data. Refusals may be appealed.

There were 99 women in the 460-seat Sejm and 21 women in the 100-seat Senate. There was one woman in the 17-member Cabinet.

There were 2 members of minorities in the 460-seat Sejm and no minorities in the 100-seat Senate. There were no minorities in the 17-member Cabinet.

The electoral law exempts ethnic minority parties from the requirement that they win 5 percent of the vote nationwide to qualify for seats in individual districts.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

As provided in the Constitution, the Human Rights Ombudsman presents an annual report to the Sejm and Senate on his or her activities and the state of human and civic freedom and rights in the country. The most recent report, presented in July, noted that 55,000 cases were filed with the office in 2003, an increase of more than 3,000 from the prior year. The report also recommended a number of changes in government and civic institutions. These included the need for legislative reform; increased transparency in government; more evenhanded and consistent administration of public programs; reduction of delays in the judicial system; and the need for increased resources for social and educational programs.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination “in political, social, or economic life for any reason whatsoever”; however, violence and societal discrimination against women and ethnic minorities persisted.

*Women.*—Violence against women continued to be a problem. Police statistics indicated that approximately 80,185 women were victims of domestic violence during 2003. Women’s organizations asserted that the number of women suffering from domestic abuse was probably much higher because battered women usually refused to admit abuse even to themselves. Violence against women remained hidden, particularly in small towns and villages. Physical abuse is illegal and spousal rape is treated in the same manner as other types of rape.

Police intervened in cases of domestic violence. The police, in cooperation with the State Agency for Solving Alcoholic Problems, used the “blue card,” a record-keeping system designed to document incidents of spousal abuse. However, the program had limited effect due to inadequate funding. Sentences for abuse of family members

range from 3 months to 5 years, or from 2 to 10 years if the victim attempts suicide as a result of the abuse. Most convictions resulted in suspended sentences. There were 85,212 cases of family abuse reported in 2003. According to nongovernmental organizations (NGOs), courts often treated domestic violence as a minor crime, pronouncing lenient verdicts or dismissing cases.

In 2003, 2,332 rape cases were reported. However, women often were unwilling to report the crime and NGOs estimated that the actual number was 10 times higher than reported.

NGOs operated a number of centers to assist victims, provide preventive treatment and counseling to perpetrators, and train personnel working with domestic violence victims. The Office of the Victims' Rights Spokesman at the Ministry of Internal Affairs and Administration was responsible for ensuring that violence victims were treated with respect by law enforcement and the judicial system. The Office provided legal and psychological assistance for victims and their families.

The law does not provide for restraining orders to protect battered women against further abuse. In divorce cases, courts frequently granted a divorce without providing for a property settlement, forcing women to return to abusive husbands. This problem was exacerbated by a lack of alternative housing. Women's advocacy groups complained there were too small a number of state-supported shelters for battered women.

Prostitution is legal; however, pimping for sexual activity is illegal. Due to a crackdown on prostitutes who worked along major thoroughfares and at truck stops, much of the prostitution industry moved to brothels, massage parlors, or agencies offering escort services. Police estimated that there were 7,000 prostitutes in the country. Of these, approximately 600 prostitutes worked on major thoroughfares and at truck stops.

Trafficking in women for the purposes of forced prostitution was a problem (see Section 5, Trafficking).

While there are no laws specifically addressing sexual harassment, social awareness of the problem continued to increase, and there are mechanisms available to deal with the problem. For example, the Criminal Code states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to 3 years in prison. According to a Supreme Court advisory opinion, such a relationship can occur between employers and employees, supervisors and subordinates, or teachers and students; however, this provision can be invoked only when alleged sexual harassment occurs between a supervisor and an individual in a subordinate position.

The Constitution provides for equal rights regardless of gender and grants women equal rights with men in all areas of family, political, social, and economic life, including equal compensation for work of similar value. However, in practice, women frequently were paid less for equivalent work, mainly held lower-level positions, were fired more readily, and were less likely to be promoted than men. The government statistical bulletin indicated that at the end of the second quarter of the year men had a higher economic activity coefficient (62.1 percent) than women (47.4 percent) and that women seeking work were more likely to be unemployed. In October, 53.2 percent of all those unemployed were women, despite comprising a substantially smaller share of the population actively seeking work. Despite having a generally higher level of education, women earned on average 30 percent less than men. The labor code prohibits discrimination in hiring, and the employer has the burden of proof to show that discrimination did not occur. Women are prohibited from working underground (that is, in mining) or in jobs that require lifting of weights above a specified maximum. The prohibitions are binding on employers and do not permit exceptions even if requested by a female employee or with her consent. Additional restrictions apply to pregnant women. The Government maintained that its ratification of certain International Labor Organization conventions required these restrictions. Apart from the Constitution and the Labor Code (which prohibits any direct or indirect discrimination in employment against gender, age, disability, race, sexual orientation, nationality, ethnic origins, political and religious beliefs, and trade union membership status), no laws provide equal rights for women.

Women were employed in a wide variety of professions and occupations, and many held high positions in government and the private sector. In agriculture, women comprised 20 percent of all principal managers of farms. The pension law permits earlier retirement for women (age 60) than for men (age 65), with the practical effect that women received approximately 60 percent of the average pension received by men.

The Ombudsman for Human Rights monitored women's rights within the broader context of human rights; however, the broad scope of the office's mandate diluted its ability to function as an effective advocate of women's issues. The Government

Plenipotentiary for Equal Status for Women and Men is charged with incorporating the principal of gender equality into governmental policy, including monitoring implementation of government programs aimed at achieving equal status.

There are several women's rights NGOs, including the Polish Foundation for Women and Family Planning and the Women's Rights Center, that were active advocates of gender equality and advanced their goals through research, monitoring, and publishing. There were also several church-sponsored women's advocacy organizations, but their cooperation with other women's NGOs was limited.

*Children.*—The Constitution extends some state protection to the family and children, and there is a Sejm-appointed Ombudsman for Children's Rights. The Ombudsman—mandated to protect children from violence, cruelty, neglect, and other mistreatment—is the official point of contact for complaints about violations of human rights of children and submits requests to the appropriate law enforcement or other authorities for action. The Ombudsman submits an annual report to the Sejm on children's rights and may suggest legislation to improve the human rights of children.

Education is universal and mandatory until age 18, and public schools are free. The Government sponsored some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools; however, budget shortfalls prevented complete implementation of these programs.

Although child abuse occurred, there was no societal pattern of abuse. The law prohibits violence against children, and anyone who physically or psychologically abuses a juvenile may receive a prison sentence of 3 months to 5 years. The sentence is increased if the victim attempts suicide or the perpetrator acted with extreme cruelty. However, abuse was rarely reported, and convictions also were rare. Schools did not have procedures to protect children from abuse by teachers, and the teachers' work code provides legal immunity from prosecution for corporal punishment in the classroom.

Trafficking in children, primarily for the purpose of sexual exploitation, was a problem (see Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons, primarily women and girls but also, to a lesser extent, boys.

Several Criminal Code provisions specifically address trafficking. The law prohibits trafficking in persons and pimping and imposes sentences of up to 10 years' imprisonment. It also prohibits recruiting or luring persons into prostitution; penalties for this offense are also up to 10 years. The most severe sentences are for individuals trafficking in children and luring women into prostitution abroad.

During the first 10 months of the year, there were 44 trafficking cases filed in the courts, compared with 16 in all of 2003.

Legal authorities dealt with child traffickers more severely than traffickers in adults, in part because laws on statutory rape were easier to prosecute. Authorities did not always recognize trafficked children because traffickers used false documents identifying them as adults. While prostituting a child is a crime, prostitution by adults is neither prohibited nor regulated by law, making it more difficult for police to pursue trafficking of adults.

The Ministry of Interior and Ministry of Justice have primary responsibility for anti-trafficking efforts, with the Ministry of Foreign Affairs engaged on bilateral and multilateral levels. There were 11 agencies involved in anti-trafficking efforts. The Plenipotentiary for Equal Rights for Men and Women, who works out of the Prime Minister's office, was also involved in anti-trafficking programs.

The National Police participated in several bilateral task forces that shared information, tracked the movement of traffickers and victims across borders, and coordinated repatriations and casework. Although some of these task forces were dissolved in June, special teams in all 16 provinces continued to work on trafficking. In six provinces, there were special teams or individual workers at the county level monitoring trafficking. The National Police coordinated these efforts. There was close cooperation with Ukraine and Belarus.

Individuals were trafficked to and through the country, primarily from Ukraine, Bulgaria, Romania, Belarus, and Moldova. Individuals, including citizens, were trafficked to Western Europe, including Germany, Italy, Belgium, and the Netherlands. Some internal trafficking occurred. The extent of the problem was unclear, because statistics on prostitution did not distinguish trafficking victims from those willfully engaged in prostitution and other aspects of the sex trade. Of the estimated 7,000 prostitutes in the country, approximately 30 percent were estimated to be of foreign origin. The international NGO La Strada previously estimated that 60 percent of foreign women working as prostitutes in the country were trafficking victims. In ad-

dition, La Strada reports that up to 10,000 Polish women were trafficked out of the country annually. NGOs believed that the trafficking problem was likely much larger than reflected in the number of arrests and prosecutions.

Ukraine is the largest single source of foreign women trafficked into the country. Women from Bulgaria tended to be from the Turkish and Romani minorities. Women and girls who were trafficked were recruited from areas with low socioeconomic conditions, sometimes quite openly. Those from the lowest socioeconomic levels were most vulnerable to trafficking and subjected to the worst conditions. For example, Roma and ethnically Turkish Bulgarians tended to be forced into prostitution on highways, spending a few months in the country before being trafficked further west. In contrast, women from other East European countries were generally trafficked into agencies run as brothels. Educated Polish and Russian women were more likely than others to be employed voluntarily by escort services.

Traffickers attracted victims through methods including fake employment offers, arranged marriages, fraud, and coercive measures. Some victims believed that they were accepting employment as waitresses, maids, or nannies abroad. While en route to their purported destinations, traffickers took their passports and identity papers and exerted control over them through fear and intimidation. Traffickers threatened victims with violence, and those who resisted or tried to flee were raped, beaten, or intentionally injured.

In recent years, trafficking has become increasingly organized and has been associated with a rampant growth in document fraud. As many as 90 percent of those trafficked in the country had false travel documents, and the trafficking of a person usually involved a network of criminals. One criminal would recruit the victim; a second would provide false travel documents and traffic her across the border; and a third would supervise her work with clients, functioning as a pimp.

La Strada and police reported large-scale auctions of women in Warsaw and other cities. Prices for trafficked women and girls reportedly started at approximately \$2,000 (6,000 PLN). Victims usually were trafficked by nationals from the same source country. Foreign traffickers systematically paid a percentage of their receipts to local traffickers operating out of the same region of the country.

Trafficking victims often were afraid to turn to officials for help because border guards and police could potentially deport victims, if they were not identified as such, on immigration law violations. While the Government generally lacked resources to support victims financially, it cooperated extensively with NGOs, which provided a wide range of support services. The Government provided a public building to an NGO to use as a shelter for trafficking victims and gave another organization a grant to build a similar shelter. In January, La Strada opened a new shelter with funding from foreign governments to provide a safe place for up to 10 women and medical, psychological and legal assistance. Nonetheless, the number of shelters remained inadequate, and NGOs frequently resorted to ad hoc arrangements to shelter victims.

Numerous NGOs were involved in anti-trafficking initiatives and victim services. NGOs and educational institutions often worked closely with local authorities to identify trafficking victims and develop training programs for local authorities. These organizations provided a range of services, including victims' assistance hotlines, safe accommodation, therapy and psychological support, and contacts who could help victims with legal problems and reintegration into society.

Trafficking victims were not always identified as such and therefore were not always informed of their legal status or rights. In many cases, unrecognized victims were deported as soon as possible, preventing the Government from providing assistance, despite legal provisions allowing foreign victims with illegal status to remain in the country during the investigation and trial of their traffickers. Deported victims were sometimes met at the border by their traffickers, who provided them with new travel documents and returned them to the country. For example, police detained a Bulgarian woman on several occasions, each time with a new identity and passport. There was no specific assistance set aside for victims repatriated to Poland, although they were eligible for unemployment and welfare benefits. Poland cooperated fully with other countries in anti-trafficking efforts and the repatriation of victims.

La Strada conducted training courses at 6 police academies and border guard academies from June 2003 through February. The courses were designed to improve knowledge of the issue of trafficking in persons among students of both academies.

*Persons With Disabilities.*—There was no official discrimination against persons with disabilities in employment, education, or in the provision of other state services; however, there were reports of some societal discrimination against persons with disabilities. There were approximately 5.5 million persons with disabilities in

the country at year's end. In 2002, approximately 20 percent of persons with disabilities, but able to work, were unemployed, slightly higher than the national unemployment rate. No updates of that figure are available, and advocacy groups claimed that the rate was much higher. The law allows individuals with certain disabilities to work without losing their disability benefits. Approximately 50 percent of persons with disabilities had no more than an elementary education, compared with 33 percent of those without disabilities, and only 5 percent had a university education, compared with 11 percent of persons without disabilities.

The law mandates access to buildings for persons with disabilities; however, public buildings and transportation generally were not accessible to persons with disabilities. Implementation fell short of rights set forth in the legislation, since the law provides only that buildings "should be accessible." There is no legal obligation to adapt existing objects or facilities to the needs of persons with disabilities and efforts to make improvements in this area have been hampered by lack of funding.

The first deputy minister in the Ministry of Social Policy is responsible for disability-related issues. He supervises the State Fund for Rehabilitation of the Disabled, and is advised by the National Consultation Council for the Disabled. During the year, a number of laws were passed to support increased employment opportunity and training for disabled persons. New laws aimed to more clearly define the role of government institutions in vocational and social rehabilitation, with the goal of ensuring effective use of public and assistance funds. Laws implementing these programs are scheduled to enter into effect during the first quarter of 2005.

*National/Racial/Ethnic Minorities.*—There were occasional incidents of skinheads clashing with Roma and racially motivated violence directed at Roma. Individuals of African, Asian, or Arab descent also reported isolated incidents of verbal, physical, and other types of abuse. The small Ukrainian and Belarusian minorities occasionally experienced petty harassment and discrimination.

Societal discrimination against Roma was common, and some local officials discriminated against Roma in the provision of social services. According to its leaders, Roma faced disproportionately high unemployment and were hit harder by economic changes and restructuring than were ethnic Poles. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education.

Under the "Program for the Romani Community in Poland," adopted in August 2003 and launched this year, the Government aimed to foster greater participation and integration of the Romani community into society by funding and commencing housing development and rehabilitation projects in 14 of 16 Polish provinces, providing additional education resources (including Roma assistants) in local schools, conducting job training and small business seminars, creating additional medical, social and recreational facilities for Roma and promoting public awareness of the importance of Romani culture, among other initiatives. Total expenditures in 2004 amounted to approximately \$1.58 million (4.75 million PLN).

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. There were an estimated 50,000 Lithuanians in the country, and their minority rights, including language instruction, were addressed routinely during governmental talks. There were 31 Lithuanian-language textbooks in use during the year at different education levels, including textbooks on mathematics, physics, and geography financed by the Government.

The German minority in Opole Province makes up one-third of the area's 1 million inhabitants. Some community members continued to complain of inadequate use of German in the province's schools. In February, the ECHR upheld the Government's 2001 rejection of the application for official minority status by the 170,000-member Silesian community.

Members of the Ukrainian minority were represented in local governments, particularly in Warminsko-Mazurkie Province, where the head of the provincial parliament was an ethnic Ukrainian. Statistical data indicated that the number of Ukrainian minority schools and school children increased over the past decade. The Ukrainian language was taught in 136 schools for 2,774 pupils nationally.

*Other Societal Discrimination and Abuses.*—Homosexuality is not criminalized; however, polls indicated that most Poles did not discuss the issue publicly. In May, right-wing groups and football hooligans armed with eggs and stones attacked a gay rights demonstration in Krakow. Police moved to protect the group, but the counter-protesters attacked the police. The mayor of Warsaw stated that this violence contributed to his decision to deny approval of a gay rights parade in Warsaw in June, organized by the International Gay and Lesbian Association. Gay rights activists held a peaceful rally on the day following the date the parade was to have taken place. Counterdemonstrators picketed the rally, including members of the ultra-

conservative All Poland's Youth Association, which had been associated with violent incidents in the past. However, there were no reported incidents of violence at the rally.

In November, several organizations and political parties, including Lambda, the Green Party and the New Left, organized a March of Equality in Poznan on International Tolerance Day. Despite protests from conservative parties, Church authorities and associations, city authorities granted permission for the march. The march was provided with a police escort but was blocked by soccer hooligans and members of All Poland's Youth. These groups attempted to break the police cordon and attack the marchers but were thwarted by the police escort. Following the attempted disruption, the police and organizers agreed to change from a march format to a rally. Opponents threw eggs and lemons and verbally abused the rally participants. Police detained or arrested a number of counterdemonstrators.

A Polish Radio poll found 49 percent opposed public demonstrations for gay rights. Television stations in Wroclaw and Lodz aired anti-gay commercials sponsored by the fascist political organization Narodowe Odrodzenia Polski.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including civilian employees of the armed forces, police, and frontier guards, have the right to establish and join trade unions of their choosing, and workers exercised these rights. There is no precise data on work force unionization; according to press reports, 14 percent of the workforce were union members. As a rule, newly established small and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises.

The law sets minimum size requirements for establishing a trade union: 10 persons may form a local union, and 30 may establish a national union. Unions, including interbranch national unions and national interbranch federations, must be registered with the courts. A court decision refusing registration may be taken to an appeals court. The law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union. In state-owned enterprises, such as the health sector, water and forestry, there were cases in which workers had their normal employment contract terminated and replaced by an individual contract that took away rights they formerly enjoyed as permanent employees.

The law prohibits antiunion discrimination; however, labor leaders reported that employers discriminated against workers who attempted to organize or join unions, particularly in the growing private sector. The law also did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions.

In April, the Government amended the law on road traffic in a manner that labor organizers feared might restrict legal demonstrations and rallies. The changes were reviewed by the Constitutional Court, which ruled in November that certain clauses were unconstitutional. Trade union officials indicated that the law has impeded their ability to organize demonstrations and marches, but not to the extent they had originally feared.

*b. The Right to Organize and Bargain Collectively.*—The law provides for and protects enterprise-level collective bargaining over wages and working conditions. The Tripartite Commission (unions, employers, and the Government) was the main forum that determined national-level wage and benefit increases in sensitive areas, such as the so-called budget sector (health, education, and public employees). In December 2003, the Commission ended a lengthy period of negotiations over a wide-ranging "social agreement" originally proposed by the Government. While no overall agreement was reached, the parties reached consensus on a number of legislative measures. The Commission continued to serve as an important forum for the social partners to discuss differences and grievances and often to negotiate before problems erupted into conflict.

The law does not require verification of union membership in order for unions to be considered "representative" negotiating partners for management and government. Many disputes arose because of the weakness of the employer side of the union/employer/government triangle. Key state sector employers (largely in heavy industry and the budget sector) remained unable to negotiate with labor without the extensive involvement of the ministries to which they are subordinate, thereby complicating and politicizing the Government's labor relations. The law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, as a last resort, to the Supreme Court.

Unions have the right to strike except in "essential services"—uniformed services, state administration, and local government—where they only have the right to pro-

test. A majority of strikes were technically illegal because one or both of the sides did not follow each step exactly as required by law. Labor courts acted slowly on deciding the legality of strikes, while sanctions against unions for calling illegal strikes, or against employers for provoking them, were minimal. Arbitration is not obligatory and depends on the agreement of disputing parties. Unions alleged that laws prohibiting retribution against strikers were not enforced consistently and that fines imposed as punishment were so minimal that they were ineffective deterrents to illegal activity. Workers who strike in accordance with the law retain their right to social insurance but not to pay. However, if a court rules a strike illegal, workers may lose social benefits, and organizers are liable for damages and may face civil charges and fines.

During the year, several strikes took place. Most strikes ended within a few hours, including those at the Budryk coal mine in Ornontowice, the Polish telecommunications company TPSA office in Katowice and the blockage of tracks by employees of the Polish State Railways in Gdynia. More serious strikes, led in large part by the Solidarity Trade Union, occurred in the PKS bus company in Koziencice and the Wroclaw construction company Jedylnka. In January, workers at Jedylnka began an occupation strike to demand payment of back wages. The company fired 136 striking workers and in March removed them by force from company premises. A court later declared that the workers had been illegally fired, and ordered one employee rehired, and awarded monetary damages to the others. In Koziencice, a 3-month strike took place to protest against the firing of a Solidarity shop steward. In November, a court ruled that strike to have been legal.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports of child labor and trafficking in adults and children for labor (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of persons under the age of 15. Persons between the ages of 15 and 18 may be employed only if they have completed primary school and the proposed employment constitutes vocational training and is not harmful to their health.

The State Labor Inspectorate (PIP) reported that increasing numbers of minors worked and that many employers violated labor rules by underpaying them or paying them late. Inspectors found violations in restaurants, stud farms, and, in some instances, small private businesses and factories. Sanctions for the illegal employment of children range from warning letters to orders to cease employing underage children. The police may enforce such orders by demanding the transfer of underage employees, closing all or part of the workplace, or, working through the Ministry of Labor, imposing fines ranging from approximately \$7 to \$167 (20 to 500 PLN) per offense. Cases may also be referred to an administrative tribunal, which can levy fines of up to \$1,667 (5,000 PLN). Jail sentences may be imposed for serious infractions; such cases generally involve serious injury or death.

During the year, PIP conducted 580 investigations involving almost 3,000 possible underage employees. In 2003, fines were levied in 428 cases, amounting to approximately \$26,000 (78,000 PLN). That figure was estimated to remain the same this year.

*e. Acceptable Conditions of Work.*—The Ministry of Labor, the unions, and employers' organizations negotiate a revised national minimum wage every 3 months. The national minimum monthly wage was approximately \$275 (824 PLN); it did not provide a decent standard of living for a worker and family. A large percentage of construction workers and seasonal agricultural laborers from the former Soviet Union earned less than the minimum wage. The large size of the informal economy and the small number of government labor inspectors made enforcement of the minimum wage very difficult. With unemployment high, workers often agreed to inferior working conditions and lower pay to find or keep jobs.

The standard legal workweek is 40 hours. The law requires overtime payment for hours in excess of the standard workweek, but there were reports that this regulation was often ignored.

The Labor Code defines strict and extensive minimum conditions for the protection of workers' health and safety; however, enforcement was a major problem because the PIP was unable to monitor workplaces sufficiently. In 85,440 work-related accidents reported during 2003, 522 individuals were killed and 1,005 seriously injured. During the first 9 months of the year, 311 workers were killed and 608 were seriously injured in a total of 57,489 workplace accidents. The Government reported that while most accidents were in the public sector, most serious accidents occurred in the private sector, where proportionally more deaths also occurred. Employers

routinely exceeded standards for exposure to chemicals, dust, and noise. In addition, it was unclear which government body had responsibility for enforcing the law. The PIP may shut down workplaces where it finds unsafe conditions. Workers may remove themselves from dangerous working conditions without losing their jobs, but there were reports that fears of employment loss prompted workers to remain on the job.

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## PORTUGAL

Portugal is a constitutional democracy with a president, a prime minister, and a parliament elected by secret ballot in multiparty elections. National parliamentary elections were held in 2002. The ruling coalition party consists of the Social Democrat Party (PSD) and the Christian Democrat/People's Party (CDS/PP). The judiciary is independent.

Internal security is primarily the responsibility of the Ministries of Justice and Internal Administration. The Republican National Guard (GNR) has jurisdiction outside cities, and the Public Security Police (PSP) has jurisdiction in cities. The Aliens and Borders Service (SEF) has jurisdiction on immigration and border issues. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed a number of human rights abuses.

The country had a market-based economy and a population of approximately 10.4 million. The service sector was the leading source of employment, while employment in agriculture and industry continued to be static or declined. Manufacturing provided approximately 30 percent of total economic output. The rate of economic growth was negative 1.3 percent in 2003 and 1.0 percent during the year. Wages and benefits have kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police and prison guards beat and otherwise abused detainees. Prison conditions remained poor. Lengthy pretrial and preventive detention remained a problem. Trafficking in foreign laborers and women also was a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were infrequent but credible reports that police and prison guards beat and otherwise abused detainees.

The Government investigated reports of police mistreatment (*see* Section 1.d.). According to its annual activity report, the Inspectorate General of Internal Administration (IGAI) investigated new incidents involving law enforcement agents during 2003.

During the year, due to a lack of sufficient evidence, the IGAI closed the case against three PSP officers who allegedly beat Aizhong Lin in 2002.

Prison conditions remained poor, and guards mistreated prisoners. Other problems included overcrowding, inadequate facilities, poor health conditions, and violence among inmates. According to the General Directorate for Prison Services (DGSP), there were 13,312 persons in prison in early December. According to the DGSP, the overcrowding rate was 4.1 percent, representing a marked improvement over the 13.24 percent in 2003.

In February, a commission to study a reform of the prison system submitted its report to the Government. The commission drafted general guidelines and legislative proposals on the reform of the prison system. In June, the Government approved the proposals but had not implemented them by year's end.

Approximately 30 percent of the prison population had Hepatitis B or C, and 14 percent were HIV-positive. According to the Ministry of Justice, 42 persons died in prisons during the first 5 months of the year, one third of these while under preventive detention.

During the European soccer championships in June and July, two English visitors made claims of police brutality upon their return to the United Kingdom; however, media footage of the GNR actions, which were supported and assisted by British police, indicated appropriate use of force.

Men and women were held separately. Although there was a youth prison in Leiria, at times, juveniles were held with adults elsewhere in the prison system. Pretrial detainees were held with convicted criminals.

The Government permitted visits by independent human rights observers during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Ministries of Justice and Internal Administration are primarily responsible for internal security. The major problems with the police forces were understaffing and inconsistent or weak law enforcement. There were approximately 50,000 law enforcement officials in the country. In October, 18 of 35 defendants accused of corruption within the GNR Traffic Department (BT) were sentenced to 18 months' to 3 years' imprisonment by a court in the Algarve. Ten of the jailed defendants were traffic police, while the remaining eight were businessmen. The court acquitted of all charges the remaining 17 defendants, 14 of whom were BT officers. There were no indications that corruption was a widespread problem. During the year, police officers received extensive professional training, and the Government regulated their actions through mechanisms established by law.

The IGAI investigated the 2003 killings by GNR agents and PSP officers and determined that PSP officers acted appropriately in the 2003 killing of Osvaldo Vaz. The IGAI found that the PSP officer who killed Nuno Lucas in Porto in 2002 acted inappropriately, and, in January, the Minister of the Interior discharged the officer from the force. They also determined that the PSP officer who killed Antonio Tavares Pereira in Setubal in 2002 acted inappropriately, and the officer was suspended for 225 days. In March, the trial of the officer for aggravated homicide in Setubal ended in an acquittal. The officer claimed that, at the time of the shooting, he was not aware that rubber bullets could kill, and had not been trained in the use of the rubber bullet shotgun with which he killed Antonio Tavares Pereira. The PSP National Director reportedly stated that there were no guidelines regarding the use of rubber bullets at the time of the killing.

An independent ombudsman is chosen by the Parliament and the IGAI to investigate complaints of mistreatment by the police; however, nongovernmental organizations (NGOs) have criticized the slow pace of investigations.

The law provides detailed guidelines covering all aspects of arrest and custody. Under the law, an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. A person may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of 6 months for each suspected crime. If a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes such as murder or armed robbery, or of those involving more than one suspect, investigative detention may last for up to 2 years and may be extended by a judge to 3 years in extraordinary circumstances. A suspect in investigative detention must be brought to trial within 18 months of being charged formally. If a suspect is not in detention, there is no specified period for going to trial. A detainee has access to lawyers, and the Government assumes the cost if necessary.

During the year, prisoners went on hunger strikes to protest, among other things, prolonged periods of pretrial detention. The average number of prisoners returned to custody by court order ("remand") was high. By year's end, 3,366 individuals (24.1 percent of the prison population) were in "preventive detention." Pretrial detainees remained in prison under this status for an average of 26 months, and up to 6 years. Judges argued that pretrial detention was justified by the high incidence of recidivism. The Government implemented the use of an electronic monitoring device as an alternative to preventive detention, with 253 detainees participating in the program at year's end.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system, provided for in the Constitution, consists of a Constitutional Court, a Supreme Court of Justice, and judicial courts of first and second instance. There is also a Supreme Court of Administration, which handles administrative and tax disputes and is supported by lower administrative courts. There is an audit court in the Ministry of Finance.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were more than 500 courts in the country, and approximately 3,000 magistrates and judges; however, staff shortages and court delays continued to be a serious problem.

Critics pointed to a large backlog of pending trials resulting from the inefficient functioning of the courts. A study by the Permanent Observatory of Justice (OPJ), released in 2003, reported that the average length of a “first instance” judicial process was 912 days, with 14.7 percent of the processes taking over 5 years.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Roman Catholic Church is the dominant religion. Although the overwhelming majority of citizens are Roman Catholic, other religions, including Islam, Protestant Christian denominations, Judaism, and Eastern Orthodox, were practiced freely.

The Religious Freedom Act created a legislative framework for religions established in the country for at least 30 years, or recognized internationally for at least 60 years. The Act, which was implemented, provides other qualifying religions with benefits previously reserved for the Catholic Church: Full tax exempt status; legal recognition for marriage and other rites; chaplain visits to prisons and hospitals; and respect for traditional holidays. In December 2003, enabling rules were enacted for governing the commission that will supervise implementation of the Act; however, some rules are still needed to create a registry of religious entities.

The Catholic Church maintains a separate agreement with the Government under the terms of the 1940 Concordat. On May 18, to comply constitutionally with the Religious Freedom Act, the Government negotiated with the Vatican and signed a new amended Concordat. By year’s end, the new Concordat was approved by Parliament and the President.

There were no incidents of anti-Semitism. Government efforts to promote anti-bias and tolerance education included the President’s participation on September 9 in a ceremony commemorating the Lisbon synagogue’s 100th anniversary. The synagogue itself was refurbished, in part with government funds.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and laws provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it in seven individual cases during the year. The total refugee population in the country was 284. During the year, 120 individuals and families, primarily from Central and Eastern European and African countries, filed asylum applications. Of the 120 applicants, 9 were granted refugee status, 7 were granted “humanitarian protection” residence permits, 2 were granted asylum under the statutes of the Geneva Convention, 62 were denied relief, and 40 were awaiting a determination.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and

fair elections on the basis of universal suffrage. The country is a multiparty parliamentary democracy. The ruling coalition party was made up of the PSD and the CDS/PP. The President was Jorge Sampaio of the Socialist Party.

During the year, Prime Minister Durao Barroso, who had been elected in 2002 national elections, resigned to accept the nomination as president of the European Commission. President Sampaio selected Pedro Santana Lopes to succeed Barroso as Prime Minister and to form a new government. The Constitution allows Sampaio to call for new elections, but he declined, citing institutional continuity based on the results of the 2002 elections; however, on December 10, Sampaio changed his mind and decided to dissolve Parliament and call for national elections in February 2005.

The law provides for public access to government information, and the Government provided it in practice.

There were 47 women in the 230-member Parliament. There were three women in the Cabinet—the Ministers of Education, Science/Higher Education, and Culture. Five women held state secretary positions, which are one rank below cabinet ministers.

There were no minorities in the Parliament or in the Cabinet.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views; however, most groups complained of slow investigations or remedial actions.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on ancestry, gender, language, origin, political or ideological convictions, education, economic situation, or social condition; however, some discrimination against women and ethnic minorities persisted.

*Women.*—Domestic and other violence against women was a problem. The Association for Victim Support (APAV), a nonprofit charitable organization that provided confidential and free services to victims of any type of crime nationwide, received 7,515 requests for assistance via its toll free hotline and at its offices in 13 cities during the year. The individuals seeking help (nearly 86 percent of whom were women) reported 13,511 crimes, more than 80 percent involving domestic violence. According to the women's rights NGO, Union of Women Alternative and Response (UMAR), their husbands or partners killed 47 women during the year. The Commission for Equality and Women's Rights ran 14 safe houses for domestic violence and also had a 24 hours-a-day, 7 days-a-week phone service.

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecuted persons accused of abusing women; however, traditional societal attitudes still discouraged many battered women from using the judicial system. Under the law, perpetrators of domestic violence may be barred from contact with their victims, and, in extreme cases, the police may order the immediate expulsion of a perpetrator from the victim's dwelling. The law defines domestic violence as a public crime, which gives police and the courts more leverage to prosecute such cases, and removes some of the burden on the abused women to file charges, since any interested party has the ability to file charges in domestic violence cases.

The law specifically makes rape, including spousal rape, illegal, and the Government enforced these laws effectively.

Neither prostitutes nor their clients are punishable under the law, and prostitution was common. Under the law, only pimping, brothels, and the registration of prostitutes are illegal. Trafficking in women for the purpose of sexual exploitation continued to be a problem (*see* Section 5, Trafficking).

Sexual harassment is defined as a crime if perpetrated by a superior in the workplace. The penalty is 2 to 3 years' imprisonment. As in the case of domestic violence, socially ingrained attitudes discouraged many women from taking advantage of the legal protection available. The Commission on Equality in the Workplace and in Employment, composed of representatives of the Government, employers' organizations, and labor unions, is empowered to examine, but not adjudicate, complaints of sexual harassment; however, it received few such complaints.

The civil code provides for full legal equality for women. As of October, women comprised 51.6 percent of the total population and 51.7 percent of the unemployed. Of the 388,724 students enrolled in higher education in 2003, 56 percent were women. Although women increasingly were represented in business, science, academia, and the professions, their average salaries were about 30 percent less than men's. The Commission for Equality and for Women's Rights continued to press for improved conditions for women.

The Commission on Equality in the Workplace and in Employment reviewed numerous complaints of discrimination by employers against pregnant workers and new mothers, who were protected by law.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Government provides 9 years of compulsory, free, and universal education for children through the age of 15, most of whom attend school. The Institute of Solidarity and Social Security, located within the Ministry of Social Security, Family, and Children, was responsible for implementation of the Government's programs for children. The Institute promotes a program to coordinate assistance for children of immigrant families and a program to support early childhood, which included the provision of better childcare facilities. The Government provided preschool education for children age 4 and older upon entry into primary school. The Government provided free or low cost health care for all children until the age of 15.

Abuse of children was a problem, although there was no societal pattern of such abuse. APAV reported 310 cases of crimes against minors (under 18) during the year, primarily involving domestic violence.

Following high-profile investigations and court proceedings that began in 2002 related to a pedophilia operation at "Casa Pia," a children's home that has approximately 4,600 children in its care in Lisbon, the trial involving 8 defendants began on November 25. The defendants faced charges ranging from procuring and rape to homosexual acts with adolescents and sexual abuse of minors. There were 13,000 pages of files and 790 witnesses scheduled to testify. Charges were based on accusations by 17 young people born between 1984 and 1988 (between the ages of 12 and 16 when they were reportedly abused in 1999 and 2000), as well as by 29 youngsters born between 1983 and 1991 (ages 8 to 16 when the abuse allegedly occurred).

Trafficking of children for sexual exploitation and forced labor remained a problem (see Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The law also criminalizes the trafficking of children under 16 years of age for the purpose of sexual exploitation. Each law that can be applied to traffickers (such as facilitating the illegal entry of persons, employing an illegal immigrant, false documentation, extortion, fraud, and sexual exploitation) carries a penalty of between 1 and 8 years' imprisonment. By citing the violation of multiple provisions, judges have handed down longer sentences.

The Government assisted other countries with international investigations of trafficking. After helping to develop a new EUROPOL organized crime database, Portugal, Spain, Italy, and Germany increasingly shared and received information as they worked together in an effort to combat trafficking. The Immigration Service (SEF) implemented 2003 anti-trafficking legislation and significantly increased trafficking investigations. The length of sentences for those convicted of trafficking related offenses, such as kidnapping, recruiting illegal workers, pimping, and extortion also were on the increase, in many cases reaching 11 to 15 years' imprisonment.

In a case with possible trafficking implications, the Government was prosecuting eight public figures in connection with an organized pedophile ring operating out of an orphanage in Lisbon (see Section 5, Children).

The country is a destination for men and women trafficked from Ukraine, Moldova, Russia, Romania, and Brazil for the purposes of forced labor and sexual exploitation. There were no reports or suspected cases of immigrant children trafficked for sexual exploitation; however, Romanian minors were often used as street beggars. Some trafficking victims were transited through the country to other European countries. Most trafficked persons were Eastern European males who ended working in construction or in other low-wage industries, such as textile manufacturing, woodworking, metalworking and marble cutting. Some trafficked women (mostly from Eastern Europe and Brazil) worked as prostitutes. Trafficked persons usually lived in hiding in poor conditions, often with little or no sanitation facilities and in cramped spaces. Some trafficked workers were not paid at all and some were "housed" within the factory or construction site. Moldovan, Russian, and Ukrainian organized crime groups reportedly conducted most of the trafficking of Eastern Europeans. The traffickers frequently demanded additional payments and a share of earnings following their victims' arrival in the country, usually under threat of physical harm. They often withheld the identification documents of the trafficked persons and threatened to harm family members who remained in the country of origin.

The Government expanded its assistance to immigrants, including victims of trafficking. New awareness by authorities has led to a clear distinction by the Government between trafficking and immigration crimes, allowing trafficking victims to receive adequate protection. The Government may refer victims to NGOs for short- and long-term assistance and may provide short or long-term residency for victims willing to cooperate with law enforcement. The government's High Commissioner for Migration and Minorities is responsible for coordinating assistance to immigrants, including trafficking victims. A large percentage of those assisted were provided employment and legalization of status; others were repatriated.

During the year, the Government targeted information campaigns toward immigrant populations and in source countries vulnerable to exploitation and trafficking. The Government also placed immigration liaison officers in prominent source countries.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The law mandates access to public buildings for such persons, and the Government enforced these provisions in practice; however, no such legislation covers private businesses or other facilities.

*National/Racial/Ethnic Minorities.*—The principal minority groups were immigrants, legal and illegal, from the country's former African colonies, Brazil, and Eastern Europe. Approximately 500,000 legal immigrants lived in the country, representing approximately 5 percent of the population. The country also had a resident Roma population of approximately 50,000 persons.

The law permits victims and anti-racism associations to participate in race-related criminal trials by lodging criminal complaints, retaining their own lawyers, and calling witnesses. Anti-racism laws prohibit and penalize racial discrimination in housing, business, and health services, and provide for the creation of a Commission for Equality and Against Racial Discrimination (CERD) to work alongside the High Commissioner for Immigration and Ethnic Minorities.

In its 2002 report, the European Commission Against Racism and Intolerance (ECRI), acknowledged many positive steps taken by the Government to counter racism, including: adopting a law prohibiting racial discrimination; launching activities promoting the integration of immigrant and Roma communities in education and work; raising human rights awareness among police officers and judges; and giving CERD competency to examine individual applications. However, ECRI recommended that the authorities take further action to combat racism and intolerance more effectively in a number of areas. In response to these recommendations, the Government implemented concrete measures, such as: Including discussions on dealing with members of minority groups in law enforcement training sessions; organizing teachers' seminars on multiculturalism and diversity; increasing by 54 percent financial assistance to immigrant organizations; and distributing books and brochures among public organizations and immigrant associations to raise awareness concerning the fight against racism and intolerance.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers with the right to form or join unions without previous authorization or excessive requirements, and they exercised this right in practice. Approximately 35 percent of the total workforce was unionized.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The right to organize and bargain collectively was recognized and exercised freely in practice. The law provides for the right to strike, and workers generally exercised this right in practice. However, should a long strike occur in an essential sector such as health, energy, or transportation, the Government may order the strikers back to work for a specific period. The Government rarely has invoked this power. Police officers and members of the armed forces may not strike legally, but they have unions and recourse within the legal system.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum working age is 16 years. There were instances of child labor, but the overall incidence was small and was concentrated geographically and by sector. The greatest

problems were reported in Braga, Porto, and Faro, and tended to occur in the clothing, footwear, construction, and hotel industries.

In 2001, the Government estimated that 46,717 children on the mainland engaged in some form of economic activity, of whom 40,001 were unpaid family workers and 6,716 worked for third parties. Of those children engaged in economic activity, 86.2 percent were attending school. Most children engaged in economic activity come from the northern (57.7 percent) and central (26 percent) regions of the country. The agricultural sector employed the most children, followed by commerce, manufacturing, hotel and catering, and construction. Of those children who worked, the majority worked 1 to 3 hours per day, 1 to 2 days per week; however, some commonly worked 6 to 7 days per week.

The Government's principal body addressing, monitoring, and responding to reports of child labor is the Plan for the Elimination of Exploitation of Child Labor (PETI). The Ministry of Social Security, Family, and Children is responsible for enforcing the child labor laws, and it did so effectively.

*e. Acceptable Conditions of Work.*—The monthly minimum wage, which covers full-time workers as well as rural workers and domestic employees ages 18 and over, was approximately \$496.27 (374.70 euros). Along with widespread rent controls and basic food and utility subsidies, the minimum wage afforded a decent standard of living for a worker and family. Most workers received higher wages, with the CGTP estimating an average monthly salary of approximately \$853 (682 euros), excluding public servants.

The maximum legal workday is 10 hours, and the maximum workweek is 40 hours. There is a maximum of 2 hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours between workdays. The Ministry of Social Security, Family, and Children monitored compliance through its regional inspectors, and it did so effectively.

Employers legally are responsible for accidents at work and are required by law to carry accident insurance. The General Directorate of Hygiene and Labor Security develops safety standards in line with European Union standards, and the General Labor Inspectorate is responsible for their enforcement; however, the Inspectorate lacked sufficient funds and inspectors to combat the problem of work accidents effectively. Workers injured on the job rarely initiated lawsuits. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

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## ROMANIA

Romania is a constitutional democracy with a multiparty, bicameral parliamentary system, a prime minister who is the head of government, and a president who is the head of state. Traian Basescu was elected President on December 12 in elections characterized by irregularities, but which were judged generally free and fair. At year's end, Basescu appointed center-right a Liberal-Democratic (PNL-PD) Alliance leader, Calin Popescu-Tariceanu, as Prime Minister to lead a new government composed primarily of the PNL-PD, the Democratic Alliance of Hungarians in Romania (UDMR), and the Romanian Humanist Party (PUR). This followed four years of government led by Social Democratic Party (PSD) Prime Minister Adrian Nastase and President Ion Iliescu. The Constitution provides for an independent judiciary; however, in practice, the judiciary remained subject to political influence. Widespread corruption remained a problem, although the Government took initial, but only partial, steps to address the problem.

The National Police are primarily responsible for law enforcement, the Gendarmerie for preserving public order, and the Border Police for maintaining border security. The Ministry of Administration and Interior (MOAI) supervises these organizations. The military has primary responsibility for protection against external threats. An internal intelligence service assesses threats to national security but has no law enforcement powers. Civilian authorities maintained effective control of security and intelligence organizations, although some concerns were expressed regarding the possible misuse of intelligence agencies for political purposes. Some members of security forces committed serious human rights abuses.

Romania is a developing country in transition from a centrally planned to a market economy with a population of approximately 21.7 million. Economic activity was primarily in the manufacturing, agriculture, services, and energy sectors. For the year, the economy grew approximately 8 percent, and the inflation rate was 9.3 per-

cent. Average monthly gross salaries rose by 23.6 percent as compared to the same period in 2003.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police officers sometimes beat detainees and reportedly harassed and used excessive force against Roma. While some progress was made in reforming the police, cases of inhuman and degrading treatment continued to be reported. Investigations of police abuses generally were lengthy and inconclusive, rarely resulting in prosecution or punishment. While civilian courts had jurisdiction over National Police abuses, abuses by other security forces remained in the military court system, where procedures were unnecessarily lengthy and often inconclusive. Prison conditions remained harsh and overcrowding was a serious problem; however, conditions improved somewhat. At times, authorities violated the prohibition against arbitrary arrest and detention.

Government action and inaction at times restricted freedom of speech and of the press. During the year, there was a pattern of intimidation, harassment, and violence against journalists who wrote critical reports on government activities or government and ruling party officials. Religious minorities complained of discriminatory treatment by authorities. Societal harassment of religious and sexual minorities, violence and discrimination against women, and restitution of property confiscated during the Communist regime remained problems. There were large numbers of impoverished homeless children in major cities. Trafficking in women and girls for the purpose of prostitution was a problem that the Government increasingly took steps to address. Discrimination and instances of societal violence against Roma continued. Child labor abuses continued. There were reports of government interference in trade union activity.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, there was one possible extrajudicial killing. In May, police shot and killed unarmed 31-year-old Nicusor Serban in Jegalia (Calarasi County) when he refused to stop after a police warning. Police were attempting to detain Serban on rape accusations. At year's end, the case was under continuing investigation by the police authority and the prosecutor's office of Calarasi County.

In December, outgoing President Ion Iliescu pardoned former miners' leader Miron Cozma, who was sentenced in 1999 to 18 years in prison for leading 1991 riots that led to the deaths of at least three persons and the wounding of many others. Widespread public opposition prompted Iliescu to rescind Cozma's pardon. Upon Iliescu's decision, authorities took Cozma into custody again and also booked him on separate charges.

In the past, police used excessive force that led to the deaths of citizens. Police authorities eventually decided that police officers were not responsible for the killing of prisoner Mihai Iorga, although an autopsy established that trustees and police officers beat him to death in 2002.

The nongovernmental organization (NGO) Roma Center for Social Intervention and Studies (Romani CRISS) continued to investigate the 2002 death of Nelu Balasoiu, a Romani man who was found dead in Jilava prison near Bucharest. In March, Balasoiu's family, Romani CRISS, and another NGO, the Association for Defending Human Rights in Romania-Helsinki Committee (APADOR-CH), appealed the December 2003 decision of the prosecutor's office not to open an investigation of the police officers involved in the case because the Balasoiu death had allegedly been due to health reasons. In June, a court of appeal in Craiova sent the file to the prosecutor's office for further investigation.

In October 2003, the Supreme Court gave 10-year prison sentences to two former agents of the disbanded security service for the 1985 beating death of dissident Gheorghe Ursu.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that police beat detainees and used excessive force. Human rights organizations have cited numerous reports of police torture and mistreatment.

The law allows the use of firearms against persons fleeing arrest. In January, Bucharest police shot and wounded 22-year-old Marius Silviu Mitran after he failed to obey a police officer's order to stop his vehicle after committing a traffic infraction. Human rights organizations concluded that Mitran was injured due to the

careless use of weapons in violation of the law. The case was under investigation by the Bucharest Prosecutor's Office at year's end.

In March, police from the Bucharest 14th precinct and members of the rapid intervention police squad allegedly physically assaulted a 15-year-old bystander, Cristian Bujor, who was passing by an incident between the police and a group of taxi drivers. The minor was hospitalized for only a day and a half, and the family suspected his early discharge was due to police pressure. The case was under investigation by the Bucharest Prosecutor's Office at the end of the year.

In June, a policeman allegedly physically assaulted a 12-year-old boy in Fetesti for having allegedly vandalized his car. Although police showed reluctance to open an investigation into the assault case, eventually the Fetesti Prosecutor's office began an investigation, which was ongoing at year's end.

In August, two members of the Service for Protection and Guard physically assaulted State Secretary on the National Audiovisual Council (CAN) Serban Pretor after forcing his car off the road in an apparent road rage incident. Police again hesitated to start investigations. The head of the local police in Medgidia was dismissed after he made public the identity of the assailants. Following broad media coverage of the case, authorities transferred the two assailants to reserve duty and sent the case to a civil court on the grounds that they were not on duty at the time of the incident. The lawsuit was still in progress at year's end.

Romani NGOs continued to claim that police used excessive force against Roma and subjected them to brutal treatment and harassment. In January, the head of a local police station and three civilians reportedly subjected a Romani couple, Stella and Sofron Varga, to verbal and physical violence in the village of Banisor, Salaj County. According to Romani CRISS, a police officer accosted the couple, who were selling wares with a valid sales permit, and demanded free goods for allowing them to continue their activity. The couple protested, and the situation became violent. After the woman filed a complaint, the Police Inspectorate of Salaj County concluded that the head of the police station was not at fault and that the police should investigate two civilians for their alleged violent actions.

In July, two police and five members of the police Intervention and Special Operations Squad (DIASS) entered the Romani community in the village of Valu lui Traian, Constanta County, and beat community members with clubs during a search for suspects in connection with an altercation between two Romani individuals and a neighbor. Thirteen Roma were injured in the alleged assault. According to Romani CRISS, the mayor threatened to expel the victims from the village if they filed complaints or wrote declarations against the police.

During the year, a county-level Council of Discipline of the Police Inspectorate found a plainclothes officer innocent in the June 2003 beating of Mihai Dumitru during a raid in Tulcea. The MOAI initially acknowledged the officer's guilt and proposed the Council of Discipline punish him according to the Police Officer's Status Law. The prosecutor's office referred the case to court for criminal prosecution, which was still in process at year's end. There were no developments in other cases reported in 2003, including: The physical assault by police on a married Romani couple in Simleul Silvaniei, Salaj County; the physical assault by an intoxicated police officer on 19-year-old Lucian Lacatusu in Parancea, Buzau County; and the alleged June police attack on four Roma from one family.

At year's end, the case of Mugurel Soare, against whom a police officer allegedly used excessive force, and Adrian Georgescu, a gay man who was harassed and subsequently left the country, were still before the European Court of Human Rights (ECHR).

Lesbian and gay rights NGOs complained that police singled out members of this community for violence and harassment and noted that few victims pursued charges due to fear of harassment by the local community and police or the belief that authorities would not carry out unbiased investigations.

Prison conditions remained harsh. There were 43 penal units, including 34 prisons, 6 prison hospitals, and 3 juvenile detention facilities. Overcrowding remained a serious problem, although there was a slight improvement over 2003. As of November, 39,629 persons, including 816 minors, were in prison or juvenile detention facilities, while the legal capacity of the system is 38,856.

Human rights organizations reported that the abuse of prisoners by authorities and other prisoners continued to be a problem. Human rights organizations alleged that the practice of giving certain privileges to an "elected representative" in each cell discriminated against the rest of the prison population. Such organizations also criticized the prison punishment system, stating that it has little positive impact for societal rehabilitation of the inmates. The Government undertook some efforts to alleviate harsh conditions, including partnerships with NGOs on rehabilitation pro-

grams for inmates and training courses to deter drug use and the spread of HIV/AIDS and tuberculosis.

In June, 24-year-old Ionut-Cristinel Maftei, who was serving a 5-year term for theft in prison in Iasi, entered a coma and died following a serious head injury received in his cell under unclear circumstances. Suspecting the involvement of the cell supervisor (a prison employee), Maftei's family filed a complaint against him with the Military Prosecutor's Office in Iasi in July.

Due to limited space available in the prison system, detainees awaiting trial were sometimes held in the same facilities as convicted prisoners. Conditions were roughly the same for both (same food, types of cells, etc.), but detainees were usually segregated from the general prison population and enjoyed more frequent access to visitors and generally free access to legal representatives.

Men and women, adults and juveniles, and pretrial detainees and convicted criminals were usually held separately.

In June, Parliament passed two new laws on prisons: One that modernizes the prison term system, and a second, on the status of prison cadres, that requires the demilitarization of prison staff.

The Government permitted prison visits by human rights observers and media representatives. The General Directorate for Penitentiaries reported that there were 7,127 individual or group visits by media and domestic and foreign NGOs to penitentiaries during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The MOAI commands the National Police and the Gendarmerie as well as the Border Police, Alien Authority, National Office for Refugees, General Direction of Information and Internal Protection (classified information management), Special Protection and Intervention Group, and the Special Aviation Unit. The police are organized into the General (i.e., National) Police Inspectorate, the General Police Directorate of Bucharest, 41 county-level police inspectorates, a Directorate of Transportation Police, and 3 educational institutions for the training of policemen. Counties are responsible for police units located within their respective geographic areas.

While the police generally followed the law and internal procedures, corruption was a continuing problem. Low-level corruption, the omnipresent small bribe, was a main cause of citizens' lack of respect for the police and contributed to a corresponding lack of police authority. Extremely low salaries (sometimes not paid on time) contributed to the susceptibility of individual law enforcement officials to bribes.

The Government addressed these problems by increasing training to create a more professional police force and by punishing corruption. During the first half of the year, 96 police (of whom 26 were officers and 70 were agents) were found to have engaged in misconduct, resulting in 197 sanctions (of which 53 were for officers and 144 for agents). At the end of June, 12 police (4 officers and 8 agents) were undergoing criminal prosecution.

In April, the Government enacted a code of ethics for police officers that provides strict rules for the professional conduct of law enforcement. It specifically addresses corruption, use of force, torture, and illegal behavior and requires all law enforcement officers to follow the human rights provisions of the Constitution and international conventions. Unlawful or abusive acts may trigger criminal or disciplinary sanctions. In conjunction with the code of ethics, the Government created a permanent commission within the MOAI to monitor compliance with the code.

The police reform and demilitarization process continued during the year. In September, the Government issued a decision that would continue reform of MOAI internal affairs and control structures by creating a new Anticorruption and Professional Standards Department within the Intelligence and Internal Protection Directorate. In September, Parliament adopted a law on the organization and operation of the judicial police, who handle all criminal investigations. The law established a new police structure with double subordination, administratively to the MOAI and operationally to prosecutors trying individual cases. In October 2003, the Statute of the Police Officers was amended by a government ordinance detailing disciplinary actions against police officers, including suspension from active duty during criminal investigations.

The Constitution provides that only judges may issue arrest and search warrants. A judge may order temporary detention for periods of 30 or 60 days, depending upon the status of the case. The court may extend these time periods; however, pretrial detention cannot exceed 180 days. Pretrial detention counts toward sentence time if a detainee is convicted. Courts and prosecutors may be liable for unjustifiable, illegal, or abusive measures. The law requires authorities to inform those arrested

of the charges against them and their legal rights. Police must notify detainees of their rights in a language they understand before obtaining a statement. In general, the proper authorities issued arrest warrants. The law provides for a bail system; however, it was seldom used in practice, reportedly because those who requested release on bail did not meet the legal requirements. Detainees generally had access to counsel and their families.

The law allows police to take any person who endangers the public, other persons, or the social order and whose identity cannot be established to a police station. Police often used this provision to detain persons up to 24 hours. Minors who are at least 16 years of age are subject to arrest for all offenses; minors between the ages of 14 and 16 are subject to preventive arrest if shown to have full mental capacity, but only in cases involving serious felonies and exigent circumstances; minors under the age of 14 cannot be criminally prosecuted. Under the law, the Government is obligated to provide legal counsel to minors who are detained or arrested during a criminal investigation or trial. The confidentiality of discussions between detainees and their lawyers was generally respected in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, members of the judiciary alleged that judges have been subject to political pressure.

In October 2003, the Constitution was amended to increase the role of the Superior Council of Magistrates (CSM) in selecting, promoting, transferring and disciplining “magistrates,” a term that includes judges and prosecutors. The membership of the CSM was expanded from 17 to 19, and the Justice Minister was removed from the chairmanship of the council. At the end of September, three laws came into force that further implemented the amendments related to the judiciary by regulating the composition and role of the CSM, regulating magistrates’ careers, and regulating the organization of the judiciary. These laws confirm the CSM’s control over its members while retaining the Ministry of Justice’s responsibility for administrative and budgetary matters.

In early December, elections for positions on the CSM were marred by accusations that some candidates pressured and intimidated their subordinates to vote in their favor. Other magistrates and civil society groups asked the Senate not to validate the results and to call for new elections. The Association of Romanian Magistrates filed an official complaint with the Senate regarding the appointment of the two civil society representatives, claiming they did not have the background, experience or moral stature to be credentialed members of the CSM, but rather received the nomination due to their loyalty to the then governing PSD party. The Senate had not acted on this matter by year’s end.

The Government took some steps to fight corruption among officials, including members of the judiciary (*see* Section 3).

The law establishes a four-tier legal system, including appellate courts. Defendants have final recourse to the High Court of Cassation and Justice or, for constitutional matters, to the Constitutional Court. A prosecutor’s office is associated with each court. The SCM nominates a candidate for General Prosecutor, whom the President appoints. The General Prosecutor is operationally independent from other members of the executive branch, including the Minister of Justice. The law permits the use of the native language of minorities in courts or with authorities.

The law provides for the investigation by civilian prosecutors of crimes by the National Police. Military prosecutors continue to try cases that involve “state security,” and the Gendarmerie and Border Police continue to fall under military jurisdiction. Human rights NGOs noted that cases involving military personnel and the police continued to be tried by military courts. Military court investigations of police abuse were lengthy and not followed by further court actions. Local and international human rights groups have criticized the handling of cases by military courts, claiming that military prosecutors’ investigations were unnecessarily lengthy and often inconclusive.

The law provides for the right to a fair trial; however, a widespread perception of judicial corruption remained. Trials are open to the public. The law does not provide for trial by jury. The Constitution provides for a right to counsel and a presumption of innocence until a final judgment by a court. The law requires that an attorney be appointed for defendants who cannot afford legal representation or are otherwise unable to select counsel; in practice, local bar associations provided attorneys to the indigent and were compensated by the Ministry of Justice. Both plaintiffs and defendants have a right of appeal. The law provides that confessions extracted as a result of police brutality may be withdrawn by the accused when brought before the court; the practice of extracting confessions through beating occurred occasionally in the past. There were no reported incidents of confessions re-

sulting from police beatings during the year. The judicial system tended to be inefficient and slow.

There were no reports of political prisoners.

Restitution of church, communal, and individual property remained a serious problem marked by a cumbersome administrative process and slow return of property to owners. During the year, approximately 1,000 buildings, out of 128,000 claims, were restored to their former owners under the 2001 law that provides for the restitution of personal dwellings or buildings confiscated during the Communist regime. Approximately 15,000 properties have been returned since the law was enacted. Property restitution was particularly important for the Greek Catholic Church, which had all its properties, including churches, confiscated during the Communist regime. During the year, the Government took few steps to restore these properties, returning to the Church only 50 properties out of 2,207 claims under the 2002 law to restore confiscated church property. In the case of individual properties, the ECHR has ruled on 44 property restitution cases in favor of the former owners who either had been wronged in court or denied restitution on various grounds; one of these rulings occurred during the first half of the year. The Government generally respected ECHR rulings.

In March, Parliament adopted a law establishing guidelines for the restitution of properties confiscated from ethnic groups during the Communist regime. The Jewish community was expected to benefit both from religious and ethnic property restitution laws.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits illegal searches. During the year, constitutional amendments entered into force that shifted the responsibility for issuing search warrants from prosecutors to judges. Human rights organizations and jurists continued to study the potential impact of these amendments on investigations conducted for national security purposes. Previously, the law allowed security officials to enter residences without authorization from a prosecutor if they deemed a threat to national security to be imminent. Such actions were historically rare.

The Constitution protects the privacy of legal means of communication; however, the law permits the use of electronic interception in both criminal and national security cases. In January, the Criminal Procedural Code was amended to shift responsibility for authorizing electronic interceptions from prosecutors to judges and require electronic interceptions in criminal cases to be conducted under the direction of a prosecutor. Nevertheless, the equipment to conduct such interceptions remained under the control of the Internal Intelligence Service (SRI), to which prosecutors did not have direct access.

For practical purposes, the SRI physically conducted all electronic interceptions. Previously, the law allowed the SRI to monitor communications after obtaining authorization from the “public prosecutor specially appointed by the General Public Prosecutor” for activities involving national security threats. In November, a new law on terrorism was enacted that creates a special procedure for authorizing electronic interceptions in national security cases and cases involving terrorist acts. The government institutions with competence in the field of national security must forward a written request for authorization to the General Prosecutor. If the request is found justified, the General Prosecutor submits it to the president of the High Court of Cassation and Justice. The final decision is taken in chambers by a group of specially designated judges. The warrant cannot exceed 6 months, but it may be extended by 3 months several times in justified situations. Special judges designated by the president of the High Court of Cassation and Justice must also approve any extension.

In exceptional circumstances (when there is a clear and present danger to national security), government institutions may begin interception without a warrant issued by the judiciary. Following this, however, a request for authorization must be submitted within 48 hours. In practice, the SRI continued to operate under its prior legislative authority. The SRI may legally engage in surveillance, request official documents or information, and consult with technical experts to determine whether a situation constitutes a threat to national security or to prevent a crime.

The law permits persons who were citizens after 1945 access to secret police files kept by the Communist government. A council approved by Parliament reviewed files and released the information unless it involved state secrets or threatened national security. The files remained in intelligence service custody. Observers criticized the law for exempting files of current intelligence service employees from review and for restricting the definition of “informer” to an individual who received payment for services, making impossible the identification of individuals who collaborated with the Securitate for other reasons, such as personal advancement or

ideological commitment. The release of files in 2003 was impeded by the inability of the lustration council to meet with a quorum of members. The consistent absence of PSD and PRM members gave rise to speculation that neither of these parties desired to see progress in the release of files. During the year, the council's activity was slow and ineffective, in large part due to the inconsistent attendance by PSD and PRM members.

Under the law, foreign citizens of certain states, primarily less developed countries, must report their presence to police if they stay in private accommodations for 10 days or longer.

Romani NGOs monitored several cases of eviction of Roma living illegally on public land in Buzau, Galati, and Tulcea counties. In these counties, local authorities forced Roma found living illegally to relocate to their home counties. Romani activists disputed the legal grounds for these actions but did not pursue a legal remedy. There was also no action taken on the 2003 eviction of several dozen Roma living illegally on the outskirts of Bucharest's Militari district.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, certain legal prohibitions against “defamation of the country” and “offense to authority” potentially limited these rights. Romanian Public Television (RTV)—composed of four national stations—reportedly maintained internal rules that prohibited its journalists from speaking freely about political pressure and censorship. Print media also reported that job contracts at some private television stations also prohibited journalists from speaking freely about political pressures in news reporting or commentary. Journalists continued to be sentenced by courts for their articles and opinions. Investigations of violence and threats against journalists moved slowly.

Journalists and private citizens could generally criticize the government authorities, including those at senior levels, but there were a number of cases of local authorities intimidating their critics rather than responding to serious issues in substance. In addition, many media outlets—electronic and print—reportedly had substantial tax arrears. Media watchdogs alleged that fear of government audits and punitive tax actions to collect these arrears inhibited negative coverage of leading government figures.

Watchdog groups also expressed concern that the Government could exert pressure on the media through the advertising fees paid by state-owned companies. Representatives of NGOs such as the Center for Independent Journalism (CIJ) and Media Monitoring Agency (MMA) said that, by directing public funds toward certain media outlets, the Government could effectively control the content of media reports. The CIJ requested the former PSD Government to provide information about such fees and contracts by ministries or state-owned agencies for advertising in specific media outlets, as they involved public money. When the Government did not provide the information, the CIJ sued it with the support of lawyers provided by the Romanian Helsinki Committee. On October 25, the Bucharest Appellate Court ordered the Government to provide the CIJ information about advertising contracts; however, the Government had not produced the information by the year's end.

Independent media grew in an increasingly competitive market. Several hundred daily and weekly newspapers were published. Foreign news publications may be imported and distributed freely, but high prices limited their circulation. Several private television stations broadcast nationwide, and there were numerous other private local television and radio stations. More than four million households had cable television, giving significant portions of the population access to private and foreign broadcasts. State Television (RTV), state-owned Radio Romania (SRR), and the Europa FM radio network remained the only national broadcasters able to reach the majority of the rural population. Independent stations continued to enlarge their coverage by over-the-air, cable, and satellite transmissions.

Television remained the most widely available source of information, with almost 80 percent of the population obtaining their information from television newscasts. In the spring, the CNA released a report showing that 92 percent of the population watched television, almost 70 percent of them every day, for a daily average time of almost 4 hours. Approximately 95 percent of viewers watched the main newscasts on almost a daily basis. The report also showed that 66 percent of the adult population listened to radio and that over 90 percent of households had at least one television set.

The print and electronic media generally reflected the political views of their owners and covered a wide range of the political spectrum. Private television stations tended to avoid direct criticism of the PSD Government and the former ruling party,

particularly on corruption or other controversial issues. Media monitoring reports suggested that this reluctance was due to owners' fears that the Government would retaliate by seeking back taxes or auditing stations. Media NGOs such as the MMA and CIJ reported that primetime newscasts of the main national television and radio networks were generally biased in the former governing party's favor. MMA reports showed that the electronic media's flagship daily newscasts most heavily covered the ruling PSD and its president Adrian Nastase, who at the time was also Prime Minister, and almost always portrayed them in a positive context. This was particularly notable during the presidential and parliamentary campaigns. A MMA report showed that, in most television and radio prime time news from October 21 to November 3, the PSD presidential candidate was most frequently associated with acts deemed positive, while the opposition candidate was generally associated with acts deemed negative. NGOs also reported that broadcast media substantially failed to cover allegations of fraud in the November 28 parliamentary and first round of presidential elections.

In March, the CNA prohibited a radio spot by the Bucharest daily newspaper *Evenimentul Zilei* that referred to acts of corruption involving then ruling PSD political figures featured in the newspaper's articles. The council asserted that the spot represented indirect political campaigning. *Evenimentul Zilei* asserted that the ban was a form of censorship exerted by the PSD through the council.

During the local election campaign, on June 6, the PSD filed a complaint against a private radio network, Radio Total, for a critical statement made by an NGO representative who was a guest on an election day program regarding the situation in her Bucharest neighborhood. Although the guest did not mention the name of the PSD mayor of the city sector, the ruling party considered the statement "a negative campaign for their candidate" on election day, when campaigning and other politically motivated activities were not legally permitted. The CNA fined the station. Two plainclothes police officers visited the station, stating they had come to "personally" deliver the PSD's complaint and speak with the reporter who interviewed the NGO representative. *Evenimentul Zilei* reported that it had similar experiences with police authorities.

Parliamentarians and their political allies purchased numerous independent media outlets in the provinces. In the spring, the respected financial magazine *Capital* published research indicating that politicians from the then governing PSD owned and controlled half of local television stations, either directly or through alleged intermediaries. The research commented that the only way a small local television station could survive was to reflect the political orientation of its owner, which enabled it to attract more advertising revenue to help deal with its financial problems. The research quoted sources as saying that local businesspeople in many regions were afraid to advertise in independent media outlets because they could suffer retaliation by financial authorities as the result of PSD pressure. Several British Broadcasting Company (BBC) affiliate stations, subsequent to their purchase, cut off BBC Romanian Service news programs, allegedly due to PSD pressure. Media watchdog groups warned numerous times about the lack of independence in many local media outlets, mostly due to financial constraints and pressure from local authorities.

During the year, threats and physical violence against journalists continued. There were reports of harassment, intimidation, various forms of pressure, and violence against journalists who were perceived as overly critical of national and local authorities. Some of this pressure allegedly occurred with at least tacit support of government and party officials. According to a MMA survey released in November, 60 percent of journalists polled reported having been pressured at some point by authorities to stop investigative reporting or to refrain from publishing the results.

The media reported several instances in which journalists from local newspapers received threatening telephone calls or had their finances subjected to scrutiny by local officials after they revealed alleged illegalities committed by local officials, such as their building luxurious villas or participating in businesses or activities that were subject to conflict of interest legislation.

In addition, the media reported cases of journalists who were videotaping various events, including arrests or investigations, being assaulted by local authorities or by relatives or acquaintances of the persons being filmed. Such incidents occurred in public places, including court buildings; the media reported that gendarmes and police frequently did not intervene. Some journalists in the provinces continued to face verbal harassment and even violent treatment from local authorities.

The MMA reported that in February, Hungarian-based journalist Zsolt Bayer, from the Hungarian publication *Magyar Nemzet*, was prevented from entering the country by border authorities. The authorities refused to state the reason for their

actions, although Bayer was well known for his reporting in support of regional autonomy for ethnic Hungarians living in the country.

In March, magistrate Filip Victoria physically attacked Emil Soldan, a journalist from Orizont newspaper in Pascani, at the local city hall while Soldan was taking photos. Soldan had previously written several critical articles about the judge, accusing him of making personal profit from his position.

Also in March, Catalin Stefanescu, a reporter for Ziarul de Iasi, received death threats over the telephone after he reported on alleged illegal hunting in which the then mayor of Movileni locality was involved. A police investigation reportedly showed that the calls came from the mayor's house.

In June, the media reported that, in Targu Ocna, Mayor Stefan Silochi punched a female journalist, Mariuca Bobosa of the local daily Ziarul de Bacau, while she was filming a political rally from her car. Bobosa reported the incident to the police and also filed several court cases against the mayor; authorities were still investigating the case at year's end. Another journalist, Luminita Patratanu from the daily Monitorul de Bacau, reported that Mayor Silochi had threatened her as well and said he "would kill all journalists" who write critical reports about him.

The media reported that, in June, the former mayor of the city of Bacau had a phone conversation with Sebi Sufariu, of the local newspaper Gazeta de Bacau, in which he threatened the journalist with death. The former Bacau mayor accused the media of being responsible for his election defeat. The newspaper filed a complaint against the former mayor. Similarly, in Vrancea County, daily Ziarul de Vrancea allegedly received repeated pressure and threats from local officials throughout the year, including from the president of the county council.

Journalists and media watchdog groups repeatedly expressed concern that publications printing investigative reporting against the PSD-led government faced direct or indirect pressure to curtail this reporting or change editorial views. In September, 55 journalists from the national daily Evenimentul Zilei signed a public letter protesting editorial pressures from the Swiss owner company Ringier, which was accused of being pressed by the PSD to soften the newspaper's antigovernment tone. Among many other allegations, Evenimentul Zilei reporters asserted that information on an investigation into a business run by the sister of the then prime minister was taken from their computers and printed in another daily published by Ringier, the tabloid Libertatea. The Libertatea article printed only the point of view of the prime minister's sister.

Some Evenimentul Zilei reporters alleged they had been harassed and threatened, particularly during the parliamentary and presidential campaign. In December, a secret services officer allegedly told a reporter that Evenimentul Zilei journalists should tone down their reports, otherwise their lives would "be put in danger." He reportedly said that the journalists might be beaten on the street when they left their offices and the attack could be disguised as a robbery.

In September, reporters of the national daily Romania Libera similarly initiated a protest against the German owner of the newspaper WAZ. The reporters and the daily's editorial board accused WAZ of attempting to change the newspaper's reporting and editorial tone due to Government pressure.

In October, investigative journalist Cornel Ivanciuc of the Academia Catavencu weekly alleged that he had been indirectly threatened by then Defense Minister Ioan Mircea Pascu. A former Romanian ambassador reportedly told Ivanciuc that Pascu wanted him to "calm down" and "mind his own business" with regard to an investigative report he was researching on a classified document held by the Ministry of Defense. Ivanciuc claimed the ambassador recounted elements of a private telephone discussion with a source about the document, leading Ivanciuc to believe his conversations had been intercepted and taped.

In October, the Senate withdrew the accreditation of the national daily Romania Libera for covering its activities. Romania Libera had printed an article alleging that the PSD general secretary of the Senate promoted employees in exchange for sexual favors. The Senate also asked Romania Libera to apologize publicly for the article. Following pressure from other media outlets, key civil society and legal figures, the Senate restored Romania Libera's accreditation.

In early December, RTV-1 news reporter Alexandru Costache, backed by several of his colleagues, denounced what he called government-pressured censorship and manipulation in an open letter to Evenimentul Zilei, accusing the station of deliberate and biased coverage in favor of the ruling PSD party during the Romanian presidential campaign runoff elections. The day after the letter was published, the station manager threatened Costache and his colleagues with arrest, prompting media NGOs such as MMA and Reporters Without Borders to offer the journalists legal protection and judicial assistance. The station reportedly responded by initiating internal ethics investigations into the journalists' actions.

During the year, there was no progress in several investigations into violence against journalists that occurred in 2003. Authorities failed to find the assailants in a case involving a journalist in Timisoara, who was severely beaten in December 2003. The reporter, who worked for the Timisoara bureau of the influential national daily *Evenimentul Zilei*, had frequently criticized ruling PSD party officials and their business activities in Timis County. The victim sued the police. Local officials were critical of law enforcement authorities for their lack of progress in the investigation.

Investigators also failed to identify the persons who beat two journalists from Romania Libera and *Evenimentul Zilei* in July 2003. The journalists had written numerous reports on alleged illegal activities of local authorities and miners' leaders in the region.

In April, authorities arrested several persons in the case of Szoltan Csondy, a journalist in Miercurea Ciuc working for the Hungarian-language paper, *Hargita Nepe*. Attackers in the hall of his apartment building had seriously injured him in December 2003. The journalist was known for his investigations into the city's underworld, in particular the activities of a local businessman, Istvan Csibi. Authorities arrested Csibi, who was linked to other crimes including attempted murder, robbery, and assault, and several of his accomplices; at year's end, there were more than a dozen court cases underway against Csibi.

During the year, the newspaper *Gazeta de Sud* appealed court-awarded damages of approximately \$18,000 (600 million lei) to a past prefect of Olt County, Marin Diaconescu, for its reporting on the prefect. The General Prosecutor's Office rejected the appeal.

Laws restricting freedom of speech continued to cause concern among the media and NGOs. The offense of insulting authorities can be punished with a fine. In addition, the Government can punish libel with a prison term of 2 to 24 months, which can be increased to 3 to 36 months if the libel was directed at public officials. In addition, Article 168 of the Penal Code provides criminal penalties for spreading false information aimed at attacking national security. In June, Parliament adopted a new Penal Code which lowered the punishment for libel to 10 to 120 "days-fine," meaning a sentence is given as a number of days and the person receiving the sentence must pay a fine of between \$3.30 and \$33 (100,000 and 1,000,000 lei) for each day. The new Penal Code is scheduled to take effect in June 2005.

There were increased allegations of progovernment bias and self-censorship inside the state-owned Radio Romania (SRR). In April, a group of SRR news reporters made accusations regarding what they called sophisticated censorship in the newsroom. Cerasela Radulescu, one of the protesters, and members of opposition political parties charged that critical statements about former prime minister Adrian Nastase and other PSD officials were often edited out of the stories airing in the main newscasts and moved to other, less watched newscasts. In early December, Radulescu spoke publicly about her case, stating that the situation inside SRR has not changed significantly and that she had to move to another department because of management pressure and impediments to her work.

In March, a producer working for the local station of the state-owned RTV network in Timisoara alleged that network management had dismissed him in order to limit the material on the air.

During the year, a local court in Gorj County rejected a suit that a former editor and producer at the RCS television station brought against the station for failing to take action against RCS management's alleged censorship policies. The editor/producer left her job in March 2003 after her show was cut off in midbroadcast while she was discussing corruption scandals involving local leaders. In November, a Craiova Court decided that it was indeed a case of censorship and not a technical problem as management insisted. The Court ordered the CNA to sanction the television station.

The Government did not restrict access to the Internet or academic freedom; however, media reported that some sites with anti-PSD content, or that included embarrassing private transcripts from PSD meetings on governmental issues, were attacked or shut down.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. The law provides for unarmed citizens to assemble peacefully, but states that meetings must not interfere with other economic or social activities and may not be held near locations such as hospitals, airports, or military installations. Permits are not required to assemble in some public places. However, when required, demonstration organizers must apply for a permit in advance. Authorities may prohibit a public gathering by notifying the organizers in writing within 48 hours of receipt of a per-

mit request. The law prohibits counterdemonstrations that coincide with scheduled public gatherings. The law prohibits fascist, Communist, racist, or xenophobic symbols (such as statues of war criminals on public land), ideologies, or organizations. Participants in unauthorized demonstrations may be fined.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Political parties are required to have at least 25,000 members to have legal status, a number that some NGOs have criticized as being inordinately high.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions, and several minority religious groups continued to claim credibly that government officials and Romanian Orthodox clergy impeded their proselytizing and interfered with other religious activities.

The Government requires religious groups to register. However, there is no clear registration procedure. The lack of specific registration requirements made it almost impossible for groups to receive religious status under the law.

The Government gives official religious status to 17 religions. Only these recognized religions are eligible to receive state financial support. Recognized religions have the right to establish schools, receive state funds to build churches, pay clergy salaries, subsidize clergy housing, broadcast religious programs on radio and television, apply for broadcasting licenses for denominational frequencies, and enjoy tax-exempt status. The Government also registered religious groups as either religious and charitable foundations or as nonprofit cultural associations.

The law provides for peaceful religious assembly; however, several minority religious groups again complained that, on various occasions, local authorities and Orthodox priests prevented religious activities from taking place, even when their organizers had been issued permits. The Evangelical Alliance continued to report difficulties obtaining approval to use public halls for religious activities following pressure by Orthodox priests. In some cases, Orthodox priests incited the local population against activities by the Seventh-day Adventist Church, the Church of Jesus Christ of Latter-day Saints, and members of Jehovah's Witnesses. The press reported several instances of Romanian Orthodox clergy harassing members of other faiths, such as pressuring non-Orthodox school children to attend Orthodox religion classes or not allowing members of religious groups to proselytize near Orthodox churches.

Government building permit regulations equally allow recognized and unrecognized religious groups to build places of worship. Although most minority religious groups declared that they had received permits to build places of worship without difficulty, some continued to complain that permits were unduly delayed.

Several religious groups made credible complaints that, in some instances, local police and administrative authorities tacitly supported sometimes violent societal campaigns against proselytizing. In some localities, legal proselytizing was perceived as being directed at adherents of established churches, and conflicts occurred. Members of Jehovah's Witnesses and the Seventh-day Adventist Church continued to report such cases.

Religions with the highest concentration in a locality have the right to teach religion in public schools; however, a number of religious groups, including the Greek Catholic Church, the Baptist Church, Jehovah's Witnesses, and the Seventh-day Adventist Church, reported that they had been unable to hold classes because of the Orthodox clergy's influence. Additionally, the Seventh-day Adventist Church and Jehovah's Witnesses reported cases of children who were pressured to attend Orthodox religion classes.

A 2002 law provides for the restitution of large numbers of religious properties, but not places of worship. Pursuant to this law, religious groups submitted 7,568 property restitution claims by March 2003. Religious minorities frequently did not succeed in regaining possession of these properties, because many housed state offices, schools, hospitals, or cultural institutions that would require relocation, and lawsuits and protests by occupants delayed their physical return. A national commission began operation in June 2003 to consider restitution on a case-by-case basis. This process of systematic religious property restitution resulted in the return of 574 buildings since June 2003.

The Greek Catholic, or Uniate, Church made only limited progress in recovering properties taken by the Romanian Orthodox Church after their forced merger in 1948. The exclusion of places of worship from the 2002 restitution law primarily affected Greek Catholics; the Communists generally did not seize churches of other faiths. Authorities have returned only a handful of the approximately 2,600 Greek Catholic churches and monasteries taken. Apparently to avoid restitution, the Or-

thodox Church demolished many Greek Catholic churches under various pretexts, such as being structurally unsafe. A Greek Catholic-Orthodox commission continued to make little progress in resolving the restitution of the Greek Catholic churches from the Orthodox Church. Many courts refused to rule on restitution of Greek Catholic churches because of a 1990 decree mandating that dialogue between the two churches resolve the issue. In August, the Government issued a decree permitting the Greek Catholic Church to resort to court action whenever the bilateral dialogue fails; the Orthodox Church had urged the Greek Catholic Church to choose between dialogue and court action earlier in the year.

The historical Hungarian churches, including the Hungarian Roman Catholic and the Hungarian Protestant Reformed, Evangelical, and Unitarian churches, received only a small number of their properties back. Government decrees ordered the return of 33 buildings out of 1,630 buildings confiscated from those denominations, but they were able to take actual possession of only approximately 20. The 2002 law restituting church property returned 340 buildings to the Hungarian churches. The Jewish community received 42 buildings by government decree, but has obtained full or partial possession of only 29. The community also received back 48 additional buildings since June 2003 under the law on religious property.

In March, unidentified persons broke into a synagogue in Bacau and broke its windows. In August, Nazi and anti-Semitic signs were found on the inside of the walls of the Jewish cemetery in Sarvasu, Mures County. Authorities have not identified the perpetrators in either of these cases. There were no developments in the 2000–2003 desecrations of Jewish synagogues and cemeteries.

The extremist press continued to publish anti-Semitic articles. The Legionnaires (Iron Guard), an extreme nationalist, anti-Semitic, pro-Nazi group, continued to republish inflammatory books from the interwar period. In March, a private television station broadcast a talk show on “Gypsies, Jews, and Legionnaires,” which voiced xenophobic, anti-Semitic, and racist views. The station owners did not respond to a protest sent by the Jewish Communities Federation.

Extremists made repeated attempts to deny that Holocaust activities occurred in the country or in Romanian-administered territory. Religious services (services for the dead) for legionnaire leaders continued to be held in individual Orthodox churches.

In June 2003, the Government denied the occurrence of the Holocaust within the country's World War II borders in a communique but subsequently retracted the statement and assumed responsibility for the World War II pro-Nazi regime's crimes against Jews. Although government spokesmen claimed that someone not authorized to do so had inserted the phrase containing the denial, the person responsible was neither identified nor reprimanded. In July 2003, in an interview with an Israeli newspaper, then President Iliescu appeared to minimize the Holocaust by claiming that suffering and persecution was not unique to the Jewish population in Europe. He later said that his interview had been presented in an incomplete and selective way.

In September 2003, the Government released a teaching manual for schools that dealt with Holocaust denial and provided figures for the number of Jews killed, details about concentration camps, death chambers, and the persecution of Roma, homosexuals and Jehovah's Witnesses. However, education on the country's role in the Holocaust was still limited and lacked a unified approach. In October 2003, the Government established an International Committee on the Holocaust in Romania to analyze and to improve public understanding of Holocaust events in the country. In November, the Committee, chaired by Nobel Prize Laureate Elie Wiesel and given full access to archives and other documents, submitted a report on its findings that detailed the history of the Holocaust in the country as well as the commission's conclusions and recommendations on how the Government could foster Holocaust awareness, remembrance, research and education. In May, the Government established an annual Holocaust Remembrance Day on October 9, a date selected to mark the Antonescu regime's initial order for the deportation of thousands of victims from Bessarabia and Bukovina to Transnistria in 1941.

The New Right (Noua Dreapta) organization (a small extremist group with nationalistic, xenophobic views) continued to harass verbally, and sometimes physically, members of the Church of Jesus Christ of Latter-day Saints in Bucharest and Iasi. Many representatives of minority religions credibly complained that private and governmental organizations operating hospitals, children's homes, and shelters for the elderly often permitted only Orthodox priests to provide religious assistance in them. Charitable activities by minority churches in children's homes and shelters often were interpreted as proselytizing. Orthodox priests reportedly denied permission to the Greek Catholic and the Seventh-day Adventist churches to bury mem-

bers in several rural localities; it was not clear whether church or public cemeteries were involved.

In July, authorities charged an individual with dual Romanian and French citizenship with distributing nationalist-chauvinistic and fascist propaganda; the trial was in progress at the year's end.

In July 2003, a Brasov resident was given a suspended 2-year sentence for nationalist-chauvinistic and fascist propaganda.

In December, then President Iliescu awarded the Star of Romania, the highest honor awarded by the state, to a politician known for his anti-Semitic and xenophobic views and to a historian noted for denying the participation of the World War II Romanian government in the Holocaust. The actions prompted protests in the media and from international human rights and Jewish community leaders.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In March, the Parliament approved amendments to bring the law on refugees in line with the 1951 Geneva Convention, although the U.N. High Commissioner for Refugees (UNHCR) criticized the brevity of deadlines for court rulings and the appeal process in the amendments. In April, the Government drafted, with the support of the UNHCR and other organizations, a National Strategy on Migration, which outlined the main principles underlying its policy toward refugees. The Government also adopted legislation on integration of refugees in May and on the protection of refugee children in June. The former entitles refugees who are granted a form of protection in the country to employment, accommodation, medical care, social assistance, education, counseling, and Romanian language courses.

A 2003 law forbids expelling foreigners to a country where their lives may be in jeopardy. The law establishes a National Refugee Office (ONR) in the MOAI to receive, process, and house asylum seekers. A Refugee Integration Department was set up within the ONR. The Government reorganized the former Directorate for Foreigners and Migration Issues, which was subordinated to a directorate in the MOAI, under the Alien Authority, which reports directly to the Minister.

In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. During the first 7 months of the year, the ONR received 303 applications for asylum and 92 reapplications. Most of the applicants came from Iraq (91), China (60), and India (49). During the same period, 54 applications were approved.

The Government also provided temporary protection to individuals who did not qualify as asylees or refugees; however, there were reports that the Government denied some applications for refugee status without grounds. According to local NGOs, some individuals who were credible refugees were denied refugee status due to corruption in some agencies and changes in the refugee law that did not apply retroactively. For example, authorities denied the application for refugee status of three Sudanese Christian refugees who entered the country in 2001 on the grounds that they did not meet the criteria for such status. NGOs reported that these grounds for denial appeared to be baseless and that the three Sudanese would face persecution if returned. The ONR later denied the refugees' requests for access to a new procedure on two different applications. Authorities allowed them to stay in the country in a "tolerated status," which denies them access to social assistance and the right to work and move freely about the country. This status was contingent upon their ability to prove each month that they were actively seeking means to remove themselves from the country either to their homeland or another country. Senior officials at the Alien Authority confirmed that, in this status, they could be deported at any time.

There were no voluntary repatriations during the first 7 months of the year.

The Government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government funded programs to integrate refugees into society; refugee-focused NGOs developed similar programs. However, programs for integrating refugees developed slowly and had very limited funds and resources. There were 3 reception and accommodation shelters in Bucharest and a 20-bed shelter at the Bucharest Airport. The Alien Authority ran a detention shelter for illegal mi-

grants close to the Bucharest Airport. Two additional shelters opened in Galati in May and Timisoara in February, with a capacity of 250 people each.

The MOAI and the Labor Ministry funded programs to assist asylum seekers and refugees, although some experienced repeated administrative difficulties in obtaining protected status due to officials' requests for substantial documentation. Government financial support (reimbursable loans for 6 to 9 months) was minimal and usually not enough to cover basic needs. An increasing number of illegal migrants regarded the country as a transit point to other countries.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country held parliamentary and presidential elections on November 28 and December 12. The parliamentary elections resulted in no political bloc emerging with a clear majority. The center-left PSD initially held 113 seats in the Chamber of Deputies and 46 seats in the Senate; the Romanian Humanist Party (PUR), which ran in alliance with the PSD, received 19 Chamber seats and 11 Senate seats; the center right Liberal-Democratic (PNL-PD) Alliance won 112 Chamber seats and 49 Senate seats; the extreme nationalist Greater Romania Party (PRM) received 48 Chamber seats and 21 Senate seats; and the Democratic Alliance of Hungarians in Romania (UDMR) tallied 22 Chamber seats and 10 Senate seats. In addition, 18 ethnic minority parties were accorded individual seats in the Chamber, as provided in the Constitution. PNL-PD presidential candidate Traian Basescu's victory in the second round led to the formation of a new government at the end of the year by the PNL-PD, in coalition with the UDMR, PUR, and the ethnic minority representatives.

The November 28 parliamentary and first round of presidential elections were characterized by widespread irregularities, precipitated primarily by the Government's decision to abandon use of previously issued electoral identification cards and to allow citizens outside their home districts to vote at any polling place across the country. There were widespread allegations of individuals voting in multiple locations, including some reports that political parties supported these activities. There were also accusations of abuse of the so-called mobile ballot boxes transported to elderly or infirm voters; the prolonged presence of elected officials in polling places contrary to the law; and the placement of campaign posters near polling places in contravention of the law. Civil society organizations and opposition parties also claimed the Central Electoral Bureau allowed fraud to take place at a national level during the electronic tabulation of votes, although subsequent inquiries were inconclusive. The civil society NGO Pro-Democracy announced it would not observe the second round due to the poor execution of the first round, but changed its decision after the Government agreed to take steps to diminish possibilities for fraud.

In the second round of presidential elections on December 12, the Government limited the locations where voters outside of their home districts could vote, reducing the possibilities for multiple voting. However, the lack of sufficient alternate locations and the closure of these locations while many voters were still in line resulted in the disenfranchisement of hundreds and possibly thousands of voters, particularly in major cities. Members of the center-right opposition accused the PSD of intentionally restricting the vote in this manner, as transient voters in urban areas have historically supported the center-right. There were credible reports in some precincts that local officials or partisan election monitors instructed citizens on how to vote and instances of campaign posters being placed too close to polls.

In June, the country held two rounds of elections for mayors and county and city councils. International and civil society election observers noted some problems, primarily related to allegations of campaigning and other political activities on election day and near polling places, despite legal prohibitions. There were also some reports of abuse of mobile ballot boxes. In Cluj County, NGOs expressed concern that voters who turned 18, the legal voting age, between the two rounds of elections were not permitted to vote in the second round although they were apparently permitted to do so in other parts of the country. Observers noted that many discrepancies appeared to result from varying interpretations of sometimes vague voting regulations and procedures, rather than from any clear attempt by local or national electoral officials to influence outcomes.

The October 2003 referendum on proposed amendments to the Constitution was characterized by widespread efforts by government officials to ensure that it met the minimum 50 percent voter turnout required for the referendum to be legally valid. Civic action groups reported some notable irregularities, including political pressure

on and by locally elected leaders and special lotteries and other material incentives to bring out the vote, and there were allegations of mobile ballot box abuse.

The Government made limited progress toward combating high-level corruption. During the first half of the year, Parliament passed legislation that in effect softened anticorruption laws affecting high officials and public servants. Implementation of other anticorruption legislation remained poor. There were no convictions of high officials, despite the media focus on a series of corruption cases involving members of the Cabinet and the ruling party.

At the same time, the Government took new measures to fight systemic corruption. It enacted legislation requiring certain public officials to file an asset disclosure statement, complementing anticorruption laws adopted in 2003 that clarified the definition of conflict of interest. The National Anticorruption Prosecutor's Office (PNA) is authorized to investigate charges of corruption based upon the offender's status as a public official, the amount of money involved in the corrupt activity, or the amount of loss to the public. Owing to a flood of minor cases inhibiting the PNA's work, an emergency ordinance was introduced during the year to restrict the PNA's jurisdiction to cases involving higher amounts of money—over \$135,000 (100,000 euros)—or high-level government officials.

During the first 6 months of the year, the PNA opened 1,645 criminal investigations, of which 604 were resolved. A total of 91 cases involving 436 offenses and 221 individuals went to trial; a third of these cases involved persons in management positions. Of the cases that went to trial, 53 have resulted in the conviction of a total of 99 individuals.

In 2003, the PNA reported investigating 2,229 cases, of which it solved 951 cases and declined 563 cases for lack of jurisdiction; the remaining 751 cases were continued. In the resolved cases, the PNA drafted 146 indictments and tried 548 persons for a total of 1,428 alleged offenses. Almost two-thirds of those charged were in management positions, including an ex-minister, 2 government counselors, the head of a government agency, a prosecutor, a judge, a mayor, 42 directors and inspectors, 26 financial or banking clerks, 130 police officers, 6 public servants, 6 public order officers, 10 customs officers, 5 legal advisors, 5 financial guard officers, 20 military officers and noncommissioned officers, a lawyer, 2 university professors, and 90 administrators of commercial companies. Only 22 of the 548 persons sent to trial received final sentences, which averaged 3 years and 2 months in custody. Since late 2002, the PNA has convicted approximately 250 persons, or a quarter of those sent to trial.

During the year, the PNA received authorization to add 94 new positions to its investigative staff and to increase the staff salaries, which already ranked among the highest in the judiciary.

The PNA's mandate is to prosecute corruption at all levels without regard to the political affiliation of the accused. Although constitutional amendments in 2003 removed a number of procedural immunities that limited the prosecution of high public officials, the PNA has not yet demonstrated the ability to prosecute officials at this level successfully. Instead, PNA investigations of high officials tended to focus on members of former administrations, contributing to questions about the PNA's impartiality. In addition, prosecutors are obligated to open an investigation when presented a complaint that meets certain minimum standards. This made prosecutorial institutions less vulnerable to political influence, as all cases meeting minimum standards are investigated; however, it created a potential for persons to misuse the complaint process to gain political or economic advantage over a competitor.

Although the law limits the areas in which Members of Parliament may maintain a private legal practice, there was no visible enforcement mechanism for this rule.

The country has a transparency law that provides for transparency of decision making. While the transparency law does not specifically require the Government to provide documents or information in response to citizens' requests, a separate law regarding freedom of information requires all public institutions to answer such inquiries. In practice, political decisionmaking was typically carried out with little transparency. The transparency law requires all central and local elected or appointed public administration authorities to make public draft laws and to consult with citizens and NGOs; however, authorities in areas of national defense and security, public order, and country's political and economic strategic interests, and other areas with classified information are exempted. In most cases, the authorities considered consultations with the civil society a formality. NGOs reported that, even when asked their opinion during the year on a draft law, the Government often ignored their proposals. The press is not allowed to attend the debates of the parliamentary commissions. Some ministries, such as the Ministry of Information Technology and Communications, complied with the consultation requirements, but not all did so.

While the law does not restrict women's participation in government or politics, societal attitudes were a significant barrier. In the new Parliament, 38 of 332 deputies and 13 of 137 senators were women. None of the 42 county prefects (appointed representatives of the central Government) who served under the PSD government were women. At year's end, the newly elected PNL-PD Government had appointed only 36 of the 42 prefects, of which 1 was a woman. There were 3 women in the new 25-member Cabinet.

There were 50 members of minorities in the 469-seat Parliament. The Constitution and law grant each recognized ethnic minority one representative in the Chamber of Deputies if the minority's political organization cannot obtain 5 percent of the votes needed to elect a deputy outright. Organizations representing 18 minority groups qualified for deputies under this provision in November.

Ethnic Hungarians, represented by the UDMR, obtained parliamentary representation through the normal electoral process. Roma were underrepresented in Parliament, having only one representative; low Romani voter turnout and internal divisions within the Romani community worked against the consolidation of votes for any single candidate, organization, or party. There were two Romani parliamentarians. During the year, the PSD had protocols of cooperation in effect with the German, Hungarian, and Romani minorities.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to NGOs, although some offices were slow to respond to inquiries.

Domestic human rights monitoring groups included APADOR-CH, the League for the Defense of Human Rights (LADO), the Romanian Institute for Human Rights, Pro Europa League, the Open Society Foundation, the Institute for Public Policy, and several issue-specific groups such as the Center for Independent Journalism, the Media Monitoring Agency, Accept, Romani CRISS, the Pro Democracy Association, and a local office of Transparency International. Other groups, such as political parties and trade unions, also monitored the observance of human rights. These groups, as well as international human rights organizations, functioned freely without government interference.

An ombudsman's office worked to protect citizens from abuse by public officials. In the first 9 months of the year, the office received 2,754 complaints, many of which it rejected because they involved problems requiring judicial action, which power the ombudsman's office does not possess. The office, which dealt not only with human rights, but also with all facets of citizens' interaction with the Government, was only moderately effective due to its limited authority and resources.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution forbids discrimination based on race, nationality, ethnic origin, language, sex, opinion and political allegiance, wealth, or social background; however, in practice, the Government did not enforce these provisions effectively, and women, Roma, and other minorities were subject to various forms of discrimination.

The law prohibits discrimination based on a number of factors and enables persons to sue on the grounds of discrimination. In August 2003, a new ordinance increased fines for discriminatory acts up to approximately \$1,200 (40 million lei). The National Council on Combating Discrimination is responsible for enforcing this law.

*Women.*—Violence against women, including rape, continued to be a serious problem. Both human and women's rights groups reported that domestic violence was common. According to a 2002 U.N. survey, 45 percent of women have been verbally abused, 30 percent physically abused, and 7 percent sexually abused. While the law allows police intervention in domestic violence cases, there is no specific law to address spousal abuse or rape. The prosecution of rape cases was difficult because it required both a medical certificate and a witness, and a rapist could avoid punishment by marrying the victim. The successful prosecution of spousal rape cases was almost impossible. In June 2003, the Government moved responsibility for controlling domestic violence from the Ministry of Health to the Ministry of Labor and Social Solidarity. In January, the National Agency for Family Protection, an entity reporting to the Ministry of Labor and Social Solidarity, assumed responsibility for domestic violence cases. The law provides the same penalties for rape and sexual abuse without regard to the victim's gender; however, implementing regulations have not been completed.

There were reports of trafficking in women (*see* Section 5, Trafficking).

The Constitution grants women and men equal rights; however, in practice, the Government did not enforce these provisions, nor did authorities focus attention or resources on women's issues.

The law prohibits any act of gender discrimination, including sexual harassment. Few resources were available for women to deal with economic discrimination. Despite existing laws and educational equality, women had a higher rate of unemployment than men, occupied few influential positions in the private sector, and earned lower wages. A department in the Ministry of Labor and Social Protection was responsible for advancing women's concerns and family policies, including organizing programs for women, proposing new laws, monitoring legislation for sexual bias, targeting resources to train women for skilled professions, and addressing the problems of single mothers. There is an ombudsman in the Department for Child, Woman, and Family Protection to resolve complaints of discrimination.

*Children.*—The Government administered health care and public education programs for children, despite scarce resources that limited the availability of services. International agencies and NGOs supplemented government programs in these areas.

Education was free and compulsory through the tenth grade. After the tenth grade, schools charged fees for books, which discouraged attendance for lower income children, particularly Roma. During the 2002–03 school year, approximately 99.8 percent of primary school-age children attended school, including kindergarten, according to the Ministry of Education. Overall, participation in the compulsory education system through grade 10 increased to 72.9 percent in 2002–03. The dropout rate during the 2002–03 school year was 1.25 percent in the compulsory education system.

The vast majority of HIV/AIDS cases in Romania (75.9 percent) involved children less than 14 years old. The National Union of the Organizations of Persons Affected by HIV/AIDS (UNOPA) reported that many children infected with HIV/AIDS suffered from interruption of treatment, limited access to schools, and delayed food allowances.

In June, Parliament passed comprehensive child welfare legislation that addresses children's rights, including establishing a children's court. The law is scheduled to take effect in January 2005; implementing legislation was adopted in August. During the year, children's courts mandated by the law became operational in two cities, Brasov and Iasi. Parliament also adopted new standards for providing services to abused and neglected children.

New adoption legislation nearly halted foreign adoption by limiting international adoptions to grandparents. At year's end, hundreds of cases that were in process when the law passed remained pending. The legal prohibition of foreign adoption and an increasing rate of child abandonment in hospitals (5,000 in 2003 and 2,500 by June) strained government resources.

Laws to protect children from abuse and neglect were inadequate, and there were reports that abuse of children was a problem. While there are criminal penalties, there was no consistent policy or procedure for reporting child abuse and neglect and no system for treating families who abuse their children. A task force coordinated by the National Authority developed standards, training, policies, and procedures for dealing with the problem.

Although illegal, marriages between Romani children under the age of consent were common. In October 2003, the Government ordered a 12-year-old Romani girl and a 15-year-old Romani boy separated and all intimate relations between them halted after a highly publicized marriage. However, human rights groups and the media reported that such marriages continued, frequently without notice or intervention by authorities.

Trafficking in girls for the purpose of forced prostitution was a problem (*see* Section 5, Trafficking).

Living conditions have improved in most childcare institutions in recent years. More than half of the 106,000 children in public care were placed with families (extended family, foster care), while the number of children remaining in state residential care (including special schools) dropped to 26,600. In practice, children below the age of 2 were no longer placed in institutions, but were instead placed with foster parents or extended families. A methodology for the closure of large residential institutions was being implemented; 50 large institutions were closed in 2003, although 62 traditional, dormitory-style institutions still housed over 100 children each. By April, 560 prevention and family reintegration services had been established (mother and baby centers and counseling services).

A growing number of services were available to support children with disabilities and their families to prevent their removal from home.

Child labor was a problem (*see* Sections 5, Trafficking and 6.d.)

A number of impoverished and apparently homeless children were visible on the streets of larger cities. While the Government did not have statistics on scope of the problem, police reports and social workers' estimates have placed the number of street children nationwide at 1,500. This number was lower than had been estimated in the past and questionable, given that street children were extremely difficult to count.

Approximately half of the children remaining in the large childcare institutions were between the ages of 14 and 18. Without changes to the system, a significant number were likely to leave these institutions with no skills and employment and no ability to earn a living or obtain housing. There was no systematic provision of labor market information, skills training, or job placement services for such persons and there was a high probability that they would gravitate to the streets, engaging in prostitution or crime. Although independent living programs were more widespread, a growing number of young persons were in need of these services.

The law requires the National Agency for Employment to provide up to 75 percent of the median national salary to employers for hiring persons between 16 and 25 years who are at risk of social exclusion. Effective January 2005, the new law provides that youth leaving the state institutional system may receive state assistance for an additional 2 years, during which they would receive skills training for independent living.

NGOs working with children remained particularly concerned about the number of minors in prison and continued to seek alternative solutions, such as parole (*see* Section 1.c.). Because time served while awaiting trial counts toward prison sentences, but not toward the time to be served in a juvenile detention center, some minors actually requested prison sentences.

*Trafficking in Persons.*—The law prohibits trafficking; however, trafficking in persons continued to be a serious problem. There were some reports of police involvement in trafficking.

The law defines trafficking as the use of coercion to recruit, transport, harbor, or receive humans for exploitation. Coercion includes fraud or misrepresentation. Exploitation includes slavery, forced labor, prostitution, performance in pornographic films, organ theft, or other conditions that violate human rights. For minors under the age of 18, it is not necessary to prove coercion.

The law provides for 3 to 12 years' imprisonment for trafficking in minors between 15 and 18 years of age. Sentences are increased to 5 to 15 years for trafficking in minors under age 15, if there are two or more victims, or if a victim suffers serious bodily harm or health problems. The sentence for trafficking that leads to the death or suicide of the victim is 5 to 25 years. These penalties are increased by 3 years if the trafficker belongs to an organized crime group and by 2 years if coercion is applied against minors. Initial consent of a trafficked person does not exempt the trafficker from liability.

The Government increased its efforts against trafficking, and police officers continued to pursue cases via their Human Trafficking Task Force. The police assigned 15 officers at headquarters in Bucharest and over 87 officers in 15 zonal centers across the country to investigate trafficking. Of the 87 officers assigned to zonal centers, 42 were women who had received training in antitrafficking procedures. They continued to expand interagency and local resources assigned to trafficking, and the Government established itself as a strong participant in regional law enforcement cooperation. In addition, the Government, through the Interministerial Working Group (IWG), began the process of creating an office at the national level, which would coordinate all trafficking-related matters and focus on the protection of victims. During the first 9 months of the year, police identified a total 964 victims of trafficking (573 women, 391 men). Of this number, 217 were minors (80 boys, 137 girls). A total of 934 individuals were under investigation for violations connected with trafficking, and, as of September, police had arrested 162 suspects and dismantled 208 trafficking networks. Authorities obtained 74 final convictions under the new trafficking laws. This contrasted with 2003, when police identified 658 crimes, investigated 488 persons and arrested 146, and dismantled 210 groups.

The country was a member of the Southeast European Cooperative Initiative (SECI) Center, a multinational organization composed of 12 governments with the purpose of combating transborder crime in the region. The Government participated actively with other SECI members in carrying out operations against trafficking. In February, with the facilitation of the Romanian Human Trafficking Taskforce manager, sex trafficking victims from Moldova testified in a Serbian court, which resulted in prison terms for 14 traffickers. In May and June, investigators from Romania and Turkey interviewed victims of a sex-trafficking ring in Turkey, which re-

sulted in the arrest of five offenders and the immediate repatriation of five Romanian women. In July, a prosecutor and a police officer traveled from Bucharest to Spain to help shut down a Romanian operation which had trafficked 40 women.

During the year, the Prosecutor General's office had prosecutors in place throughout the country to prosecute trafficking and related cases. The Government prosecuted a few cases of pimping during the year. Prosecutions based on indictments under the trafficking law continued.

In September, the Government participated in the launch of the SECI Regional Anticrime Center's Operation Mirage 2004, which was aimed at countering trafficking and illegal migration in the Balkan region. During the operation, police identified 393 Romanian victims and 261 traffickers, and arrested or charged 130 traffickers.

The country was an origin and transit point for trafficked women and girls from Moldova, Ukraine, and other parts of the former Soviet Union who were trafficked to Bosnia, Serbia and Montenegro (including Kosovo), Macedonia, Turkey, Albania, Greece, Cyprus, Italy, France, Germany, Hungary, the Netherlands, Poland, Spain, the United Arab Emirates, Japan, and South Korea for sexual exploitation. Due to changing trafficking patterns, the International Organization for Migration (IOM) noted that it was not possible to estimate accurately the number of trafficked women. In 2003, the route of trafficking and the modus operandi changed. Recent trends indicated that traffickers rented private apartments, rather than using public bars and brothels, to conduct their illicit activities. Clandestine locations complicated the already difficult task of finding the victims and allowed traffickers to operate with less concerns about local authorities. In 2003, fewer victims were trafficked to the former Yugoslavia and a higher number of victims were trafficked to Western Europe. However, trafficking routes generally went from the border with Moldova to all Balkan countries. This pattern did not change during the year. Iasi and Timisoara remained major transit centers. While victims were primarily women and girls trafficked for sexual exploitation, there were reports that men were trafficked to Greece for agricultural labor.

For the year, the IOM reported that it assisted 130 trafficking victims, all of who were female, and 16 of who were minors. Of these, 120 victims were repatriated back to the country, and 21 were provided with integration assistance.

As of June, the country had approximately 34,000 children in orphanages, some of which reportedly paid insufficient attention to the dangers of girls being trafficked from their facilities. Persons forced out of orphanages between the ages of 16 and 18 often had no identity documents, very little education, and few, if any, job skills. NGOs believed that many girls from orphanages were unaware of the danger and fell victim to trafficking networks.

Women were frequently recruited by persons they knew or by newspaper advertisements. A friend or relative would make the initial offer, often telling the victim that she would obtain a job as a baby sitter or waitress. According to the IOM, most women were unaware that they would be forced into prostitution. A minority of trafficked women were sold into prostitution by parents or husbands or kidnapped by trafficking rings. Government officials reported that trafficking rings appeared to be operated primarily by citizens; several domestic prostitution rings were active in trafficking.

The Government continued to recognize that corruption in the police, particularly local forces, was a problem. The majority of the corrupt officers work for the Border Police and the Customs Agency. The Government continued training and made personnel changes in law enforcement agencies to improve the response to trafficking. Police continued to investigate suspected trafficking through border crossing checks, with Border Police questioning victims and attempting to identify traffickers. Organized Crime Directorate officers assigned to investigate trafficking questioned suspects who were identified by victims.

The law requires the Government to protect trafficking victims and authorizes undercover operations and electronic surveillance against traffickers. The law also eliminates criminal penalties for prostitution if the victim surrenders to authorities or cooperates in the investigation of traffickers.

The Government generally provided little aid to repatriated victims. The IOM, the MOAI, and a small number of local NGOs dealt with trafficking issues. The IOM and the MOAI continued to operate a shelter in Bucharest for up to 10 victims with the assistance of Romanian Orthodox Church social workers, NGOs in Bucharest, and the National Office for Refugees. The NGO Reaching Out continued to operate a shelter in Pitesti, and the local NGO Alternative Sociale continued to operate a shelter in Iasi with support from the IOM, the Orthodox Church, and limited support from the Government. The Government opened two of the nine shelters required by law, one in Mehedinti and the other in Timis.

During the year, numerous media stories and antitrafficking messages on government-sponsored television raised awareness of the problem. All relevant ministries participated in an IOM-coordinated Counter Trafficking Steering Committee and the IOM, with some support from foreign governments, continued its campaign to increase awareness of the problem.

*Persons With Disabilities.*—Difficult economic conditions and serious budgetary constraints contributed to harsh living conditions for those with physical or mental disabilities. In February, 18 psychiatric patients in a Poiana Mare hospital died as a result of malnutrition and hypothermia. In response to these deaths, international human rights organizations targeted psychiatric hospitals in the country. A May Amnesty International (AI) report expressed concern that the placement, living conditions, and treatment of patients in several psychiatric wards and hospitals violated international human rights standards and best practices. AI urged the Government to reform the psychiatric health system. The Ministry of Health responded by issuing an order to increase the daily food allocation for psychiatric patients from approximately \$1.50 (53,000 lei) per day to approximately \$2.00 (70,000 lei). In April, the GOR allocated \$1.8 million (60 million lei) to fund the Ministry's order and to rehabilitate seven psychiatric hospitals, including the hospital in Poiana Mare.

Outside of large institutions, social services for persons with disabilities were almost nonexistent. Many persons with disabilities could not make use of government provided transportation discounts because public transport did not have facilitated access. The law does not mandate accessibility for persons with disabilities to buildings and public transportation. In practice, the country had few facilities specifically designed for persons with disabilities. Very few handicapped parking spaces were available, virtually no public buildings were designed for wheelchair access, and most restrooms had no special areas for the physically challenged. Major shopping malls throughout the country were similarly ill equipped; only a few supermarkets in Bucharest had designs that enabled easy access.

In July, Parliament passed a law to amend the existing legislation on special protection and employment of persons with disabilities. The new law increased benefits for blind persons and for persons with serious disabilities.

*National/Racial/Ethnic Minorities.*—The Department for Interethnic Relations and the National Office for Roma were responsible for monitoring the problems of ethnic minorities, maintaining contacts with minority groups, submitting proposals for draft legislation and administrative measures, maintaining links with local authorities, and investigating complaints. The Constitution authorizes citizens belonging to national minorities to express themselves in their mother tongue before courts of law.

In March, Parliament passed a law on local elections that potentially discriminated against some minority organizations by defining "national minorities" as only the ethnic groups represented in the Council of National Minorities and requiring that these organizations meet more stringent requirements to participate in local government compared to minority groups that were already represented in Parliament. For example, an organization of ethnic Hungarians, the Civic Union Of Hungarians, had to provide lists of at least 25,000 members from at least 15 counties and Bucharest, with at least 300 members in each county, in order to run candidates in the local elections, despite the fact that the UDMR is already in Parliament and allowed to run without providing proof of membership. The Law on General elections, adopted in September, included a similar provision.

Ethnic Hungarians are the largest minority, comprising 1.4 million persons, according to the 2002 census. The UDMR party was in a de facto political alliance with the ruling minority PSD Government. Beginning in 2001, the UDMR signed annual protocols of cooperation with the PSD. After the November and December national elections, the UDMR changed its allegiance and joined the new governing coalition led by the PNL-PD Alliance.

A government decree permits students in state-funded primary and secondary schools to be taught in their own language, with the exception of secondary school courses on the history and geography of the country. In the Moldavia region, some in the Roman Catholic Csango community, who speak an archaic form of Hungarian, repeatedly complained that there was no schooling available in their language. They established two school groups with Hungarian as the language of instruction in schools in Pustiana and Cleja during the 2002–03 school year. This initiative was expanded to 9 groups in 7 localities for the 2003–04 school year and to 24 groups in 9 localities, totaling 450 students, for the 2004–05 school year. However, they could not hold religious services in the community in their mother tongue, because of the opposition of the Roman Catholic Bishopric.

According to the 2002 census, the Romani population numbered 535,250, or 2.5 percent of the population. However, a 2004 European Commission report on health policy and the European Union estimated that the Romani population was between 1.8 and 2.5 million. The World Health Organization (WHO) reported that the Romani population represented approximately 10 percent of the total population. Romani groups complained that police brutality, including beatings and harassment, was routine (*see* Section 1.c.). According to the Government, only 27 percent of Roma had steady jobs and only half of those jobs were considered skilled. Illiteracy among Roma older than 45 years of age was approximately 30 percent.

Some schools, such as in Cehei (Salaj County), Tg. Frumos (Iasi County), Geoagiu (Hunedoara County), Ardușat (Maramures County, Tg. Jiu (Gorj County) and others segregated Romani children. In April, following complaints by several NGOs that monitored such situations, the Ministry of Education prohibited segregation in schools by a notification that was not legally binding; Romani NGOs are presently pressing for the issuance of an order to this effect.

The National Council on Combating Discrimination received 157 public complaints during the first half of the year, of which 62 were resolved. The Council initiated another 17 cases from its own findings, bringing the total to 174 cases. Of the 62 resolved cases, the Council identified 12 cases of discrimination, applying 2 fines and 10 reprimands. Of these, three of the complaints involved discrimination against Roma, one against the Jewish community, and one against ethnic Hungarians. The Council set up a National Antidiscrimination Alliance, a forum for discussion with NGOs, in March 2003 and drafted a National Antidiscrimination Plan in September 2003.

Romani CRISS continued to monitor cases of alleged human rights violations in 10 counties and Bucharest. Human rights monitors followed 12 cases documented in 2003 and identified 27 new cases in these counties. Of the 27 cases, 20 involved discrimination, while 7 were cases of violence or abuse against Roma.

The Romani population continued to be subject to societal discrimination. A 2003 survey by the Press Monitoring Agency showed that approximately 80 percent of the television news on Roma concerned conflict-generating events, such as illegal migration and police raids in Romani communities, and used images reflecting stereotypes.

Romani NGOs asserted that, with the exception of setting up implementing bodies, the 2001 National Strategy for the Improvement of the Situation of Roma had few practical results. The National Office for Roma maintained a database on the living conditions and needs of the Romani community. However, the office was understaffed and undertrained, and its approximately \$1.9 million (64 billion lei) budget was insufficient to implement the strategy.

During the year, little progress was made with regard to the implementation of the partnership protocol, signed by the Health Ministry and the Roma Party in 2001, that sets forth cooperative measures to ensure that Roma have access to health care. In 2003, Romani CRISS maintained a training program (with private funding) for Romani health mediators in cooperation with the Ministry of Health, and the Directorate of Public Health hired 160 such mediators. Romani CRISS and the Health Ministry continued their cooperation.

Romani CRISS was also involved in a national program of training police on conflict management and human rights. Police from 30 counties were trained on these issues.

*Other Societal Abuses and Discrimination.*—Although homosexuality was decriminalized in 2001, NGOs complained that there was still a high degree of hostility against homosexuals, including violence by police (*see* Section 1.c.). NGOs claimed that this hostility prevented the reporting of some harassment and discrimination. Members of the gay and lesbian community also voiced concerns about discrimination in public education and health care systems.

The National Union of the Organizations of Persons Affected by HIV/AIDS (UNOPA) monitored the treatment of persons, many of them children, who were infected with HIV/AIDS. The number of cases of abuse decreased from 789 to 317, compared to the previous year. Half of the total cases were due to health system deficiencies. Some of the problems included denial of access to dentistry and dermatological services (7 cases), interruption of treatment due to poor hospital management, and interruption of treatment monitoring due to lack of monitoring tests. The UNOPA report, which covered only 15 of the 41 counties in the country, also included cases of limited patient access to education and delayed food allowances. Breaks in confidentiality were reported in 3 percent of the cases. According to UNOPA, the principle of confidentiality and the right to work were sometimes dis-

regarded in cases of persons with HIV. For example, some employees reportedly were hired and fired according to their HIV status in violation of the labor laws.

*Section 6. Worker Rights*

*a. The Right of Association.*—All workers, except certain public employees, have the legal right to associate freely and to form and join labor unions without previous authorization, and they freely exercised this right. Ministry of Defense, MOAI, and intelligence personnel are not allowed to unionize. The majority of workers were members of one of approximately 18 national trade union confederations and smaller independent trade unions. Workers cannot be forced to join or withdraw from unions, and union officials who resign elected positions and return to the regular work force are protected against employer retaliation.

The right to form unions generally was respected in practice. However, some employers have created enterprise-friendly unions. Some unions claimed that the Government interfered in trade union activities, collective bargaining, and strikes, and alleged that union registration requirements were excessive.

The law prohibits antiunion discrimination, and the Government generally respected this prohibition in practice.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers the right to bargain collectively, but collective bargaining was hindered by state control of many industrial enterprises and the absence of independent management representatives at these entities. Contracts resulting from collective bargaining were not consistently enforced. Basic wage scales at state owned enterprises were established through collective bargaining with the Government. Public employees could not bargain for salaries, which were set by the Government. Unions claimed that downsizing decisions resulting from agreements with international financial institutions violated labor agreements.

The collective labor dispute law establishes the conciliation, mediation, and arbitration procedures that must be followed during strikes. The law provides for establishment of tripartite arbitration panels from arbitrators approved by the Economic and Social Council, where trade unions and employers' associations each have one-third of the membership. Nevertheless, mediation capability has not developed fully. Local panels were poorly trained, and unions continued to take disputes to the Government for resolution.

Lengthy and cumbersome conditions made it difficult to hold strikes legally. Unions may strike only if all conciliation means have failed and they give the employer 48 hours notice. Strikes for political reasons are prohibited. Companies can claim damages from strike organizers if a court deems a strike illegal. Unions complained that they must submit their grievances to government-sponsored conciliation before initiating a strike, and that the courts had a propensity to declare the majority of strikes illegal. Judges, prosecutors, and related Ministry of Justice staff are prohibited from striking, as are Ministry of Defense, MOAI, and intelligence service employees. As in the past, fear of job loss due to privatization motivated many strikes.

Labor legislation is applied uniformly through the country, including in the 6 free trade zones and the 31 disadvantaged zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports of Romani children involved in child labor and trafficking (see Sections 6.d. and 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor legislation was adequate; however, enforcement tended to be lax except in extreme cases, most notably those that attracted media attention, and child labor remained a problem. The Government recognized that child labor was a problem and continued to make progress in eliminating the worst forms of child labor.

The minimum employment age is 16 years, but children may work with the consent of parents or guardians at age 15, although only “according to their physical development, aptitude, and knowledge.” Minors are prohibited from working in hazardous conditions. Violations of the child labor laws are punishable by imprisonment for periods of 2 months to 3 years. Working children under the age of 16 have the right to continue their education, and the law obliges employers to assist in this regard. The Ministry of Labor and Social Protection has authority to impose fines and close factories to ensure compliance with the law.

In May, the Ministry of Labor, Social Solidarity and Family issued jointly with UNICEF and the ILO a report on child labor which estimated that 3.9 million of the 5.6 million children in the country were “economically active.” Over 300,000 (approximately 7 percent) were “child laborers,” working without any contractual arrangements in agriculture or low skilled jobs, while 900,000 (19 percent) were work-

ing in households, especially in rural areas. Approximately 300,000 (6 percent) were engaged in hard work activities, while 60,000 to 70,000 (more than 1 percent) were involved in the “worst forms of child labor,” including hazardous work, sexual exploitation, forced labor, trafficking, or criminal activity. This last category included more than 3,000 “street children” in the country. Child labor, including begging, selling trinkets on the street, or washing windshields, remained widespread in the Romani community; children engaged in such activities could be of any age.

A department in the Prime Minister’s office is responsible for child protection. The Government established organizations in the counties and in Bucharest to enforce child welfare laws. The roles and responsibilities of the agencies that enforce child labor laws remained ill defined, and these laws were often enforced only when a particularly grave case became public. Despite the prevalence of child labor, there were no reports of anyone being charged or convicted during the year under any of the child labor laws.

With ILO support, the Government began implementing a comprehensive program to eliminate child labor that included measures to prevent the increase of child labor in both urban and rural areas; build the capacity of government and NGOs to address child labor cases; research the extent and nature of the child labor; and raise public awareness of the problem. The program’s strategy was to identify vulnerable groups and initiate measures in partnership with government agencies, trade unions, universities, and NGOs.

*e. Acceptable Conditions of Work.*—Most wage rates were established through collective bargaining at the enterprise level and based on minimum wages for specific economic sectors and categories of workers. The Government set these minimums after negotiation with industry representatives and labor confederations. Minimum wage rates generally were observed and enforced. During the year, the minimum monthly wage was raised from approximately \$72 (2.5 million lei) to approximately \$85 (2.8 million). The minimum monthly wage did not provide a decent standard of living for a worker and family.

The law provides for a standard workweek of 40 hours or 5 days, with overtime paid for weekend or holiday work or work in excess of 40 hours, but not to exceed 48 hours per week. The code requires a 24-hour rest period in the workweek, although most workers received 2 days off per week. Paid holidays range from 18 to 24 working days annually, depending on the employee’s length of service. The law requires employers to pay additional benefits and allowances to workers engaged in particularly dangerous or difficult occupations.

Neither the Government nor industry improved workplace health and safety conditions significantly. The Ministry of Labor, Social Solidarity, and Family established and enforced safety standards for most industries. However, it lacked trained personnel for enforcement, and employers often ignored its recommendations. Workers have the right to refuse dangerous work assignments but seldom invoked it in practice.

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## RUSSIA

The 1993 Constitution established a governmental structure with a strong head of state (President), a government headed by a prime minister, and a bicameral legislature (Federal Assembly) consisting of a lower house (State Duma) and an upper house (Federation Council). The country has a multi-party system, but the pro presidential United Russia party that controls more than two thirds of the State Duma puts majority support within reach for all presidential priorities. President Vladimir Putin was re-elected in March in an election process that the Organization for Security and Cooperation in Europe (OSCE) determined did not meet international standards in a number of respects, particularly in equal access to the media by all candidates and secrecy of the ballot; however, the voting itself was relatively free of manipulation and the outcome was generally understood to have represented the will of the people. The Constitution provides for an independent judiciary, but the executive branch appeared to drive judicial decisions in high profile or Kremlin directed cases. Although also impaired by corruption, the judiciary continued to show greater independence in non politicized cases, and the criminal justice system was slowly undergoing reforms.

The Ministry of Internal Affairs (MVD), the Federal Security Service (FSB), and the Office of the Prosecutor are responsible for law enforcement at all levels of Government. The FSB’s core responsibilities are security, counterintelligence, and counterterrorism, but it also has broader law enforcement functions, including fight-

ing crime and corruption. The FSB continued to regard contact with foreigners and the presence of non Orthodox Christians as security issues. The FSB operated with only limited oversight by the Office of the Prosecutor General and the courts. The authorities increasingly dealt with terrorism and other security threats in parts of the country by employing MVD Internal Troops. The primary mission of the armed forces is national defense. The Government employed them in Chechnya, and they are frequently used for civil disturbances. Civilian authorities generally maintained effective control over the security forces. Members of the security forces, particularly within the internal affairs apparatus, continued to commit numerous and serious human rights abuses.

The country had a population of approximately 144 million. The annual gross domestic product grew by 6.9 percent as of October, slightly less than in 2003. Industrial production grew by 4 percent, and real income increased by 5 percent; however, approximately 19 percent of the population continued to live below the official monthly subsistence level of \$82 (2,296 rubles). As of October, official unemployment was 7.5 percent, down from 8.4 percent at the end of 2003. Corruption continued to be a negative factor in the development of the economy and commercial relations.

Although the Government generally respected the human rights of its citizens in some areas, its human rights record was poor in certain areas and worsened in several others. Changes in the parliamentary election laws and a move from election to nomination by the President of regional governors further strengthened the power of the executive branch and, together with media restrictions, a compliant State Duma, shortcomings in recent national elections, law enforcement corruption, and political pressure on the judiciary, raised concerns about the erosion in accountability of government leaders to the people.

The Government's human rights record remained poor overall in the continuing struggle against rebels in Chechnya, where both sides demonstrated little respect for basic human rights. There were credible reports of serious violations, including numerous reports of unlawful killings and of abuse of civilians by both the Government and Chechen rebels in the Chechen conflict. The September massacre of school children and adults in Beslan, North Ossetia, exemplified the gross violation of human rights in the region by terrorist elements. There were reports of both government and rebel involvement in politically motivated disappearances in Chechnya and Ingushetiya. Individuals seeking accountability for these abuses continued to be targeted.

There were credible reports that law enforcement personnel engaged in torture, violence, and other brutal or humiliating treatment, often with impunity. Hazing in the armed forces remained a problem. Prison conditions improved but continued to be extremely harsh and frequently life threatening. Earlier changes in criminal procedures led to further reductions in arbitrary arrest and lengthy pretrial detention, and judges routinely enforced pre trial time limits. Government protection for judges from threats by organized criminal defendants remained inadequate, and a series of cases of alleged espionage caused concerns regarding the lack of due process and the influence of the FSB in judicial proceedings. Amnesty International (AI) has highlighted the case of Igor Sutyagin, whom it has declared to be a political prisoner. Authorities continued to infringe on citizens' privacy rights.

Government pressure continued to weaken freedom of expression and the independence and freedom of the media, particularly major national television networks and regional media outlets which were the primary source of information for most of the population. The print media remained vibrant and pluralistic, but its impact on public opinion was limited by low circulation numbers. Authorities, primarily at the local level, limited freedom of assembly and imposed restrictions on some religious groups. Societal discrimination, harassment, and violence against members of some religious minorities remained problems despite some government attempts to address these problems. Some local governments restricted citizens' freedom of movement, primarily by denying legal resident permits to new residents from other areas of the country.

Government institutions intended to protect human rights were relatively weak but remained active and public. The Government continued to place restrictions on the activities of both humanitarian non governmental organizations (NGOs) and international organizations in Chechnya, at least in part for security reasons. The authorities regarded some NGOs with increasing suspicion, and the security services and other authorities harassed or threatened to close some local human rights NGOs. Ethnic minorities, including Roma and persons from the Caucasus, Central Asia, Asia, and Africa faced widespread governmental and societal discrimination, and, increasingly, racially motivated attacks. Trafficking in persons, particularly women and girls, remained a serious problem despite progress in combating it. There were some reports of forced labor and child labor.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings by the Government or its agents; however, there continued to be credible reports that the federal armed forces engaged in unlawful killings in Chechnya. Their use of indiscriminate force in areas of Chechnya with significant civilian populations resulted in numerous deaths (*see* Section 1.g.). The security forces generally conducted their activities with impunity. For example, in May, a jury acquitted Captain Eduard Ullman and three other servicemen of killing six Chechen civilians in 2002; prosecutors have appealed the verdict. However, at least one serviceman was convicted on similar charges. Hazing in the armed forces resulted in the deaths of servicemen (*see* Section 1.c.).

On July 7, a court in Qatar convicted two Russian intelligence agents of the murder of Zelimkhan Yandarbiyev, a leader of the Chechen separatist movement who had resided in Doha since 2000. Yandarbiyev, whose extradition had been sought by the authorities and who had been placed on the U.N. Security Council's Resolution 1267 Sanctions Committee and declared a terrorist by several countries, was killed on February 13 when a bomb attached to his car exploded. The Government denied that the two agents had been involved in the killing. They were returned to Russian government custody in December.

There were a number of killings of government officials throughout the country, some of which may have been politically motivated, in connection with the ongoing strife in Chechnya or with politics. For example, Ansar Tebuyev, the Deputy Prime Minister of the Karachay Cherkess Republic, was shot and killed in broad daylight on October 18, outside the Republic's Interior Ministry building. Deputy Prosecutor General Fridinskiy reported that as of May, Chechen rebels had killed 11 local administration heads since the anti-terrorist operation in Chechnya began.

The press and media NGOs reported that unknown parties killed a number of journalists during the year for reasons that appeared to be related to the journalists' work (*see* Section 2.a.).

On June 19, Nikolay Girenko, an expert on hate crimes, was killed in his apartment (*see* Section 5). His colleagues believed the motive for the killing was Girenko's activity as an official expert witness in a number of high profile court cases involving ethnic and religious issues, including the case of the Moscow based Sakharov Center's employees who were charged with inflaming ethnic hatred for hosting an exhibition critical of religion.

On March 18, a jury at the Moscow City Court found Mikhail Kadanyev, ex leader of Boris Berezovskiy's wing of the Liberal Russia party, and three associates guilty in organizing the assassination of prominent Duma Deputy and Liberal Russia party Co Chairman Sergey Yushenkov, who was shot and killed in April 2003. Yushenkov headed a rival wing of Liberal Russia and was killed shortly after announcing that his wing would take part in the December 2003 State Duma elections. Prosecutors argued that Kadanyev and his associates had wanted to take control of Liberal Russia's finances, since Yushenkov had been engaged in rivalry for leadership within his own party. Some observers speculated that the professionally executed killing was motivated by supporters of the Government because Yushenkov had also been an outspoken critic of the Putin administration on a number of issues.

No progress was reported in the investigation of the July 2003 killing of Yuriy Shchekochikhin, a member of the Duma and deputy editor of the *Novaya Gazeta* newspaper. One of Shchekochikhin's former colleagues at the newspaper told the media in August "no one had conducted a proper investigation." At the time of his death, Shchekochikhin, along with Yushenkov, had begun to investigate allegations of FSB responsibility for a series of 1999 apartment building bombings.

On August 10, the St. Petersburg City Court convicted another suspect in the 1999 killing of St. Petersburg Legislative Assembly Deputy Viktor Novoselov. That conviction concluded all prosecutions related to this killing.

The St. Petersburg City Court has been hearing a case pertaining to the 1998 killing of Galina Starovoytova, a prominent Duma deputy, since December 2003. Suspects remained in detention at year's end.

On June 10, the Moscow Circuit Military Court again acquitted all the defendants accused of organizing the 1994 murder of Dmitriy Kholodov, military affairs correspondent for the daily newspaper *Moskovskiy Komsomolets*. On December 6, the Office of the Prosecutor General appealed to the Supreme Court to begin a new trial, although the 10 year statute of limitations on Kholodov's case ended on October 17, making it impossible to sentence the defendants to prison terms even if the June 10 acquittal were overturned (*see* Section 2.a.).

During the September 1 terrorist attack on a school in Beslan, North Ossetia, at least 338 hostages were killed (*see* Section 1.g.).

Chechen rebels assassinated Chechen President Akhmed Kadyrov in May, killed numerous civilian officials and militia associated with the federally appointed Chechen administration, and threatened to kill Kadyrov's successor Alu Alkhanov, who was elected on August 29 (*see* Section 1.g.). Chechen fighters killed a number of federal soldiers whom they took prisoner (*see* Section 1.g.). Many individuals were kidnapped and then killed in Chechnya during the year (*see* Sections 1.b., 1.c., and 1.g.). Both sides to the conflict, as well as criminal elements, were involved in these activities. Authorities attributed bombing incidents in Moscow and several cities in southern areas of the country to Chechen terrorists.

Government forces and Chechen fighters continued to use landmines extensively in Chechnya and Dagestan. According to UNICEF estimates, since 1995, approximately 3,100 victims have been killed or wounded by landmines or unexploded ordnance in Chechnya. Over the last year, UNICEF has noted a decline in the number of such incidents, likely as a result of increased awareness.

*b. Disappearance.*—There were reports of extensive government involvement in politically motivated disappearances in Chechnya and Ingushetiya (*see* Section 1.g.).

Criminal groups in the Northern Caucasus, some of which may have links to elements of the rebel forces, frequently resorted to kidnapping. The main motivation behind such cases apparently was ransom, although some cases had political or religious overtones. The hostage takers held many of their victims in Chechnya or Dagestan.

Arjan Erkel, the head of the Doctors without Borders Mission in Dagestan, adjacent to Chechnya, was released in April after a ransom of approximately \$1.35 million (1 million euro) was paid to his captors, who remained unknown. This event and overall security problems led many NGOs to limit their activities in the North Caucasus.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, violence, and other brutal or humiliating treatment or punishment; however, there were credible reports that law enforcement personnel frequently engaged in these practices to coerce confessions from suspects and that the Government did not consistently hold officials accountable for such actions. Neither the law nor the Criminal Code defines torture; it is mentioned only in the Constitution. As a result, it was difficult to charge perpetrators. The only accusation prosecutors could bring against the police was that they exceeded their authority or committed a simple assault.

Prisoners' rights groups, as well as other human rights groups, documented numerous cases in which law enforcement and correctional officials beat and otherwise abused detainees and suspects. Human rights groups described the practice of such abuse as widespread. Numerous press reports indicated that the police frequently beat persons with little or no provocation or used excessive force to subdue detainees.

There was no indication of a return to the widespread use of psychiatric methods against political prisoners. There have been anecdotal reports of psychiatry being used to "cure" followers of non traditional religions. After an investigation, Jehovah's Witnesses denied an NGO report that a number of Witnesses had been involuntarily placed in a psychiatric hospital in Penza.

Cases of physical abuse by police officers usually occurred within the first few hours or days of arrest and usually took one of four forms: Beatings with fists, batons, or other objects; asphyxiation using gas masks or bags (at times filled with mace); electric shocks; or suspension by body parts (for example, suspending a victim from the wrists, which are tied together behind the back). Allegations of abuse were difficult to substantiate because of lack of access by medical professionals and because the techniques allegedly used would leave few or no permanent physical traces. There were credible reports that government forces and Chechen fighters in Chechnya tortured detainees (*see* Section 1.g.).

Reports by refugees, NGOs, and the press suggested a pattern of police beatings, arrests, and extortion directed at persons with dark skin or who appeared to be from the Caucasus, Central Asia, or Africa, as well as Roma. For example, the press reported that in Novosibirsk four policemen were arrested on suspicion of extorting over \$1 million (28 million rubles) from a Romani family by kidnapping and torturing family members until their demands were met. In November 2003, one Roma was allegedly tortured for 7 hours. The victims did not press charges, but the policemen were eventually convicted on earlier charges of a similar nature.

Police continued to harass defense lawyers, including through beatings and arrests, and continued to intimidate witnesses (*see* Section 1.e.).

In December, human rights activists investigated mass beatings and detentions by police in Blagoveshchensk, Bashkortostan. According to activist Ildar Isangulov, based on his interviews with residents, residents were beaten because they voted “incorrectly” in the republic’s December presidential election. Novaya Gazeta correspondent Marat Khairullin offered Ekho Moskvu a similar account, saying he was convinced the raids were “revenge” against the vast majority of Blagoveshchensk residents who voted against incumbent President Murtaza Rakhimov.

In contrast to previous years, there were no reports of beating of peaceful protesters.

Various abuses against military servicemen, including, but not limited to, the practice of “dedovshchina” (the violent, at times fatal, hazing of new junior recruits for the armed services, MVD, and border guards) continued during the year; however, the Government claims that such practices have declined due to its attention to this problem. Press reports cited serving and former armed forces personnel, the Main Military Prosecutor’s Office (MMPO), and NGOs monitoring conditions in the armed forces as indicating that such mistreatment often included the use of beatings or threats of increased hazing to extort money or material goods. Government officials announced that approximately 25 percent of the 11,500 crimes committed in the army during the year were related to hazing. Over the first 6 months of the year, 25 servicemen died due to hazing. During the year, the Moscow Committee of Soldiers’ Mothers registered 320 complaints from servicemen. The majority of complaints (264) related to beatings. Servicemen also complained about sexual abuse, torture, and enslavement. Soldiers often did not report hazing to either unit officers or military prosecutors due to fear of reprisals, since officers reportedly in some cases tolerated or even encouraged such hazing as a means of controlling their units. There were also reports that officers used beatings to discipline soldiers whom they found to be “inattentive to their duties.” The Union of Soldiers’ Mothers Committee (USMC) believed that, as a result of fear of reprisals, the indifference of commanders, and deliberate efforts to cover up such activity, most hazing incidents and assaults were not reported.

Hazing reportedly was a serious problem in Chechnya, particularly where contract soldiers and conscripts served together.

Both the USMC and the MMPO received numerous reports about “nonstatutory relations,” in which officers or sergeants physically assaulted or humiliated their subordinates.

Despite the acknowledged seriousness of these problems, the leadership of the armed forces made only superficial efforts to implement substantive reforms in training, education, and administration programs within units to combat abuse.

Prison conditions remained extremely harsh and frequently life threatening. The Ministry of Justice’s (MOJ’s) Main Directorate for the Execution of Sentences (GUIN) administered the penitentiary system centrally from Moscow, except for the Lefortovo pretrial detention center in Moscow, which was run by the FSB. There were five basic forms of custody in the criminal justice system: Police temporary detention centers, pretrial detention facilities known as Special Isolation Facilities (SIZOs), correctional labor colonies (ITKs), prisons designated for those who violate ITK rules, and educational labor colonies (VTKs) for juveniles. As of June, there were approximately 850,000 persons in the custody of the criminal justice system. Men were held separately from women, as were juveniles from adults.

According to GUIN, the official annual death rate in SIZO was 2,000 persons. Most died as a result of poor sanitary conditions or lack of medical care (the leading cause of death was heart disease). The press often reported on individuals who were mistreated, injured, or killed in various SIZOs; some of the reported cases indicated habitual abuse by officers.

Abuse of prisoners by other prisoners continued to be a problem. Violence among inmates, including beatings and rape, was common. There were elaborate inmate enforced caste systems in which informers, homosexuals, rapists, prison rape victims, child molesters, and others were considered to be “untouchable” and were treated very harshly, with little or no protection provided by the prison authorities.

Penal institutions frequently remained overcrowded; however, there were some improvements. There were no mass amnesties as had been the case in earlier years, but the authorities continued to take longer term and more systemic measures to reduce the size of the prison population. These included the use of alternative sentencing in some regions and revisions of both the Criminal Code and the Criminal Procedures Code that eliminated incarceration as a penalty for a large number of less serious offenses. In December 2003, as a result of these legislative changes, 130,000 sentences were reviewed, leading to the freeing of 7,000 prisoners and the reduction of sentences of 42,000 others. Many penal facilities remained in urgent need of renovation and upgrading. By law, authorities must provide inmates with

adequate space, food, and medical attention; with the significant decrease in prison populations, they were coming closer to meeting these standards.

Inmates in the prison system often suffered from inadequate medical care. Public health measures funded by international aid and by the increase of government resources for the prison system's medical budget have reduced the incidence of tuberculosis and HIV. The recently established Public Council in the Ministry of Justice headed by human rights advocate Valeriy Borshev reported that during the last 3 years, the number of sick prisoners and detainees decreased 27 percent. According to the GUIN, as of January 1, there were approximately 75,000 tuberculosis infected persons and 36,000 HIV infected persons in SIZOs and correction colonies. Nevertheless, tuberculosis infection rates were far higher in detention facilities than in the population at large. The PCPR also reported that conditions in penal facilities varied among the regions. Some regions offered assistance in the form of food, clothing, and medicine. NGOs and religious groups offered other support.

Conditions in SIZOs, where suspects were confined while awaiting the completion of a criminal investigation, trial, sentencing, or appeal, varied considerably, but as a result of legal reforms and other measures, the pretrial population had declined by approximately 50 percent since 2000, virtually eliminating the problem of overcrowding in those institutions. Despite these improvements, however, conditions remained extremely harsh and posed a serious threat to health and life. Health, nutrition, and sanitation standards remained low due to a lack of funding. Head lice, scabies, and various skin diseases were prevalent. Prisoners and detainees typically relied on their families to provide them with extra food. Poor ventilation was thought to contribute to cardiac problems and lowered resistance to disease.

ITKs held the bulk of the nation's convicts. There were 753 ITKs. Guards reportedly disciplined prisoners severely to break down resistance. At times, guards humiliated, beat, and starved prisoners. In the timber correctional colonies, where hardened criminals served their time, beatings, torture, and rape by guards reportedly were common. The country's "prisons" distinct from the ITKs were penitentiary institutions for those who repeatedly violated the rules in effect in the ITKs.

VTKs are facilities for prisoners from 14 to 20 years of age. Male and female prisoners were held separately. In August 2003, GUIN reported that there were 62 educational colonies, 3 of which were for girls. Conditions in the VTKs were significantly better than in the ITKs, but juveniles in the VTKs and juvenile SIZO cells reportedly also suffered from beatings, torture, and rape. The PCPR reported that such facilities had a poor psychological atmosphere and lacked educational and vocational training opportunities. Many of the juveniles were from orphanages, had no outside support, and were unaware of their rights. There also were two prisons for children in Moscow. Boys were held with adults in small, crowded, and smoky cells. Schooling in the prisons for children was sporadic at best, with students of different ages studying together when a teacher could be found.

The Government generally permitted the International Committee of the Red Cross (ICRC) to work throughout the country, and the ICRC carried out regular prison visits and provided advice to authorities on how to improve prison conditions. However, there were limitations on access in the northern Caucasus, where the organization was particularly active. In that region, the Government granted the organization access to some facilities where Chechen detainees were held, but the pretrial detention centers and filtration camps for suspected Chechen fighters were not always accessible to the ICRC or other human rights monitors (*see* Section 1.g.).

*d. Arbitrary Arrest or Detention.*—The Constitution provides that individuals may be arrested, taken into custody, or detained more than 24 hours, only upon a judicial decision; however, arbitrary arrest and detention remained problems. The Chief Justice of the Russian Supreme Court was quoted in May 2003 as saying that of cases where law enforcement bodies asked courts to approve arrests, 92 percent were approved and 8 percent disapproved. He added that approximately 10 percent of such court decisions were appealed, with 87 percent of the arrests upheld by higher courts. The Criminal Procedures Code gives authorities the means to implement these requirements, and progress was made toward effective judicial oversight over arrests and detentions.

The national police force, which falls under the MVD, is organized on the federal, regional, and local levels. Although regulations and national laws prohibit corrupt activities, they were widespread and there were few crackdowns on illegal police activity. There were reports that the Government addressed only a fraction of the crimes that federal forces committed against civilians in Chechnya (*see* Section 1.g.). Government agencies such as the MVD have begun to educate officers about safeguarding human rights during law enforcement activities through training provided by foreign governments; however, the security forces remained largely unreformed.

There were credible reports that security forces continued regularly to single out persons from the Caucasus for document checks, detention, and the extortion of bribes. Human rights observers reported that, as part of a broader MVD operation called Hurricane 4, MVD officers in Moscow were instructed in February to investigate residents of the Caucasus, including verifying their proper registration, inquiring of neighbors about their activities, and ascertaining the presence of relatives in the Northern Caucasus. According to NGOs, federal forces commonly detained groups of Chechen men at checkpoints along the borders between Chechnya and Ingushetiya, in targeted operations known as "night raids," or during "mopping up" operations following military hostilities, and severely beat and tortured them.

At least two instances were confirmed in which local officials detained members of Jehovah's Witnesses who were engaged in the public discussion of their religious views, but the individuals were released quickly.

The Criminal Procedure Code limits the duration of detention without access to counsel or family members and renders statements given in the absence of a defense attorney unusable in court; however, there were reports that these reforms were being undermined by the police practice of obtaining "pocket" defense counsel for these interviews and by the overall ignorance by defense counsel of these provisions.

In June 2003, the Criminal Procedure Code was amended to permit "witnesses" to bring their own attorneys to interviews conducted by the police. This amendment was designed to address the police practice of interrogating suspects without the presence of counsel under the fiction that they were witnesses, and then, after obtaining incriminating statements, declaring the suspects to be defendants. Citizens' ignorance of their new rights was a problem. The Government continued to engage in a public education program to inform citizens of their rights and responsibilities under the system introduced by the Code of Criminal Procedure, such as the right to a lawyer and the obligation to serve on juries when called. The Council of Judges together with the Supreme Court of the Russian Federation and the Russian Information Agency Novosti conducted an educational program called "Public Trust" for citizens that explained the work of the judicial system and citizens' rights.

The Code states that police may initially detain an individual not more than 24 hours before the case must be referred to the prosecutor, and the prosecutor is given 24 hours in which to open or reject the criminal case. At the end of this 48 hour period, a judge must determine whether the suspect should be detained. The Code specifies that within 2 months of a suspect's arrest, police should complete their investigation and transfer the file to the prosecutor for arraignment. A prosecutor may request the court to extend the period of criminal investigation to 6 months in "complex" cases with the authorization of a judge. With the personal approval of the Prosecutor General, the judge may extend that period up to 18 months. Juveniles may be detained only in cases of grave crimes.

Although recently adopted, these procedures were generally respected, although some judges still did not appear to enforce them fully. Judges regularly suppressed confessions of suspects whose confessions were taken without a lawyer present and freed suspects who were held in excess of detention limits, although they usually granted prosecutors' motions to extend the detention period for good cause shown. The Supreme Court overturned a number of cases in which lower court judges granted permission to detain individuals on what the Supreme Court considered to be inadequate grounds.

Some regional and local authorities took advantage of the system's procedural weaknesses to arrest persons on false pretexts for expressing views critical of the Government. Human rights advocates in some regions were charged with libel, contempt of court, or interference in judicial procedures in cases with distinct political overtones. Journalists, among others, have been charged with other offenses and held either in excess of normal periods of detention or for offenses that do not require detention at all (*see* Sections 2.a. and 4).

Significant reforms occurred in law enforcement and judicial procedures; however, the apparently selective arrest and detention of prominent businessman Mikhail Khodorkovskiy on the eve of parliamentary elections raised a number of concerns over the arbitrary use of the judicial system.

An international NGO delegation that visited two psychiatric hospitals during the year noted that there was no judicial process for commitment that provided individuals subject to commitment with the right to appear before a court for a determination of the legality of their commitment. According to the Code of Criminal Procedure, such individuals may appear in court unless their mental state does not allow it; however, in such cases the appearance of their legal guardians (relatives, adoptive parents, caretakers) is obligatory.

On at least one occasion, the authorities held relatives of a wanted Chechen rebel leader, apparently forcing his surrender (*see* Section 1.g.). Relatives of Chechen ter-

rorist Shamil Basayev and Chechen separatist leader Aslan Maskhadov were taken into what authorities claimed to be protective custody in September during the Beslan school seizure, although human rights groups said this action was intended as retaliation for the seizure of the school. Domestic and foreign human rights observers criticized an October suggestion by the Prosecutor General that a policy of seizing the relatives of hostage takers would reduce the incidence of hostage taking.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and there were some signs of judicial independence; however, the judiciary did not act as an effective counterweight to other branches of the Government. The Criminal Procedure Code provides for strengthening the role of the judiciary in relation to the Prosecutor General by requiring judicial approval of arrest warrants, searches, seizures, and detention (*see* Section 1.d.). According to press coverage of the 6th Congress of Russian Judges, which was held in the end of November, the average monthly salaries of different level of judges ranged from approximately \$430 (12,000 rubles) to approximately \$1,100 (30,000 rubles). In an address to judges at the Congress of Judges President Putin promised to at least double the salaries “in the very near future.” However, judges remained subject to influence from the executive, military, and security forces, particularly in high profile or politically sensitive cases. The judiciary continued to lack sufficient resources and was subject to corruption. Authorities did not provide adequate protection from intimidation or threats from powerful criminal defendants.

The judiciary is divided into three branches. The courts of general jurisdiction, including military courts, are subordinated to the Supreme Court. These courts hear civil and criminal cases and include district courts, which serve every urban and rural district, regional courts, and the Supreme Court. Decisions of the lower trial courts can be appealed only to the immediately superior court unless a constitutional issue is involved. The arbitration (commercial) court system under the High Court of Arbitration constitutes a second branch of the judicial system. Arbitration courts hear cases involving business disputes between legal entities and between legal entities and the State. The Constitutional Court (as well as constitutional courts in a number of administrative entities of the Russian Federation) constitutes the third branch.

The President approves judges after they have been nominated by the qualifying collegia, which are assemblies of judges (including some public members). President Putin rejected 160 candidates to federal judicial positions in 2003. After a 3 year trial period, the President must again confirm the judges. The collegia also had the authority to remove judges for misbehavior and to approve prosecutors’ requests to prosecute judges.

Justices of the peace, introduced beginning in 1998, deal with criminal cases involving maximum sentences of less than 3 years and some civil cases. In some regions where the system has been fully implemented, justices of the peace assumed 65 percent of federal judges’ civil cases and up to 25 percent of their criminal matters, which may have contributed to easing overcrowding in pretrial detention facilities (*see* Sections 1.c. and 1.d.). There were some justices of the peace at work in all regions except Chechnya. As of June, there were 5,500 justices of the peace and 1,053 vacancies.

Judges remained subject to intimidation and accepted bribes from officials and others. Some steps were taken to remove a number of corrupt judges. The Highest Qualifying Collegia of Judges recorded 18,749 complaints filed against judges in 2003. A total of 118 judges received “warnings,” 36 were fired, and 6 criminal cases were started against judges. In the fall, three Moscow judges were put on trial for their involvement in apartment frauds.

The Constitution provides for the right to a fair trial; however, this right was restricted in practice. Assessments of the effects of the 2002 Criminal Procedure Code on this process remained mixed. Abuses of the right to a fair trial declined; however, numerous critics argued that the country remained far from having a truly adversarial criminal procedure.

The 2002 Criminal Procedure Code provides for the nationwide use of jury trials. By January 1, all regions except Chechnya had implemented jury trials, although juries heard only 1 percent of cases. In 2003, oblast courts conducted 496 jury trials involving approximately 1,000 defendants. In contrast to trials conducted by a judge, 0.8 per cent of which ended in acquittal in 2003, 15 percent of cases tried by juries ended in acquittals (although one quarter of these verdicts were reversed on appeal).

According to Ministry of Justice official statistics, in 2003 criminal defendants in 45,500 cases (8.6 percent of all completed criminal cases) made use of a formal procedure introduced in 2002 and subsequently broadened by which guilty pleas re-

sulted in shorter sentences and abbreviated trials for crimes carrying penalties of less than 10 years.

The Criminal Procedures Code and Federal Defense Bar statute provide for the appointment of a lawyer free of charge if a suspect cannot afford one; however, this provision often was not effective in practice. The high cost of competent legal representation meant that lower income defendants often lacked competent legal representation. There were no defense attorneys in remote areas of the country. Public centers, staffed on a part time basis by lawyers, continued to offer advice at no cost on legal rights and recourse under the law; however, they were not able to handle individual cases.

The Independent Council of Legal Expertise reported that defense lawyers continued to be the targets of police harassment. Professional associations at both the local and federal levels reported police efforts at intimidation of attorneys and efforts to cover up their own criminal activities. For example, in November 2003, Olga Artyukhova, one of Mikhail Khodorkovskiy's lawyers, was searched at the correctional facility immediately following a visit with her client. During this search correctional officers seized Artyukhova's notes. In March, a similar incident involving Yevgeniy Baru, Khodorkovskiy co defendant Pavel Lebedev's lawyer, occurred after visiting with his client. Baru reported that prison officials, including the warden, had confiscated written and printed materials from his briefcase.

The May 19 conviction of Mikhail Trepashkin, who had been consultant to a parliamentary commission investigating possible FSB involvement in a series of 1999 apartment bombings, gave further cause for concern about the undue influence of the FSB and arbitrary use of the judicial system. The bombings were officially blamed on Chechens and served as partial justification for the Government's resumption of the armed conflict against Chechen fighters. Trepashkin, an attorney and former FSB official, was arrested in October 2003 and charged with disclosing state secrets and with illegal possession of a handgun and ammunition. The Moscow Circuit Military Court sentenced him to 4 years of forced labor, but he was not expected to start serving his term until the conclusion of a hearing on the handgun charge. The trial reconvened on December 15. Trepashkin's arrest came a month after his charges of FSB responsibility for the bombings were cited in a book and a week before he was scheduled to represent the relatives of a victim of one of those bombings. After his arrest, Trepashkin wrote a letter describing extremely poor conditions in his detention cell.

Authorities abrogated due process in continuing to pursue several espionage cases involving foreigners who worked with citizens and allegedly obtained information that the security services considered sensitive; in some instances prosecutors pursued such cases after earlier courts had rejected them. The proceedings in some of these cases took place behind closed doors, and the defendants and their attorneys encountered difficulties in learning the details of the charges. Observers believed that the FSB was seeking to discourage citizens and foreigners from investigating problems that the security services considered sensitive.

On June 9, the Supreme Court overturned the December 2003 jury acquittal of Valentin Danilov, who had been charged with spying for China while working on a commercial contract. In November, Danilov was convicted by a judge and sentenced to 14 years in November.

In April, a Moscow City Court found Igor Sutyagin, a disarmament researcher with the U.S. and Canada Institute, guilty of espionage and sentenced him to 15 years in a maximum security facility (the sentence included time served since his arrest in October 1999). Prosecutors accused Sutyagin of passing classified information about the country's nuclear weapons to a London based firm, but the Kaluga regional court ruled in 2001 that the evidence presented by the prosecutor did not support the charges brought against him and returned the case to the prosecutor for further investigation. Sutyagin claimed the decision was unjust and insisted that he had no access to confidential information. In August, the Supreme Court rejected his appeal. Some observers agreed that he had no access to classified information and regarded the severe sentence as an effort to discourage information sharing by citizens with professional colleagues from other countries. Russian government officials asserted that he had wittingly or unwittingly entered into a paid arrangement with a foreign intelligence service. As a result of the flawed conduct of the trial and lengthy sentence, a number of domestic and international human rights NGOs raised concerns that the charges were politically motivated, and AI declared Sutyagin to be a political prisoner.

While there was broad agreement among human rights organizations that Sutyagin was a political prisoner, various organizations also characterized other individuals as political prisoners.

*f. Arbitrary Interference With Privacy, Family, or Correspondence.*—The Constitution states that officials may enter a private residence only in cases prescribed by federal law or on the basis of a judicial decision; however, authorities did not always observe these provisions. The Constitution permits the Government to monitor correspondence, telephone conversations, and other means of communication only with judicial permission and prohibits the collection, storage, utilization, and dissemination of information about a person's private life without his consent. While these provisions were generally followed, problems still remained. Authorities continued to infringe on citizens' privacy rights. There were reports of electronic surveillance by government officials and others without judicial permission. Law enforcement officials in Moscow reportedly entered residences and other premises without warrants. There were no reports of government action against officials who violated these safeguards.

Internet service providers are required to install, at their own expense, a device that routes all customer traffic to an FSB terminal, and framers of this "System for Operational Investigative Measures" (SORM 2) claimed that the regulation did not violate the Constitution or the Civil Code, because it requires a court order to authorize the FSB to read the transmissions. This requirement was upheld by a 2000 Supreme Court ruling. However, there appeared to be no mechanism to prevent unauthorized FSB access to the traffic or private information without a warrant. The FSB was not required to provide telecommunications companies and individuals documentation on targets of interest prior to accessing information.

A Doctrine of Information Security of the Russian Federation that President Putin signed in 2000, although without the force of law, indicated that law enforcement authorities should have wide discretion in carrying out SORM surveillance of telephone, cellular, and wireless communications. Human rights observers continued to allege that officers in the special services, including authorities at the highest levels of the MVD and the FSB, used their services' power to gather compromising materials on political and public figures, both as political insurance and to remove rivals. They accused persons in these agencies, both active and retired, of working with commercial or criminal organizations for the same purpose. There were credible reports that regional branches of the FSB continued to exert pressure on citizens employed by foreign firms and organizations, often with the goal of coercing them into becoming informants.

Government forces in Chechnya looted valuables and food from private houses in regions that they controlled (*see* Section 1.g.).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—During the year, federal forces and pro Moscow Chechen forces engaged in human rights violations, including torture, summary executions, disappearances, and arbitrary detentions. Chechen fighters also committed human rights violations, including several major acts of terrorism outside of Chechnya, and summary executions. Chechen terrorist Shamil Basayev claimed responsibility for the hostage taking in Beslan and other acts of terrorism against civilians.

Federal authorities both military and civilian have limited journalists' access to war zones since the beginning of the second war in Chechnya in October 1999, in part due to security concerns. Most domestic journalists and editors appeared to exercise self censorship and avoid subjects embarrassing to the Government with regard to the conflict (*see* Section 2.a.). Human rights observers also faced limitations in access to the region (*see* Section 4). These restrictions made independent observation of conditions and verification of reports very difficult and limited the available sources of information concerning the conflict. However, human rights groups with staff in the region continued to release credible reports of human rights abuses and atrocities committed by federal forces during the year.

The indiscriminate use of force by government troops in the conflict in the Chechen Republic has resulted in widespread civilian casualties and the displacement of hundreds of thousands of persons, the majority of whom sought refuge in the neighboring republic of Ingushetiya. The security situation continued to prevent most foreign observers from traveling to the region, and the Government enforced strict controls on both foreign and domestic media access (*see* Section 2.a.).

A wide range of reports indicated that federal military operations resulted in numerous civilian casualties and the massive destruction of property and infrastructure, despite claims by federal authorities that government forces utilized precision targeting when combating rebels. In most cases such actions were undertaken with impunity. After a federal warplane bombed Maidat Tsintsayeva's house in April, killing her and her five children, military and Chechen prosecutors opened a criminal case, but no charges had been filed by the end of the year. On December 3, a Russian helicopter launched several missiles at the village of Tevzen Kale, and one

hit the house of the Suleymanov family. One family member was killed, and two others were wounded. The Chechen Interior Ministry told the press that the federal military refused to recognize that there was even a bombing attack on the village and was impeding all investigation efforts. There were no reliable estimates of the number of civilians killed as a result of federal military operations; estimates of the totals since 1999 varied from hundreds to thousands. It was also impossible to verify the number of civilians injured by federal forces. According to press reports, Chechen State Council Chairman Taus Dzhabrailov estimated in November that more than 200,000 people had been killed in Chechnya since 1994, including 20,000 children. Dzhabrailov said every year 2,000 to 3,000 people in Chechnya are killed, abducted, or go missing.

Command and control among military and special police units often appeared to be weak. In addition to casualties attributable to indiscriminate use of force by the federal armed forces, individual federal servicemen or units committed many abuses. In June, for example, federal forces were believed to be responsible for the killing of Umar Zabiyeu, a civilian, near the Ingush village of Galashki. Heavy machine gun fire hit the car in which Zabiyeu, his brother, and his mother were riding. The gunfire was believed to have come from a nearby column of armored vehicles. Umar Zabiyeu stayed with his injured mother and sent his brother to bring help. When villagers arrived a short time later, Umar was missing. His body was found the next morning bearing clear marks of torture and gunshot wounds. Police searching the area found more than 100 spent cartridges and other items that indicated the presence of federal military personnel.

According to human rights observers, government forces responding to Chechen attacks at times engaged in indiscriminate reprisals against combatants and non-combatants alike.

Although indiscriminate mopping up or "cleansing" operations known as "zachistki" continued sporadically throughout the year, federal forces more frequently engaged in more targeted operations known as "night raids" to arrest suspected Chechen fighters. The human rights NGO Memorial reported that the number of human rights violations occurring during these operations was lower than in previous years. Memorial also noted that zachistki conducted with Chechen MVD representatives present generally resulted in fewer human rights abuses. Although the night raids reduced large scale abuses that often accompanied zachistki, human rights organizations indicated that disappearances of those detained in these raids continued. Kidnappings by federal forces were reported during the year. For example, in January, federal forces conducted a sweep in the town of Argun. According to reports, the federal forces dragged residents from their beds and took them to a quarry where they detained and tortured them. Relatives of the detained later found two bodies that had been blown up in the quarry. Residents were able to identify one of the bodies as a resident whom federal forces had arrested. Only after mass protests in Argun were most of those detained released. All of them showed signs of physical abuse and required medical attention.

In July, as a result of continued kidnappings in the republic, the Chechen Government announced a new effort to have security forces adhere to Order Number 80, issued in 2002, which establishes rules governing passport checks and mopping up operations. It requires the military forces to have license plates on their vehicles when entering a village, to be accompanied by a representative of the prosecutor's office and local officials, to identify themselves when entering a house, and to make lists of all persons arrested during the operation and share it with local authorities. Chechen officials subsequently declared a ban on law enforcement officers wearing masks as well. At year's end, Memorial was not aware of any cases in which Order Number 80 was properly observed. The organization was informed of several occasions in which unidentified armed men wearing camouflage broke into houses and abducted civilians.

Many individuals were declared missing during the year, although estimates of the total number varied. Some of the disappeared were feared dead, others were detained, and yet others were kidnapped. Chechen President Kadyrov stated on March 18 that an estimated 3,000 persons had disappeared in Chechnya in recent years; however, the NGO community reported that the number was higher than the official Chechen Government figure. According to Memorial, 1,450 people have disappeared during the Chechen war. Memorial reported that, during the year, the number of disappearances dropped to 396 from 495 cases registered in 2003 in the 25 to 30 percent of Chechnya to which they had access. Of those, 189 were freed by their abductors or released after relatives paid a ransom, 173 disappeared without a trace, and 24 bodies showing signs of torture or violent death were recovered. Human Rights Ombudsman Vladimir Lukin estimated that 1,700 people were kid-

napped throughout Chechnya between January and November, which appeared consistent with Memorial's figures.

AI reported that women were increasingly targeted by federal and Chechen security forces in response to suicide bombings carried out by Chechen women. AI reported that a member of the security forces questioned one such woman, Milana Ozdojeva, on two occasions in January about allegations that she wanted to become a suicide bomber. On January 19, several men entered her house and forced her to go with them, leaving her two children behind. At year's end, her whereabouts remained unknown.

Troops also reportedly kidnapped and otherwise mistreated children (*see* Section 5).

There were reports that disappearances increased also in neighboring Ingushetiya. Although Ingush President Murat Zyazikov stated he was aware of only seven such cases, human rights groups estimated that several dozen individuals had disappeared. One of those was Deputy Prosecutor Rashid Ozdojev, who disappeared in March after submitting a report on alleged abuses committed by the FSB in Ingushetiya. Prosecutors opened an investigation, but Ozdojev's whereabouts remained unknown.

Memorial and other NGOs charged that government forces, including Chechen security forces commanded by Kadyrov's son, Ramzan, were responsible for many kidnappings. Memorial has sought to pursue the majority of these cases with the Prosecutor General's office, but proceedings were dropped in four fifths of the cases due to the fact that no suspects could be identified. While many disappearances remained unresolved, the abductors released most of those taken, often after their relatives paid a bribe. Federal and Chechen officials, including then President Akhmed Kadyrov, acknowledged that disappearances continued but attributed many of them to separatist fighters.

On January 29, human rights activist Imran Ezhiyev, the head of Chechen regional office of the Russian Chechen Friendship Society and a regional representative of the Moscow Helsinki Group, was detained by Ingush police and held overnight while accompanying Ella Pamfilova, head of the Presidential Human Rights Commission. Ezhiyev has been detained 18 times.

In April, five men who reportedly shouted, "You got what you're asking for. No more speeches for you [in court]," knocked human rights lawyer Stanislav Markelov unconscious on the Moscow metro. After regaining consciousness, Markelov discovered that his mobile phone containing the phone numbers of his clients, his lawyer's license card, and other identity documents and case files were missing, but his money had not been stolen. AI expressed concern that he was targeted due to his work on behalf of victims in several human rights cases that relate to Chechnya.

Also in April, Arjan Erkel, the head of the Doctors Without Borders mission in Dagestan, was released after a \$1.35 million (1 million euro) ransom was paid, with federal Government mediation, to his captors, who remained unknown (*see* Section 1.b.). Such events and overall security problems led many NGOs to limit their activities in the North Caucasus.

Federal forces and police also conducted security sweeps in neighboring Ingushetiya that resulted in reported human rights violations and disappearances. Following rebel attacks across Ingushetiya on June 21 and 22, federal forces conducted sweeps in several settlements housing internally displaced persons (IDPs) from Chechnya. Human rights groups reported several cases in which military personnel beat or verbally abused persons during these sweeps; however, the 20 IDPs they arrested were all released. Additionally, human rights groups reported that there were several dozen cases of disappearance of Ingush and Chechens in Ingushetiya. As with similar operations in Chechnya, reports of beatings, arbitrary detentions, and looting usually followed these operations. According to Human Rights Watch (HRW), in August 2003, pro Moscow Chechen police abducted five men from a clinic in Ingushetiya. Police reportedly burst into the clinic firing weapons. One of those detained was injured. One of the policemen struck a doctor with a rifle. As of the end of the year, neither HRW nor Memorial knew of the five men's whereabouts. Ingush prosecutors opened a criminal case.

Pro Moscow Chechen forces commanded by Ramzan Kadyrov and federal troops also began arresting relatives of Chechen separatist leaders in an effort to force the leaders to surrender, according to human rights groups. Memorial and AI reported that in late February and early March, Kadyrov's forces seized several dozen relatives of Magomed and Omar Khambiyev, respectively, the defense and health ministers in the "separatist government." They then threatened that unless Magomed Khambiyev gave himself up, his relatives would be harmed. He surrendered in early March.

In September, during the hostage taking at School No. 1 in Beslan, press and human rights groups reported that federal forces took into custody relatives of Aslan Maskhadov, Shamil Basayev, and Doku Umarov, whom authorities accused of organizing the hostage taking. Federal forces stated this was for their protection, whereas human rights groups alleged that the relatives would be used in a potential trade for hostages at the school. The relatives were subsequently released, but in December, according to Memorial, eight family members of Chechen leader Aslan Maskhadov were abducted.

Government forces and Chechen fighters have used landmines extensively in Chechnya and Dagestan since 1999; there were many civilian landmine victims in Chechnya during the year. Federal forces and Chechen fighters continued to use antipersonnel mines in Chechnya. Reports from hospitals operating in the region indicated that many patients were landmine or unexploded ordnance victims and that such weaponry was the primary cause of death. Government officials reported that in Chechnya there were 5,695 landmine casualties in 2002 (the latest year for which statistics were available), including 125 deaths. The victims included 938 children. By comparison, there had been 2,140 landmine casualties in 2001.

New mass graves and "dumping grounds" for victims allegedly executed by government forces in Chechnya during the year and earlier were discovered. In April, local residents near the village of Serzhen Yurt found the bodies of nine men in a ravine. According to AI, the bodies bore gunshot wounds and marks of torture. Federal forces had detained eight of the men on March 27 in the village of Duba Yurt. The ninth man had "disappeared" from his home in Grozny during the night of April 12, according to AI. There were no reports by year's end that the Government had initiated any criminal cases related to the mass grave discoveries.

Armed forces and police units reportedly routinely abused and tortured persons held at holding facilities where federal authorities sorted out fighters or those suspected of aiding the rebels from civilians. Federal forces reportedly ransomed Chechen detainees (and, at times, their corpses) to their families for prices ranging from several hundred to thousands of dollars.

AI reported that Timur Khambulatov died in police custody in March. An estimated 40 armed men arrested Khambulatov at his home in the Chechen village of Savelevskaya on March 18 on suspicion of belonging to an illegal armed group. Later that same morning, a district prosecutor reportedly found him dead in a police cell. According to AI, police claimed Khambulatov was near death when operatives from the FSB handed him over to them. The local head of the FSB reportedly told Khambulatov's mother that his officers had not touched her son.

There were widespread reports of the killing or abuse of captured fighters by federal troops, as well as reports that captured federal troops and pro Moscow Chechen security forces were killed or abused by the Chechen fighters, and a policy of "no surrender" appeared to prevail in many units on both sides. Federal forces reportedly beat, raped, tortured, and killed numerous detainees.

According to human rights NGOs, federal troops on numerous occasions looted valuables and foodstuffs in regions they controlled. Many IDPs reported that guards at checkpoints forced them to provide payments or harassed and pressured them. There were some reports that federal troops purposefully targeted some infrastructure essential to the survival of the civilian population, such as water facilities or hospitals. The indiscriminate use of force by federal troops caused destruction of housing and commercial and administrative structures. However, compared to 2001-02, Memorial reported that government forces used less indiscriminate force during the year against civilian areas. In most cases, the artillery attacks and bombings that occurred were the result of mistakes, bad performance, and alcoholism. Federal troops also reportedly severely damaged gas and water supply facilities and other types of infrastructure. Representatives of international organizations and NGOs who visited Chechnya reported little evidence of federal assistance for rebuilding war torn areas.

A climate of lawlessness, corruption, and impunity flourished in Chechnya. The Government investigated and tried some members of the military for crimes against civilians in Chechnya; however, there were few convictions and the reported number of convictions differed. According to statistics released to the press by the General Prosecutor's office in early December, over the last 3 years 1,749 criminal cases were initiated in Chechnya to investigate approximately 2,300 cases involving disappeared persons. Out of these, only 50 cases were completely investigated and reached the courts. During the same time period, 22 servicemen were convicted and sentenced for committing serious crimes against civilians. However, in most cases the punishment was limited to a suspended sentence.

Memorial noted that the General Prosecutor's office has been inconsistent in its figures concerning the number of crimes committed by servicemen against civilians.

In February 2003, the Deputy Prosecutor General reported that during the years of the anti-terrorist operation in Chechnya, 417 cases were initiated, but investigations were halted for 341 cases because the suspects had not been found. Then, in August, the Deputy Prosecutor General announced that only 132 cases were opened, and all but 10 were still under investigation. No further information was provided to explain the discrepancy.

According to Justice Minister Yuriy Chayka, from the start of the conflict through November 2003, 54 servicemen, including 8 officers, had been found guilty of crimes against civilians in Chechnya. Four servicemen, including three officers, were on trial for murder charges over the 2002 deaths of six Chechen civilians in a court in the southern city of Rostov on Don.

On November 11, the Supreme Court overturned the North Caucasus Military District Court's June 29 acquittal of two officers of the Interior Ministry's troops, Yevgeniy Khudyakov and Sergey Arakcheyev, who had been accused of murdering three civilians in Chechnya. A news service reported that the Court found that the jury for the trial was convened improperly. Khudyakov and Arakcheyev allegedly shot the three civilians in January 2003 after forcing them out of a truck near Grozny. The suspects then allegedly doused the victims' bodies with gasoline and ignited them in attempt to cover up the crime.

Memorial concluded that the majority of cases opened for alleged crimes by federal servicemen against civilians resulted in no charges. Cases were closed or investigations suspended because of the absence of the bodies or because of an inability to identify a suspect.

In April, Chechen President Akhmed Kadyrov asked that the State Duma extend an amnesty that expired in September 2003, but in June, following Akhmed Kadyrov's assassination, his son Ramzan stated that the amnesty program should be ended and gave fighters 3 days to turn in their weapons.

Government forces continued to abuse individuals seeking accountability for abuses in Chechnya, continuing their harassment of applicants to the European Court of Human Rights (ECHR). In January, human rights activist Aslan Davletukayev was kidnapped, tortured, and killed in Chechnya, under circumstances that suggested the involvement of government forces. He was the third volunteer with the Society for Russian Chechen Friendship to have been killed since December 2001. According to AI and other human rights groups, he had been in the custody of federal forces and the criminal investigation into the incident was inconclusive. The Society reported that it received anonymous threats following the September seizure of the school in Beslan, North Ossetia. According to AI, on April 10, federal forces abducted Anzor Pokayev, whose father had appealed to the ECHR in July 2003 in the case of the 2002 disappearance of his other son during a military raid. The morning after the abduction, Anzor's body was found approximately 6 miles away, with multiple gunshot wounds. On September 3, Memorial reported that federal forces had abducted Fatima Gazayeva of the human rights organization Echoes of War, a regional organization that reported on human rights abuses, and her husband Ilyas Atayev. Gazayeva and Atayev were released 2 days later, but they had no idea where they had been kept and by whom. They indicated that their captors had treated them fairly.

The authorities initiated legal actions against the Society's activities and those of the Chechen Committee for National Salvation (*see* Sections 2.a. and 4).

On January 22, President Putin abolished the special post of Presidential Human Rights Representative to Chechnya, handing full responsibility for the issue to Chechen President Akhmed Kadyrov, on the grounds that no other region had an analogous representative and Chechnya no longer warranted special treatment. The Independent Commission on Human Rights in the Northern Caucasus headed by the Chairman of the State Duma Committee on Legislation maintained a number of offices in Chechnya and Ingushetiya. This organization heard hundreds of complaints from citizens, ranging from destruction or theft of property to rape and murder; however, it was not empowered to investigate or prosecute alleged offenses and had to refer complaints to military or civil prosecutors. Almost all complainants alleged violations of military discipline and other common crimes.

In early June, Chechen President Alkhanov signed an order to appoint Lema Khasuyev as the Chechen Republic's new human rights Ombudsman. Khasuyev had been a deputy of two former presidential envoys for human rights in Chechnya. Human rights groups were skeptical that the appointment of a new ombudsman would significantly improve the situation.

Chechen rebel fighters also committed serious human rights abuses. According to observers, Chechen fighters usually operated independently in small groups; however, the June attacks on Nazran suggested they were capable of operating in larger groups under a more centralized command. According to various reports, they com-

mitted terrorist acts against civilians in Chechnya and elsewhere in the country, killed civilians who would not assist them, used civilians as human shields, forced civilians to build fortifications, and prevented refugees from fleeing Chechnya. In several cases, Chechen fighters killed elderly ethnic Russian civilians for no apparent reason other than their ethnicity. As with the many reported violations by federal troops, there were difficulties in verifying or investigating these incidents. According to Chechen Minister of Internal Affairs Ruslan Alkhanov, 120 attacks that he characterized as terrorist were committed in Chechnya during the year, but it is unclear what methodology was used to identify the number of terrorist acts. Alkhanov said this figure was lower than in 2003.

A number of the terrorist acts committed by Chechen rebels during the year involved suicide bombings. On February 6, a suicide bomber killed 40 persons by blowing up a Moscow metro passenger car. Terrorist Shamil Basayev claimed responsibility, and in March, terrorist Abu al Walid stated that further attacks should be expected. On August 24, suicide bombers from Chechnya were believed to have carried out the near simultaneous downing of 2 aircraft, killing 89 persons. On August 31, a suicide bomber killed 10 persons at the Rizhskaya metro station.

On September 1, terrorists took an estimated 1,200 teachers, children and parents hostage at School Number 1, in Beslan, North Ossetia. Hostage takers reportedly killed 15 to 20 adult men on the first day of the seizure. They held the hostages for 58 hours, during which they denied them food and water. The siege ended violently; according to press reports, an explosive rigged by the terrorists detonated, and in the ensuing panic, they began shooting hostages who were attempting to flee. Security forces and armed relatives of the hostages returned fire and stormed the school. At least 338 hostages died, many of them trapped in the gymnasium when its roof collapsed. Security forces subsequently killed all or most of the hostage takers in a firefight that lasted several hours. According to some reports, a mob lynched one terrorist captured by security forces. Another was arrested and held by the authorities.

In other incidents, rebels took up positions in populated areas and fired on federal forces, thereby exposing civilians to federal counterattacks. When villagers protested, the rebels sometimes beat them or fired upon them. Chechen fighters also targeted civilian officials working for the pro Moscow Chechen Administration. In May, Chechen President Akhmed Kadyrov was assassinated while attending a Victory Day celebration in Groznyy. Chechen fighters also reportedly abused, tortured, and killed captured federal soldiers. Rebels continued a concerted campaign, begun in 2001, to kill civilian officials of the government supported Chechen administration. According to Chechen sources, rebel factions also used violence to eliminate their economic rivals in illegal activities or to settle personal accounts.

Chechen rebels continued to launch attacks on government forces and police in Ingushetiya during the year.

Rebel field commanders reportedly were responsible for funding their units, and some allegedly resorted to drug smuggling and kidnapping to raise funds. As a result, it often was difficult, if not impossible, to distinguish between rebel units and criminal gangs. Some rebels allegedly received financial and other forms of assistance from foreign supporters of international terrorism. Government officials continued to maintain that there were 200 to 300 foreign fighters in Chechnya.

According to a 2002 report by the U.N. Special Representative for Children and Armed Conflict, Chechen rebels used children to plant landmines and explosives (*see* Section 5).

International organizations estimated that the number of IDPs and refugees who left Chechnya as a result of the conflict reached a high of approximately 280,000 in the spring of 2000 (*see* Section 2.d.). At various times during the conflict, authorities have restricted the movement of persons fleeing Chechnya and exerted pressure on them to return to Chechnya (*see* Section 2.d.). As of November 30, the United Nations High Commission for Refugees (UNHCR) estimated that 38,838 IDPs remained in Ingushetiya; 24,534 were living in private accommodation and 14,304 were in temporary settlements.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, government pressure on the media persisted, resulting in numerous infringements of these rights. Faced with continuing financial difficulties, as well as pressure from the Government and large private companies with links to the Government, many media organizations saw their autonomy further weakened during the year. The Government increasingly used its controlling ownership interest in all national, and a majority of regional, television and radio stations to restrict access to information about issues it regarded as sensitive. By a variety

of means, it severely restricted coverage by all media of events in Chechnya. There were indications that government pressure at times led reporters to engage in self censorship. On most subjects, however, the public continued to have access to a broad spectrum of viewpoints in the print media and, for those with access, on the Internet.

While the Government generally respected citizens' right to freedom of expression, at times it restricted this right with regard to such sensitive issues as the conduct of federal forces in Chechnya, discussions of religion, or controversial reforms in the social sector. Some regional and local authorities took advantage of the judicial system's procedural weaknesses to arrest persons on false pretexts for expressing views critical of the Government. With some exceptions, judges appeared unwilling to challenge powerful federal and local officials who sought to prosecute journalists. These proceedings often resulted in stiff fines.

All but 1 national newspaper remained privately owned, as were more than 40 percent of the 45,000 registered local newspapers and periodicals; however, the Government attempted to influence the reporting of independent publications. Approximately two thirds of the 2,500 television stations in the country were completely or partially owned by the federal and local governments, and the Government indirectly influenced most private broadcasting companies through partial ownership of commercial structures, such as energy giants Gazprom and Lukoil, which in turn owned large shares of media companies. Such influence was far from uniform, however. Gazprom financed radio station Ekho Moskvii, for example, maintained a highly independent editorial position and its reporting and commentary were frequently critical of the Government.

Of the three national television stations, the Government owned Rossiya Channel and a majority of First Channel. The Government owned a controlling stake of Gazprom, which in turn had a controlling ownership stake in the third national television station, NTV, which maintained a more independent editorial line. The Government also maintained ownership of the largest radio stations, Radio Mayak and Radio Rossiya, and the news agencies ITAR TASS and RIA Novosti.

The Government exerted its influence most directly on state owned media. Journalists and news anchors of Rossiya and First Channel reported receiving "guidelines" from the management prepared by the Presidential Administration, indicating which politicians they should support and which they should criticize. Criticism of presidential policies was prohibited in the state owned media and strongly discouraged on NTV and in many privately owned print publications, although with little apparent effect in many privately owned print publications.

Correspondents claimed that senior management often asked them to obtain approval for reports on sensitive political matters prior to broadcasting and that management edited out "negative language" about government officials and policies. For example, the press reported that government owned channels received "style lists" mandating that references to "Chechnya" be replaced with "Republic of Chechnya" (a usage that reinforced the Government's view of Chechnya as a constituent republic of the Russian Federation) and that the phrase "replacing benefits with money" (a highly unpopular government policy) be replaced with "monetized benefits." Despite these constraints, high level Presidential Administration officials reportedly complained to Rossiya and First Channel executives about reporting they viewed as critical of the President.

During the year, the Government further circumscribed the editorial independence and political influence of NTV. In June, NTV fired Leonid Parfenov, host of the popular news analysis program *Namedni*, after he publicly protested the station's decision not to broadcast an interview with the widow of Chechen separatist leader Zelimkhan Yandarbiyev. In July, Gazprom Media installed Vladimir Kulistikov, former news director of state owned Rossiya Channel, as head of NTV, and Kulistikov abruptly shut down most of the network's political programs, including the popular *Svoboda Slova* (Freedom of Speech), the last remaining live discussion format talk show on national television. In December, Kulistikov suspended popular journalist Aleksey Pivovarov as anchor of the network's flagship news program *Strana i Mir* after he commented on the firing of Parfenov. NTV largely preserved its relatively balanced approach to news reporting; however, these measures further reduced the opportunity for free expression on television.

The state owned Sports Channel continued to broadcast on the federal frequency formerly used by the privately owned Television Spektrum (TVS), which authorities took off the air in 2003, assigning the frequency to Sports Channel on a temporary basis. TVS had been the only non state affiliated channel. Its demise was variously attributed to political motives and commercial maneuvering. No efforts to restore TVS were reported during the year.

The degree of editorial freedom tolerated by authorities appeared to depend on the size of the audience. For example, Ren-TV, which reaches over 65 percent of the nationwide audience but only has an audience share of approximately 5 percent, was frequently sharply critical of the Kremlin. However, Ren-TV's regional affiliates often replaced prime-time news programs critical of the government with local news. This practice, coupled with a lack of interest in "Moscow politics" on the part of provincial audiences reduces the channel's impact on public opinion.

Government controlled media exhibited considerable bias in favor of President Putin in their coverage of the March 14 presidential campaign. President Putin did not actively campaign, but, as the OSCE election observation mission noted, he received coverage on the state controlled television channels far beyond what was reasonably proportionate to his role as head of state. For example, the OSCE election observation mission reported that First Channel provided more than 4 hours of all positive political and election coverage to the President. The next most covered candidate received approximately 21 minutes of prime time coverage (see Section 3).

The authorities continued to exert pressure in a number of ways on journalists, particularly those who reported on corruption or who criticized officials. The media freedom advocacy group Glasnost Defense Foundation (GDF), together with Journalists Without Borders and the Committee to Protect Journalists (CPJ), documented numerous cases of censorship and police intimidation of media personnel.

In August, the Kremlin transferred control of media access to the area of the Chechen conflict to the Ministry of Interior. On December 2, a court in Ingushetiya ordered the deportation of Kosuke Tsuneoka, Moscow based correspondent for Kyodo Tsuin, who was detained by police in Nazran, Ingushetiya, and accused of lacking proper registration. While Tsuneoka had a valid business visa, authorities stated that Tsuneoka did not have a journalist visa and had failed to obtain special permission to report from the conflict zone. Government interference was particularly notable in relation to the war in Chechnya and neighboring republics (see Section 1.g.), and especially in connection with the Beslan school hostage crisis in September. Domestic and international human rights advocates accused the Government of failing to provide timely and accurate information about the scale and consequences of the crisis. The press quoted freed hostages as saying that distorted reporting by state television, which significantly understated the number of hostages, enraged the terrorists. Local residents also harassed the press for their coverage of the incident in Beslan, according to an OSCE report published on September 16. Two days after the release of the hostages, local residents beat Aleksandr Kots, correspondent of the national daily Komsomolskaya Pravda, after accusing him of distorting facts. The media reported that many other journalists, including the crews of Rossiya Channel, Television Center, Ren TV, a Swedish reporter, and a French cameraman, were assaulted or had their tapes taken away.

According to the OSCE, police detained a number of journalists, including Anna Gorbatova and Oksana Semyonova from *Noviye Izvestiya* daily, Madina Shavlokhova from *Moskovskiy Komsomolets* and Yelena Milashina from *Novaya Gazeta* and held them for several hours.

Anna Politkovskaya, a prominent correspondent of the daily *Novaya Gazeta*, who planned to arrive in Beslan on September 3, was unable to do so following severe poisoning she experienced on the flight from Moscow. According to Politkovskaya, she only had a cup of tea on the plane. After landing in Rostov on Don, she was taken to intensive care and later transported back to Moscow. Some human rights activists believed the authorities poisoned her to keep her from covering developments in Beslan.

On September 2, the police at Vnukovo airport in Moscow detained Andrey Babitskiy, a correspondent of *Radio Liberty*, before he was able to take a flight to *Mineralniye Vody* in the North Caucasus. According to Babitskiy, police accused him of carrying explosives but released him after searching his luggage. After Babitskiy left the police station, two young men reportedly approached him and started a dispute. The police immediately detained all three and forced Babitskiy to undergo a medical examination to determine if he had suffered any injuries from the incident. Although Babitskiy was detained as a victim, he was not released, and the next day a Justice of the Peace sentenced him to a 15 day prison term on charges of hooliganism, which was later commuted to a fine of approximately \$34 (1,000 rubles) fine. Some human rights activists believed the authorities staged the incident to keep Babitskiy from covering developments in Beslan and the North Caucasus.

The OSCE reported a number of attempts by authorities to prevent foreign journalists from covering the hostage crisis. On September 2, police and FSB representatives detained Polish, French, and British journalists at the airport in *Mineralniye Vody*. The authorities questioned the journalists for several hours, photocopied their documents, and thoroughly checked their equipment. On September 3, authorities

confiscated tapes containing footage of the school storming from several domestic and foreign television crews.

The NTV television channel was the first to broadcast live coverage of the September 3 explosions and shooting in the school, followed by the freeing of the hostages, although NTV only broadcast the first 90 minutes of developing events. State television networks did not begin live broadcasts until almost an hour after the explosions. Media experts believed the state television networks were slow to cover the story because they were waiting for government permission to do so.

On September 5, Prof Media, owner of the leading daily newspaper *Izvestiya*, fired chief editor Raf Shakirov after large photographs of killed and injured children appeared in the previous day's newspaper. Shakirov attributed his firing to Prof Media's strong disapproval of the publication of the photographs. Other media analysts attributed Shakirov's abrupt dismissal to the Kremlin's anger about the publication of the photographs.

In August, the prosecutor's office charged the Chechen Committee for National Salvation (ChCNS) with violating the law by disseminating extremist information with the aim of accusing the country's armed forces and law enforcement bodies of mass crimes. The prosecutor's office further claimed that in this way the ChCNS was purposefully inciting public hostility toward representatives of the State and attempting to make the population resist the State. The prosecutor's office requested a court hearing to have the press releases examined and recognized as "extremist"; however, in October, a municipal court in Ingushetiya ruled in favor of the organization.

Apart from events related to the Caucasus, the GDF and other media freedom monitoring organizations reported numerous abuses of journalists by police and other security personnel, which included physical assault and the damaging of equipment.

For example, while dispersing a rally near the Cabinet headquarters in Moscow on June 1, members of the Federal Guard Service attacked Oleg Kashin, a correspondent for the daily newspaper *Kommersant*. After beating Kashin, who was later diagnosed with a brain concussion, they took him to a police station, where he was detained for 18 hours.

On August 26, police beat Olga Rogozhina, a correspondent of the Volga television station in Nizhny Novgorod, who tried to report on a police raid on the office of a local advertising firm.

On September 21, unknown assailants dressed in civilian clothes beat a number of journalists after police broke up a rally against Kalmyk Republic President Kirsan Ilyumzhinov in the republic's capital, Elista. The journalists included an NTV camera crew and Kirill Shulepov, a correspondent for the *Rossiya* network, who was severely beaten and had his camera destroyed.

A number of other journalists were killed, reported missing, or beaten for reasons that may have been associated with their journalistic activities. These journalists had published critical information about local officials and influential businesses or reported on crime and other sensitive issues. Although independent media NGOs reported a decrease in physical violence compared to 2003, they still characterized beatings of journalists by unknown assailants as "routine," noting that those who pursued investigative stories on corruption and organized crime found themselves at greatest risk.

According to the GDF, 5 journalists died during the year under suspicious circumstances, and 43 were physically attacked. In most cases where assailants physically attacked journalists, authorities and observers were unable to establish a direct link between the assault and those who reportedly had taken offense at the reporting in question.

Shangysh Mongush, a newspaper journalist in Tyz, Tuva Republic, who had been missing since January, was found fatally stabbed on June 5. The journalist's colleagues linked his death to his investigative reporting on illegal alcohol production in Tuva. There was no information regarding the investigation of Mongush's killing at year's end.

On February 1, Yefim Sukhanov, a Television Center Arkhangelsk correspondent, was found fatally stabbed in his apartment. On July 21, a court sentenced an 18 year old local resident to a 9 year prison term for murdering Sukhanov. Although the police investigation attributed the journalist's killing to a robbery attempt, Sukhanov's colleagues stated that his investigative reporting on poaching in Arkhangelsk made him a potential target.

On July 9, Paul Klebnikov, the editor of *Forbes Russia* magazine, was shot and killed outside his Moscow office. Still conscious for a short time after the assault, Klebnikov told a colleague that he did not know who might have ordered the attack. Launched in April, *Forbes Russia* conducted investigative reporting on the political

and business elite, and in May it published a list of the country's 100 richest persons, some of whom reportedly were unhappy about the publicity. On November 18, authorities in Minsk, Belarus, arrested a Russian citizen from Chechnya on suspicion of Klebnikov's killing. The media, including the leading dailies *Kommersant* and *Izvestiya*, reported that investigators related Klebnikov's murder to his work on a book about the embezzlement of budget funds for the post war reconstruction of Chechnya. According to the November 30 *Kommersant*, the suspect was also believed to be involved in the murder of a former head of the Chechen Administration, who reportedly provided facts for Klebnikov's book.

Other investigative journalists attacked during the year in circumstances suggesting that their professional work may have provided the motive for their attackers included Aleksey Mukhin, a television journalist in Dzerzhinsk, Nizhniy Novgorod region; Marina Ivashina, a journalist with the newspaper *Orlovskiy Novosti* in Oryol region; and Fyodor Krashennikov, editor of the *Politsovet* news agency in Yekaterinburg.

High profile cases of journalists killed or kidnapped in earlier years remained unsolved. On October 11, a court in Tolyatti, Samara region, acquitted a local factory worker charged with the murder of Aleksey Sidorov, editor in chief of the daily newspaper *Tolyatinskoye Obozreniye*, who was stabbed near the entrance to his apartment building in 2003. The Samara regional court confirmed the acquittal on November 26. Local media and media advocacy organizations were skeptical about the Government's case, which attributed the murder to hooliganism. They linked the journalist's death to his investigative reporting on Tolyatti authorities' connections with the city's criminal groups, whose activities centered on the Tolyatti based VAZ automobile plant. The GDF sent a letter to Prosecutor General Vladimir Ustinov, saying that, although a lawyer representing Sidorov's family presented evidence of local organized crime's involvement in Sidorov's murder, local authorities ignored it instead pressuring Sidorov's family, witnesses, and journalists reporting on the trial not to question the official version of the case.

On June 10, the Moscow Circuit Military Court again acquitted all the defendants accused of organizing the 1994 murder of Dmitriy Kholodov, military affairs correspondent for the daily newspaper *Moskovskiy Komsomolets*. A previous acquittal of the defendants in 2002 had been overturned in 2003 by the Military Collegium of the Supreme Court, which ruled that the Moscow Circuit Military Court had "failed to take all available evidence into account," citing in particular the testimony of one defendant that then Minister of Defense Pavel Grachev had asked him to "deal with Kholodov" because of the journalist's coverage of corruption in the military. Although the 10 year statute of limitations on Kholodov's case expired on October 17, making it impossible to sentence the defendants to prison terms even if the June 10 acquittal were to be overturned, the Office of the Prosecutor General on December 6 appealed to the Supreme Court to begin a new trial.

Other unresolved cases of missing or killed journalists from 2003 include: Dmitriy Shvets, deputy head of TV 21 in Murmansk; Alikhan Guliyev, a freelance journalist covering Chechnya for Television Center and the daily newspaper *Kommersant*; and Ali Astamirov, an Agence France Presse correspondent kidnapped in Ingushetiya. Cases from 2002 include: Nataliya Skryl, correspondent for the Taganrog newspaper *Nashe Vremya*; Sergey Kalinovskiy, editor in chief of the newspaper *Moskovskiy Komsomolets* Smolensk; Valeriy Ivanov, editor in chief of *Tolyatinskoye Obozreniye*; Aleksandr Plotnikov, founder of the newspaper *Gostinyy Dvor*; Chuvash reporter Nikolay Vasilyev; Igor Salikov, head of information security for *Moskovskiy Komsomolets* Penza; Yuriy Frolov, deputy director of Propaganda Publishing; and Ilyas Magomedov, head of the independent station Grozny Television.

Authorities at all levels employed administrative measures to deter critical coverage by media and individual journalists. One method was to deny media access to events and information, including filming opportunities and statistics theoretically available to the public. For example, in February, a judge in Volzhsk, Mary El Republic, prohibited a number of journalists from attending a court session in the trial of a local official accused of stealing government funds. Although the session was formally open, the judge ordered journalists from the local publications *Nash Gorod*, *Volzhskaya Pravda*, and *Molodyozhniy Kuryer* to leave the courtroom. Local journalists stated this was part of a pattern in which they were normally barred from attending open sessions of the Volzhsk city court unless they promised not to file stories. On May 27, Aleksandr Khristoforov, Deputy Speaker of the regional legislature in Pskov, abruptly ordered journalists covering one legislative session to leave. After some journalists insisted on staying, Khristoforov physically assaulted Vadim Guzinin, a photographer of the local news agency RIM; Guzinin subsequently filed a lawsuit against Khristoforov. On September 20, Grigoriy Shatravka, mayor of Irbit, Sverdlovsk region, attacked Tatyana Novokreshchyonova,

director of the local station Irbit TV, who tried to cover his meeting with city residents despite the mayor's objections. Shatravka beat the journalist and tried to break her camera.

At times, officials or unidentified individuals used force to prevent the circulation of issues of publications that were in disfavor with the government. For example, on February 28, police in Kazan, capital of Tatarstan Republic, stopped a truck carrying 143,000 copies of the local newspaper Puls Zhizni. When the newspaper's editor Yelena Chernobrovkina arrived at the scene, she found the newspapers unloaded from the truck and guarded by a group of approximately 30 men in civilian clothes, who would not identify themselves. Chernobrovkina said that among the group she spotted two high ranking Tatarstan police officials. After several hours, police confiscated the newspapers without explanation. On July 8, in Vladivostok, unknown persons seized 50,000 copies of the local newspaper Yezhednevniye Novosti and beat the driver of the truck carrying them from the printing plant. Shortly thereafter, police confiscated the remaining 150 copies of the paper. According to the newspaper's management, the police stated they were ordered to do so by their superiors. On August 29, police in Nizhnekamsk, Tatarstan Republic, detained distributors of Puls Zhizni, citing oral instructions from city authorities. The police later released the distributors but confiscated copies of the newspaper. According to the GDF, Puls Zhizni was one of the few publications in Tatarstan that openly criticized authorities and supported Rafgat Altynbayev, a potential candidate in the 2006 Tatarstan presidential elections.

Authorities at various levels took advantage of the financial dependence of most major media organizations on the Government, or on one or more of several major financial industrial groups, to undermine editorial independence and journalistic integrity in both the print and broadcast media. The concentration of ownership of major media organizations, including media outlets owned by the federal, regional, and local governments, remained largely intact and posed a continued threat to editorial independence. Government structures, banking interests, and the state controlled energy giants Gazprom and United Energy Systems continued to dominate the Moscow media market and extend their influence into the regions. Most news organizations experienced continued financial difficulties during the year, which sustained their dependence on financial sponsors and, in many cases, the federal and regional governments. As a result of this dependence, the autonomy of the media and its ability to act as a watchdog remained weak.

During the year, many privately owned media organizations and journalists across the country also remained dependent on the Government for transmission facilities, access to property, and printing and distribution services. The GDF reported that approximately 90 percent of print media organizations relied on state controlled organizations for paper, printing, or distribution, and many television stations were forced to rely on the Government (in particular, regional committees for the management of state property) for access to the airwaves and office space. The GDF also reported that officials continued to manipulate a variety of other "instruments of leverage," including the price of printing at state controlled publishing houses, to apply pressure on private media rivals. The GDF noted this practice continued to be more common outside the Moscow area than in the capital. In May, for example, a printing plant in Kirovsk region refused to continue printing a number of publications based in the neighboring Mary El Republic, which could not be printed locally due to resistance from local authorities. According to the GDF, the decision came shortly after the election of a new governor of Kirovsk region, who acceded to Mary El authorities' requests to deny printing services to these publications.

The GDF and other media NGOs documented numerous instances of the use of taxation mechanisms to pressure media across the country.

Authorities at the federal and local levels continued to bring lawsuits and other legal actions against journalists and journalistic organizations during the year, primarily in response to unfavorable coverage of government policy or operations. The GDF estimated that more than 300 such cases were brought during the year. In April, the Press Service of the Interior Ministry of Bashkortostan Republic reported that, since the beginning of the year, the Ministry had won 12 of 15 libel suits against local media organizations. Most libel suits resulted in heavy fines. On October 29, the Moscow Arbitration Court ordered Kommersant daily to pay \$11.4 million (320 million rubles) to Alfa Bank to recoup losses and damage to its reputation brought about by the newspaper's July 7 story about the bank's financial problems. In January, Rashid Zhumagaliyev, an investigator with the prosecutor's office in Astrakhan, filed a libel suit against the local newspaper Moskovskiy Komsomolets in Astrakhan. He accused the newspaper of slandering the regional court in its articles. Police raided the newspaper's office during their investigation, confiscating its computers, which forced the newspaper to stop publishing.

In August 2003, a Chelyabinsk district court sentenced German Galkin, editor in chief of *Vecherniy Chelyabinsk* daily and Director General of *Vecherniy Chelyabinsk* publishing house, to a 1 year term in a hard labor camp as a result of a libel suit filed in 2002 by two vice governors of Chelyabinsk region. Three articles published in *Rabochaya Gazeta* in 2002 accused the officials of corruption and links to organized crime, but Galkin was not listed in bylines for the articles and denied having written them. According to GDF, Galkin was the first journalist in the post Soviet era to be jailed for libel. International media defense representatives believed the severity of the sentence could have a chilling effect on freedom of expression and information and of the media. In November 2003, the Chelyabinsk regional court upheld the sentence but suspended it, and Galkin was released after 3 months in prison. On March 30, the same court rejected Galkin's appeal for his full acquittal.

In 2003, a Media Industrial Committee composed of heads of major media organizations adopted an Anti-Terrorism Convention, a set of self imposed rules for reporting on terrorist acts. The Convention established a priority of human life over press freedom, required journalists to report sensitive information to the authorities, obliged journalists to seek approval from the authorities to interview terrorists, and prohibited live broadcasts by terrorists.

On March 11, according to the National Endowment for Democracy, a division of the MVD responsible for investigating financial crimes by businesses confiscated the 56th issue of the bi monthly Russian Chechen Friendship Society's bulletin from a printing house in Nizhniy Novgorod. The police maintained that they were not interested in the Society's work, only in the financial affairs of the publishing house, but the only printed material that they seized was the Society's newspaper. The police told a representative of the Society that no formal criminal proceedings had been instituted against the publishing house. Approximately 2 weeks before the newspaper was seized, the publishing house had been temporarily closed because of fire code violations.

The Government generally did not restrict access to the Internet; however, it continued to require Internet service providers to provide dedicated lines to the security establishment so that police could track private e mail communications and monitor Internet activity (see Section 1.f.). In October, Deputy Culture Minister Leonid Nadirov suggested that all Internet sites should be registered as media organizations. Internet professionals and media freedom advocates expressed concern that its implementation would restrict free flow of information on the Russian segment of the Internet; however, the suggestion had not been implemented by year's end.

The Government did not restrict academic freedom; however, during the year human rights and academic organizations questioned whether the prosecutions of Sutyagin, Danilov, and others inhibited academic freedom and contact with foreigners on subjects that the authorities might deem sensitive (see Section 1.e.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and the Government generally respected this right in practice; however, at times authorities restricted this right.

In February, Moscow police dispersed a picket line on Lubyanka Square organized by Lev Ponomarev's NGO, For Human Rights, the Transnational Radical Party, and the Anti-war Club to mark the 60th anniversary of Stalin's deportation of the Chechen and Ingush peoples to Kazakhstan. Moscow Central District authorities did not permit the assembly, explaining that too many events had already been scheduled for February 23 to celebrate Russian Army Day. Half an hour after the beginning of the demonstration, OMON troops (members of a special police detachment) appeared and demanded that the participants leave the square. Police detained Ponomarev, Nikolay Khramov, secretary of the Russian Radicals' movement, and 11 other participants. They were released after 2 hours and fined approximately \$38 (1,000 Rubles).

Organizations were required to obtain permits in order to hold public meetings and to apply for permits between 5 and 10 days before the scheduled event. Although religious gatherings and assemblies did not require permits, in some instances the authorities denied Jehovah's Witnesses and other religious groups access to venues where they could hold assemblies (see Section 2.c.). While the police readily granted permits to demonstrate to both opponents and supporters of the Government, local elected and administrative officials at times either denied some groups permission to assemble or revoked previously issued permits.

The Constitution provides for freedom of association, and the Government generally respected this right; however, the Government increasingly harassed some organizations of whose policies it disapproved. Some NGOs claimed the Government restricted their activities for political reasons by engaging in lengthy investigations of their finances or by delaying the registration of foreign grants (see Section 4).

During the year, the critical statements of a number of senior officials contributed to increased suspicion regarding NGOs' activities. For example, in his May State of the Nation address, President Putin charged that some foreign funded NGOs existed "to serve dubious groups"; and Vladislav Surkov, of the Presidential Administration was believed to be referring, in part, to NGOs, among others, when he warned in a September interview in *Komsomolskaya Pravda* against "a fifth column of left and right radicals."

The Government continued to ban the Islamic organization, Hizb ut Tahrir, which it regarded as having terrorist connections and as seeking to overthrow the Government. Authorities in a number of regions stepped up operations against Hizb ut Tahrir despite the organization's denials that it supported terrorism. The authorities also interfered with the activities of a number of NGOs during the year (*see* Section 4).

Public organizations must register their bylaws and the names of their leaders with the MOJ. By law, political parties must have 50,000 members nationwide, at least 500 representatives in half of the country's regions, and no fewer than 250 members in the remaining regions in order to be registered (*see* Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, in some cases the authorities imposed restrictions on some groups. Although the Constitution provides for the equality of all religions before the law and for the separation of church and state, the Government did not always respect these provisions in practice.

Neither the Constitution nor the law accords explicit privileges or advantages to the Russian Orthodox Church (ROC) or the other groups formally designated traditional religions Judaism, Islam and Buddhism; however, increasingly some politicians advocated preferential treatment of these four faiths. Statements by some government officials, including President Putin, and anecdotal evidence from religious minority groups, suggested that the ROC, in particular increasingly enjoyed a status that approached official. The ROC has significantly greater access to certain governmental institutions, such as the army, than other religious groups. The ROC appeared to have had greater success reclaiming pre revolutionary property than other groups, and many religious workers believed that the ROC played a role in the cancellation of visas held by foreign religious workers representing nontraditional religions. Many religious minority groups and NGOs complained of what they believed was collusion between the ROC and the State.

Treatment of religious organizations, particularly minority denominations, varied widely in the regions, depending on the decisions of local officials. In some areas, such as Moscow, Khabarovsk, and Chelyabinsk, local authorities prevented minority religious denominations from reregistering as local religious organizations, as required by law, subjecting them to campaigns of legal harassment.

Contradictions between federal and local law in some regions and varying interpretations of the law gave some regional officials pretexts to restrict the activities of religious minorities. Discriminatory practices at the local level were attributable to the relatively greater susceptibility of local governments to lobbying by majority religions, as well as to discriminatory attitudes that were widely held in society. For example, articles heavily biased against religions considered "non traditional" appeared regularly in both the local and national press. There were reports of harassment of members of religious minority groups. Several religious communities were forced to defend themselves in court against charges by local authorities that they were engaging in harmful activities. At times local courts demonstrated their independence by dismissing frivolous cases or ruling in favor of the religious organizations; however, in some of these cases, authorities were slow to carry out, or refused to carry out, such rulings and in many cases appealed them.

Two congregations of the unregistered Union of Baptist Churches (known as *Initsiativniki*) experienced violence that they believe was promoted by the authorities. In January, a bomb destroyed an *Initsiativniki* church in Tula just as it was about to host a large meeting of Baptists from the country and abroad. On September 14, an *Initsiativniki* church in Lyubuchany was burned down. This followed efforts by security agencies, including local police and FSB officers, to intimidate participants in an open air gathering for several thousand *Initsiativniki* from all over central Russia sponsored by the same church. The authorities have long been suspicious of the *Initsiativniki*, whose complete refusal of cooperation with the authorities led to their split in 1961 from the Union of Evangelical Christians Baptists.

A 1997 law on "Freedom of Conscience" regulates religious practice and limits the rights, activities, and status of religious "groups" existing in the country for less than 15 years and requires that religious groups exist for 15 years before they can qualify for "organization" status, which conveys juridical status. All religious organi-

zations were required to register or reregister by the end of 2000 or face liquidation (deprivation of this status). The law placed a severe hardship on groups that had been unregistered previously, including groups new to the country. The Office of Human Rights Ombudsman Vladimir Lukin includes a department dedicated to religious freedom issues. Lukin continued to criticize the law and to recommend changes to bring it into conformity with international standards and with the Constitution.

The MOJ reported that as of May 1, 21,664 organizations were registered. Isolated difficulties with registration continued to appear in different regions around the country. Local courts largely upheld the right of non traditional groups to register or reregister.

Nonetheless, a number of religious groups continued to battle administrative denials of registration in the courts, and while such cases were often successful, administrative authorities were at times unwilling to enforce court decisions. The Moscow authorities did not permit the Salvation Army to reregister, although the group continued to operate based on documents filed under an earlier statute. In April 2003, the Constitutional Court found unconstitutional a ruling of a Moscow region district court that had ordered the liquidation of the Salvation Army's organization in Moscow on the grounds that it was a "militarized organization." (A textbook on religious culture prepared for use in schools repeats this definition of the Salvation Army, which it calls a "sect.") A lawyer from the Slavic Center for Law and Justice was working with the Salvation Army at year's end to assist it in registering. The ECHR issued an interim ruling on June 24 declaring admissible the group's complaint arising out of the refusal of the Moscow authorities to reregister the group.

The Moscow branch of the Church of Scientology was not permitted by the Moscow authorities to reregister and continued to be threatened with liquidation. On October 28, the ECHR found admissible the Scientologist's complaint concerning the Government's failure to reregister the Church under the 1997 law.

As of the end of the year, the Church of Jesus Christ of Latter day Saints (Mormons) had succeeded in registering approximately 50 local religious organizations. The Church remained unable to register a local religious organization in Kazan, Tatarstan, which they had been attempting to do since 1998. In Chelyabinsk it successfully sued the Chelyabinsk Department of Justice, which had rejected 12 registration applications in 5 years. It won a subsequent appeal by the Chelyabinsk authorities, and its Chelyabinsk organization successfully registered on in September 2003.

Although many local Muslim religious organizations had been unable to reregister under the initial provisions of the 1997 law, spokespersons for the country's two most prominent muftis stated that most Muslim religious organizations that wanted to register were able to do so. As of May 1, there were 3,537 Muslim organizations registered with the Ministry of Justice, with 121 Muslim organizations registering within the last year. Disagreement between the heads of the country's two main Muslim spiritual boards continued although the Government largely supported the Moscow based Council of Muftis, led by Ravil Gaynutdin. Allegations persisted that Islamic extremism, popularly called "Wahabism," was to blame for terrorist attacks linked to the conflict in Chechnya and the North Caucasus.

There were no indications that the June 16 decision of the Moscow City Court resulting in the city wide banning of the Jehovah's Witnesses would be repealed. Unlike liquidation, which involves only the loss of an organization's juridical status, a ban prohibits the activities of an entire religious community. The ban has had far reaching consequences for the Witnesses in Moscow and elsewhere. Congregations of Witnesses had longstanding rental contracts for meeting rooms cancelled after the ban came in to effect, making it extremely difficult for the congregations to meet. An audio video production company that has worked with the Witnesses in the past refused to sign a contract to produce additional films, citing the court's decision. A court in Primorskiy Krai cited the Moscow ban in reversing a lower court's decision to award custody of a child to its mother, a member of the Jehovah's Witnesses. In Kurgan, the regional Ministry of the Interior requested that the city administration assist in filing an application to liquidate the local community of Jehovah's Witnesses. A city official asked the Witnesses to provide documents relevant to the Moscow court's decision.

In other instances, the Witnesses have succeeded in having liquidation orders issued by lower courts overturned on appeal. On October 25, the Supreme Court of Tatarstan overturned a September ruling by a court in Naberezhniye Chelnye liquidating the Witnesses' organization in that city. In November, the Primorskiy Krai Court overturned an October liquidation order issued by a lower court against the Witnesses organization in the city of Luchegorsk.

Although most of the difficulties faced by minority religious groups arose as the result of local factors, human rights groups and religious minority groups have criticized the federal Prosecutor General for encouraging legal action against some minority religions and for giving an imprimatur to materials that were biased against Jehovah's Witnesses, Mormons, and others. There were continuing indications that the security services were treating the leadership of some minority religious groups, particularly Muslims and non traditional religions, as security threats. Officials have particularly focused on Islamic groups, such as Hizb ut Tahrir, and foreign Muslims living in the North Caucasus, as potentially linked to terrorist activity in the country.

The FSB, the Prosecutor General, and other official agencies have conducted campaigns of harassment against non traditional religious movements, such as the Jehovah's Witnesses. Churches faced investigations for alleged criminal activity and violations of the tax laws, landlords were pressured to renege on contracts, and in some cases the security services were thought to have influenced the MOJ to reject registration applications.

At the same time, federal authorities were more active during the year in preventing or reversing discriminatory actions taken at the local level, in disseminating information to the regions and, when necessary, reprimanding officials who acted inappropriately. According to one report, a new government publication on the rights of foreign religious workers was a valuable resource in resolving difficulties with local officials who were largely unfamiliar with the federal law. President Putin has sought stricter and more consistent application of federal laws throughout the country.

There appear to have been fewer reports than in previous years of restrictions placed on the missionary activities of Pentecostal believers by officials of the Khabarovsk administration's Department of Religion.

Representative offices of foreign religious organizations were required to register with state authorities. In practice, foreign religious representatives' offices have opened without registering or were accredited to an existing, registered, religious organization but were not permitted to conduct religious activities and did not have the status of a religious "organization."

Reregistration was not the only issue faced by minority religious groups. Some local and municipal governments prevented religious groups, including congregations of Jehovah's Witnesses, Protestants, Catholics, Mormons, and Hare Krishnas from using venues suitable for large gatherings and from acquiring property for religious uses. Regional and local authorities at times refused to lease facilities to local communities of Jehovah's Witnesses, particularly following the June ruling banning the group in Moscow. Religious assemblies held by Jehovah's Witnesses were disrupted in Moscow, Yekaterinburg, Vladimir, Khabarovsk, and Chelyabinsk during the year. The Witnesses were told in Vladimir that they could use a venue to meet as long as they had permission from a local Russian Orthodox priest. In Krasnoyarsk, the Jehovah's Witnesses community managed to rent facilities only with assistance of a local expert on religious issues. Jehovah's Witnesses also reported continuing difficulties obtaining construction permits. In Sosnovy Bor, in the Leningrad Region, local authorities refused to let a Witnesses community use land to construct a prayer center. They based the refusal on the results of a March 14 referendum, by which 90 percent of the city inhabitants voted against the construction.

Muslims in Krasnodar continued unsuccessfully to seek authorization from the mayor's office to build a new mosque in the city of Sochi.

There were instances in which local officials detained individuals engaged in the public discussion of their religious views, but the individuals were released quickly.

The Government continued to deny particular foreign missionaries visas to return to the country, reportedly because of their earlier conflicts with authorities. During the year, some religious organizations, particularly Roman Catholics and Protestants, reported experiencing difficulties obtaining long term visas for their employees and missionaries. The Catholic Church reported, for example, that some of its clergy were only granted 3 or 6 month visas, although others were granted 1 year visas. The Mormons, in contrast, noted an improvement in their ability to secure visas for their foreign missionaries and reported that all of them received 1 year, multiple entry visas. The Mormons encountered some difficulties in securing residency permits for missionaries but noted the difficulties varied from region to region and did not constitute a systemic problem.

In June, officials in the Kursk region adopted a law restricting missionary activity, including the use of venues in which religious meetings could be held. A similar law was passed in Smolensk. The laws were based on a 2001 law that was adopted in neighboring Belgorod. Under these laws, foreigners visiting these regions are for-

bidden to engage in missionary activity or to preach unless specifically authorized according to their visas (some groups reportedly sent religious workers on business or tourist visas in order not to alert the authorities to their activities). However, according to local religious officials, the Belgorod, Smolensk, and Kursk laws were not enforced.

After denying at least three previous visa requests, the Government granted the Dalai Lama a visa, reportedly on the condition that his visit be limited to pastoral activities. From November 29 to December 1, the Dalai Lama visited Kalmykia, where he consecrated a Buddhist temple and led religious services.

The Federal Government backed away from previous plans to promote a compulsory nationwide course in schools on the "Foundations of Orthodox Culture," using a textbook by that title which detailed Orthodox Christianity's contribution to the country's culture. Although schools in over 20 regions still used the book, the Ministry of Education rejected funding for another edition and further circulation of the textbook. Many religious minorities had complained about negative language describing non Orthodox groups, particularly Jews. In September, Education Minister Andrey Fursenko announced plans for a new school course, taught by laypersons, entitled "History of Religion," which would teach the history of all religions, not only Orthodoxy. The authorities had not yet introduced the course nationwide or selected a textbook for it. However, Moscow city schools have introduced a course similar to the one that the Education Minister proposed.

Tensions continued between the ROC and the Vatican. The ROC often alleged that the Catholic Church deliberately sought to proselytize among ROC faithful, a charge that the Vatican denied.

The restitution of religious property seized by the Communist regime remained an issue. While authorities have returned many properties used for religious services, including churches, synagogues, and mosques, some in the Jewish community assert that only a small portion of the total properties confiscated under Soviet rule has been returned. The Jewish community was still seeking the return of a number of synagogues, religious scrolls, and cultural and religious artifacts, such as the Schneerson book collection, a revered collection of the Chabad Lubavitch.

Unlike in the previous reporting period, in which there were no functioning synagogues in Krasnodar Krai, a two room Jewish community center in Sochi was used as a synagogue. There were still no synagogues in Krasnodar city.

Many in the Jewish community continued to state that conditions for Jewish persons in the country had improved, primarily because there was no longer any official, "state sponsored," anti-Semitism. At the federal level and in some regions, officials have shown an interest in hearing the concerns of the Jewish community. However, anti-Semitic incidents against individuals and institutions continued, including attacks on individuals identifiable as Jews and attacks on Jewish property and cemeteries. Preliminary Anti-Defamation League (ADL) statistics for the year indicated that, while the number of anti-Semitic incidents remained roughly stable, the nature of the attacks had become more violent. There were no reports that the Government encouraged anti-Semitic statements; leaders condemned them and even prosecuted some individuals for making them; however, many lower level officials continued to be reluctant to call such acts anything other than "hooliganism."

In April, Jewish youth leader Aleksandr Golynskiy was beaten near his home in Ulyanovsk and sent to the hospital. Two days later, extremists stormed the Ulyanovsk Jewish Center screaming, "don't pollute our land," smashing windows, and tearing down Jewish symbols as Jewish women and children hid inside. No one was injured, but police failed to respond quickly, arriving 40 minutes after they were called. A member of the extremist National Bolshevik Party was later arrested in connection with the attack. The investigation was ongoing at year's end. In Voronezh, on April 29, two young skinheads attacked Aleksey Kozlov outside the headquarters of the Inter Regional Human Rights Movement of which he is in charge. Kozlov is the regional monitor for an anti-Semitism and racism project in Russia sponsored by the European Commission. Authorities detained the two teenagers but did not charge them; one was below the age of criminal responsibility, and the other allegedly shouted threats but did not use force. In December, two Jews were beaten in separate hate crimes in Moscow, one while riding a train and the other while walking on the street.

During the year, unknown persons vandalized synagogues, Jewish cemeteries, and memorials. Vandals desecrated tombstones in cemeteries dominated by religious and ethnic minorities in numerous cases. These attacks usually were accompanied by swastikas and other ultra nationalist symbols. Localities in which Jewish cemeteries were desecrated during the year included St. Petersburg, Petrozavodsk, Pyatigorsk, Makhachkala, and Derbent. In February and December, Jewish tombs were desecrated with swastikas in one of the oldest cemeteries in St. Petersburg. On March

31, a Jewish cemetery was desecrated in Kaluga, and, after the local Jewish community chairman notified the governor about the incident, four teenagers and two adults suspected in the vandalism were detained. On November 25, a court sentenced three of the individuals, including one minor, to 2 years' probation. The other participants were too young to prosecute. In April, July, and August, unknown persons vandalized the Jewish cemetery in Petrozavodsk.

Anti-Semitic rhetoric has been used by some members of the Rodina bloc, the Liberal Democratic Party of Russia (LDPR), and the Communist Party of the Russian Federation (KPRF) in their public statements. Anti-Semitic themes appeared in some local election campaigns.

Hundreds of extremist publications, including newspapers, were distributed throughout the country, sometimes containing anti-Semitic, anti-Muslim and xenophobic articles. Anti-Semitic themes continued to figure in some local publications around the country, unchallenged by local authorities. In cases where Jewish or other public organizations attempted to take legal action against the publishers, the courts generally were unwilling to recognize the presence of anti-Semitic content. Some NGOs claimed that many of these publications were owned or managed by the same local authorities who refused to prosecute.

While religious matters were not a source of societal hostility for most citizens, members of minority and "non traditional" religions continued to encounter prejudice, societal discrimination, and in some cases physical attacks. Authorities usually investigated incidents of religious vandalism and violence, but arrests of suspects were extremely infrequent, and convictions were rare. Relations between non traditional religious organizations and traditional ones frequently were tense, particularly at the leadership level.

The press reported that on August 7, a local Cossack group organized a protest against Mormon plans for the construction of a meetinghouse in Saratov city. Muslim and ROC leaders also spoke out against the construction.

Popular attitudes toward traditionally Muslim ethnic groups remained negative in many regions, and there were manifestations of anti-Semitism as well as societal hostility toward Catholics and adherents of newer, non Orthodox, religions. Many observers reported that incidents of racially or ethnically motivated attacks increased significantly in recent years, although it was often difficult to determine whether xenophobia, religion, or ethnic prejudices were the primary motivation behind violent attacks. Conservative activists claiming ties to the ROC disseminated negative publications and staged demonstrations throughout the country against Catholics, Protestants, members of Jehovah's Witnesses, and religions new to the country, and some ROC leaders publicly expressed similar views.

Ethnic tensions ran high in the predominantly Muslim North Caucasus region and in major cities. Anti-Chechen and anti-"Wahabist" sentiment increased after each terrorist attack tied to Chechen rebels and spiked in some regions after the September seizure of a school in Beslan, North Ossetia, in which hundreds of persons, including many children, died at the hands of terrorists (*see* 1.g.). On September 18, between 20 and 50 "skinheads" beat and stabbed four persons from the Caucasus on the Moscow metro. The "skinheads" reportedly screamed, "this is for the terrorist acts," while attacking. A journalist for a respected national newspaper who witnessed the attack claimed that a skinhead "brigadier" ordered some of the attackers to seal the area and prevent male passengers from rescuing the victims.

Numerous press reports documented anti-Islamic sentiment. Officials from a mosque in Bratsk, Irkutsk region, continued to complain of harassment and non responsiveness by local authorities to their reports of anti-Muslim behavior. The Muslim community in Bratsk is large there are 18,000 Muslims in Bratsk out of a population of 450,000 and one mosque official stated that the local Muslim population was being blamed for problems in Chechnya. The Chairman of the Council of Muftis of Russia, Ravil Gaynutdin, head of the Central Spiritual Board of Russia's Muslims, Talgat Tadzhuddin, and head of the Coordinating Center of Muslims of the North Caucasus, Ismail Berdiyev, issued a joint statement denouncing terrorism. The leaders of the country's Muslims declared that it was necessary to resist extremists and terrorists who make use of religious slogans.

The number of underground nationalist extremist organizations (as distinguished from such quasi public groups as Russian National Unity) appeared to be growing. The continuing proliferation of skinhead groups was a phenomenon of particular concern. According to one human rights observer, there were approximately 50,000 skinheads in 85 cities, including 5,000 in Moscow. The rise of extremist youth organizations was also troubling. As of March, the MVD was aware of 453 extremist youth organizations in Russia, with membership totaling over 20,000 people. Most of the skinhead groups were in Moscow, St. Petersburg, Nizhny Novgorod, Yaroslavl, and Voronezh. The region with the greatest number of extremist youth

organizations was Tatarstan there were 108 known groups in the Republic compared with 62 in Moscow and Moscow region and 31 in St. Petersburg. Skinheads primarily targeted foreigners and individuals from the Northern Caucasus, but they also expressed anti-Muslim and anti-Semitic sentiments and hostility toward adherents of “foreign” religions.

The Constitution mandates the availability of alternative civilian service to those who refuse to bear arms for religious or other reasons of conscience. A law on alternative civil service took effect on January 1, and two supplements to the law were issued in March. The first supplement listed 722 organizations to which draftees may be assigned for the alternative service, and the second listed 283 activities that draftees were permitted to perform. On June 1, Prime Minister Fradkov signed regulations regarding the implementation of the law on alternative civilian service performance. Some human rights groups complained that the extended length of service for draftees requesting alternative assignments (1.75 times longer than regular military service) acted as a punishment for those who choose to exercise their religious or moral convictions.

The Jehovah’s Witnesses organization reported that approximately 95 Witnesses had applied for alternative civilian service under the new legislation. As of mid December, 64 Witnesses had been recognized as conscientious objectors and deemed eligible for alternative civilian service. Approximately 30 Witnesses were denied alternative civilian service, in some cases because their applications were allegedly not filed in time. According to the Jehovah’s Witnesses organization, at least six criminal cases were initiated during the year against members who claimed conscientious objector status: Three of defendants were acquitted and three received fines or suspended sentences.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government placed restrictions on freedom of movement within the country and on migration.

All adults are issued internal passports, which they must carry while traveling, and they are expected to register with the local authorities within a specified time of their arrival. The authorities often refused to provide governmental services to individuals without internal passports or the proper registration. A government decree enacted on December 22 extended the amount of time that could lapse before registration is required from 3 to 90 days; however, immediately following the law’s announcement, the Moscow police chief ordered the police to continue its document checks on the streets to verify document authenticity. The new law does not affect foreigners, who are still required to register within 3 business days of their arrival in a locality.

The Constitution provides citizens with the right to choose their place of residence freely; however, some regional governments continued to restrict this right through residential registration rules that closely resembled the Soviet era “propiska” (pass) regulations. Citizens must register to live and work in a specific area within 7 days of moving there. Citizens changing residence within the country, as well as persons with a legal claim to citizenship who decide to move to the country from other former Soviet republics, often faced great difficulties or simply were not permitted to register in some cities. Corruption in the registration process in local police precincts remained a problem. Police demanded bribes when processing registration applications and during spot checks for registration documentation. The fees for permanent and temporary registration remained low. Moscow’s registration requirement which police reportedly used mainly as a means to extort money remained in force at year’s end.

While federal law provides for education for all children, regional authorities frequently denied access to schools to children of unregistered persons, asylum seekers, and migrants because they lacked residential registration (*see* Section 5).

According to NGOs, the city of Moscow and some other jurisdictions frequently violated the rights of nonresidents and ethnic minorities, as well as the rights of those legitimately seeking asylum. Moscow police, particularly special OMON units, conducted frequent document checks, particularly of persons who were dark skinned or appeared to be from the Caucasus. There were many credible reports that police imposed fines on unregistered persons in excess of legal requirements and did not provide proper receipts or documentation of the fine. According to HRW and church ministries tracking interethnic violence, it was not unusual for darker skinned persons to be stopped at random and for officers to demand bribes from those without residence permits (*see* Section 1.c.).

In mid September, following the school tragedy in Beslan (*see* Section 1.g.), Moscow police rounded up more than 11,000 citizens and foreigners on suspicion of living in the city without registration, and 840 detainees were deported.

Federal authorities restricted the entry of foreigners into many cities, including Norilsk and Novoye Urengoy. While the federal Constitution permits entry restrictions for reasons of state security, these cities sought the restrictions because of perceived economic benefits.

Krasnodar Kray authorities continued to deny between 10,000 to 12,000 Meskhetian Turks the right to register, which deprived them of all rights of citizenship despite provisions of the Constitution that entitled them to citizenship. While the authorities in most other areas generally did not prevent the Meskhetian Turks from registering, the Meskhetian Turks and some other smaller ethnic minorities living in Krasnodar were subject to special registration restrictions; for example, they were required to register as “guests” rather than as residents, and reregister every 45 days. In addition, in an effort to force them from the territory, the Krasnodar Kray administration repeatedly announced plans to create “unbearable conditions” for the Meskhetian Turks and other “illegal migrants.” In July, Governor Tkachev publicly welcomed the prospect that some Meskhetian Turks were accepting an offer to emigrate to another country, signaling it as a way to rid the region of them.

The Krasnodar authorities also attempted to use economic measures to drive out the Meskhetian Turks. According to Memorial, the Krasnodar authorities continued to prohibit the Turks from leasing land, gaining employment or engaging in commercial activity in local markets. The Meskhetian Turks have subsisted by leasing land primarily in other districts of Krasnodar Kray or even other regions, such as Rostov, Volgograd, and Kalmykia.

Memorial reported that in August and September, a relatively small scale campaign against Meskhetian Turks was carried out in Krymsk district and in Novorossiysk, both in Krasnodar Kray. The police stopped and checked persons who looked like Meskhetian Turks, immediately releasing those who declared their intention to emigrate and penalizing the others.

The Constitution provides for freedom to travel abroad and citizens generally traveled without restriction; however, there were a few exceptions. If a citizen had been given access to classified material, police and FSB clearances were necessary in order to receive an external passport. Persons denied travel documents on secrecy grounds could appeal the decision to an Interagency Commission on Secrecy chaired by the First Deputy Foreign Minister.

Emigrants who had resettled permanently abroad but were traveling on Russian passports generally were able to visit or repatriate without hindrance; however, visiting emigrants who initially departed without obtaining exit permission have been stopped at the border and prevented from exiting the country (although they may enter without difficulty), since they could present neither a nonimmigrant visa to another country nor evidence of permission to reside abroad legally.

The Constitution prohibits forced exile, and the Government did not employ it.

The Constitution provides all citizens with the right to emigrate and this right generally was respected. There were logistical delays related to exit permission for those trying to depart for countries that have granted them refugee status.

As of August, 7,310 citizens appealed to foreign embassies with requests for refugee status, a drop from the 12,700 appeals filed during the first 6 months of 2003. Many persons fleeing Chechnya applied for refugee status. The UNHCR stated that many of these refugee seekers at times faced detention, deportation, fines by the police and racially motivated assaults, sometimes even leading to the loss of life.

A Soviet requirement that citizens receive a stamp permitting “permanent residence abroad” (PMZh) in order to emigrate essentially a propiska for those living outside the country was formally abolished in 1996; however, implementation of the change (which had been scheduled to take place early in 1997) remained incomplete. According to the International Organization for Migration (IOM), border guards continued to require a PMZh like stamp of all emigrants, and local authorities in some regions continued to issue it to citizens with valid external passports.

A Law on Citizenship, which came into effect in 2002 and was amended in December 2003, made access to citizenship more difficult by requiring possession of a residence permit or propiska. The law also requires 5 years of uninterrupted residence from the time of issuance of a residence permit, a lawful source of income, an application renouncing previous citizenship, and an established knowledge of the Russian language.

Amendments to the laws governing citizenship sought to facilitate the acquisition of Russian citizenship by former Soviet citizens residing on the territory of the Russian Federation by waiving all the other requirements except the need to have been

registered temporarily or permanently at a place of residence in the Russian Federation as of July 1, 2002. The authorities have estimated that up to 1.5 million former Soviet citizens could benefit from the new law; however, some NGOs informed the UNHCR that the registration and permit requirements would limit the number of beneficiaries. In principle, the legal precedents set forth in earlier citizenship legislation which authorized citizenship on similar grounds to citizens who were legally in the Russian Federation as of February 6, 1992, were still in effect; however, the authorities have not always been willing to recognize the acquisition of citizenship on this basis.

The federal law on the legal status of foreign citizens imposes a 3 month deadline on non citizen residents for obtaining visas or long term resident status but did not include an exhaustive list of documents required for official registration, leaving the MVD considerable discretion in registration matters. According to human rights observers, this law, and the new citizenship law, could further increase the difficulties facing groups such as Meskhetian Turks in Krasnodar and other regions who have been denied citizenship documentation in contradiction to the laws governing citizenship.

International agreements permit persons with outstanding warrants from other former Soviet states to be detained for periods of up to 1 month while the Prosecutor General investigates the nature of outstanding charges against the detainee. This system was reinforced informally, but effectively, by collegial links among senior law enforcement and security officials in the various republics of the former Soviet Union. Human rights groups continued to allege that this network was employed to detain opposition figures from the other former Soviet republics without legal grounds. According to Memorial, some detainees were kept in custody for more than 1 month. For example, a teacher of Arabic from Uzbekistan was detained in Saratov region and spent a year in custody from 2002 to 2003 before the authorities decided not to carry out the Uzbek warrant of extradition. He was then released, but abducted in July and transported back to Uzbekistan where he remained in jail at year's end.

At year's end there were an estimated 39,000 IDPs from Chechnya in Ingushetiya, in temporary settlements or in the private sector, and there were 200,000 Chechen IDPs in various parts of Chechnya. Approximately 8,000 Chechen IDPs reportedly were in Dagestan, 1,105 in North Ossetia, 2,610 in Georgia, and 20,000 elsewhere in the country. In addition to ethnic Chechen IDPs, almost the entire population of ethnic Russians, Armenians, and Jews left Chechnya during the strife of the past decade.

Government officials stated publicly that they would not pressure or compel IDPs to return to Chechnya, and Ingush President Zyazikov promised that accommodation would be found for those remaining in Ingushetiya. Federal and local authorities consistently stated their determination to repatriate all IDPs back to Chechnya as soon as possible. Representatives of the Chechen administration visited camps in Ingushetiya to encourage IDPs to return to Chechnya, usually to temporary IDP facilities. In addition, during the year, the authorities closed the last remaining three tent camps in Ingushetiya; they had housed 5,978 persons. Although some of the inhabitants chose to remain in Ingushetiya, the UNHCR estimated that 70 to 75 percent chose to return to Chechnya. Following the June attacks by Chechen fighters in Ingushetiya, security forces conducted raids at several IDP settlements. Human rights NGOs reported that some of these raids resulted in IDPs being beaten or otherwise mistreated (*see* Section 1.g.). At times, the border between Chechnya and Ingushetiya was closed because of military operations. Federal border guards and police officers on the border between Chechnya and neighboring regions and at checkpoints within the country frequently required travelers to pay bribes. Some Chechens also had trouble traveling because their documents were lost, stolen, or confiscated by government authorities. Officials stopped registering IDPs in Ingushetiya in 2001, depriving new arrivals of the possibility of regularizing their status in the republic. Local authorities also frequently removed IDPs from the registration lists if they were not physically present when the authorities visited their tents. There were frequent interruptions in gas and electricity to IDP camps in Ingushetiya, events that the IDPs often viewed as pressure to return to Chechnya. Despite the inadequacy of the temporary lodging for IDPs in Chechnya, UNHCR officials reported that more than 26,000 IDPs returned to Chechnya from Ingushetiya between January 1 and October 15.

International and domestic organizations expressed concerns during the year over the Government's commitment to principles of voluntary return and alternative shelter in its treatment of Chechen IDPs in Ingushetiya, particularly with regard to the closure of tent camps. The Norwegian Refugee Council noted that threats of eviction, removal from humanitarian distribution lists, and security checks in settle-

ments were used to create feelings among IDPs that returning to Chechnya was their only option (*see* Section 4).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 protocol, but the Government had not established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution; however, it rarely granted asylum, and it returned individuals who sought entry without proper documentation to their countries of origin, including to countries where they demonstrated a well founded fear of persecution. The Government cooperated to a limited extent with the UNHCR and the IOM; both organizations assisted the Government in trying to develop a more humane migration management system, including more effective and fair refugee status determination procedures. At year's end, UNHCR had registered 42,931 asylum seekers who originated from outside the territories of the former Soviet Union since 1992. The UNHCR reported that only 2,962 of these were active cases, composed of 5,793 individuals still seeking asylum or receiving UNHCR assistance. The remainder integrated into society, left the country, resettled, or repatriated. The Government acted more expeditiously and with greater leniency in cases involving applicants who had been citizens of the former Soviet Union. There continued to be widespread ignorance of refugee law both on the part of officials and would be applicants.

A number of workers and students from Africa and Asia who came to work or study in accordance with treaties between their countries and the former Soviet Union remained in the country. The Government did not deport them but continued to encourage their return home. Between January and November, the UNHCR resettled a total of 515 persons, of whom 306 were Afghans and 145 were Africans.

A group of approximately 1,000 to 1,500 ethnic Armenian refugees evacuated from Azerbaijan in the late 1980s, due to ethnic violence, remained housed in "temporary quarters," usually in Moscow hotels or workers' dormitories. Representatives of the community previously stated that they were not interested in citizenship, which would entitle them to the benefits accorded to forced migrants, because they did not believe such a step would improve their material situation. They also rejected offers of relocation to other regions, alleging that the alternative housing that they were offered frequently was not suitable or available. However, as a result of a UNHCR project that has been providing legal assistance to the Baku Armenians since May 2002, by December, approximately 200 had received Russian citizenship and 60 others had pending citizenship applications.

In August, 270 residents of the Zelenogradskiy Accommodation Center for refugees, located on the outskirts of Moscow, were forced by the private landowner to evacuate the building. The Moscow Region Migration Service stated that 27 individuals were eligible to move to other temporary accommodation centers because they had refugee status, temporary asylum or asylum seeker certificates. The others were forced to find alternative shelter using a lump sum in cash provided by UNHCR. FMS officials told UNHCR that there was an urgent need for an emergency reception center in the Moscow region to maintain security and public order since the majority of asylum seekers, refugees and illegal migrants are concentrated in the capital.

The UNHCR continued to be concerned about the situation of asylum seekers and refugees at Moscow's Sheremetyevo 2 airport. The authorities systematically deported improperly documented passengers, including persons who demonstrated a well founded fear of persecution in their countries of origin. Legally bound to provide food and emergency medical care for undocumented travelers, the airlines returned them to their point of departure as quickly as possible; airlines were fined if an undocumented passenger was admitted to the country but not if the passenger was returned to the country of origin. The treatment of asylum seekers in the transit zone reportedly was harsh. The UNHCR received reports of physical and verbal abuse of transit passengers by police officers and Aeroflot airline employees. During the year, at least four persons were stranded in the transit zone of Sheremetyevo 2 airport for more than 3 months while three cases involving six persons were resettled by the UNHCR to another country. Among the latter were two persons who had resided in the airport transit zone for more than 15 months. In July, the authorities rejected asylum applications by two Ethiopians stranded in Sheremetyevo 2; the UNHCR initiated emergency resettlement. Despite several serious deportation and refoulement attempts by Aeroflot, the individuals safely departed to Norway later in July. According to the UNHCR, at year's end, four asylum seekers were still stranded in the airport.

There were 114 Points of Immigration Control (PICs) at border crossings and international airports. Most of the cases referred to them dealt with labor migrants

both entering and leaving the country. A few were asylum seekers. To the UNHCR's knowledge, no asylum seeker arriving at Sheremetyevo 2 airport has been accepted by the PICs since at least 1999. All of those who were interviewed (and rejected) were denied legal entrance into the country and generally referred to the UNHCR. During the year, the UNHCR continued to examine each case and seek resettlement on an emergency basis for those deemed to be in need of international protection. At the beginning of the year, several staff members from PIC were reassigned to other units within the migration service of Moscow region, and the UNHCR observed that the PIC office located in the international transit zone was not always staffed. The UNHCR further noticed a decrease in the number of newly arrived asylum seekers reported in the first half of the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their Government peacefully; while citizens generally have exercised this right in practice, the March 14 Presidential elections failed to meet international standards in a number of areas.

The Constitution establishes four branches of Government: The Presidency; the Federal Assembly made up of two houses (the State Duma and Federation Council); the Government and Council of Ministers headed by the Prime Minister; and the Judiciary. The Constitution gives predominance to the Presidency, and the President utilized his many powers to set national priorities and establish individual policies.

Incumbent President Putin, who had first been named acting President in 1999 and elected in 2000, was reelected on March 14 by a wide margin. The elections were observed by the OSCE, which offered a positive evaluation of the technical conduct of the balloting but concluded that the overall election process, marred by widespread misuse of administrative resources, systematically biased campaign coverage, and inequitable treatment of political parties, failed to meet international standards. Although the legal requirements for televised political debates and free time for party candidates to present their views were observed, the Government used its increasing influence over the media, particularly the electronic media, to promote favored candidates in newscasts and other programming, resulting in coverage that was heavily biased in favor of incumbent President Putin (*see* Section 2.a.).

In the December 2003 parliamentary elections, the ability of opposition parties, particularly those receiving funding from some so called oligarchs, to mount strong campaigns was seriously hampered by the investigation and arrest of Yukos President Mikhail Khodorkovskiy, a step widely believed to have been prompted, at least in part, by the considerable financial support he provided to opposition groups. Other wealthy benefactors of opposition parties and candidates appeared to have responded to what they regarded as an implied threat by reducing their own involvement in political contributions. The pro government forces, in contrast, drew heavily on "administrative" resources, using the power and influence of regional and local officials to maximize media coverage and campaign financing, and in some instances local electoral commissions appeared to bend the law to disqualify local opposition Duma candidates, leading to a small number of questionable disqualifications. As a result, the parliamentary elections failed to satisfy a number of international criteria for democratic elections.

In Chechnya, the authorities held a Presidential election on August 29. Official results indicated 74 percent of voters chose the Kremlin endorsed candidate, but regional experts who were present on the ground on election day alleged that the Kremlin announced voter turnout numbers were artificially high and that significant voting irregularities took place. The main candidate to replace Akhmed Kadyrov, who was assassinated on May 9, was Chechen Interior Minister Alu Alkhanov. Alkhanov was reportedly supported by Kadyrov's son, Presidential Guard chief Ramzan Kadyrov, and was unofficially endorsed by President Putin. Chechen businessman Malik Saidulayev, whom electoral officials disqualified on questionable grounds, had challenged Alkhanov. The official media coverage of the election campaign was strongly supportive of Alkhanov.

Competitive elections for other regional and local offices were held throughout the year. Most observers viewed these elections as generally free and fair, although there were problems in some regions involving unequal access to the media, non compliance with financial disclosure requirements, and the use of "administrative resources" (such as government staff and official media) by incumbents to support their candidacies. Challengers were able to defeat incumbents in some of the races for regional executive positions, and losing candidates generally accepted the legitimacy of the voting results. Some incumbent governors reportedly pressured local

press organizations to support their candidacies or deny support to their challengers. The counting of the votes in most locations was professionally done; however, incumbents, particularly those with connections to the Kremlin, enjoyed significant advantages in media access and financing during their campaigns.

In a number of regions, including Chechnya, there were incidents in which central or regional officials employed a number of forms of electoral manipulation, including pressuring candidates to withdraw from elections and disqualifying candidates through apparently prejudiced application of the elections laws.

In December, human rights activists investigated mass beatings and detentions by police in Bashkortostan. Police allegedly beat residents because they voted "incorrectly" in the republic's December presidential election (*see* Section 1.c.).

A Kremlin proposed law enacted in December eliminated the direct election of the country's regional leaders. The new law provides that Governors be nominated by the President subject to confirmation by regional legislatures. Regional legislatures that fail to confirm the President's choice are ultimately subject to dissolution. Governors in power at the time the law entered into force were given the option of either serving out their elected term or resigning early in order to appeal for a presidential appointment.

Political parties historically have been organizationally weak. Although laws enacted in 2001 and 2002 included a number of measures that enlarged the role of political parties, particularly established political groupings, they also gave the executive branch and Prosecutor General broad powers to regulate, investigate, and close down parties. Other changes increased campaign spending limits, shortened the campaign period, limited the conditions under which candidates could be removed from the ballot, and imposed restrictions on media coverage. A law enacted during the year raised the official membership requirements for political parties from 10,000 to 50,000, which may make it difficult for smaller parties to register. Parties that were already registered were given until January 2006 to comply with the new requirements.

The electoral proposals enacted and considered during the year, particularly the elimination of direct gubernatorial elections, continued the consolidation of political power in the hands of the Kremlin. Khodorkovskiy's arrest in October 2003 on charges of fraud in connection with privatization of industrial assets in the 1990s was the most recent of a number of politically motivated moves against wealthy "oligarchs" who represented centers of potential political and media opposition to the President (*see* Section 4). Many human rights observers viewed it as a warning to other oligarchs against involvement in political affairs and against providing financial support to independent civil society.

Corruption is a widespread and longstanding problem in both the legislative and executive branches. Manifestations included bribery of officials, misuse of budgetary resources, theft of government property, extortion, and official collusion in criminal acts. In a 2002 survey by Transparency International, 75 percent of respondents considered the law enforcement agencies to be dishonest. An anti-corruption campaign was launched in the summer of 2003 against high level officials in the Ministry of Interior and Ministry of Emergency Situations. Seven Moscow Criminal Police colonels and General Vladimir Ganeyev from the Ministry of Emergency Situations were arrested and charged with bribery and extortion in an organized criminal group. This anti-corruption operation in Moscow was followed by a wave of criminal investigations against corrupt law enforcement officials throughout the country. According to press reports, these anti-corruption operations did not change the situation with regard to public corruption and were widely viewed as a public relations campaign for the approaching elections to the State Duma and Presidency. Corruption played a particularly important role in the political process in many of the regions.

The Federal Law on Information and a law on participation in international information exchange regulate access to government information. Both laws authorize public access to all government information resources unless the information is designated confidential or classified by the law as a state secret. The information law specifies types of information that cannot be classified as secret or confidential, including laws and government regulations, information on emergency situations, ecological data, public health, demographic factors, and documents from libraries and archives open to the public. Information classified as a state secret is regulated by the Law On State Secrets of 1993 and by a 1995 Presidential Decree setting out a list of information classified as state secrets. According to articles 13 and 24 of the Law on Information, a refusal to provide access to open information or the groundless classification of information as state secret or confidential can be contested in court.

The courts convicted three suspects in the murder of Sergey Yushenkov, a prominent Duma Deputy and Liberal Russia party co Chairman who was shot to death in April 2003 (see Section 1.a.).

There appeared to have been no progress in investigating the death of Yuriy Shchekochikhin, a prominent Duma deputy and deputy editor of *Novaya Gazeta*, who died in July 2003 under mysterious circumstances (see Section 1.a.).

There were 45 women in the 450 member State Duma, and 6 in the Federation Council. A woman, Lyubov Sliska, served as First Deputy Speaker of the Duma. Svetlana Orlova was a Vice Chair of the Federation Council, and Valentina Petrenko chaired the Federation Council's Social Policy Committee. One woman, Valentina Matviyenko, served as governor of a prominent region, St. Petersburg.

Legal provisions have allowed national minorities to take an active part in political life; however, ethnic Russians dominated the political system, particularly at the federal level, and national minorities generally were underrepresented in many areas of public life. 227 deputies in the State Duma specified their ethnic background. Of these, 46 were not ethnic Russian.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally continued to operate in the country, investigating and publicly commenting on human rights problems; however official harassment of NGOs increased. The authorities harassed some of the most prominent NGOs in Moscow during the year, and other official actions and statements indicated a declining level of tolerance for unfettered NGO activity. NGOs seeking to operate in the northern Caucasus were severely hampered.

The authorities continued to audit Otkrytaya Rossiya, the NGO established by former Yukos CEO Mikhail Khodorkovskiy. Observers believe that the audit represents the first step toward disbanding the organization.

In November 2003, dozens of men in camouflage raided the Moscow offices of the Soros Foundation's Open Society Institute. The press reported that the men hauled away documents and computer data covering 15 years. Private security forces carried out the operation; they were allegedly hired by a businessman with whom the Foundation had been having a legal dispute, but some observers regarded the action as government inspired. The Soros Foundation split the Open Society Institute/Russia into 15 separate foundations that would be jointly financed by Soros and domestic donors for the next 3 years with an eventual turnover to all Russian financing.

Despite considerable litigation, the prosecution of Yuriy Samodurov, the Director of the Sakharov Center in Moscow, had not reached its conclusion by year's end. Samodurov, another employee Lyudmila Vasilovskaya, and artist Anna Mikhalechuk, were charged with inciting national, racial, and religious hostility by organizing a provocative religious exhibit at the Sakharov Center in January 2003.

In the regions, some local officials harassed human rights monitors, and the Government continued to decline to reverse its 2002 refusal to renew an agreement with the OSCE Assistance Group, thus preventing the organization from conducting human rights monitoring in Chechnya. After President Kadyrov was elected in October 2003, President Putin eliminated the position of the President's human rights envoy to Chechnya, asserting that the position was unnecessary because Chechnya was no different than other republics of the Federation, none of which had presidential representatives for human rights. Some government officials viewed the activities of some NGOs in regard to Chechnya with great suspicion. In his May State of the Nation speech, President Putin suggested that "far from all [NGOs] are geared toward defending people's real interests. For some of these organizations, the priority is rather different" obtaining funding from influential foreign or domestic foundations. For others it is servicing dubious group or commercial interests . . ."

On July 12, approximately 20 Ingush MVD militia officers, most in camouflage and masks, raided the office of the Society of Russian Chechen Friendship (SRCF) in Ingushetiya. The SCRF is widely known for its reporting on the human rights situation in the North Caucasus. Computers, office equipment, and petitions and letters from the public were confiscated, and a staff member was arrested, held overnight, and later released.

The National Democratic Institute (NDI) reported pressure on it and on its domestic partner, the VOICE Association for Voters' Rights from Central Authorities. Following the President's comments, the Minister of Foreign Affairs, Sergey Lavrov, held a meeting for NGOs to which such prominent NGOs such as Memorial and the Committee of Soldiers' Mothers, known for their criticism of the Kremlin, were not invited. Following the Committee of Soldiers' Mothers announcement that it intended to meet with Chechen rebel leader Aslan Maskhadov or his emissary Akhmed Zakayev, Duma deputies called for an investigation of the group and its

finances. Prosecutors opened an investigation in November. The results of the investigation had not been announced at year's end.

A Krasnodar court ordered the "School for Peace" to disband on February 19 after the MOJ complained about its work in support of Meskhetian Turks (*see* Section 2.d.). The school's lawyers appealed to the Supreme Court and to the ECHR. Meanwhile, a new charity organization, Froda, which had been registered in December 2003, continued to act as a successor of the School for Peace. The team remained the same and its work continued.

Several NGOs reported increased difficulties in their relations with local authorities. These ranged from visa and registration problems to delays in permission to enter Chechnya to denial of permission to enter IDP camps in order to provide assistance.

The Government's attitude towards human rights NGOs varied; the level of cooperation tended to depend on the perceived threat to national security or level of opposition that an NGO might pose. For example, most NGOs monitoring prison conditions generally enjoyed an excellent relationship with government authorities, but those monitoring Chechnya had more tense relations and in Krasnodar Kray the leaders of the organization, Mothers Defending Rights of the Detained and Convicted, were themselves detained in May when they sought access to a prison camp to check reports of inhumane treatment of inmates. Officials, such as human rights Ombudsman Vladimir Lukin, regularly interacted and cooperated with NGOs.

Several NGOs were recognized and consulted by government and legislative officials for their expertise in certain fields, and such groups participated, with varying degrees of success, in the process of drafting legislation and decrees. AI and HRW were also active and published reports on Chechnya and other issues.

A variety of regionally based human rights groups operated during the year. Socioeconomic rights groups were the most numerous; they monitored such problems as unpaid wages and benefits. There were fewer civil political rights groups, but they included "generalist" organizations that covered the range of human rights issues and "specialist" organizations that covered only one issue. There were also public centers that provided legal advice to the general public (*see* Section 1.e.). Resources for human rights work were scarce; most groups relied on foreign support in the form of grants to maintain operations. Regional human rights groups generally received little, if any, international support, or attention. Although at times they reported that local authorities obstructed their work, criticism of the Government and regional authorities usually was permitted without hindrance. The authorities were reportedly less tolerant of criticism of a specific political leader in a region (such as a governor or a senior law enforcement official). Local human rights groups in the regions had far fewer opportunities than their Moscow counterparts to interact with legislators to develop legislation; local authorities excluded some from the process entirely.

The leaders of some well known domestic NGOs involved in human rights advocacy reported receiving death threats from nationalist organizations.

Some international NGOs maintained small branch offices staffed by local employees within Chechnya; however, all of them had their bases outside of Chechnya (*see* Sections 1.b. and 1.g.).

Every person within the jurisdiction of the Federation may appeal to the ECHR about alleged human rights violations that occurred after May 1998, when the European Convention on Human Rights entered into force. Complainants were not required to exhaust all appeals in domestic courts before they could turn to the ECHR, but they must have exhausted "effective and ordinary" appeals, which usually includes two appeals (first and cassation) in courts of ordinary jurisdiction or three (first, appeal, and cassation) in the commercial court system. As of September, the ECHR had received an estimated 14,000 complaints from Russia. Of those, approximately 6,500 were declared inadmissible, and almost 4,000 were registered as ready for decision. However, the ECHR relayed more than 150 complaints it had received on to the Government. The Court found 15 complaints to be admissible, and there were five findings of violations based on the merits. Many applications were rejected at the first stage of proceedings as being clearly incompatible with the formal requirements of the European Convention. Some cases were put on the Court's calendar for fuller consideration.

On October 14, the ECHR opened a hearing on the first six complaints from Chechen citizens whose relatives were killed or wounded as a result of the actions of federal forces in Chechnya in 1999 and 2000. These complaints, which were submitted in spring 2002, were the first complaints on Chechnya the ECHR has accepted. The Court was expected to announce its verdict in early 2005.

The Government's human rights institutions rarely challenged government activities but made efforts to promote human rights. The Office of the Human Rights Om-

budsman, headed by Vladimir Lukin, commented on a broad range of human rights problems. Lukin's office had more than 150 employees and had several specialized sections responsible for investigating complaints of human rights abuses, including a section on religious freedom and a section on human rights education. During the year, the office published various reports on human rights problems. Lukin's role remained primarily consultative and investigatory, without powers of enforcement. By year's end, there were regional human rights ombudsmen with responsibilities similar to Lukin's in 24 of the 89 regions. Human rights committees and ombudsmen existed in other regions as well; however, the effectiveness of the regional ombudsmen and committees varied significantly from region to region.

The President's Human Rights Commission, headed by Ella Pamfilova and including a number of human rights activists, was active in promoting NGO concerns and working across a spectrum of contacts to advance human rights throughout the country. President Putin met with members of the Commission on several occasions throughout the year and met regularly with Pamfilova.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination based on race, sex, language, social status, or other circumstances; however, both governmental and societal discrimination persisted.

*Women.*—Domestic violence remained a major problem, and victims rarely had recourse to the authorities for protection. Police were reluctant, and at times unwilling, to intervene in what they regarded as purely domestic disputes, although there have been some reports of police participating in NGO programs intended to raise awareness about the problem more generally. Much of society, including some leaders in the human rights community, did not acknowledge domestic violence as a problem or did not believe that it was an issue of concern outside of the family. There was a general lack of understanding of these problems in the legal community, and there was no legal definition of domestic violence. Some forms of battering are addressed in the Criminal Code but are defined too narrowly to apply to most cases. Some NGOs that worked in the field of domestic violence reported that they had increasing access to legal services.

AI cited reports by domestic NGOs indicating that more than a million women a year suffered from domestic violence. According to Aleksandra Kareva, the head of the legal department for Stop Violence, an association of women's crisis centers, nearly 100,000 persons called the group's hotlines in 2003. Stop Violence asserted that approximately 58 percent of those women had been subject to aggression or violence from their husbands, fiancés, or partners; 70 percent of wives suffered from some kind of domestic abuse by their husbands; and nearly a fifth of all women (18 percent) were constantly under threat of serious physical abuse by their husbands.

Official estimates indicated that, on average, more than 250,000 violent crimes are committed against women annually; however, such crimes usually were not reported. In 2003, 32 percent of all murder cases (9,500) were committed by family members against other family members.

Rape was a problem. In 2002, police recorded more than 8,100 crimes of rape (in 2001, more than 7,000 rape cases were registered). The Government provided no support services to victims of rape or other sexual violence; however, victims could act as full legal parties to criminal cases brought against alleged assailants and could seek legal compensation as part of the verdict without seeking a separate civil action. Hospitals, crisis centers, and members of the medical profession assisted women who were assaulted; however, to avoid spending long periods in court, some doctors were reluctant to ascertain the details of a sexual assault or collect physical evidence.

Despite serious difficulties, many groups continued to address violence against women. NGOs, alone or in cooperation with local governments, operated more than 120 women's crisis centers throughout the country, and their numbers continued to grow. According to an association created by the centers, as of year's end, there were 15 governmental crisis centers and 50 non governmental centers in a total of 38 cities. The association's hotline received 340 calls daily. Several NGOs provided training on combating trafficking and domestic violence to police, Prosecutors, justices of the peace, and others in government.

Representatives of a foreign NGO who visited the Russian Far East (RFE) during the year reported that there were no crisis centers providing direct services to victims of domestic violence in the region, and that the majority of services offered by NGOs involved psychological counseling. They reported a new initiative in Vladivostok, led by a local NGO, to involve a variety of local professionals, such as psychologists/consultants (on telephone hotlines), doctors, lawyers, and representatives of mass media, in addressing domestic violence as a social problem.

While some conditions in the RFE may have been worse than some other regions, many of the experiences encountered by NGOs in the RFE reflected conditions throughout the country.

The obstacles encountered by NGOs included acceptance by the Government (lawmakers as well as law enforcers) and society as a whole of domestic violence as the norm and the attendant lack of political will to change the situation; weak integration of specialists and professionals in combating the problem and a lack of cooperation among NGOs; and a lack of resources, both financial and personal.

The organization and operation of a prostitution business is a crime, but the selling of sexual services remains only an administrative offense.

Trafficking of women for sexual exploitation or forced labor was a serious problem (see Section 5, Trafficking).

No law prohibits sexual harassment, and women have no recourse when sexually harassed. Anecdotal information suggested that many potential employers sought female employees who were receptive to sexual relations. Some firms asked applicants for employment to complete a form including the abbreviation "VBO," a Russian language abbreviation for "possibility of close relations," to which the applicant was expected to reply "yes" or "no." Alternatively, advertisements sometimes sought applicants "without complexes," which is taken to mean someone who was not opposed to relations with the potential boss as part of the job.

The Constitution states that men and women have equal rights and opportunities to pursue those rights; however, credible evidence suggested that women encountered considerable discrimination in employment. Job advertisements often specified sex and age groups and at times physical appearance as well. NGOs continued to accuse the Government of condoning discrimination against women, contending that the Government seldom enforced employment laws concerning women. Employers often preferred to hire men, thereby saving on maternity and childcare costs and avoiding the perceived unreliability that accompanies the hiring of women with small children. Employers also tried to avoid employees likely to invoke the entitlement to a 3 year maternity leave for child care, which could be used in full or in part by the mother, father, relative, or trustee providing the actual childcare. Women continued to report cases in which employers paid them less for the same work that male colleagues performed. According to a 2001 report by the International Labor Organization (ILO), women accounted for approximately 47 percent of the working age population but on average earned only two thirds of the salaries of their male counterparts. Professions dominated by women were much more poorly paid than those dominated by men.

*Children.*—The Government was committed to children's rights and welfare; however, the resources it devoted to the welfare of children were limited. A Family Code regulates children's rights and marriage and divorce issues. Children have the right to free education until grade 11 (or approximately age 17), and school is compulsory until the ninth grade. Boys and girls were treated equally in the school system. While federal law provides for education for all children in the country, regional authorities frequently denied school access to the children of unregistered persons, including asylum seekers, and migrants (see Section 2.d.).

Under the law, health care for children is free; however, the quality varied, and individuals incurred significant out of pocket expenses. More than 4 years after the start of the second conflict in Chechnya in autumn 1999, much of the republic's social and physical infrastructure remains destroyed or seriously damaged. As a result, social services are inadequate and poor, especially in the education, health and water and sanitation sectors. This, combined with the continued instability in the region, continues to threaten the health and well being of children in Chechnya.

No reliable statistics existed on the extent of child abuse; however, anecdotal evidence indicated that child abuse was a problem.

The status of many children has deteriorated since the collapse of communism because of falling living standards, an increase in the number of broken homes, and domestic violence. In Moscow, approximately 6,000 children per year were brought to the Center of Temporary Isolation of Minor Delinquents (COVINA). These children stayed in COVINA for no more than 30 days. During this period, a child's case was investigated, and his or her guardian was located; however, in 90 to 95 percent of these cases, the police simply returned the children to their families or to the institution from which they had run away. Many officials considered such domestic problems private affairs and preferred not to interfere. Ministry of Labor and Social Protection estimates indicated that approximately 1 million minors spend most of their time on the streets of big cities, neglected by their parents or caregivers. According to data of the Training and Research Center of the Ministry of Education, almost 130,000 new children are registered annually nationwide as lacking parental

support and supervision. In St. Petersburg alone, the number of street children was estimated to be between 20,000 and 45,000.

Trafficking in children was a problem (*see* Section 5, Trafficking).

Troops in Chechnya reportedly placed Chechen boys ages 13 and older in filtration camps where some reportedly were beaten and raped by guards, soldiers, or other inmates. The women's action group "White Kerchief" (Belyy Platok) reported that some federal forces engaged in kidnapping children in Chechnya for ransom.

According to a 2002 report by the U.N. Special Representative for Children and Armed Conflict, Chechen rebels used children to plant landmines and explosives. In September, at least 338 hostages, about half of them children, were killed after terrorists, some of whom were Chechens, took an estimated 1,200 hostages at a school in North Ossetia (*see* Section 1.g.).

Figures for homeless children were unreliable. According to the Ministry of Labor, estimates of neglected children ranged from 100,000 to 5 million. In 2002, an estimated 681,000 vagrant children were detained by law enforcement agencies, 2.5 times the 2001 rate. Approximately 50,000 adolescents were on the local and federal lists of missing children in 2002, 13.5 percent more than in 2001. The Ministry of Internal Affairs reported that approximately 50,000 children run away from home each year. According to the State Report on the Status of Children in the Russian Federation for 2003 (reporting statistics as of 2002), there were 700,000 street children and neglected children. The number of homeless children reportedly was growing by 100,000 to 130,000 every year and had reached about 1 million, according to Human Rights Ombudsman Vladimir Lukin; however, estimates from NGOs were much higher. Moscow authorities indicated that 40,000 working street children lived in the capital but claimed that 80 percent were from places other than Moscow. Homeless children often engaged in criminal activities, received no education, and were vulnerable to drug and alcohol abuse. Some young girls on the street turned to, or were forced into, prostitution in order to survive.

In the St. Petersburg region, local government and police ran various programs for homeless children and cooperated with local NGOs; however, resources were few and overall coordination remained poor. Local and international NGOs provided a variety of services for the homeless. Many Moscow charitable organizations have established productive relations with the city government to address the needs of children with disabilities, as well as other vulnerable groups. In St. Petersburg, the ILO ran a drop in center for runaways and homeless children; Road to Light has a shelter there for abused girls and an independent living program for children in institutions to train them in life skills.

Assistance to, and accommodation for, children with disabilities continued to be seriously inadequate (*see* Section 5, Persons with Disabilities). The Rights of the Child Program called for the establishment of an ombudsman for the rights of children with the power to enter and inspect children's facilities at any time without advance notification. The Ministry of Labor and Social Development continued to work with UNICEF on a pilot program to establish regional children's rights Ombudsmen. According to the Ministry and the Rights of the Child NGO, there were 15 such Ombudsmen, including in the cities of Yekaterinburg, St. Petersburg, and Arzamas Volkskiy, and in the regions of Velikiy Novgorod, Chechnya, Ivanovo, Kaluga, and Volgograd. An Ombudsman may only write a letter requesting an inquiry by law enforcement authorities, assist those whose rights have been violated to understand their legal rights, and make suggestions to legislators (local, regional, and federal) on ways to improve legislation.

Conditions for children in prisons and pretrial detention were problems (*see* Sections 1.c. and 1.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women and children continued to be a problem. The Government at all levels appeared committed to combat it. In October 2003, President Putin decried human trafficking as a "modern form of slavery"; however, there continued to be allegations that the corruption of government officials facilitated trafficking, although it was difficult to ascertain the scope of such corruption. During the year, the State Duma passed witness protection legislation, scheduled to take effect at the beginning of 2005, that covered trafficking victims. A number of trafficking prosecutions were pending utilizing both traditional criminal statutes and December 2003 amendments to the Criminal Code that for the first time criminalized trafficking.

The December 2003 amendments that criminalized human trafficking and the use of forced labor also expanded criminal liability for recruitment into prostitution, organization of a prostitution business, and the distribution of child pornography. Pursuant to these articles, if certain aggravating factors are established, trafficking and use of slave labor are each punishable by a maximum of 15 years imprisonment,

recruitment into prostitution is punishable by a maximum of 8 years, the organization of a prostitution business is punishable by a maximum of 10 years, and the manufacture and distribution of child pornography is punishable by a maximum of 8 years.

Law enforcement agencies continued to be involved in and to support a number of domestic and international human trafficking prosecutions. The Deputy Chief of the MVD Investigation Committee detailed four new prosecutions at an IOM conference, specifically discussing a trafficking case in Rostov on Don with victims who were transported to Cyprus; a joint Russian Dagestani trafficking investigation and prosecution; an investigation of Children from Volgograd being trafficked to Italy; and a trial in Yaroslavl. The Russian police, working closely with Israeli law enforcement agencies, arrested eight individuals involved in a Russian Israeli prostitution smuggling ring.

There were no reliable estimates of the scope of trafficking, but observers believe it remained widespread. The country continued to be a source, destination and transit country for human trafficking, particularly of women. Smaller numbers of men were also reported to be trafficked internally for manual labor.

According to the IOM, women have been trafficked to almost 50 countries, including every West European country, the United States, Canada, former Soviet republics, such as Georgia, Middle Eastern countries, such as Turkey and Israel, and Asian countries, including Japan and Thailand. There were also reports of women being trafficked to Australia and New Zealand. Victims often agreed to be transported to one location, only to be diverted to, and forcibly held in, another. Sometimes they were "sold" en route, particularly when transiting the Balkans.

Reports indicated that internal trafficking was also becoming an increasing problem, with women and children being recruited and transported from rural areas to urban centers and from one region to another. Sources reported that traffickers sometimes facilitated the migration of young women from the provinces to the major cities to work in sex industries such as stripping and prostitution. Young women who traveled into Moscow sometimes ended up in prostitution and, once there, found themselves trapped.

There were also reports that children were kidnapped or purchased from parents, relatives, or orphanages for sexual abuse, child pornography, and the harvesting of organs. When police investigated such cases, they sometimes found that these children were adopted legally by families abroad; however, there were confirmed cases of children trafficked for sexual exploitation.

The virtual trafficking of pornographic images of children over the Internet was also a growing problem, with the country having become a major producer and distributor of child pornography in the last few years. This has led to confirmed cases both of sex trafficking of children and of its inverse, child sex tourism to the country. However, the authorities were actively assisting foreign prosecutions relating to child pornography and child pornography web sites located in the country.

Women who have been trafficked abroad and returned seldom reported their experiences to the police and continued to be fearful of retaliation by the traffickers. Some trafficked women were of Russian ethnic origin but citizens of other former Soviet countries, such as Ukraine. Women from such countries as Tajikistan emigrated illegally to seek work, and some may have been victims of traffickers. Some migrants became victims of forced labor once they arrived. According to another IOM Report, women aged 15 to 25, particularly those interested in working overseas, were the most likely to be trafficked. The targets of traffickers were usually unemployed females between the ages of 14 and 45, with females between the ages of 15 and 25 the prime targets. Traffickers offered enough economic hope to persuade even well educated, mature women with job skills to become risk takers and entrust traffickers with their money, documents, and persons. Almost all trafficked women who returned and recounted their experiences reported that they traveled to better their lives through work or marriage abroad. Some knowingly agreed to work in sex industries. But all victims insisted that they never suspected the severity of the conditions, the slavery, or the abuse to which they would be subjected.

According to credible media reports, some employers forced workers from countries of the former Soviet Union to work without pay. Employers or the individuals who brought the workers into the country withheld the workers' passports or other documentation and threatened them with exposure to law enforcement agencies or immigration authorities if they demanded payment. At times, the recruiter demanded part or all of the workers' wages of face deportation. One trafficking researcher indicated that she was aware of a case in which the local police worked with an employer to "shake down" trafficked labor to deprive them of their wages.

Information from foreign prosecutions, academic researchers, and law enforcement sources suggested that small criminal groups carried out most trafficking with the

assistance of front companies and more established organized crime groups. Typically, the traffickers used a front company frequently an employment agency, travel agency or modeling company to recruit victims with promises of high paying work overseas. Many placed advertisements in newspapers or public places for overseas employment, some employed women to pose as returned workers to recruit victims, some placed Internet or other advertisements for mail order brides, and some victims were recruited by partners or friends. Once they reached the destination country, the traffickers typically confiscated the victims' travel documents, locked the victims in a remote location, and forced them to work in the sex industry.

Traffickers often used their ties to organized crime to threaten the victims with harm to their families should they try to leave. They also relied on ties to organized crime in the destination countries to prevent the victims from leaving and to find employment for the victims in the local sex industry. Trafficking organizations typically paid domestic organized crime entities a percentage of their profits in return for "protection" and for assistance in identifying victims, procuring false documents, and corrupting law enforcement. They also sometimes paid "protection" money to local organized crime groups in destination countries.

There were reports that individual government officials took bribes from individuals and organized trafficking rings to assist in issuing documents and facilitating visa fraud. Law enforcement sources agreed that often some form of document fraud was committed in the process of obtaining external passports and visas, but they were uncertain to what extent this involved official corruption rather than individual or organized criminal forgery and fraud. There were reports of prosecutions of officials involved in such corruption.

Journalists, politicians, and academic experts stated that trafficking was facilitated and, in many cases, controlled by corrupt elements within the MVD and other law enforcement bodies. Substantial evidence, including information derived from victims, NGOs, foreign law enforcement organizations and criminal prosecutions, suggested that corrupt elements within the Ministry of Internal Affairs protected trafficking organizations and, in many cases, directly operated trafficking and prostitution businesses themselves.

In the past, there were significant complaints that Russian consular officials abroad refused to help trafficked women. However, the Ministry of Foreign Affairs developed guidance for consular officers abroad on how to deal with trafficking victims and has indicated that it is committed to assist repatriation of trafficking victims.

Many of the more than 120 crisis centers and anti-trafficking NGOs throughout the country provided information on trafficking, and some provided assistance to victims. Various NGOs rescued victims and helped them to reintegrate upon return to the country. These NGOs received varying degrees of support from regional and local governments. Some were invited to brief local officials and law enforcement personnel, and some provided training to local crisis centers and hospital staff. Significantly, the State Duma Committee on Legislation involved a variety of NGOs in the development of the draft anti-trafficking law. Some foreign funded crisis centers, such as the Anna Crisis Center in Moscow and the Women's Center in the Republic of Kareliya, provided psychological consultations for trafficking victims. The Women's Crisis Center in St. Petersburg also provided psychological and legal consultations for trafficking victims. An NGO in Yekaterinburg, the Foundation for Women's Entrepreneurial Support, provided training on trafficking in persons and how to deal with its repercussions.

NGOs also continued their activities in the areas of public education and victim support. For example, during the year, Winrock International continued to provide economic empowerment training to NGOs in a variety of cities in the RFE.

In August, the State Duma passed a witness protection statute that applies to all organized crime cases in which a witness' life or physical safety is in danger; this measure was strongly favored by anti-trafficking supporters.

The Government had no official prevention program, but continued to sponsor a number of events designed to raise public awareness of the dangers of trafficking. The Presidential Administration organized a major conference of domestic anti-trafficking NGOs in Moscow on January 27, in which senior foreign officials also participated. The State Duma sponsored seven regional conferences throughout the country designed to teach law enforcement officers, NGOs, and public officials about the 2003 amendments to the criminal code and the new witness protection statute, and to address trafficking problems in general to facilitate prosecution of trafficking cases. The Ministry of Internal Affairs sponsored a "Train the Trainer" conference for MVD training staff from all over the country and invited outstanding international experts to participate in and to teach at the conference with the goal of developing trainers for the MVD throughout the country. The Ministry of Internal

Affairs worked to develop a pilot anti-trafficking awareness program for use in schools.

*Persons With Disabilities.*—Several existing laws are intended to prohibit discrimination against persons with disabilities or to establish conditions of equal rights for them; however, the Government did not enforce these laws. Citizens with disabilities continued to be denied equal opportunity to an education, the right to work, and access to social infrastructure.

Legislative and governmental approaches toward persons with disabilities continued to focus on social protection material aid as opposed to social integration. The few existing laws promoting the integration of persons with disabilities into society lacked implementation mechanisms, for example, laws prescribed penalties on enterprises for failure to build ramps or other accessible features but contain no enforcement mechanisms.

There were an estimated 15 million persons with disabilities, nearly 700,000 of them minors. Persons with disabilities continued to be excluded from the social and political life of their communities and have been isolated from the mainstream community.

Over the past 10 years, with the emergence of NGOs focused on disability and family matters and the passing of instrumental disability legislation, significant changes have occurred to improve the quality of life of persons with disabilities. Employment programs for persons with disabilities have been launched in at least 9 cities (Moscow, St. Petersburg, Tomsk, Omsk, Vladimir, Arkhangelsk, Perm, Yekaterinburg, and Krasnoyarsk), and 40 pre schools adopted inclusive programs in Moscow, St. Petersburg, Velikiy Novgorod, Pskov, and Yekaterinburg. NGOs have made significant efforts in this area, but there was still a lack of government support on issues affecting persons with disabilities.

Despite the promise of these changes, persons with disabilities still faced daily discrimination, as well as physical barriers to education, employment, recreational activities, and family life. Authorities seldom enforced local and federal legislation.

The law on Social Protection of Disabled People, which was scheduled to take effect in January 2005, would replace benefits such as subsidized transportation and medicine with cash payments. The new law raises many questions about the responsibility for implementation of legislation. Advocates of persons with disabilities argued that such persons would be particularly affected since the proposed payments, which are projected to start at \$5 (140 Rubles) a month, would be eroded quickly by inflation and would not be paid in full by regional authorities. They also contended that some of the privileges scheduled to be eliminated, such as job guarantees for persons with disabilities, would not be subject to any monetary compensation.

The law requires that firms with more than 30 employees either reserve 3 percent of their positions for persons with disabilities or contribute to a government fund to create job opportunities for them; the legislation scheduled to take effect in January 2005, would change the minimum number of employees to 100 and substitute a 2 to 4 percent quota to be decided at the regional level. In addition, the law cancels the fine that employers once paid for not observing this quota. The only exception is for employers in Moscow, where officials have agreed to continue fining businesses for not observing the quota.

The law also modifies earlier language defining an "invalid" as a person unable to work. Perspektiva, a disability rights NGO, feared that some disability payments might be taken away by the new law if a person with disabilities is considered able to work, even though that individual may not in fact be able to find a job.

Some persons with disabilities found work within factories run by the All Russian Society for Persons With Disabilities; however, most were unable to find employment. Local authorities, private employers, and tradition continued to discourage persons with disabilities from working, and they were usually forced to subsist on social benefits.

The authorities concerned with children with disabilities continued to focus their attention on orphans and those who have been removed from mainstream society and isolated in state institutions. The authorities generally believed in segregating children with disabilities from mainstream society in special institutions rather than integrating them into the community. A complex and cumbersome system has developed to manage the institutionalization of some children until adulthood; three different ministries (Education, Health, and Labor and Social Development) assumed responsibility for different age groups and categories of orphans. Observers concluded that the welfare of the children was lost within the bureaucracy, and little clear recourse existed in instances of abuse by the system. Human rights groups alleged that children in state institutions were provided for poorly and in some

cases were abused physically by staff. Life after institutionalization also posed serious problems; children often lacked the necessary social, educational, and vocational skills to function in society.

The label of imbecile or idiot, which was assigned by a commission that assesses all children with developmental problems at the age of 3 and which signified uneducable, almost always was irrevocable. Even the label of debil lightly retarded followed an individual throughout life on official documents, creating barriers to employment and housing after graduation from state institutions. This designation was increasingly challenged in the case of children with parents or caregivers, but there was no one advocating for the rights of institutionalized children. A study conducted 1998 by the Rights of the Child NGO under the Moscow Research Center for Human Rights found that upon graduation at the age of 18 from a state institution for the lightly retarded, 30 percent of orphans became vagrants, 10 percent became involved in crime, and 10 percent committed suicide. The existing system provided little oversight and no formal recourse for orphans who had been misdiagnosed as mentally ill or retarded or who were abused or neglected while in state institutions. Facilities to which such children were remanded frequently used unprescribed narcotics to keep children under control. While this study is nearly 10 years old, Rights of the Child representatives indicated that directors of such institutions continued to give very pessimistic assessments of the situation.

Youths with disabilities not in institutions, and their parents, faced significant barriers to education, including schools that were not accessible. There was little or no accessible transportation. At the same time, the "home program" for children with disabilities was highly inferior to school classes. Children with disabilities were often marked as "un-educable." Those who attended university received no additional services or assistance. The majority of teachers and administrators in schools and universities had little or no understanding of disability issues. Often, parents of children without disabilities were averse to their children studying with children with disabilities.

Ministry of Education figures for 2003 indicated that nearly 200,000 of the country's 467,000 children with disabilities of school age were not accounted for and many may have been getting no education at all. Approximately 260,000 were studying at specialized schools where they were isolated from other members of the community and getting an inadequate education. Moreover, many of these children were forced to study far away from home as only a small number of cities have specialized schools. Approximately 30,000 children with disabilities studied at home, where they were isolated from their peers, getting an inadequate education and infrequent visits from teachers. Because almost all children with disabilities were at home or in specialized schools, they were not being prepared for life in the community, pursuing further education or finding employment. In Nizhniy Novgorod, fewer than 200 of the approximately 8,000 young adults with disabilities were enrolled at universities during the year.

Primary and secondary schools effectively excluded children with disabilities by requiring parents to produce a medical certificate affirming that the child was in perfect health. A shortage of qualified teachers and specialists for different categories of disabled children, a lack of methodologies, and the inaccessibility of the schools contributed to the problem. Families with such children are supposedly entitled to special education, home school training, or other compensation, but may need to resort to legal action to receive their entitlements in full. Other problems that parents faced included unawareness of the human and legal rights of their children and lack of experience in dealing with government officials. Collectively, parents suffered from inadequate cooperation with each other and insufficient integration with other NGO's working on social issues.

Federal law on the protection of persons with disabilities requires that buildings be made accessible to the disabled, but there were few regional mechanisms to implement this legislation and the authorities generally did not seek to enforce it.

Disability NGOs, such as Perspektiva and the Independent Living Network, continued to work to broaden public awareness and understanding of problems concerning accessibility, employment, and inclusive education for persons with disabilities by conducting workshops, roundtables with public officials, and training programs for persons with disabilities, their parents, school administrators, teachers, and lawyers.

*National/Racial/Ethnic Minorities.*—The Constitution prohibits discrimination based on nationality; however, Roma, persons from the Caucasus and Central Asia, and dark skinned persons faced widespread governmental and societal discrimination, which often was reflected in official attitudes and actions (*see* Section 1.c.). Racially motivated violence increased. Muslims and Jews continued to encounter preju-

dice and societal discrimination; it was often difficult to separate religious from ethnic motivations (*see* Section 2.c). Human rights observers noted that considerable legislation prohibits racist propaganda and racially motivated violence but complained that it was invoked infrequently.

Monitoring by the European Roma Rights Center (ERRC) revealed “alarming patterns of human rights abuse of Roma” in the country. The 2002 census estimated a Romani population of 182,000, but unofficial estimates put it at 1.2 million. The ERRC said that the media’s frequent association of Roma with drug dealing was a problem because it provided the context for many of the human rights violations Roma experience: Torture and abuse by law enforcement officials; arbitrary police raids on Romani settlements; abduction and extortion of money by police; discrimination in the criminal justice system; violence at the hands of paramilitary and nationalist extremist groups; hostile portrayals in the media; unwillingness of local officials to provide personal documents; and poor access to jobs, education, and housing.

Evidence of widespread police violence against Roma was provided by the ERRC, although the abuse was rarely reported to higher authorities. Most police abuse during the year, according to the NGO Roma Ural, occurred during identity checks or when Romani settlements were raided. Roma often explained that it was cheaper and better to pay bribes to police than to obtain regular citizenship documents, which may cost even more in bribes.

New federal and local measures to combat crime continued to be applied disproportionately to persons appearing to be from the Caucasus and Central Asia. Police reportedly beat, harassed, and demanded bribes from persons with dark skin, or who appeared to be from the Caucasus, Central Asia, or Africa. Azerbaijani vendors alleged police frequently used violence against them during document checks at markets in St. Petersburg.

Authorities in Moscow subjected dark skinned persons to far more frequent document checks than others and frequently detained them or fined them amounts in excess of permissible penalties. Police often failed to record infractions by minorities or to issue a written record to the alleged perpetrators. Law enforcement authorities also targeted such persons for deportation from urban centers. Chechens in particular continued to face great difficulty in finding lodging in Moscow and frequently were forced to pay at least twice the usual rent for an apartment.

There was also evidence of societal hostility on ethnic and racial grounds. Despite appeals for tolerance during the year by President Putin and other senior officials, violence and societal prejudice against ethnic and national minorities, as well as against foreigners, increased. During the year there were numerous racially motivated attacks on members of minority groups and foreigners, particularly Asians and Africans. The approximately 1,000 African students in Moscow were routinely subjected to assaults and abuse. An informal 2002 survey of Africans, mostly students and refugees, indicated that nearly two thirds reported having been physically attacked in Moscow because of their race. Fifty four percent were verbally insulted by the police because of their race. The 180 students questioned reported experiencing 204 attacks, 160 of them reported to the police, resulting in 2 convictions.

Attacks were generally carried out by private individuals or small groups inspired by racial hatred. Law enforcement authorities knew the identity of some of the attackers based on their racial intolerance or criminal records. During the year, members of ethnic or racial minorities were the victims of beatings, extortion, and harassment by skinheads and members of other racist and extremist groups. For example, the press reported that on September 20 a group of up to 50 young persons beat and stabbed 4 individuals from the Caucasus region on the Moscow subway. Police rarely made arrests in such cases, although many such incidents were reported by human rights organizations. Many victims, particularly migrants and asylum seekers who lacked residence documents recognized by the police, chose not to report such attacks or experienced indifference on the part of police.

Skinheads, who began to appear in the early 1990s, numbered approximately 50,000 in hundreds of organizations at year’s end, according to the Ministry of Internal Affairs. The Ministry reported that there were approximately 5,000 skinheads in Moscow.

There has been no significant progress in the investigation of a group of seven alleged skinheads that attacked a group of Kurdish and Turkish children from Germany in a St. Petersburg subway station in April 2003. An investigation was opened only after the German consulate lobbied local authorities.

Most authorities appeared unwilling to acknowledge the racial motivation behind antisocial brutality. For example, in St. Petersburg, where observers noted an increase in ethnic hostility, law enforcement officials often characterized perpetrators of hate crimes as spontaneous “hooligans,” denying the existence of organized skin-

head groups there. The City Administration and law enforcement agencies did not do enough to address the issue because of lack of resources and, in some cases, sympathy with nationalistic causes among working level staff. According to press reports, between January and July, four killings, six physical attacks, and three acts of vandalism in St. Petersburg appeared to have been motivated by ethnic hatred. In all cases the attackers were wearing skinhead attire or proclaimed nationalist slogans.

According to the MVD, 283 crimes were committed against foreign students during the year. Most of the crimes were thefts (about 43 percent) and robberies. This year most of the victims were students from China and other Asian and African countries. One third of such crimes were committed in St. Petersburg. On October 13, a 20 year old student from Vietnam was killed by a group of about 20 skinheads in St. Petersburg. Several skinheads were detained. Over 200 students from Vietnam gathered next day in protest and demanded that a fair investigation be conducted. On October 2, an Afghan native was killed in St. Petersburg. The Afghan Diaspora is certain that militia was directly involved in this murder. The investigation is still ongoing. On May 31, in St. Petersburg a student from Libya (son of the Cultural Attaché from the Libyan Embassy in Moscow), died in a hospital of knife wounds. A criminal case was initiated, but no one was detained.

In Moscow, in January, an ethnic Nanay student of the Peoples of the North Institute was killed on the way to his dormitory. In February, a 9 year old Tajik girl was killed when a group of young men, shouting "Russia for the Russians," attacked a Tajik family of three. The girl died of multiple stab wounds. In May, the son of a cultural attaché of the Libyan Embassy was knifed near the apartment he was renting. A group of 20-50 skinheads attacked four individuals from the Caucasus in a Moscow metro in September. The victims were brought to hospital with knife wounds and broken arms and legs. In Voronezh, in October, a student from Kenya was beaten; two of the attackers were detained. The incident happened 10 days after a first guilty verdict in relation to another hate crime was announced in Voronezh. Two adults were sentenced for 17 and 10 years in prison and a teenager was sentenced for 9 years in a juvenile institution for murder of a student from Africa committed in February.

On June 19, Nikolay Girenko, an expert on hate crimes and senior researcher of the Museum of Anthropology and Ethnography at the Russian Academy of Sciences, was killed in his apartment in St. Petersburg. An unidentified individual rang the doorbell and shot Girenko through the wooden door with a sawed off rifle. Girenko's colleagues from the Citizen's Watch and Light Center NGOs (where he was a long term collaborator on tolerance programs) were certain that the motive for the killing was Girenko's professional activity. He was an official expert for the Prosecutor's Office in a number of high profile court cases involving ethnic and religious issues, including the case of Moscow Sakharov's Center employees who were charged with inflaming ethnic hatred for hosting the exhibition "Danger, Religion!" Girenko disagreed with prosecution experts and denied that there were grounds for the charges, and partly as the result of his testimony the court returned the case to the prosecutor's office in June for further investigation.

Shortly after the killing of Girenko, a previously unknown organization, "Russian Republic," pronounced a death sentence on Girenko on its website and announced that the sentence had been carried out. St. Petersburg prosecutors reportedly issued a summons to the authors of the "Russian Republic" website, but a journalists' NGO indicated that those behind the website had decided to ignore the summons. There was no indication by year's end that the St. Petersburg authorities had pursued the case further.

In September 2003, the courts acquitted Pavel Ivanov, editor of the Velikiy Novgorod newspaper *Russkoye Veche*, of printing articles hostile to minorities in his newspaper. Ivanov had been charged in 2002 with inflaming ethnic hatred. Nikolay Girenko, the ethnicity expert who was killed in June, had been an expert witness in this case.

The Constitution makes provision for the use of national languages alongside the official Russian language and states that each citizen shall have the right to define his or her own national identity and that no citizen shall be required to state officially his or her nationality.

*Indigenous People.*—The law provides for the support of indigenous ethnic communities, permits them to create self governing bodies, and allows them to seek compensation if economic development threatens their lands. In some areas, local communities have organized to study and make recommendations regarding the preservation of the culture of indigenous people. Groups such as the Buryats in Siberia and ethnic groups of the North (including the Enver, Tatarli, Chukchi, and others)

continued to work actively to preserve and defend their cultures as well as the economic resources of their regions. Most affirmed that they received the same treatment as ethnic Russians, although some groups believed that they were not represented or were underrepresented in regional governments. The principal problems of indigenous people remained the distribution of necessary supplies and services, particularly in the winter months for those who lived in the far north, and disputed claims to profits from exploitation of natural resources. In May, the Ministry of Natural Resources, gave the Chukotka Association of Traditional Marine Mammal Hunters, a native NGO, the right to distribute whale harvest quotas to the native hunters of Chukotka. This gave the Chukotka hunters greater control over the renewable resources upon which they depend.

Some groups in the far eastern part of the country criticized the Government for not developing an overall concept for the development of indigenous people. Responsibility for government policy toward indigenous people had been transferred between government agencies several times in earlier years.

*Other Societal Abuses or Discrimination.*—People with HIV/AIDS often found themselves alienated from their families, their employers, and medical service providers. For instance, a 2003 study of 470 citizens with HIV found that: 10 percent had been forced to leave home by their families, 30 percent had been refused health care, 10 percent had been fired, and almost 50 percent were required by their doctors to give detailed personal information about their sex partners.

Although homosexuality is not illegal, many male homosexuals continued to be discriminated against by all levels of society. Medical practitioners continue to limit or refuse health services due to intolerance and prejudices towards this marginalized and high risk group. According to recent studies, male homosexuals were often refused work due to their sexuality and therefore further marginalized from society. Openly gay men must keep a constant watch against being targeted for skinhead aggression, which was often met with law enforcement indifference.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join trade unions; however, in practice, government policy and the dominant position of the Federation of Independent Trade Unions of Russia (FNPR) limited the exercise of this right. Approximately 60 percent of the work force (an estimated 68 million workers) was unionized, and approximately 10 percent of union members belonged to independent free trade unions.

The FNPR claimed the membership of approximately 60 percent of all workers, although observers concluded that 50 percent appeared to be a more accurate estimate. The FNPR largely dominated the union movement, and this dominance constituted a practical constraint on the right to freedom of association. Trade union control over the distribution of social benefits at the federal level effectively ended in 1991, but the FNPR, as the owner of many service facilities and the largest grouping of unions, continued to play a significant role at the municipal and regional level in setting priorities for the distribution of social benefits, such as child subsidies and vacations, based on union affiliation and politics. Such practices discouraged the formation of new unions. Trade unions maintained that the consolidation of social security assets in the federal budget and the additional layer of bureaucracy in the distribution of social benefits have led to reduced benefits for workers and the public in general.

FNPR unions frequently included management as part of the bargaining unit or elected management as delegates to its congresses. The FNPR and other trade union federations acted independently on the national political level, but in some cases FNPR unions were affiliated closely with local political structures. Political parties often cooperated with unions, for example, in calling for a national day of protest.

Approximately half of the court cases on the right of association were decided in favor of employees, although fewer than 50 percent of cases were decided within a year, and enforcement of court decisions remained a problem. Employees tended to win their cases in court but only if they were prepared to appeal through a protracted and time consuming process. Many remained reluctant to do so. Most workers did not understand or have faith in the legal structure and feared possible retaliation.

There were incidents of cooperation between company management and FNPR local unions in successful efforts to discourage the establishment of new unions. The Russian Railways Trade Union, an affiliate of the FNPR, signed a collective bargaining agreement with Russian Railways after apparently illegally excluding an independent trade union from negotiations. The Russian Railways Trade Union has

established a goal of signing up all railroad workers as members, which would necessitate the end of the independent trade union.

The law requires trade unions to register and specifies that registration requires a simple "notification" and submission of documents to the authorities; however, in practice, many trade unions remained unregistered because local departments of the MOJ throughout the country continued to ignore the established procedures and refused to register new unions without changes in charter documents or confirmation of attendance at founding conferences. As a result of such practices, new organizations such as local branches of the Russian Trade Union of Locomotive Brigades of Railway Employees (RPLBZh) remained unregistered and existing organizations that had been required to reregister had not done so.

According to the Labor Code, organizations or trade unions may represent workers' rights at the enterprise level (see Section 6.b.). However, such organizations were structurally dependent on a higher union body. By thus restricting the authority to represent workers at the enterprise level to entities that are structurally dependent on higher union bodies, the new Labor Code restricts the ability of workers to determine their own union structures. Labor experts viewed this as a clear violation of freedom of association principles (ILO Convention No. 87). In March, the ILO Committee on Freedom of Association requested that the Government clarify whether local "stand alone" trade unions could represent workers in collective bargaining.

The Labor Code and Trade Union Law specifically prohibit anti-union discrimination; however, anti-union discrimination remained a problem. Union leaders have been followed by the security services, detained for questioning by police, and subjected to heavy fines, losses of bonuses, and demotions. A trade union leader at the Moscow Cash and Carry supermarket chain was apprehended during the year on suspicion of shoplifting stockings worth approximately \$.60 (18 rubles). For several days in a row she was taken to court in a police vehicle and threatened with prosecution even though an offense of this nature would not normally warrant police attention. Trade Union activity by members of the Russian Trade Union of Locomotive Brigades of Railway Employees has led to harassment, including denial of free train travel to which the members are entitled. In 2003, the ILO Committee on Freedom of Association called on the Government to investigate complaints that since November, 2000 members of the Russian Federation Water Transport Workers Union had been pressured by Novorossiysk Trade Sea Port JSC to leave the union and join a company controlled organization posing as an alternative union.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code gives employers considerable flexibility in dealing with labor relations. Under the Code, collective bargaining agreements remain mandatory if either the employer or employees request them. Both sides are obligated to enter into such negotiations within 7 days of receiving a request, and the law sets a time limit of 3 months for concluding such agreements. Any unresolved issues are to be included in a protocol of disagreement, which may be used to initiate a collective labor dispute.

Despite these requirements, employers continued to ignore trade union requests to negotiate collective bargaining agreements. In July, pilots at Bashkir Airlines went on strike to protest management's refusal to enter into collective bargaining negotiations. Moscow Railways has refused to negotiate a collective bargaining agreement with the RPLBZh.

The Government's role in setting and enforcing labor standards was diminished under the 2002 Labor Code, and trade unions were expected to play a balancing role in representing workers' interests. However, observers criticized the absence of clear enforcement mechanisms to ensure that an employer engages in good faith collective bargaining and other obligations, and provisions that favor the designation of a majority union as the exclusive bargaining agent. For example, if more than one trade union is represented at an enterprise, the Code calls for the formation of a joint body based on proportional representation to select a single representative body for workers during the collective bargaining negotiations. If the unions fail to agree on such a body within 5 days, the trade union representing the majority of workers at the enterprise has the right to represent all workers during these negotiations. While minority unions retained their seats at the negotiating table with the right to join the negotiations up until the actual signing of an agreement, labor experts stated that in many cases, particularly outside of Moscow and St. Petersburg, the above measures encouraged larger trade unions to obstruct the formation of a negotiating team to ensure their designation as exclusive bargaining agents.

Labor experts also were concerned about a number of other provisions of the Labor Code. The stipulation that there may be only one collective agreement per enterprise, covering all employees, limits the ability of professional or "craft" unions (the majority of new unions in the country) to represent their members' interests.

In March, the ILO Committee on Freedom of Association requested that the Government amend the Labor Code to allow collective bargaining at the occupational level. In some regions, existing unions were under increasing pressure from employers under the new labor relations scheme.

Collective bargaining agreements had been registered officially by an estimated 16 to 18 percent of enterprises; however, the FNPR claimed that approximately 80 percent of its enterprises had concluded such agreements. This apparent discrepancy appeared to be due in part to agreements that were concluded but not registered with the Ministry of Labor. Under the Labor Code, all parties to the agreement must register collective bargaining and wage agreements within 7 days of signature; however, there are no sanctions in the event that a collective agreement is not registered. The Code states that collective agreements become effective upon signature, regardless of whether they are registered or not. Ambiguity concerning the employer's legal identity made some collective agreements ineffective. This lack of clear identification under the law made tripartite wage agreements (with labor, management, and government participation) non binding at the municipal, regional, national, and industrial levels and brought their legal validity into question. Even when an agreement was signed, employers often claimed subsequently that the "employer representative" had not been authorized to represent the factory involved.

Ministry of Labor officials estimated that there were slightly more than 2 million labor violations in 2001 (the latest year for which data was available). The Moscow Labor Arbitration Court handles labor violations and disputes when both sides voluntarily agree to abide by its recommendations. It handles several cases a year. The court is a pilot project and was expected to lead to a system of similar arbitration courts in various regions. However, a shortage of resources limited the creation of additional courts.

The law provides for the right to strike; however, this right remained difficult to exercise. Most strikes were considered technically illegal, because the procedures for disputes were exceedingly complex and required the coordination of information from both sides. Civil courts could review strikes to establish their legality. The Labor Code further limits workers' and trade unions' ability to conduct strikes. A strike may be called only after approval of the majority of participants at a conference composed of at least two thirds of all workers, including management, at an enterprise. On March 24, the ILO Committee on Freedom of Association requested that the Government amend the Labor Code to lower the quorum required for a strike ballot. The Committee also requested the amendment specify that unions are not to be legally obligated to indicate the duration of a strike. There had been no change by year's end.

The law specifies that a minimum level of essential services must be provided if a strike could affect the safety or health of citizens. Under this definition, most public sector employees could not strike. After a trade union declares a strike, the trade union, management, and local executive authority have 5 days to agree on the required level of essential services. If no agreement is reached which was often the case the local executive authority simply decrees the minimal services and often sets them at approximately the same level as the average workload. During the year, the ILO Committee on Freedom of Association requested that the Government amend this section of the Labor Code and provide for an independent body to establish minimum services. The civil court has the right to order the confiscation of union property to settle damages and losses to an employer if a strike is found to be illegal and not discontinued before the decision goes into effect. As a result, an increasing number of strikes were organized by strike committees rather than by unions.

There were no prolonged strikes during the year. Overall strike activity remained relatively low, with only 11 strikes of a day or longer officially registered through October. In October, a 1 day strike by public sector workers, mostly teachers, produced a spike in strike statistics. Court rulings have established the principle that nonpayment of wages—estimated to be the cause of 90 percent of labor disputes—is an individual matter and cannot be addressed collectively by unions. As a result, a collective action based on nonpayment of wages was not recognized as a strike. Such actions occurred regularly, particularly in newly privatized companies with contracts to provide public services. The labor law does not protect individuals against being fired while on strike.

The law prohibits strikes in the railway and air traffic sectors, at nuclear power stations, and by members of the military, militia, government agencies, and disaster assistance organizations. As a result, workers in these professions at times resorted to other forms of protest such as rallies, days of action, or hunger strikes. The law prohibits reprisals for strikes; however, reprisals were common, and included threats of night shifts, denial of benefits, and firing.

Company management has sometimes sought to reorganize enterprise operations in order to break up unions that conducted strikes. In June 2003, the ILO Freedom of Association Committee noted the Government's "total lack of cooperation" in investigating such a case involving a labor dispute dating back to 1997 between a local independent union of dockworkers and the management at the Kaliningrad port. On October 19, the ECHR accepted the case at the request of the dockworkers' union but was not expected to decide it until summer, 2005.

The Government did not rescind its December 2002 refusal to permit the longtime director of the Solidarity Center, an NGO that provided technical assistance and training to workers and promotes cooperation among labor, management, and Government, to reenter the country, despite lobbying by domestic NGOs, some members of the Duma, and some in the international community. The refusal apparently was related to her activities in support of worker rights. Officials indicated that her refusal could not be reviewed until 2007. They permitted a temporary director to enter the country to close the office.

There are no export processing zones. Worker rights in the special economic zones and free trade zones are covered fully by the Labor Code and are the same as in other parts of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor; however, there were instances of the use of forced labor. There continued to be credible reports that significant numbers of foreign workers from other countries of the former Soviet Union were forced to work without pay because their passports were held by firms that brought them into the country (see Section 5). According to an ILO study, most forced labor was connected with illegal migration, that is, persons who entered the country voluntarily, but illegally. Because they were there illegally, they were subject to exploitation. According to the study, employers withheld passports in 20 percent of forced labor cases. A further ILO study completed during the year estimated that at least 2.1 million illegal migrants worked in conditions of forced labor.

There were reports that approximately 4,000 North Koreans were brought into the country to work in the construction and timber industries in the RFE, with salaries remitted directly to their Government. AI charged that a 1995 bilateral agreement with North Korea allows the exchange of free labor for debt repayment, although the Government claimed that a 1999 intergovernmental agreement gave North Koreans working in the country the same legal protections as citizens. Officials reported that up to 6,400 North Koreans were employed in the Russian Far East during the year. Most wages were withheld until the laborers returned home, making the workers vulnerable to deception on the part of North Korean authorities that promised relatively high payments. Military officers reportedly sent soldiers under their charge to work on farms to gather food for their units or perform work for private citizens or organizations. The USMC reported that the practice by officers and sergeants of "selling" soldiers to other officers with a military need for personnel or to perform such private activities as building private dachas constituted forced labor. Such abuses were often linked to units in the Northern Caucasus military district. The largest single group of such complaints the USMC received between January and September 2001 concerned the MVD.

In August, the television station Rossiya reported that dozens of workers died at a slave labor camp in Western Siberia. The owners of the logging company reportedly decided to increase their profits using slave labor. The Kemerovo regional prosecutor's office was investigating the deaths at year's end.

The Labor Code prohibits forced or bonded labor by children; however, there were reports that such practices occurred (see Sections 6.d. and 6.f.). Parents who begged in underpasses and railway stations of larger cities often had their children beg from passersby.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The new Labor Code retains prohibitions against most employment of children under the age of 16 and also regulates the working conditions of children under the age of 18, including banning dangerous, nighttime, and overtime work; however, the Federal Labor and Employment Service and the Ministry of Internal Affairs, which are responsible for child labor matters, did not enforce these laws effectively. Children were permitted, under certain specific conditions and with the approval of a parent or guardian, to work at the ages of 14 and 15. Such programs must not pose any threat to the health or welfare of children. The Federal Labor and Employment Service, under the auspices of the Ministry of Health and Social Development, was responsible for routinely checking enterprises and organizations for violations of labor and occupational health standards for minors. In 2001, approximately 12,000 cases of child labor violations were reported. There was no reliable information on

the number of cases in which an employer or organization was prosecuted for violating laws on child labor. Most serious violations of child labor and occupational health standards were believed to occur in the informal sector. Local police investigations only occurred in response to complaints.

Accepted social prohibitions against the employment of children and the availability of adult workers at low wages generally prevented widespread abuse of child labor. Nonetheless, the transition from a planned to a market economy has been accompanied by an increase in the number of children working and living on the streets. This was largely due to deterioration in the social service infrastructure, including access to education and health care. In some cases, economic hardship eroded familial protection. Parents often used their children to lend credence to their poverty when begging. Homeless children were at heightened risk for exploitation in prostitution or criminal activities (*see* Section 5).

*e. Acceptable Conditions of Work.*—The monthly minimum wage, essentially an accounting reference for calculating transfer payments, was scheduled to rise to approximately \$26 (720 rubles) on January 1, 2005. The monthly official subsistence level of approximately \$82 (2,396 rubles) was not sufficient to provide a decent standard of living for a worker and family. Approximately 26 percent of the population had incomes below the official subsistence minimum. Average wages rose to approximately \$255 (7,126 rubles) per month, compared with approximately \$187 (5,512 rubles) per month in 2003. However, in some impoverished rural areas, such as the Mary El region, workers on what were once collective farms received as little as \$13 (360 rubles) a month.

The Labor Code retains a standard workweek of 40 hours, with at least one 24 hour rest period, and requires premium pay for overtime work or work on holidays; however, workers have complained of being required to work in excess of the standard workweek (10 to 12 hour days were common), of abrogated negotiated labor agreements, and of forced transfers.

Although the incidence of nonpayment of wages declined, especially in the public sector, it continued to be the most widespread abuse of labor legislation. The AZLK Automobile Factory in Moscow, which went into receivership in 2003, owed workers 3 years of wages. The Labor Code imposes penalties on employers who pay their employees late or make partial payments and requires them to pay two thirds of a worker's salary if the worker remains idle by some fault of the employer. Proving that an employer is at fault, however, was difficult. Wage arrears through November totaled \$732 million (20.1 billion rubles), down from \$1.2 billion (34.7 billion rubles). Only in very isolated instances did some enterprises force their employees to accept payment in barter.

The number of workers who sought to recover unpaid back wages through the court system increased by 10 percent in 2003, but the process remained lengthy. Courts often were willing to rule in favor of employees seeking the payment of back wages, but collection remained difficult. Courts often insisted that cases be filed individually, in contradiction to the Law on Trade Unions, thereby undercutting union attempts to include the entire membership in one case. This insistence also made the process lengthier and more difficult for the affected workers and exposed them to possible retaliation (*see* Section 6.b.). The practice continued of removing the names of workers who won judgments for back wages, but did not yet receive the wages, from the list of those permitted to buy food on credit from the company store.

The law establishes minimum conditions for workplace safety and worker health; however, the Government lacked the financial and human resources to enforce these standards effectively. Workers wore little protective equipment in factories, enterprises stored hazardous materials in open areas, emergency exits were often locked, and smoking was permitted near containers of flammable substances.

The Labor Code provides workers with the right to remove themselves from hazardous or life threatening work situations without jeopardy to their continued employment; however, labor inspectorate resources to enforce this right remained limited. In addition, workers were entitled to such compensations as shorter hours, increased vacations, extra pay, and pension benefits for working under such conditions; however, the pressure for survival often displaced concern for safety, and the risk of industrial accidents or death for workers remained high. Deaths in mining accidents increased from 98 in 2003 to 147 through December 25.

Mine inspections were ineffective because sanctions for safety violations were weak. Even fatal workplace accidents due to unsafe work conditions often went unpunished. In April, a methane explosion in the Tayzhina coalmine in the Kemerovo region killed 47 workers. A federal government commission found no one culpable for the disaster, but union officials claimed better ventilation and stronger supports could have prevented fatalities.

The law entitles foreign workers residing and working legally in the country to the same rights and protections provided to citizens under the law, and the Labor Code prohibits forced or compulsory labor; however there were reports that foreign workers were brought into the country to perform such work (*see* section 6.c.). Foreign workers residing and working illegally in the country may be subject to deportation but may seek recourse through the court system. There were credible reports that hundreds of thousands of Ukrainians, Belarusians, Moldovans, and Central Asians were living and working illegally in Moscow and other larger cities for lower wages than citizens and under generally poor conditions.

## SAN MARINO

San Marino is a democratic, multiparty republic. The popularly elected Parliament, the Great and General Council (GGC), selects two of its members to serve as Captains Regent (co-heads of state). Captains Regent preside over meetings of the GGC and the Cabinet (Congress of State), which has 10 other members (secretaries of state) who the GGC also selects. The Secretary of State for Foreign Affairs has some of the prerogatives of a prime minister. The judiciary is independent.

Elected officials effectively controlled the centralized police organization (the Civil Police), which was responsible for internal security and civil defense; the Gendarmerie, a military group responsible for internal security and public order; and the Guardie di Rocca, a military group responsible for external defense that occasionally assisted the Gendarmerie in criminal investigations.

The principal economic activities were tourism, farming, light manufacturing, and banking. The country's population is approximately 28,000. In addition to revenue from taxes and customs, the Government also derived income from selling coins and postage stamps to international collectors and from an annual subsidy provided by the Italian Government under the terms of the Basic Treaty with Italy. Gross domestic product grew an estimated 2 percent, and wages grew 5.7 percent in 2003. The unemployment rate for the first semester of the year was 2.9 percent. Officially, the inflation rate is the same as Italy's, but in both countries it was actually higher than reported. Corruption by public officials occurred and was usually enhanced by political rivalry. However, the Government did not consider corruption a priority.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Some remnants of legal and societal discrimination against women remained, particularly with regard to the transmission of citizenship.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Male prisoners were held separately from female prisoners, as were juveniles from adults and pretrial detainees from convicted prisoners.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system requires that the country's lower court judges be noncitizens, with the aim of assuring impartiality; most lower court judges are Italian. A local conciliation judge handles cases of minor importance. Other cases are handled by non-Sammarinese judges who serve under contract to the Government. The final court of review is the Council of Twelve, a group of judges chosen for 6-year terms (four of whom are replaced every 2 years) from among the members of the GGC.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restrictions. Access to the Internet was unrestricted.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not use forced exile in practice.

The law does not provide for granting asylum or refugee status in accordance with the 1951 U.N. Convention or its 1967 Protocol. Asylum or refugee status may be granted by an act of the Congress of State; however, the Government did not formally offer asylum to refugees. The Government has permitted a few persons to reside and work in the country and cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The issue of the provision of temporary protection of individuals who may not qualify as refugees did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

There were no women serving on the Great and General Council during the year. However, women held positions in mainstream party organizations. There were 9 women in the 60-seat Parliament, but no minority group members.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights organizations, although the Government did not impede their formation. The Government declared itself open to investigations by international NGOs into alleged abuses, but there were no known requests to investigate.

*Section 5. Discrimination, Societal Abuses, And Trafficking in Persons*

The law prohibits discrimination based on race, disability, language, or social status. The law also prohibits some forms of discrimination based on sex; however, vestiges of legal and societal discrimination against women remained.

*Women.*—The law provides for the protection of women from violence. Rape, including spousal rape, is a crime under the law. Occurrences of violence against women, including spousal abuse, were rare.

Several laws provide specifically for the equality of women in the workplace and elsewhere. In practice, there was no discrimination in pay or working conditions. All careers were open to women, including careers in the military and police as well as the highest public offices.

The citizenship law provides that both men and women may transmit citizenship either through birth or naturalization; however, children of male citizens only need to state their “intent” to retain citizenship, whereas children of female citizens must state their “desire” to retain citizenship. It is not clear if this affects the transmission of citizenship in practice.

*Children.*—The Government was committed to children’s rights and welfare. Public education and medical care services were amply funded. Education is free until grade 13 (usually age 18) and compulsory until age 16. Most students continued in school until age 18. No differences were apparent in the treatment of girls and boys in education or health care. Violence against or abuse of children was an isolated problem; however, there were no reported cases during the year. One case from 2003 was pending.

*Trafficking in Persons.*—The law does not explicitly prohibit trafficking in persons. However, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. There also were no reports of other societal abuses. The Ministry for Territory has not fully implemented a law that mandates easier access to public buildings by persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law, all workers (except the armed forces) are free to form and join unions, and workers exercised this right in practice. The law sets the conditions to establish labor unions. Union members constituted approximately half of the country’s work force (which numbered approximately 10,300 citizens plus 4,000 resident Italians). Trade unions were independent of the Government and political parties; however, they had close informal ties with political parties, which exercised strong influence over union members.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice.

The law gives collective bargaining agreements the force of law and prohibits anti-union discrimination by employers. Workers exercised these rights and effective mechanisms existed to resolve complaints. Negotiations were conducted freely, often in the presence of government officials (usually from the Labor and Industry Departments) by invitation from both unions and employer associations. Complaints generally were resolved amicably by a “conciliatory committee” composed of labor union and business association representatives and government officials.

The law allows all civilian workers, including the Civil Police, the right to strike, and workers exercised this right in practice.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment and compulsory education is 16, and no exceptions were granted by the Ministry of Labor and Cooperation.

The law does not limit children between the ages of 16 and 18 from any type of legal work activity.

*e. Acceptable Conditions of Work.*—The Government sets the minimum wage according to industry standards. For example, in the hotel and restaurant industry, the minimum wage for employees over 18 years of age was approximately \$8.84 an hour (6.55 euros). For employees under 18, the minimum wage was approximately \$7.13 (5.28 euros). The national minimum wage provided a decent standard of living for a worker and family. Wages generally were higher than the minimum.

The law sets the workweek at 36 hours in the public sector and 37 hours for industry and private businesses, with 24 consecutive hours of rest per week mandated for workers in either category.

The law requires a premium payment for overtime and allows a maximum of 2 hours of overtime per day. There is effective enforcement of laws and industry contracts that prohibit excessive compulsory overtime. However, overtime laws do not protect the small number of foreign illegal day workers in the country.

The law stipulates safety and health standards, and the judicial system monitors these standards. Most workplaces implemented the standards effectively; however, there were some exceptions, notably in the construction industry, where not all workers, particularly foreign workers hired for a specific contract, consistently abided by safety regulations, such as work hour limitations. The Government closely monitored the implementation of safety regulations in the construction industry, but improvement has been slow.

Two laws treat foreign workers differently from citizens of the country: The first prohibits indefinite employment status for foreign workers with nonresident status. The second requires non-Italian foreign workers to obtain an Italian residence permit before they can apply for employment. In practice, these provisions limited the application of unemployment benefits to foreigners because such benefits were granted for a period of 12 months.

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## SERBIA AND MONTENEGRO

The state union of Serbia and Montenegro (SaM) is a constitutional republic consisting of the relatively large Republic of Serbia and the much smaller Republic of Montenegro.<sup>1</sup> The two republics hold most real authority, while the state union Government's responsibilities are essentially limited to the Foreign Ministry, the military (VSCG, formerly the VJ), human and minority rights, and foreign and domestic economic and commercial relations. Serbia has a parliamentary system of government run by Prime Minister Vojislav Kostunica. Boris Tadic was elected President in two rounds of elections on June 13 and June 27 that were deemed generally free and fair. A new multiparty government was formed in March. The Constitution provides for an independent judiciary; however, the judiciary was inefficient and often subject to political influence and corruption.

The SaM military reports through the Defense Minister to the Supreme Defense Council (VSO), whose voting members are the Presidents of SaM, Serbia, and Montenegro. The military is responsible for external defense. In Serbia, the police are responsible for law enforcement and maintenance of order as part of the Interior Ministry (MUP). The Security Intelligence Agency (BIA) is under the control of the Serbian Government as a whole, effectively giving control to the Prime Minister. Civilian authorities generally maintained control of the security forces. Some members of the security forces committed human rights abuses.

The economy was in transition from a system based on social ownership to a market-based environment with a mix of industry, agriculture, and services. Exclusive of Kosovo, the population of the Republic of Serbia was 7.5 million, and the population of SaM was 8.2 million. The SaM gross domestic product grew by 6 percent during the year. Average wages were projected to outpace inflation. Income distribution and economic opportunity were uneven. Poverty and unemployment were highest in southern and eastern Serbia and among the refugees from the wars in Croatia and Bosnia-Herzegovina (BiH) and internally displaced persons (IDPs) from Kosovo.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police at times beat detainees and harassed citizens. Police effectively investigated high-level killings committed during and after the Milosevic era; however, impunity and corruption were problems. Prolonged pre-trial detention was a problem. Courts remained backlogged and administratively paralyzed, and lengthy trials persisted. The war crimes court, a department of the Belgrade District Court established in 2003, began hearing war crimes cases during the year. The media was generally independent; however, journalists practiced some self-censorship because of their vulnerability to private libel suits and indirect political manipulation.

There were incidents of arbitrary arrest and detention. The judiciary continued to be susceptible to political influence. Poor cooperation between the judiciary and other government branches slowed the implementation of legislative reforms.

Two persons in Serbia indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) surrendered to the Tribunal. The Government transferred many documents to the ICTY and gave waivers for witnesses to testify; however, the ICTY remained dissatisfied with overall SaM cooperation, in particular because it believed that key indictee General Ratko Mladic was at large in Serbia.

In March, there were a number of incidents of societal violence and discrimination against religious minorities following widespread anti-Serb violence in Kosovo. Violence and discrimination against women and ethnic minorities were problems. Trafficking in women and children remained a problem which the Government took steps to address.

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<sup>1</sup>The report on Serbia and Montenegro—formerly the Federal Republic of Yugoslavia—is divided into three separate sections addressing the human rights situations in Serbia, Kosovo, and Montenegro. Discussion of SaM activities and institutions affecting human rights is included in the Serbia section.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, on May 15, police shot and killed an armed poacher along the administrative boundary line with Kosovo. Police, accompanied by a representative of the NATO-led Kosovo force (KFOR), investigated the shooting and determined that it was justified.

The trial of the suspects in the March 2003 assassination of Prime Minister Djindjic was ongoing at year's end. Djindjic was allegedly killed by members of the Red Berets—an autonomous state security police unit from the era of former Federal Republic of Yugoslavia (FRY) President Slobodan Milosevic—in collusion with the Zemun organized crime clan.

There were some developments in police investigations of political killings from previous years. The trial of two former police officers and five others (including two who remained at large) for the 2002 killing of former Belgrade police chief Bosko Buha was dismissed in November for lack of evidence.

On February 2, the retrial of former State Security Service (RDB) chief Radomir Markovic began for the 1999 attempted killing of Serbian Renewal Movement leader Vuk Draskovic, which resulted in the deaths of four persons. The retrial was ongoing at year's end, and Markovic remained in prison.

On February 23, the trial of nine persons began for the killing of former Serbian President Ivan Stambolic and the 2000 attempted killing of Vuk Draskovic. The trial, in the Belgrade Special Court for Fighting Organized Crime, was ongoing at year's end.

Domestic courts and the ICTY continued to adjudicate cases arising from crimes committed during the 1991–99 conflicts in Croatia, BiH, and Kosovo, including the ICTY prosecution of former FRY and Serbian President Slobodan Milosevic (*see* Sections 1.e. and 4).

There were no deaths from landmines during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances. During the year, SaM and Serbian Government authorities continued efforts to cooperate with neighboring countries and international organizations seeking to identify missing persons and investigating graves discovered in Serbia; however, progress was slow.

During the year, the Government exhumed two sites containing 77 bodies from the Croatia and BiH conflicts, identifying 21 of the bodies and returning them to families (9 within SaM and 12 to BiH). The Government also identified 181 bodies previously exhumed from mass graves dating to the Kosovo conflict and repatriated them to Kosovo. The Government, in cooperation with international organizations and the International Commission on Missing Persons, had not completed identification and repatriation of the additional remains by year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—SaM and Serbian laws prohibit such practices; however, police at times beat detainees and harassed citizens.

The Leskovac-based Human Rights Committee reported that there were fewer reports of torture and police abuse in the Leskovac area than there were in 2002 and 2003, but that there was little progress in addressing past abuses.

The MUP Inspector General confirmed six cases of torture by police during the 2003 state of emergency but stated that the perpetrators had not been identified.

By year's end, the few lawsuits filed by nongovernmental organizations (NGOs) on behalf of individuals who claimed they were tortured as detainees during the 2003 state of emergency had been withdrawn at the victims' request because the perpetrators could not be identified.

Police most often beat and physically abused persons during arrest or initial detention; low-level criminals were most often the victims of such abuse. In June, a man stopped for an identity check requested the name or identification number of the officer who stopped him. The officer reportedly then put the man in a police car and hit him approximately 10 times on the head. The Humanitarian Law Center (HLC) sent a letter about the incident to the MUP Inspector General, who said he had no information on the case. The MUP did not subsequently investigate the case.

The Leskovac-based Human Rights Committee reported that, in one case, 33 persons from Belgrade were mistreated after being taken to the police building in Vlasotinac.

There was one report that police threatened to have a person prosecuted after he said he would sue them after being mistreated. In another case, a man in Zrenjanin, who claimed police officers beat him in his cafe on January 13, filed a complaint

on February 19 and then initiated a private prosecution on August 24 because there had been no response to his original complaint. The municipal prosecutor then filed charges against the police officers (Zoran Gogic and Dragan Bojanic) for mistreatment while on duty and against the cafe owner for interfering with an official in performance of his duty. Unlike in previous years, there were no reports that police used beatings or threats of beatings to deter detainees from filing claims of abuse on prior occasions.

The public prosecutor filed charges against the three police officers involved in the August 2003 beating of a man each day during his 30-day detention; the man has also filed a private criminal complaint against the officers. The hearing on the man's other police brutality claim from 2001 was postponed because the accused officers did not appear.

During the year, there were developments in cases in which police in previous years reportedly used beatings to coerce confessions. The public prosecutor, claiming that there were insufficient grounds to believe that the acts occurred, dismissed the criminal complaint that the HLC filed in 2003 against unidentified officers of the Cacak Police Department. The HLC complaint claimed that, in May 2003, the officers threatened and hit Zeljko Popovic in an attempt to coerce a confession of robbery. After the complaint was dismissed, the HLC pursued the case as a private prosecution and requested further investigation. On October 6, an investigating judge held a hearing on the private prosecution, which remained pending at year's end. In October 2003, the public prosecutor indicted Popovic for stealing; the case had not been brought to trial by year's end.

Two Vranje policemen involved in the 2002 beating of Nenad Tasic were sentenced to 7 months and 5 months in prison, respectively; however, the court overruled the public prosecutor's decision that the two officers be prohibited from working as policemen in the future. The Supreme Court was reviewing the case at year's end. In April, the First Municipal Court in Belgrade ordered the Government to pay Tasic \$10,000 (600,000 dinars) in a civil compensation suit filed by the HLC. On November 29, the Belgrade District Court confirmed the compensation award.

There were developments in the case of a Romani man, Nebojsa Majlic, whom Leskovac police allegedly clubbed in 2002. After the assault, Majlic was charged with interfering with police performance of duty; his trial began during the year and was ongoing at year's end. In 2003, the Human Rights Committee filed a criminal complaint against the police who abused Majlic; however, at year's end, the trial of the police had not begun.

Prison conditions generally met international standards; however, conditions varied greatly from one facility to another, and some guards abused prisoners. The Helsinki Committee for Human Rights in Serbia (HCS) noted that some prisons offered clean, secure environments for inmates; however, in others—most notably the Belgrade Reformatory Hospital housing psychiatric prisoners—inmates were forced to live in filthy, inhumane conditions. The quality of food varied from poor to minimally acceptable, and health care was often inadequate. Guards were inadequately trained on the proper handling of prisoners.

There were some deaths in prison due to natural causes and suicides. Some inmates complained that other inmates subjected them to intimidation and occasional assaults. Inmates could report such problems to prison staff or to a district court; authorities generally responded by placing inmates in separate cells and at times taking disciplinary measures such as placing offenders in solitary confinement.

Men and women were held separately. Juveniles were supposed to be held separately from adults; however, in practice, this did not always happen. Pretrial detainees were held separately from convicted prisoners.

The Government permitted the International Committee of the Red Cross (ICRC) and local independent human rights monitors, including HCS, to visit prisons and to speak with prisoners without the presence of a warden.

There were attacks on and threats against witnesses and potential witnesses in domestic prosecutions.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The approximately 23,000 police officers in Serbia are part of the MUP's Sector for Public Security. The Sector is divided into seven directorates: uniformed police (including traffic and patrol officers), criminal investigations, organized crime, analysis, special operations units (including gendarmes and the special antiterrorist unit, or SAJ), human resources and training, and border police. The police are divided regionally into 33 secretariats. All municipal and rural units are branches of the republic police. Effectiveness of the police was uneven and generally limited. Many police personnel, including some high-level officials, are holdovers from the

Milosevic regime. While most police officers were Serbs, the force included Bosniaks (Bosnian Muslims), ethnic Hungarians, a small number of ethnic Albanians, and other ethnic minorities. The Multiethnic Police Force in southern Serbia was composed primarily of ethnic Albanians and Serbs.

Corruption and impunity in the police force were problems, and there were only limited institutional means of overseeing and controlling police behavior. In 2003, an Inspector General with enforcement authority was installed in the MUP; however, at year's end, he still had little ability to conduct investigations. On September 24, Finance Minister Mladjan Dinkic announced that several MUP officials would be charged with misappropriation of funds during equipment purchase contracting; however, no charges were filed by year's end. In 2003, the SaM Minister for Human and Minority Rights established an "SOS" hotline, which victims could contact to report on police abuse and other cases. The hotline had received 934 fully documented cases on a variety of issues by year's end. In some cases, hotline calls resulted in the Government resolving the caller's problem. For example, the Jehovah's Witnesses community called the hotline after several individuals entered their Kingdom Hall in Loznica on December 2 and demanded \$1,350 (1,000 euros) per month in protection money, implying that the police would not interfere. The Human and Minority Rights Ministry brought the problem to the attention of the MUP, which called in the perpetrators, and the threat was not repeated. During the year, the Government and the Organization for Security and Cooperation in Europe (OSCE) trained police, including on community relations.

According to the MUP Inspector General (IG), during the year, the IG recommended initiating disciplinary proceedings against 15 MUP employees, transferring 13 employees, reducing the pay of 34 employees, and referring 23 cases of illegal or improper activity for follow up by chiefs of regional secretariats. Chiefs of regional secretariats brought disciplinary proceedings against 12 employees, transferred 2 employees, filed misdemeanor complaints against 1 employee, and recommended reduction of pay for 8 employees. In addition, the IG filed 71 criminal complaints against 83 employees on charges including abuse of position, taking or giving bribes, forgery, corruption, fraud, making a false report or statement, mistreatment while on duty, causing serious bodily injury, causing minor bodily injury, extortion, unscrupulous work, revealing official secrets, mediation of prostitution, and unauthorized possession of a weapon.

Courts occasionally ordered the Government to pay compensation for police abuses. In April, the First Municipal Court of Belgrade ordered the Government to pay \$10,000 (600,000 dinars) in a civil compensation suit for the beating of Nenad Tasic (*see* Section 1.c.).

Amendments to the law in May preserved the 2-year limit on detention from indictment to the conclusion of first instance trial for most cases, but increased the limit to 4 years for crimes that carry up to the maximum penalty (40 years in prison). The amendments also increased from 1 year to 2 years the maximum detention permitted after an appellate court vacates the judgment of a trial court. These amendments were brought in response to defense delaying tactics designed to free defendants. A person wrongfully detained could demand rehabilitation and compensation from the Government.

The police were authorized to make an arrest without a judge authorized warrant in certain circumstances, including well-founded grounds of suspicion that the person committed a capital crime; however, arrests were generally made only with warrants. An investigating judge must approve any detention of more than 48 hours, and this requirement was employed in practice. Amendments to the law in May provide detainees the right to initiate urgent action by an investigating judge to determine the legality of their detention and to have the investigating judge order the detainee's release if the detention was found to be illegal. Arrested persons must be informed immediately of their rights, but there were reports that police officers at times failed to do so and also failed to inform detainees that what they said could be used against them. Bail was allowed but rarely used; detainees facing charges that carried possible sentences of less than 5 years were often released on their own recognizance.

Detainees had access to counsel in principle; however, this right was sometimes not respected in practice. There were reported cases of police pressuring attorneys to have only limited private contact with defendants or contact that was not truly private. There were also cases in which a suspect was interrogated without an attorney present, but the record of the interrogation stated that an attorney was there. Family members were normally able to visit. No suspect could be detained for more than 3 months without the authorization of an investigating judge or detained for more than a total of 6 months without being charged; these rights were respected in practice. The law prohibits the use of force, threats, deception, and coercion, as

well as use in court of evidence acquired by such means; however, police sometimes used these means to obtain statements. A suspect's attorney must be present during any statement to police in order for that statement to be admissible in court. There were no reports of statements made under threat or force being used in court. Unlike in the previous year, there were no reports of incommunicado detention.

There was one report of police detaining a journalist for an "informative talk" (see Section 2.a.).

Prolonged pretrial detention was a problem. The law prohibits excessive delays by authorities in filing formal charges against suspects and in opening investigations; however, such delays continued regularly. Due to the inefficiency of the courts, cases often took an excessively long time to come to trial, and once started, trials often took an excessively long time to complete (see Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the courts remained susceptible to corruption and political influence.

The courts were highly inefficient—cases could take years to be resolved—and there were no official channels for alternative dispute resolution. During the year, the Government and the judiciary made little progress in implementing the extensive organizational reforms mandated in the 2001 laws on courts, judges, and public prosecutors. The National Assembly passed an amendment providing for nomination of prosecutors by the Supreme Judicial Council—replacing nomination by the Government—and their confirmation by the National Assembly.

There were reported attempts by officials to undermine politically sensitive prosecutions, including by applying pressure on prosecutors. Journalist Misa Vasic reported on a phone call in which a private attorney allegedly sought to persuade Zemun clan crime figure Dejan "Bagzi" Milenkovic to testify falsely that the chief prosecution witness in the Djindjic assassination case was involved in another murder. In the phone call, allegedly recorded by the former head of the organized crime police (UBPOK), the attorney asserted that Interior Minister Jovic and BIA Chief Radomir "Rade" Bulatovic supported a deal in which Dejan "Bagzi" Milenkovic, also a defendant in the Djindjic assassination, would be given state witness status in exchange for the false testimony (see Section 2.a.). The weekly *Vreme*, which carried Vasic's report, later carried purported excerpts from the transcript of the phone call.

On July 1, the SaM Council of Ministers halted all ongoing trials at SaM military courts until political leaders resolved questions about the jurisdiction and role of the military judiciary; the military courts remained closed the rest of the year and were scheduled to be disbanded as of January 1, 2005. In addition to the military court system, the only other SaM court, the Court of the State Union of Serbia and Montenegro, was established with the appointment of judges in May and June. The court is responsible for coordinating jurisprudence in the state union, resolving jurisdictional disputes between Serbian and Montenegrin institutions, ruling on petitions brought by citizens who claimed violation of rights guaranteed by the SaM Constitutional Charter, and settling disputes that SaM's joint customs office is unable to resolve. The court was fully established during the year, but no cases were brought before it.

The Serbian court system is made up of municipal and district courts, the Supreme Court, and the Constitutional Court. Special courts for war crimes and organized crime were established within the Belgrade District Court. The Constitutional Court rules on the constitutionality of laws and regulations and relies on the authorities to enforce its rulings. The law mandates the establishment of an administrative appeals court and a second instance appeals court to lighten the burden of the Supreme Court; however, during the year, the National Assembly postponed their establishment until 2007 because preparatory work for the courts had not been done.

The High Judicial Council, staffed by Supreme Court justices, nominates judges for approval by the National Assembly. The High Personnel Council disciplines and, with the National Assembly's concurrence, dismisses judges; however, there were no dismissals during the year.

The Judges' Training Center organized educational programs offered throughout the country. International organizations and local NGOs, including the HLC and the Belgrade Center for Human Rights (BCHR), also conducted training for judges during the year.

Trials are generally public, but they are closed during testimony of a state witness (defendants against whom charges were dropped or not filed in exchange for testimony). There are no juries. The law provides that defendants are presumed innocent and have the right to have an attorney represent them at public expense, if needed, and to be present at their trials. The courts also must provide interpreters, if required. Both the defense and the prosecution have the right to appeal a verdict.

Defendants have the right to access government-held evidence and question witnesses. All these rights were generally respected in practice.

Deputy Public Prosecutor Milan Sarajlic, who was charged with accepting payments from the Zemun organized crime clan, was released from jail due to poor health. During the year, it was determined that he was not mentally fit to stand trial, and no trial was scheduled.

On March 9, the Special War Crimes Court opened with its first trial (the Vukovar/Ovcara case; see below); the Court provides the same rights to defendants as do regular courts.

There was a semi-independent War Crimes Prosecutor—appointed by the National Assembly—and a small War Crimes Investigative Service within UBPOK, as well as specialized court chambers and a dedicated detention unit for the War Crimes Court.

On March 17, Aleksandar “Sasa” Cvjetan was sentenced to 20 years in prison for killing 19 ethnic Albanians in Kosovo in 1999. In December, the Supreme Court ordered a retrial to establish certain questions of fact and procedure, including whether Cvjetan’s attorney was present during the defendant’s confession.

In September, the Supreme Court overturned the 2003 convictions of four people in the Sjeverin war crime case because the trial did not specify which defendants committed which criminal acts. The Supreme Court ordered a retrial, which had not begun by year’s end.

The ICTY transferred two lower level figures involved in the Vukovar massacre (also known as the Ovcara case) for government prosecution. Serbia’s Special Prosecutor for War Crimes greatly expanded the investigation beyond information provided by the ICTY and, in January, indicted eight persons. On March 9, the trial of six of the indictees began, the first trial to be held in the Special War Crimes Court. Indictments against another 12 persons were added in May. Two indictees became state witnesses and another died when he jumped from a window while attempting to escape, leaving 17 persons on trial. The trial was ongoing at year’s end.

During the year, trials in absentia began for Milorad “Legija” Ulemek and Dejan “Bagzi” Milenkovic for the Djindjic assassination; however, Ulemek surrendered before the trial was completed. SAJ squad member Dejan Demirovic was being tried in absentia for participating in the killing of 19 ethnic Albanians in Podujevo, Kosovo, in 1999. The trials were not completed at year’s end, and no issues of defendants’ rights arose.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government at times infringed upon these rights in practice. The law requires the MUP to seek a court order before monitoring potential criminal activity and requires that police must only enter premises with a warrant, except to “save people and property”; however, occasionally police did not respect these provisions in practice.

Most observers believed that the authorities selectively monitored communications and eavesdropped on conversations, read mail and e-mail, and wiretapped telephones.

The Government did not fulfill its promise to open to the public all secret files on persons collected under former regimes. The few files actually delivered to individuals who requested them had been cleansed of documents that might have contained sensitive reporting on the individuals. One individual who received a file was warned that he would be charged with revealing government secrets if he made the file public.

Unlike in the previous year, there were no evictions of Roma from squatter settlements.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and of the Press.*—SaM and Serbian law provide for freedom of speech and of the press; however, although the media frequently criticized the Government without reprisal, implied political pressure from various sources, an uncertain regulatory environment, and vulnerability to libel suits placed constraints on free expression by journalists, editors, and other members of the media. Unlike in the previous year, there were no reports of pressure on the media by senior government officials.

The country had a mixture of privately owned and fully or partially government-owned media outlets. The Government published the daily Borba and owned one of the most important printing houses in the country, also named Borba. The oldest nationwide daily, Politika, was co-owned by German media giant WAS and the Government, but run by several shareholding companies.

The Government funded a Hungarian language newspaper, and state owned media outlet Radio-Television Serbia (RTS) provided some Hungarian language programming. Radio stations owned by municipal governments also provided minority-language programming. Tanjug was a state-owned news agency that many television stations relied on for news information.

State-controlled RTS was a major presence in television and radio. Aside from the three RTS channels, the Government had considerable influence, although not formal control, over some other major television stations, including TV Politika and TV Novi Sad, as well as Radio Belgrade's three stations. RTS's coverage was generally objective; however, there occasionally appeared to be a slight bias toward the Government. Management personnel could be politically influenced, since the Government appointed editors-in-chief. On March 18, the Government replaced RTS Director General Aleksandar Crkvenjakov with government loyalist Aleksandar Tijanic. Minister of Culture and Information Dragan Kojadinovic claimed that Crkvenjakov was removed for inadequate coverage of the March outbreak of anti-Serb violence in Kosovo; however, the media reported Tijanic's upcoming appointment several days before the escalation of violence in Kosovo. The RTS Board of Governors resigned in protest of Tijanic's appointment.

Two major private TV stations, BK and TV Pink, have shown editorial bias in favor of the Government. After the Government in 2002 granted RTV B-92 a temporary license to broadcast republicwide pending the final allocation of frequencies, the media outlet set up new transmitters to make itself a national channel that could compete with TV Pink and BK. Unlike in the previous year, editor-in-chief of RTV B-92 Veran Matic did not report receiving any further warnings from officials that his media outlet would not receive radio or television frequencies if it did not change its reporting. Approximately 300 television stations and 700 radio stations that operated independently operated under temporary licenses or without any legal basis.

On October 8, the Association of Independent Electronic Media (ANEM) protested the decision of Trstenik Municipal Council to donate ownership of Television Trstenik—part of the local public company RTV Trstenik—to the Serbian Orthodox Church. ANEM claimed that this move, which was cancelled during the year, violated the provisions of the law on privatization of broadcasters.

Radio stations owned or organized by municipalities pressured local journalists not to report on municipal government problems.

There was one instance of police calling in a journalist for an "informative talk." In October, UBPOK called in journalist Misa Vasic for an informative talk at the request of the Belgrade District Public Prosecutor. Vasic was called in after he wrote about a phone call in which a private attorney reportedly offered a defendant state witness status in the Djindjic assassination case in exchange for false testimony. In the call, the attorney allegedly asserted that two senior government officials supported the deal (*see* Section 1.e.).

Hrvatske Rijeci, a magazine for the Croatian minority, received five threatening phone calls with anti-Croatian content between January 13 and 14.

On March 27, a RTV B-92 news team discovered a bomb under its van, which had been parked in the southern Serbian town of Raska while the team was in Kosovo reporting on a surge of violence against Serbs. Police did not identify the perpetrators, and the investigation appeared to be inactive at year's end.

The law creates a regulatory framework designed to foster free and independent media and mandates formation of an independent Broadcast Council to transform RTS into a public broadcasting service and to allot radio and TV frequencies; however, the law had not been implemented by year's end. Some observers believed that the continued lack of clear guidelines created an atmosphere unfriendly to free expression. Some media outlets clearly attempted to curry favor with the Government in hopes of receiving favorable treatment once new media reform laws are fully implemented.

Libel remained a criminal offense. Although no suits were filed by the Government, the low threshold defining libel enabled individual government officials, as well as former members of the Milosevic regime, to win private cases against media outlets that criticized them. Libel can result in jail terms, and courts have the power to issue "conditional sentences" that silence offending journalists with the threat that any further offense will lead to immediate imprisonment. On March 16, a Sabac city court convicted Radio Free Europe/Radio Liberty correspondent Hanibal Kovac of criminal defamation and gave him a 2-month suspended prison sentence for a September 2003 report accusing Cedomir Vasiljevic, a senior official in the Serbian Radical Party (SRS) and former Serbian Government minister during the Milosevic regime, of participating in the violent takeover of an administrative building in 1999. In May, journalist Ljiljana Jokic Kaspar was sentenced to 6 months

in prison, with the sentence suspended for 2 years, for reporting that Miroslav Savic had served in the reserve complement of the Red Berets, which, after Savic's reported service, was implicated in the 2003 killing of Prime Minister Djindjic.

At year's end, the prosecutor had taken no action on the 2003 defamation lawsuits filed by then MUP Minister Dusan Mihajlovic against Dinkic and Barac. The 2003 libel suits filed by then Government communications director Vladimir "Beba" Popovic against NIN, Vreme, and RTV B-92 were thrown out during the year. In June, Democratic Party member Radisav Ljubisavljevic withdrew his 2002 libel suit against RTV B-92.

According to the HLC and the BCHR, journalists sometimes practiced self-censorship because of possible libel suits and fear of offending public opinion, particularly on subjects relating to wars in the former Yugoslavia.

Unlike in the previous year, the Government did not prohibit any television or radio stations or newspapers. However, the Government did prohibit the distribution of the book "Military Secrets" on the grounds it revealed military secrets. On March 26, Military Police officers seized the remaining 251 copies of the book despite a Military Police warrant which only authorized them to take 1 copy of the book.

The Government did not restrict access to the Internet; however, there were reports that the Government selectively monitored e-mail correspondence (*see* Section 1.f.).

The Government did not restrict academic freedom. The Government reversed attempts by the Education Minister to restrict course content and to replace academic personnel based on political considerations. On September 16, the Education Minister was forced to resign. Svetlana Djordjevic, the author of a book enumerating human rights abuses she witnessed Serbian government and military officers commit in Kosovo in 1999, received a series of threats beginning in 2003, after publication of her book. Some of the threats contained symbols associated with the Red Berets and its former leader, Milorad Ulemek, on trial for the assassination of Prime Minister Djindjic and other crimes.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The SaM and Serbian constitutions and laws provide for freedom of religion, and the state union and republic Governments generally respected this right in practice. There is no state religion in SaM; however, the Serbian Orthodox Church received some preferential treatment, including funding for construction of a large church in Belgrade. The armed forces continued to offer only Serbian Orthodox services; however, members of other faiths may attend religious services outside their posts.

While there is no formal registration requirement for religious groups, any group planning to hold gatherings is required to register with local police. Religious groups also could register as citizen groups with the MUP to gain the status of juridical person necessary for real estate and other administrative transactions.

The Belgrade Islamic community reported continued difficulties in acquiring land and government approval for an Islamic cemetery in the city.

The Supreme Court ruled against a tent church used by the Protestant Evangelical Roma Church in its long-running dispute with the southern town of Leskovac, in which the tent church was singled out from among 463 illegal structures in the area for demolition. On April 30, building inspectors, police, and a demolition team arrived to demolish the church; however, worshippers prevented the demolition, and the city agreed to allow relocation of the church. At year's end, church leaders and city officials were working on details of the agreement.

Religious education in primary and secondary schools continued during the year. Students are required either to attend classes from one of the seven "traditional religious communities" or to substitute a class in civic education. The proportion of students registering for religious education grew during the year and caught up with the proportion of students choosing the civic education option. Some Protestant leaders and NGOs continued to object to teaching religion in public schools and to proposals to classify some of the Republic's religions as traditional.

There was no progress noted during the year on restitution of previously seized religious property.

Representatives of the Union of Jewish Communities of SaM reported an increase in anti-Semitism. There were no reports of physical violence against Jewish persons; however, there was anti-Semitic graffiti and vandalism at a few Jewish cemeteries. According to representatives of the Union of Jewish Communities of SaM, anti-Semitic hate speech often appeared in small circulation books. The release of new

books (or reprints of translations of anti-Semitic foreign literature) often led to a spike in hate mail and other expressions of anti-Semitism.

There have been a number of continuations in the Savic case, in which an author of anti-Semitic literature was tried for spreading racial/national hatred. The latest continuance, granted in 2003 due to the reported ill health of the defendant, was ongoing at year's end.

Religion and ethnicity are closely related in SaM; in many cases, it was difficult to identify discriminatory acts as being either primarily religious or primarily ethnic in motivation (*see* Section 5). Minority religious communities reported continued problems with vandalism of church buildings, cemeteries, and other religious premises. Many of the attacks involved spray-painted graffiti, rock throwing, or the defacing of tombstones; however, a few cases involved much more extensive damage. The police response was often inadequate.

After the December 2003 parliamentary elections—in which the SRS took a plurality of seats—there was an upsurge in vandalism and violence against minority ethnic and religious groups in the northern Serbian province of Vojvodina (*see* Section 5). Among the incidents that targeted religious sites or adherents were: The January 19 desecration of a Hungarian Catholic cemetery in Novi Sad; the January 19 desecration of a Reformist church in Sombor; the January 24 desecration of a Croatian Catholic cemetery in Subotica; the desecration of another Subotica graveyard, where Croats and Bunjevci (both Catholic groups) are buried, on the night of March 26–27; the desecration of 21 gravestones in the Catholic and Orthodox graveyard in Novi Becej between May 1 and 2; and an attack in Novi Sad on two Christian Adventist ministers. In this last incident, police had not arrested the perpetrators or filed a criminal complaint by year's end, although the identity of the attackers was known. In this incident and in most cases, police tried to minimize their seriousness, attributing them to drunk individuals and youths without performing thorough investigations.

In reaction to widespread violence by ethnic Albanians against Serbs and their personal and religious property in Kosovo on March 17, there were protests and violence in Serbia beginning on the night of March 17–18, including violence against Muslim religious sites belonging primarily to the Bosniak and Romani communities.

During the night of March 17–18, the Belgrade mosque was looted and set on fire by 300 to 500 youths, reportedly mostly from Belgrade's sports clubs, who went to the mosque after demonstrating in front of the Serbian Government building. Government and political leaders condemned the attack, and the Interior Minister fired the police commander of the Stari Grad municipality (within Belgrade), where the mosque is located, for inadequate police response. Police arrested 110 persons for the attack. After a radio station carried the home address of a Muslim boy who was injured when he fell from the roof of the mosque, an explosive device was thrown at his house.

The same night as the attack on the Belgrade mosque, the mosque in the southern Serbian city of Nis was destroyed by arson. Thousands of rioters surrounded the building to prevent police and firefighters from entering it. Eleven persons were charged in the attack with "joining together for violent activity," which carries a sentence of up to 5 years in prison.

Attacks also took place against Muslim property in Serbia's northern province of Vojvodina in reaction to the Kosovo events. HCS noted 40 attacks between March 17 and 21 against property owned by Albanian and Bosniak Muslims in Vojvodina. Also, in the western Serbian town of Mali Zvornik, attackers broke mosque windows with stones on March 20.

There was also an attack against at least one non-Muslim religious site, apparently in reaction to the events in Kosovo. On the evening of March 18, a Protestant Bible Cultural Center in Nis was burned by a mob of 30 that threw Molotov cocktails; police, who appeared to be trying to minimize the incident, did not identify any suspects or make any arrests by year's end.

There were no developments during the year in the 2003 criminal complaint filed by the HLC against Momir Vujic for abusing his Muslim neighbor on ethnic grounds for 3 years.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The conflicts that occurred in Bosnia, Croatia, and Kosovo led to widespread displacement of persons. There were approximately 216,000 internally displaced persons (IDPs) from Kosovo in Serbia, mainly Serbs, Roma, and Bosniaks.

During the March anti-Serb violence in Kosovo, more than 350 persons—mostly Serbs, but also Ashkali and Roma—left Kosovo for Serbia. About half of these IDPs later returned to ethnic enclaves in Kosovo, not necessarily to their own homes. Most Serb IDPs from Kosovo rented inadequate lodgings or were housed with host families or relatives in Serbia proper; however, approximately 9,000 remained in collective centers that foreign observers found to be inadequate for any purpose other than emergency shelter.

During the year, the ICRC ceased supporting IDPs because the Government was not screening them and assuming responsibility for assisting those in need at the agreed rate. The Government continued to pay salaries to IDPs who were in the Kosovo Government before June 1999. The Government did not forcibly return IDPs or resettle them under dangerous conditions. There were government efforts to promote voluntary and safe return or resettlement by IDPs.

Serbia agreed to take in tens of thousands of Roma from Kosovo who fled to several West European countries. The UNHCR estimated that there were 40,000 to 45,000 displaced Roma living in Serbia proper, as many Kosovar Roma were perceived as Serb collaborators during the Kosovo conflict and so could not safely return there. Living conditions for Roma in Serbia were extremely poor. Local municipalities often were reluctant to accommodate them, hoping that, if they failed to provide shelter, the Roma would not remain in the community (*see* Section 5). If Roma did settle, it was often in official collective centers with minimum amenities or, more often, in makeshift camps in or near major cities or towns.

The HLC reported that the Government did not allow some Kosovo IDPs to redesignate their official places of residence; this deprived them of health insurance, social welfare, and normal access to schools. The Nis Council for Human Rights reported that the approximately 20,000 refugees and IDPs in the Nis area suffered from “quiet discrimination” in areas such as housing and employment.

The Constitution prohibits forced exile, and the Government did not employ it.

The SaM and Serbian Constitutions provide for the granting of asylum (at the SaM level) or refugee status (at the Republic level) in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

In 2003, Bosnian and SaM authorities signed an agreement and protocol on the return of refugees; however, the agreement had not been implemented by year's end. The UNHCR, OSCE, and the European Union also helped institute a trilateral approach to refugee returns during the year, bringing together SaM, BiH, and Croatia.

There were approximately 282,000 refugees in Serbia from other successor nations of the Socialist Federal Republic of Yugoslavia. Of these, most were from Croatia (188,000) and BiH (99,000). During the year, the UNHCR opened an office at the Belgrade airport to assist asylum seekers arriving from abroad. Although progress slowed during the year, the Government, with the support of the UNHCR, continued working to close remaining collective centers housing refugees from BiH and Croatia by setting qualifications to remain housed in collective centers and seeking alternate housing for others.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The SaM Constitutional Charter provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. SaM and the Serbian Republic each have a parliamentary system of government. On December 22, the Serbian National Assembly, in accordance with the SaM Constitutional Charter, amended Serbian election law to provide for direct election of its representatives to the SaM Parliament; previously, the Serbian Government had appointed its members. In SaM, the SaM Parliament elects the SaM President; in Serbia, the President is elected by direct vote.

On June 13 and June 27, Boris Tadic of the Democratic Party (DS) was elected President of Serbia in a two-round election. The OSCE observation mission reported that international and domestic nonpartisan observers were generally satisfied with polling procedures, although some minor irregularities were recorded. The media provided voters with broad and balanced coverage of the campaign.

The OSCE observation mission to the December 2003 elections for the National Assembly (parliament) of the Republic of Serbia reported the elections were conducted generally in line with OSCE commitments. Broadcast and print media provided extensive and largely balanced coverage of the campaign, and state media generally complied with laws and regulations. The lists of four parties or coalitions included persons indicted for war crimes. The SRS—whose leader Vojislav Seselj faces war crimes charges before the ICTY—won a plurality (82 of 250 seats); however, democratic parties together controlled more than half of the seats. On March 3, a minority coalition of democratic parties formed a government with outside support from the Socialist Party of Serbia (SPS).

There was significant corruption in the executive branch of government. On September 24, Finance Minister Mladjan Dinkic announced that several MUP officials would be charged with misappropriation of funds during equipment purchase contracting; however, no charges had been filed by year's end. There was also a widespread public perception of corruption in local governments. The Government's Anticorruption Council, an advisory body, focused primarily on corruption related to privatization.

On November 2, the National Assembly passed the Law on Free Access to Information of Public Importance. The Law provides for access to information of "legitimate public importance" (with many exceptions) and establishes an independent Commissioner for Information of Public Importance, selected by the National Assembly, to handle appeals when Government agencies reject requests for information. At year's end, the Law was in the early stages of implementation. Transparency International's efforts to get information using the new Law have had poor results.

There were 13 women in the 126-seat SaM Parliament and 23 women in the 250-seat Serbian National Assembly. There was one woman in the 16-member Serbian Cabinet. Women were very active in political organizations; however, they held less than 10 percent of ministerial-level and parliamentary positions in the Serbian and SaM Governments.

There were 7 members of minorities in the 126-seat SaM Parliament and 11 members of minorities in the 250-seat Serbian National Assembly. There were no members of minorities in the 16-member Serbian cabinet and 1 member in the 5-member SaM cabinet. The two largest ethnic groups, Serbs and Montenegrins, dominated the country's political leadership. In March, the law was amended to exempt ethnically based parties from the 5 percent threshold required to enter the National Assembly. Roma continued their historical pattern of low voter turnout; very few ethnic Albanians participated in republic-level elections during the year, but did participate in local elections in Presevo.

In Vojvodina, the Hungarian minority constituted approximately 15 percent of the population, and many regional political offices were held by ethnic Hungarians. In the Sandzak, Bosniaks controlled the municipal governments of Novi Pazar, Tutin, and Sjenica, and Prijepolje.

Ethnic groups have established 11 minority councils.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The Government was generally unfriendly toward several human rights NGOs, although it did not interfere with them. For example, police failed to respond adequately when HLC head Natasa Kandic was threatened by an angry crowd in March; HLC's reporting on war crimes and other issues has earned it the Government's disfavor.

The SaM and Serbian Governments made little progress in their cooperation with the ICTY. The ICTY remained dissatisfied with overall SaM cooperation, in particular because it believed that key indictee General Ratko Mladic was at large in Serbia. Serbian authorities claimed that they searched for Mladic during the year but were unable to locate him and did not believe he was in Serbia.

Two ICTY indictees in Serbia surrendered to the Tribunal; however, approximately 16 ICTY indictees with ties to the country remained at large, including key indictee Radko Mladic. The ICTY claimed that Government authorities warned Goran Hadzic, the only Serbian national indicted during the year, of a secret indictment against him in order to enable him to flee and avoid arrest. Hadzic's whereabouts remained unknown at year's end.

SaM and Serbian Governments have made progress in compliance with document requests from the ICTY and in facilitation of the testimony of witnesses. SaM's National Cooperation Council (NCC) transferred hundreds of pages of documents to the ICTY's Office of the Prosecutor during the year; however, a number of requests from the ICTY remained outstanding at year's end. At year's end, the NCC had enabled the testimony of 62 witnesses through the granting of waivers that freed potential witnesses from local prosecution under state secrets laws.

During the year, domestic war crimes indictments and trials continued in Serbia (see Section 1.e.).

There was no autonomous human rights ombudsman at either the SaM or the republic level; however, Vojvodina Province has an ombudsman, who operated independently during the year. The office of the Vojvodina ombudsman made assessments and recommendations during the year concerning the rights of minorities, the rights of the child, gender equality and prisons. Over the 12-month period starting in November 2003, the ombudsman's office received 265 written complaints from citizens, of which it resolved 188, according to the ombudsman's annual report.

There is one government-controlled human rights entity, the Legal Aid Office of the SaM Ministry for Human and Minority Rights, which assisted citizens with human rights complaints.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

SaM and Serbian laws provide for equal rights for all citizens, regardless of ethnic group, language, or social status, and prohibit discrimination against women; however, discrimination against women and ethnic minorities was a problem.

*Women.*—Violence against women was a problem, and high levels of domestic violence persisted. Domestic violence is a crime punishable by a prison sentence of from 6 months to 10 years, depending on the seriousness of the offense, and a minimum of 10 years if death results. By one estimate, half of all women suffered physical or emotional abuse. The few official agencies dedicated to coping with family violence had inadequate resources; however, public recognition of the problem has increased. Spousal rape is a criminal offense; however, few victims filed complaints with the authorities. Victim accusations are not required for prosecution of domestic violence cases, and prosecutions of such cases did occur during the year. According to a victims' rights advocate, police response to domestic violence has improved markedly; a number of police officers provided assistance to female victims of violence and detained offenders to protect victims.

Rape was a problem. Rape, including spousal rape, is punishable by 1 year to the legal maximum sentence (currently 40 years' imprisonment) for a simple case, a minimum of 3 years for an aggravated case, and a minimum of 5 years if death results or the victim is a minor. Only a small proportion of rapes are reported because victims fear that they will not be protected, that their attackers may take revenge, or that they will be humiliated in court.

The Center for Autonomous Women's Rights in Belgrade offered a rape and spousal abuse hotline, and sponsored a number of self help groups. The Center also offered assistance to refugee women (mostly Serb), many of who experienced extreme abuse or rape during the conflicts in the former Yugoslavia. The Counseling Center Against Family Violence operated a domestic violence shelter partly funded by the Government.

Prostitution is illegal.

Trafficking in women for the purpose of sexual exploitation remained a problem (see Section 5, Trafficking).

Sexual harassment was a problem, but there was little awareness of the issue. It is a crime punishable by a fine or up to 6 months' imprisonment for a simple case and by up to 1 year's imprisonment for abuse of a subordinate or dependent. While women's social status was not equal to men's, women served in high-level positions in government, politics, and professional occupations, though they were not well represented in commerce. In urban areas, such as Belgrade, Nis, and Novi Sad, women were represented widely in many professions including law, academia, and medicine. Women were also active in journalism, politics, and human rights organizations. Since regulations now allow women to serve as police officers, the police hired increasing numbers of women officers. Women legally were entitled to equal pay for equal work; however, according to the International Helsinki Federation for Human Rights, women's average wage was 11 percent lower than the average wage of men.

Traditional patriarchal ideas of gender roles, particularly in rural areas, subjected women to discrimination in many homes. In remote rural areas, particularly among some minority communities, women effectively lacked the ability to exercise their

right to control property. In rural areas and some minority communities, it was common for husbands to direct the voting of wives.

During the year, the Government established the Council for Gender Equality, but it was still being constituted at year's end. There is also a parliamentary committee for gender equality. The Vojvodina Government has a Secretariat for Labor, Employment, and Gender Equality.

*Children.*—The Government was committed to the rights and welfare of children. The educational system provided 9 years of free, mandatory schooling. However, economic distress affected children adversely in the education system, particularly Romani children, who rarely attended kindergarten. Approximately 99.8 percent of children attended school, according to one Government survey; however, the Government acknowledged that many transient Roma were missed by the survey. During the year, 48 elementary and secondary schools offered weekly Romani language and culture classes, in which 1,336 students participated.

Free medical care was available in Government clinics, including free medicines from a limited list of covered drugs. Boys and girls had equal access to medical care.

It was estimated that approximately 30 percent of children were abused. While teachers were instructed to report suspected child abuse cases, they often did not do so. Police were generally responsive to complaints, and prosecutions of child abuse cases occurred during the year. Psychological and legal assistance was available for victims, and there was an incest trauma center. Also, victims who were with their mothers could stay in the domestic violence shelter.

Trafficking of children for the purpose of sexual exploitation remained a problem (see Section 5, Trafficking). Some Romani children were trafficked within the Romani community in Serbia and to other Roma abroad to be used in begging and theft rings.

UNICEF worked with eight local NGOs to promote children's rights. A ninth NGO, Beosupport, led the working group for combating trafficking in children, a subgroup of the Serbian Antitrafficking Team. The project "Living Together" is a joint effort of seven local NGOs, coordinated by the Child Rights Center Belgrade, that focused on encouraging youth of different backgrounds to overcome barriers to living together peacefully.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons remained a problem. The penalty for trafficking is imprisonment of 1 to 10 years for a single offense, 3 to 40 years for multiple offenses, and 5 to 40 years if a minor is involved or if a victim is killed.

The Government prosecuted trafficking cases during the year; however, sentences issued tended to be lenient. There were at least six trials of traffickers, mostly with multiple defendants, ongoing or completed by October 15; however, poor tracking of cases begun prior to the year made it difficult to determine the actual total. On August 30, the trial of 10 persons began in the Belgrade Special Court for Fighting Organized Crime; the defendants were charged with criminal conspiracy and trafficking of women from Serbia to Italy, where the women were forced into prostitution. The trial was ongoing at year's end. One trial, which began in 2003 on trafficking-related charges against the organizer of a trafficking ring and 12 accomplices, resulted in all 13 defendants being convicted; the maximum sentence, issued to the organizer, was to 3 years in prison. The convictions were being appealed at year's end.

During the year, police filed 24 criminal complaints for trafficking against 51 persons. By year's end, two of these criminal complaints had resulted in six individuals being sentenced to between 2 and 3 years in prison. Another 4 of the cases resulted in indictments, 15 were under investigation by the judiciary, and 3 cases were rejected by the judiciary.

The Serbian Antitrafficking Team, led by Serbian Antitrafficking Coordinator Dusan Zlokas (Chief of the Border Police), incorporated government agencies, NGOs, and international organizations. Government participants are the Supreme Court, Public Prosecutors Office, Interpol Belgrade, the MUP, the Ministry of Labor, Employment and Social Issues, the Ministry of Education, the Ministry of Justice, the Ministry of Finance and Economy, the Ministry of Health, the Ministry of Foreign Affairs (SaM level), and the Ministry of Human and Minority Rights (SaM level). During the year, the Serbian Antitrafficking Team added a focus on child trafficking to its mandate. The Government assisted in international investigations of human trafficking and participated in a regional antitrafficking operation.

The country was a transit country, and to a lesser extent a country of origin and a destination country, for trafficking in women and girls for the purpose of sexual exploitation. Serbia was primarily a transit country for internationally trafficked women going to Kosovo, Croatia, BiH, Albania, and Western Europe. The primary

source countries for trafficking in persons were Moldova, Ukraine, Romania, Russia, and Bulgaria. According to an NGO study published during the year, there were at least 2,000 trafficking victims in or who passed through Serbia, including women trafficked for sexual exploitation, children in begging rings, and exploited seasonal agricultural laborers.

According to preliminary results of a study by the International Organization for Migration (IOM), the Government, NGOs, or international organizations assisted 39 foreign trafficking victims (including 8 minors) in Serbia during the year, while about 15 Serbian victims (including 7 minors) had been assisted in SaM or elsewhere in the region. The study found more victims of labor exploitation than of sexual exploitation among foreign victims; the balance was not clear for Serbian victims. The 24 trafficking complaints police filed during the year involved 35 victims, including 22 minors. Of these minors, 13 (12 females and 1 male) were sexually exploited, 8 (4 males and 4 females), were used for begging, and 1 was forced into marriage. Eight of the 22 minors were Roma (6 used for begging, 2 for sexual exploitation). Only one minor victim was a foreigner (Bulgarian). All adult victims were female: 10 from SaM, 2 from Ukraine, and 1 from Romania.

Serbia did not traditionally serve as a major source country for trafficked women, but poor economic conditions have increased Serbian women's vulnerability to traffickers, particularly for Roma. Trafficking of children by Roma for use in begging or theft rings was a problem.

Recruitment enticements included advertisements for escorts, marriage offers, and offers of employment. Often women knowingly went to work as prostitutes and later became trafficking victims. Women were recruited, transported, sold, and controlled by international organized crime networks. The main points in Serbia for holding and transferring trafficked women were the Belgrade suburbs and Pancevo.

There were no reports of government officials condoning or participating in trafficking in Serbia. During the year, one police officer was indicted for facilitating prostitution; he was suspended and awaiting trial at year's end.

During the year, the government Agency for Coordination of Protection to Victims was established to ensure the correct identification of victims and their subsequent referral to assistance providers. A second trafficking shelter was established during the year exclusively for domestic victims, leaving the original shelter, run by the Counseling Center Against Family Violence, to assist foreign victims. The antitrafficking NGO Astra ran a hotline for trafficking victims. NGOs and volunteers provided legal, medical, psychological, and other assistance to victims. The IOM managed repatriation of victims and assisted in the reintegration of local victims. It also ran a regional clearing center for information on trafficking victims, which operated in government-donated offices in Belgrade. During the year, the MUP formalized temporary residence for victims; in the past, this had been handled unofficially. Authorities encouraged victims to participate in trials of traffickers and did not prosecute victims.

There were numerous public awareness efforts, including broadcast of a locally produced trafficking documentary, education for teens and orphans held at the 150 government social work centers, broadcast of a U.N.-provided antitrafficking public service announcement, introduction of antitrafficking education into the curriculum for high school students, and many local television and radio spots.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, in practice, facilities for persons with mental or physical disabilities were inadequate, and addressing this problem was not a priority for the Government. There were specialized schools for persons with disabilities, but no special facilities or assistance was available for higher education. A high unemployment rate and lack of accommodations for persons with disabilities made employment difficult. The law mandates access for persons with disabilities to new public buildings, and the Government generally enforced this provision in practice. As sidewalks were replaced, the Government installed wheelchair ramps at intersections. The Government provided mobile voting for voters unable to come to polling stations due to disability or illness.

There is a government agency for assistance to war veterans with disabilities; however, there was no general assistance office for those with disabilities.

*National/Racial/Ethnic Minorities.*—Minorities constituted 25 to 30 percent of Serbia's population and included Hungarians, Bosniaks, Roma, Slovaks, Romanians, Vlachs, Bulgarians, Croats, Albanians, and others.

The number of antiminority incidents in Serbia's northern province of Vojvodina increased markedly after the SRS won a plurality of votes in Serbian parliamentary elections in December 2003. While the incidents consisted mainly of vandalism tar-

getting cemeteries, homes, churches, and cultural sites, there were also death threats and assaults (*see* Section 2.c.). For example, on April 9, Bela Csorba, Vice President of the Hungarian Democratic Party of Vojvodina, found a 12-inch kitchen knife wrapped in paper slipped under his door. Attached to the weapon was a note in Serbian, “we will slaughter you.” On September 28, an ethnic Hungarian high school student was beaten by a Serb student at whom he smiled on the bus. According to an eyewitness and the victim, the Serb boy said, “no Hungarian has ever smiled at me and none will ever do so!” Other boys joined in the beating, and when friends of the victim tried to help him, they were beaten as well. Police identified the aggressors and filed charges against them.

The pace and seriousness of incidents peaked before republicwide local and Vojvodina provincial elections in September, then declined to a relatively low level. The targets were mainly ethnic Hungarians and ethnic Croats—the two largest minorities in Vojvodina—but other groups have also been affected, including Slovaks, Ruthenians, Romanians, Roma, Ashkali, Jews, and Chinese. The affected minorities complained that police were not sufficiently active in pursuing perpetrators and sometimes blamed the victim; because of these problems, the Vojvodina Province Secretary for Minorities reportedly began meetings with police concerning the attacks and preventive measures to be taken. As a result of these reported meetings, police patrols were increased in some trouble spots, but police response remained inconsistent.

In September, Prime Minister Kostunica formed the Council for National Minorities, which is mandated to monitor minority rights and to consider draft laws and regulations important for exercising those rights. The Council, which the Prime Minister chairs, included the presidents of each of the individual national minority councils, as well as the Ministers of Culture, Education, Administration and Local Government, Religion, Justice, and Internal Affairs. In October, the SaM and Hungarian governments agreed to establish a permanent bilateral commission to address concerns of the Hungarian minority in Serbia (mostly in Vojvodina) and the Serbian minority in Hungary; the Commission held its first meeting on December 8.

There were a few reports of police inattention to the security of the ethnic Albanian population in southern Serbia, in particular failure to respond adequately to the several armed highway robberies between May and July by masked men who claimed to be members of the extremist Albanian National Army (AKSh). The perpetrators demanded money from cars with foreign license plates (presumed ethnic Albanian guest workers returning to Kosovo for the summer holidays). In one incident, robbers shot at a car that refused to stop, killing one passenger and injuring three others. After this incident, the police reportedly arrested some of the perpetrators, but the ethnic Albanian community complained that the police had ignored their complaints about the robberies before the fatal incident brought public attention to the problem. There continued to be sporadic reports of physical abuse or brutality by the police, but there was no noticeable increase over previous years.

Ethnic Albanian leaders of the southern Serbian municipalities of Presevo, Bujanovac, and Medvedja continued to complain about the underrepresentation of ethnic Albanians in government structures. Southern Serbia’s ethnic Albanians have proportional representation in the multiethnic police force in southern Serbia and control of local governments in municipalities where they constituted a majority.

In December, the privatization agency approved the sale of a public company in southern Serbia to an ethnic Albanian amnestied member of the Liberation Army for Presevo, Medvedja, and Bujanovac (UCPMB)—reportedly the first sale of a public company to an ethnic Albanian. The following day, members of the local municipal assembly called on Prime Minister Kostunica to block the sale “to protect the national interest.” The privatization agency quickly withdrew its approval on the grounds that there was only one qualified bidder, although a number of other single-bid privatizations had gone through. The bidder complained that the sale was overturned on ethnic grounds.

The MUP joined with OSCE, the Coordination Body for Southern Serbia, and municipal leaders to form a working group to deal with concerns between the ethnic Albanian community and police.

The SaM Minorities Law recognizes the Roma as a national minority and explicitly prohibits discrimination against them; however, Roma continued to be targets of numerous incidents of police violence, verbal and physical harassment from ordinary citizens, and societal discrimination. Police often did not investigate cases of societal violence against Roma. At year’s end, two persons were on trial for a 2003 incident in which Roma were beaten; a separate juvenile proceeding was conducted for a minor who was also involved in the beating.

Many Roma lived illegally in squatter settlements that lacked basic services such as schools, medical care, water, and sewage facilities. Some of these settlements were located on valuable industrial or commercial sites where private owners wanted to resume control; others were on the premises of state-owned enterprises due to be privatized. There were no reports of Romani settlements being closed during the year; one settlement on privatized land in Belgrade was scheduled to be demolished, but the action was suspended pending location of alternative housing for the IDPs and other Roma living there. On August 6, the European Roma Rights Center (ERRC), the HLC, and the Center for Minority Rights of Belgrade filed a criminal complaint in connection with the August 2003 attack by 6 villagers on an extended Romani family of Muslim faith in Luzane. The attack followed years of threats and slurs against the family's ethnicity and religion by non-Romani neighbors. The police report of the attack was incomplete and inaccurate, and there was no indication that police would provide protection in future, so the 36-member family moved away.

In 2003, the Belgrade City Assembly adopted a plan to construct 58 small settlements for socially vulnerable persons with the objective of resettling some of the Roma from illegal settlements; however, no settlements have been built because of opposition by neighbors of the sites.

Romani IDPs from Kosovo were particularly subject to discrimination and abuse (see Section 2.d.). Some non-Romani refugees and IDPs also suffered from discrimination.

Romani education remained a problem. Many Romani children did not attend primary school, either for family reasons, because they were judged to be unqualified, or because of societal prejudice. Due to the lack of primary schooling, many Romani children did not learn to speak Serbian. Some Romani children were placed mistakenly in schools for children with emotional disabilities because Romani language, and cultural norms made it difficult for them to succeed on standardized tests in Serbian. The UNHCR, with government support, began health education programs for Roma and catch-up and head-start programs for Romani children. The SaM Government emphasized increasing enrollment of Romani children in school. During the year, there were 70 Romani children in middle schools and 69 Roma in vocational colleges and universities.

In reaction to widespread anti-Serb violence by ethnic Albanians (who are primarily Muslim) in Kosovo in mid-March, two mosques in Serbia—attended by Bosniaks, Roma, and others—were burned (see Section 2.c.). There were also more than 40 incidents in Vojvodina of attacks on property of ethnic Albanians and Bosniak Muslims following the Kosovo violence. In the most serious Vojvodina attack, two Molotov cocktails were thrown at a bakery.

The SaM Ministry for Human and Minority Rights ran an “SOS” hotline for minorities and others concerned about human rights problems. In July, the Ministry, in conjunction with OSCE and a local NGO, hosted a regional conference on “Tolerance above All” in Belgrade.

*Other Societal Abuses and Discrimination.*—Serbia's homosexual community stayed hidden due to fears of violence and discrimination. The one occasion the community was visible—when it held a gay pride parade in 2002—the event was violently broken up, with police assisting the attackers. Slurs against homosexuals appeared in the media.

*Incitement to Acts of Discrimination.*—The law prohibits dissemination of information that incites violence, hatred, or discrimination; however, propaganda against “sects” continued in the press, and religious leaders noted that instances of vandalism often occurred soon after such press reports. Some texts used in military and police academies contained propaganda against religious sects.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all workers, except military and police personnel, to join or form unions of their choosing, subject to restrictions including approval by the Ministry of Labor and a statement from the employer that the union leader is a full-time employee, which reportedly was tantamount to an employer approval requirement. A state-affiliated trade union federation continued to dominate organized labor, due to preference for unions belonging to it by the managements of the state-owned industries that dominated the economy. Smaller federations of independent trade unions competed with the government-affiliated federation, but were successful in doing so primarily in the relatively small proportion of the formal nonagricultural economy that is not state-owned. In the state-owned sector, 60 to 70 percent of workers belonged to unions. In the pri-

vate sector, only 4 to 6 percent were unionized, and in agriculture approximately 3 percent.

The criminal code does not prohibit antiunion discrimination, and it was not a significant problem during the year. While it did not provide any specific examples of problems, the Nezavisnost national trade union center made generalized allegations to the International Confederation of Free Trade Unions that its members in Serbia were exposed to "harassment and persecution" by company managers and the Government and that two-thirds of applications for the registration of local Nezavisnost branches were delayed by the authorities for longer than the time limit set by law. Nezavisnost asserted that company managers prohibited the operation of the unions and their entry to company premises on the grounds that they were not registered and claimed there were reports of workers having their pay docked, being transferred to lower-paid positions, or being threatened and even assaulted after joining Nezavisnost. Local independent labor experts could not corroborate these claims. According to an independent labor expert, about 20 Nezavisnost members were prevented from working at one tractor factory in 2003, resulting in one violent skirmish. According to the labor expert, there were no incidents of company managers harassing union members during the year. Granting of applications for labor registration was, on occasion, delayed by 1 or 2 months, but often the delay was due to incomplete applications.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The right to organize and bargain collectively was recognized and exercised freely in practice. A union must have 15 percent of employees as members in order to negotiate with an employer or 10 percent of all employees to negotiate with the Government.

The law provides for the right to strike, and unions held several strikes during the year; however, the law restricts strikes by employees in "essential service production enterprises," such as education, electric power, and postal services—approximately 50 percent of all employees. These employees must announce their strikes at least 15 days in advance and ensure that a "minimum level of work" is provided.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5, Trafficking and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 16, although in villages and farming communities it was common to find younger children at work assisting their families. Children—particularly Roma—also could be found in a variety of unofficial retail jobs, typically washing car windows or selling small items such as newspapers; however, in recent years, this type of labor has been less widespread because adults, lacking other options for employment, have taken many of these jobs. Romani children were often forced by their families into manual labor, compelled to beg, or trafficked abroad to work in begging or theft rings. The Labor Inspectorate of the Ministry of Labor, Employment, and Social Issues checked for child labor during its inspections; however, the Ministry stated it found no violations during the year. The Ministry also included prevention of child labor in its regular child and family protection programs.

*e. Acceptable Conditions of Work.*—The minimum wage of approximately \$95 (5,600 dinars) per month did not provide a decent standard of living for a worker and family.

The standard workweek of 40 hours was generally followed in state-owned enterprises but not in private companies. The law provides that an employee may not work overtime for more than 4 hours a day or for more than 240 hours within a calendar year. For an 8-hour workday, one 30-minute break is required. At least 12 hours of break are required between shifts during the workweek, and at least 24 hours of break are required over the weekend. Payment of overtime—50 percent above regular pay—was regulated by collective agreements.

It is mandatory for each company to establish a safety and security unit to implement safety and security regulations; however, in practice, these units often focused on rudimentary aspects of safety, such as purchasing soaps and detergents, rather than on providing safety equipment for workers. By some estimates, there were 20,000 workplace injuries annually in Serbia, with approximately 100 fatalities. Workers do not have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment.

## KOSOVO

Kosovo is administered by the U.N. Interim Administrative Mission in Kosovo (UNMIK) pursuant to U.N. Security Council (UNSC) Resolution 1244. UNMIK promulgates regulations to address the civil and legal responsibilities of governmental entities and private individuals, and ratifies laws passed by the Kosovo Assembly. UNMIK promulgated the Constitutional Framework for Provisional Self Government in Kosovo (the Constitutional Framework), which defined the Provisional Institutions of Self Government (PISG). Kosovo has a multiparty political system with four dominant ethnic Albanian parties and several minority parties and coalitions. In October, Kosovo Assembly elections were held that were determined to be generally free and fair. The Constitutional Framework provides for an independent judiciary; however, the judiciary continued to be plagued by instances of favoritism and outside influence, particularly in many interethnic cases.

The U.N.-authorized, NATO-led peacekeeping force for Kosovo (KFOR) continued to carry out its mandate to maintain a safe and secure environment and defend against external threats. UNMIK Civilian Police continued to transfer basic police authority and functions to the local Kosovo Police Service (KPS). The Kosovo Protection Corps (KPC), comprised largely of demilitarized former Kosovo Liberation Army (KLA) members, continued to develop its capacity as a civilian civil emergency response agency. UNMIK international civilian authorities and KFOR leadership generally maintained effective control over security forces; however, there were reports that elements of the security forces acted independently of their respective authority. Some members of the international and local security forces committed human rights abuses.

The economy, in transition from a centrally directed to a market-based economy, was built primarily on agriculture, mining-related industries, and construction services, and was heavily dependent on foreign assistance. The estimated population was 2.3 million, although demographic figures were unreliable in the absence of a recent census. Economic growth was approximately 3.5 percent for the year. Unemployment estimates ranged from 30 to 50 percent among ethnic Albanians and higher among Kosovo Serbs and other ethnic communities. Wage increases generally kept pace with inflation.

UNMIK and the PISG generally respected the human rights of Kosovo's residents; however, there were serious problems in some areas, especially relating to Kosovo Serbs. KFOR and UNMIK police were responsible for killing several protesters during riots in March after the protestors failed to heed prior warnings and threatened the international security officials or those they were protecting. Several killings resulted from attacks that appeared to be ethnically motivated, and some perpetrators of the killings were arrested during the year. One death and several injuries resulted from landmines and, particularly, from unexploded ordnance (UXO). Lengthy pretrial detention was a problem, and the judiciary did not always provide due process. UNMIK occasionally limited freedom of assembly and forcibly dispersed some demonstrations. Religious tensions persisted. Freedom of movement for ethnic minorities, particularly Kosovo Serbs, continued to be a serious problem. Violence and discrimination against women remained significant problems. Trafficking in persons, particularly women for sexual exploitation, was a serious problem. Persons with mental and physical disabilities faced social discrimination. Severe societal violence, abuse, and discrimination against minority communities were serious problems, particularly during the March riots. Child labor was a growing problem.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by UNMIK, the PISG, KFOR, or their agents; however, in March, KFOR and UNMIK Police were responsible for killing several Albanian protesters during riots while defending themselves, Kosovo Serbs and other minorities from violent mobs (see Sections 2.b. and 5). On April 17, an UNMIK special police officer fired upon a group of 24 UNMIK corrections officers while they were leaving the Mitrovica Detention Center, killing 3 and injuring 11. A subsequent investigation determined that the perpetrator, who died of injuries sustained during the incident, acted alone.

Landmines and UXO from the 1999 conflict remained a problem, particularly in rural areas. During the year, UXO or landmines killed 1 person and seriously injured 13, compared with 3 fatalities and 16 serious injuries in 2003. UXO, particularly the remains of NATO cluster bombs, was the main threat.

A small, loosely organized group of “Bridgewatchers” remained intact but largely inactive in Mitrovica. They were present on the Austerlitz Bridge during the March riots, but were not linked to human rights abuses as in previous years.

KPS and UNMIK Police officers investigating sensitive or politically related crimes were frequently targeted. For example, on March 23, KPS officer Arsim Rustolli and Ghanaian UNMIK Police officer Kojo Essuman were killed during an attack on their patrol in Podujeve/Podujevo municipality and four Kosovo Albanians were awaiting trial on resulting charges at year’s end.

Three Kosovar Albanian men suspected of involvement in the March killings of an international and Kosovar police officer were transferred into UNMIK custody on June 8 after being arrested in Albania. The suspects include Florim Ejupi, Kosovo’s most wanted fugitive who escaped from the KFOR Camp Bondsteel detention facility after being arrested in connection with the Merdare February 2001 bus bombing near Podujeve/Podujevo that left 11 Serbs dead and 40 wounded.

There were allegedly politically motivated killings of Kosovo Albanians. For example, on March 17, unknown persons killed the father of Avni Elezaj, a former Kosovo Liberation Army (KLA) fighter and former bodyguard of Alliance for the Future of Kosovo (AAK) President Ramush Haradinaj.

There were also allegedly ethnically motivated killings of Serbs during the year, especially during the March riots. The March riots resulted in the 20 deaths including of 8 ethnic Serbs and 12 ethnic Albanians. On February 19, the police and KFOR found two Serb corpses in Lipjan/Ljipljane with gunshot wounds inside a civilian vehicle parked on the road. On June 5, 17-year-old Serb Dimitrije Popovic was shot and killed, and another Serb teenager was seriously injured, in a drive-by shooting. KPS officers immediately arrested two young Albanians—Albert Krasniqi and Labinot Gashi—both of whom confessed to the crime and were awaiting trial at year’s end.

There were no developments in the following 2003 killings: The killing of two witnesses in the Dukagjini group case, Tahir Zemaj in January and Ilir Selimaj in April; the August sniper killing of UNMIK police officer Satish Menon; the September killing of KPS officer Hajdar Ahmeti; and the September killing of KPS officer Agim Makolli. UNMIK police announced that Bedri Krasniqi was wanted in connection with the November 2003 killing of KPS members Sebahate Tolaj and Isuf Haklaj.

No arrests were made by year’s end for the 2002 killings of Smajl Hajdaraj or of Ilir Selimaj and his pregnant sister-in-law.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, criminal kidnappings for ransom took place and thousands of persons remained missing from the 1999 war.

During the year, the Prizren prosecutor’s office announced arrest warrants for two former Serb policemen, Goran Janjusevic and Slavisa Milkovic, suspected of committing war crimes against the civilian population in the Prizren region, including the kidnapping and killing of Ardian Zyrrnagjiu during the 1999 conflict. The suspects remained at large at year’s end.

Approximately 3,200 persons remained missing from the Kosovo conflict at year’s end, of whom 77 percent were Albanian, 17 percent were Serb, and 6 percent were from other ethnic groups. During the year, UNMIK’s Office of Missing Persons and Forensics (OMPF) continued the identification of the remains of missing persons in Kosovo. From its establishment in 2002 through the end of the year, the OMPF performed 1,170 exhumations and conducted 858 autopsies. Many bodies of missing persons have been recovered and the focus was on establishing the identities of the exhumed remains so that they can be returned to their families for burial. By the end of the year, the OMPF submitted 2,160 bone samples to the International Commission on Missing Persons (ICMP) to identify remains through DNA testing, which had returned 797 results.

The OMPF continued to cooperate with the Government of Serbia to receive identified remains of Kosovo victims from the 1999 war found in mass graves in Serbia; however, progress was slow. The OMPF received 849 bodies transferred from the Republic of Serbia, most of which were returned to families for burial, including 641 ethnic Albanians and 98 from non-Albanian communities. Associations of families of the missing held a series of protests on August 30 and November 3 to 5 demanding that the Government of Serbia immediately return over 200 sets of identified remains to Kosovo and open Serbia’s government files on missing persons. The missing persons technical dialogue between officials in Pristina and Belgrade was hindered for political reasons, but UNMIK was working to resume the dialogue at year’s end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitutional Framework and Criminal Procedure Code prohibit such practices, and there were no reports that UNMIK, KFOR, or the PISG officials employed them.

On February 16, KFOR authorities arrested KPC Commander General Selim Krasniqi and three other KPC officers on suspicion of involvement in abusing innocent persons in the Prizren area in 1998.

During the year, some KPC members were suspected of involvement in misconduct; however, the extent of KPC leadership involvement was unclear. During the year, the 12 KPC members suspected in December 2003 were reinstated because the police investigation failed to find sufficient evidence of criminal activity.

There were reports of attacks and threats against Kosovo Albanian political and institutional figures as well as Kosovo Albanian individuals. For example, on February 21, an explosive device in a vehicle in the town of Peja/Pec injured Kosovo Minister of Environment and Spatial Planning Ethem Ceku, two AAK party officials, and two KPC members. On June 30, unknown assailants attacked a member of the Democratic Party of Kosovo (PDK) presidency branch in Peja/Pec, Rexhe Krasniqi. No suspects were identified by year's end; however, credible observers often blamed such attacks on rival political party members. Nonpolitical motives, including clan rivalry and common criminality, were also suspected in some cases.

Serbs, Roma, Ashkali, and other minorities were subjected to societal abuses on a regular basis, including attacks by violent mobs during the March riots (*see* Section 5). For example, on March 5, three Kosovo Albanians beat a Kosovo Serb who was traveling on a train near south Mitrovica.

There were some credible reports of politically motivated attempts to intimidate UNMIK officials and KFOR officers. For example, on March 24, a hand grenade was thrown towards the Mitrovica main bridge from the majority-Serb northern side and two KFOR soldiers sustained minor injuries. In August, a Serb, Zivorad Cvetkovic, was sentenced to 5 years in prison for the crime.

Prisons generally met international standards, and UNMIK permitted visits by independent human rights observers. Prison and detention center conditions were generally good and did not pose a serious threat to life or health. Facilities were at times overcrowded; however, the construction of two new facilities began during the year. UNMIK operated eight facilities (Prizren, Mitrovica, Pristina, Gnjilane, Peja/Pec, Lipjan, and Dubrava—blocks one and two) with a total capacity of 1,356 inmates. UNMIK Police corrections officers managed the prison system and increasingly transferred responsibilities to the local Kosovo Correctional Service (KCS).

UNMIK has implemented the recommendations contained in the 2003 report of an independent commission to improve hygienic conditions in Dubrava Prison, rectify the lack of educational and recreational activities, provide additional training for local correctional staff, and improve institutional and management processes; however, funding constraints were a problem.

Women were held separately from men, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners and those awaiting appeal of their convictions. High-risk prisoners were held in a special block of the Dubrava prison. Prisoners were permitted to vote in the October elections.

*d. Arbitrary Arrest or Detention.*—The Constitutional Framework and Criminal Procedure Code prohibit arbitrary arrest and detention, and UNMIK, KFOR, and the PISG generally observed these prohibitions in practice.

UNMIK Police continued to transfer police authority and functions to the KPS, while maintaining oversight. The KPC continued to train and develop its disaster response skills and undertook humanitarian projects. An international commissioner of police directed both the UNMIK police and the KPS. The combined force was generally effective. Minority membership in the KPS was approximately 15 percent at year's end. Corruption in the security forces was a problem, particularly in the KPS border police.

An UNMIK Office of Oversight investigated corruption in UNMIK, and the criminal justice system. The judicial system effectively prosecuted members of the security forces who committed abuses. The KPS Professional Standards Unit (PSU), run by UNMIK Police, conducted 100 disciplinary investigations against KPS officers for participating in or failing to prevent violence in the March riots; most of these investigations were still ongoing at year's end. One officer was terminated for her participation in an assault against a minority family. While the local criminal justice system generally did a poor job of investigating, arresting, and convicting perpetrators of crimes against minorities, the UNMIK Department of Justice tracked over 300 criminal proceedings associated with the March riots during the year (*see* Section

1.e.). Some international NGOs also accused KFOR and UNMIK police of failing to prevent the March riots.

Police generally openly arrested a suspect using a warrant issued by a judge or prosecutor; however, in certain high security cases, suspects were arrested secretly by masked or undercover police officers. All arrests must be based on prosecutor orders and arrestees must be brought before a judge within 72 hours; however, there were reports that UNMIK police used this authority as a means of minor punishment with no intention of filing charges, particularly in the case of petty offenders. Based on the new criminal code that came into effect on April 6, a suspect has the right to be informed about the reasons for the arrest in a language that he or she understands; to remain silent and not to answer any questions, except about his or her identity; to free assistance of an interpreter; to defense counsel and to have defense counsel provided if he or she cannot afford to pay for legal assistance; to medical treatment including psychiatric treatment; and to notify a family member. These rights were generally respected in practice.

Although KFOR did not require arrest warrants, its arrest processes were generally transparent. However, KFOR detention practices were not always fully transparent. For example, the attorney for Shukri Buja, a former KLA commander arrested after the March riots, complained that he had difficulty locating his client. The KFOR Commander may intervene to extend the detention of persons not charged with a crime or ordered released by the courts in increments of 30 days. On May 4, KFOR extended the detention of former KLA commander Sami Lushtaku at Camp Bondsteel under suspicion of involvement in the March riots and for numerous weapons-related charges. He was later released and all charges were dropped.

A detainee may be held in pretrial detention for a maximum period of 1 month from the day of arrest, which can be extended by the courts up to a total of 18 months. The new criminal code introduced on April 6 includes measures to decrease the need for pretrial detention, such as house arrest, an appeal for detention on remand, and expanded use of bail. However, a backlog of pretrial detainees remained; approximately 2,000 persons were detained on remand during the year. UNMIK established a commission to compensate persons held in detention who were later found not guilty.

*e. Denial of Fair Public Trial.*—The Constitutional Framework provides for an independent judiciary; however, the local judiciary was at times subject to bias and outside influence, particularly in interethnic cases, and did not always provide due process. Legal authority is held by UNMIK under U.N. Security Council Resolution 1244. UNMIK police and justice worked with local judges and prosecutors, while maintaining executive responsibility for judicial system planning, policymaking, operations, management, administration, coordination, and monitoring. There were credible reports of corruption within the local judiciary, and allegations that courts, including the Supreme Court, deferred to the Government in some cases.

The court system includes a Supreme Court, 5 District Courts, 24 Municipal Courts, and a Commercial Court. There were 18 international judges and 8 international prosecutors who were appointed by UNMIK to handle interethnic and other sensitive cases. At year's end, there were 21,668 criminal cases unresolved in the municipal courts, and 2,371 criminal cases unresolved in the district courts.

The Government of Serbia continued to fund and manage a parallel judicial system in Serb enclaves in violation of U.N. Security Council Resolution 1244.

UNMIK, through the Organization for Security and Cooperation in Europe (OSCE), maintained several organizations to increase the professionalism of the judicial corps. The Kosovo Judicial Institute continued to train judges and prosecutors. The Judicial Inspection Unit continued to monitor judicial performance and make recommendations on discipline and training. The Kosovo Judicial and Prosecutorial Council (KJPC) was responsible for the review of cases of judicial misconduct. Since 2001, KJPC opened 458 investigations and found some evidence of misconduct in 41 cases, resulting in 7 reprimands and 10 recommendations for removal.

Although the law provides that serious cases are tried by a panel of five judges (two professional judges and three lay judges), an UNMIK regulation provides that cases of a sensitive ethnic or political nature may be tried by international prosecutors, possibly before a three-member panel of professional international judges. Of the 232 active cases handled by International Prosecutors during the year, approximately 79 were tried before international judges, which typically resulted in a conviction rate of over 90 percent.

The local bar association, the Kosovo Chamber of Advocates (KCA), remained weak, but was improving. The OSCE started a local NGO, the Criminal Defense Resource Center, to assist the KCA in capacity building. Some Kosovo Serb lawyers

participated in the legal system, and the Serbian Bar Association continued to provide free legal assistance for Kosovo Serb defendants in Kosovo. In addition, the OSCE provided security and logistical support, such as secure transportation to Serb attorneys who represented Serb defendants in Kosovo courts.

UNMIK regulations and the Constitutional Framework provide for the right to a fair trial, and the international and local judiciary generally enforced this right; however, legal experts and human rights observers continued to express concern that the fairness of trials was a problem in criminal cases involving ethnic minorities prosecuted or tried by Kosovo Albanian judicial personnel, so such cases were routinely assigned to international judicial personnel. Trials were public, and the law provides for the right of defendants to be present at their trials, to confront witnesses, to see evidence, and to have legal representation, at public expense if necessary. Defendants are presumed innocent until proven guilty and have the right of appeal. There are no jury trials; cases are heard by panels consisting of professional and lay judges.

The Judicial Integration Section, created by the UNMIK Department of Justice in 2003 to promote the ethnic integration of judges and prosecutors into the Kosovo legal system, continued to address access to justice problems affecting minorities, to monitor the treatment of minorities in the justice system, to address instances of discrimination, and to facilitate the integration of court support staff. A special Court Liaison Office (CLO) continued to facilitate access to justice for minority communities in the Serbian enclave of Gracanica, Pristina Municipality. The CLO enhanced access to justice by accompanying minorities to courts, filing documents with courts on behalf of minorities, and providing information regarding court access. During 2004, the CLO in Gracanica dealt with 1,656 requests for assistance. In addition, UNMIK opened a Department of the Pristina Municipal Court in Gracanica staffed by two judges to further increase minority access to the Kosovo justice system.

Kosovo's investigative, judicial, and penal systems, in addition to International Criminal Tribunal for the former Yugoslavia (ICTY), continued to identify and punish perpetrators of war crimes from the 1999 conflict; however, many cases remained unresolved. Domestic war crimes trials continued in local Kosovo courts to adjudicate approximately 38 cases of alleged war crimes and genocide arising from the 1999 conflict. For example, Ejup Rujeva was tried by a panel of international judges in the Pristina district court for alleged war crimes, kidnapping, and murder of civilians in February and March of 1999; the trial was ongoing at year's end.

There were no reports of political prisoners.

The UNMIK Housing and Property Directorate (HPD) has responsibility for restitution or compensation for takings of private property associated with the 1999 war. HPD continued to adjudicate property claims, produce legally binding decisions, evict illegal occupants, restore property to 1999 occupants, and administer property on behalf of owners not in Kosovo. HPD shifted its focus to incorporate the return of displaced persons into its previously exclusive focus on property law implementation, and in the past year referred successful claimants to returns assistance NGOs. During the year, HPD resolved approximately 918 claims per month and carried out a total of approximately 440 evictions (illegal occupants often vacate a property prior to eviction). HPD established a call center to increase outreach to successful claimants, contacting approximately 9,565 claimants during the year. Of the approximate 29,000 claims received by the intake deadline of July 1, 2003, HPD had resolved 23,055 by year's end.

In Mitrovica, Kosovo Serbs in the northern part of the city continued to illegally occupy Kosovo Albanian properties, while Kosovo Albanians in the southern part of Mitrovica also denied Kosovo Serbs access to their property. By year's end, the HPD had made a decision on 730 of the 1,324 property claims in Mitrovica North, Leposavic, and Zvecan and started implementation of the decisions regarding evictions.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—UNMIK regulations and the Constitutional Framework prohibits such actions, and UNMIK, KFOR, and the PISG generally respected these prohibitions in practice; however, some individuals and local NGOs accused KFOR of using excessive force in executing searches in private homes. On August 4, KFOR announced an investigation against seven members of KFOR for allegedly exceeding their authority during a search for suspects in the March riots. The soldiers were subsequently reprimanded and repatriated.

An UNMIK regulation on Covert and Technical Measures of Surveillance and Investigation permits police to conduct covert operations with the prior written ap-

proval of an investigative judge or public prosecutor. No abuses were reported during the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—UNMIK regulations and the Constitutional Framework provide for freedom of speech and of the press, and UNMIK, KFOR, and the PISG generally respected these rights in practice and did not restrict academic freedom; however, there were some allegations of interference with freedom of speech and press by both UNMIK and the PISG, particularly during the March riots.

The independent media were active and expressed a wide variety of views without restriction. Most print and broadcast media were independent but regulated by UNMIK. Print media did not have a large circulation; broadcast media appeared to be more influential.

UNMIK controlled broadcasting infrastructure through the Department of Post and Telecommunications, while the OSCE oversaw the Department of Media Affairs. UNMIK also regulated the conduct and organization of both broadcast and print media and established the office of the Temporary Media Commissioner (TMC) and the Media Appeals Board. The TMC was responsible for publishing a broadcast code of conduct, issuing licenses, and imposing sanctions up to and including closing down offending media organs in the event of violations of UNMIK regulations or published codes of conduct; however, the TMC believed the codes need to be updated. For example, the codes failed to adequately protect the privacy of children and crime victims. The Constitutional Framework provides for an Independent Media Commission (IMC) and a Board of the Public Broadcasters independent of the PISG. During the year, UNMIK worked with the PISG to transition the TMC to an IMC and the establishment of a Board of Public Broadcasters; however, the law establishing an IMC was not finalized by year's end. An Assembly-mandated Committee on the Media was established during the year, but its competencies passed to a wider-range Committee on Public Services, Local Administration, and Media following the October elections.

While most print and broadcast media followed accepted journalistic principles, there were some exceptions. In October, the TMC published a report criticizing print media for failing to provide fair and equal representation for all political parties, including minority parties, during the electoral campaign. The TMC received one complaint of a threat against journalists. On August 24, an anonymous e-mail was sent "on behalf of all Muslim believers" to the Radio Television Kosovo (RTK) and TV 21 demanding that they cease the broadcast of two soap operas.

During the March riots, the Association of Professional Journalists in Kosovo claimed that the TMC's visit to three Kosovo-wide TV stations was interference with the press and also claimed that UNMIK police and KFOR blocked the antenna signal of TV Mitrovica. The local Gjila/Gnjilane TV station Men charged that, on April 15, UNMIK police surrounded the station and confiscated material recorded during the March riots. On July 13, the TMC, Robert Gillete, stated that the interference by police and prosecutors in the work of media, in particular the confiscation of TV tapes, was endangering journalistic freedom of speech. UNMIK regulations prohibit hate speech and speech that incites ethnic violence, as well as newspaper articles that might encourage criminal activity or violence. Following several credible reports by international observers harshly criticizing print and especially electronic media for biased coverage and incitement during March riots, the TMC settled cases with three Kosovo-wide TV stations (RTK, KTV, and TV21) on December 17 by obtaining agreement from the stations to spend more than \$ 675,000 (500,000 euros) on additional training for reporters and editors.

UNMIK regulations prohibit the publication in both the print and broadcast media of personal information that would pose a threat to the life, property, or security of persons through vigilante justice or otherwise. On June 22, the Pristina Municipal Court found the Bota Sot editor Bajrush Morina guilty of publishing false information on PDK member Xhavit Haliti, who was indirectly accused of the killing of Tahir Zemaj in January 2003; Morina was fined \$ 1,823 (1,350 euros).

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—UNMIK regulations and the Constitutional Framework provide for freedom of assembly and association, and UNMIK, KFOR, and the PISG generally respected these rights in practice; however, UNMIK police used deadly force to control the March riots and protect themselves and others. Demonstration organizers were required to notify UNMIK 48 hours in advance for police coordination. UNMIK police estimated that hundreds of thousands of persons took part in protests, demonstrations, and road blocks during the year, including 59 instances in March and 197 instances throughout the rest of the

year, constituting a 150 percent increase in demonstrations over previous years. On August 30, the International Day of the Disappeared, UNMIK police forcibly removed approximately 50 family members of missing persons who were blocking the main road in downtown Pristina and protesting the slow progress on resolving the fate of the missing from the 1999 conflict (*see* Section 1.b.).

The March riots involved an estimated 50,000 to 75,000 demonstrators over 2 days in every major city in Kosovo. During the March riots, measures taken by KFOR and UNMIK police to protect themselves and others as well as to control the crowds resulted in several deaths of Albanian protesters and some allegations of police abuse. For example, an UNMIK police officer shot and killed a protester in Peja/Pec municipality while defending Serbian residents from Kosovar Albanian rioters. No legal charges were brought against KFOR soldiers or UNMIK police related to their actions during the March riots.

UNMIK granted registration for political parties and NGOs routinely.

*c. Freedom of Religion.*—UNMIK regulations and the Constitutional Framework provide for freedom of religion, and UNMIK and the PISG generally respected this right in practice.

There are no specific licensing regulations with regard to religious groups; however, in order to purchase property or receive funding from UNMIK or other international organizations, religious organizations must register as NGOs.

The majority of the population was Muslim with significant numbers of Serbian Orthodox and Roman Catholics, and a small Protestant minority.

Religious identity and ethnicity were closely intertwined. Kosovo Serbs identified themselves with the Serbian Orthodox Church, which influenced not only their religious but also their cultural, historical, and political outlook. The close connection between religion and ethnicity affected the religious liberty of the Serb community (*see* Section 5). Significant parts of the Kosovo Albanian community continued to view the Serbian Orthodox Church with hostility and suspicion due to its political alignment with the Government of Serbia's policy toward Kosovo. Differences between Muslim, Catholic, and Protestant communities tended to be overshadowed by a common ethnic Albanian heritage.

Numerous serious attacks on Serbian Orthodox churches and cemeteries occurred during the March riots, resulting in extensive property damage, including the destruction or damage of 30 Orthodox religious sites and over 900 houses and businesses of ethnic minorities. Several of the burned churches and monasteries dated from the 14th century and were considered part of the cultural and religious heritage of the region. A Council of Europe mission assessed that approximately \$13.1 million (9.7 million euros) would be required to repair and restore the damaged religious sites. Following the riots, KFOR deployed security contingents at religious sites throughout Kosovo to protect them from further destruction. In some areas KFOR resumed static checkpoints and increased protective measures and improved KFOR visibility. Nevertheless, sporadic attacks against ethnic minority property continued.

On April 2, Kosovo Albanian leaders issued a public letter condemning the riots and calling for rebuilding interethnic relations; however, with the exception of former Prime Minister Bajram Rexhepi, most Kosovo Albanian political leaders were criticized for their slow response to minority needs following the riots.

Monks and nuns at some monasteries were unable to use parts of monastery properties due to safety concerns. Serb families with relatives living in both Kosovo and Serbia were hindered by security concerns from traveling to join their relatives for religious holidays or ceremonies, including weddings and funerals. Bishop Artemije Radosavljevic, head of the Serbian Orthodox Church in Kosovo, remained in a monastery in the Kosovo Serb enclave of Gracanica; the Bishop's residence in Prizren was burned during the March riots. During the year, UNMIK police and KFOR provided security to improve mobility. For example, on February 14, police escorted 107 Serbs to visit the local monastery and cemetery in Ferizaj/Urosevac.

The Islamic Community of Kosovo alleged that UNMIK's denial of a radio frequency for an Islamic radio station, the closing of a prayer room in the national library, and the refusal of Pristina municipality to grant public land to build a mosque were examples of a lack of religious freedom; however, municipal authorities claimed that 13 mosques have been built in Pristina since the war.

In 2003, a female student was banned from wearing an Islamic headscarf on school premises. The Ministry of Education's position was that the law prohibited activities promoting any specific religion in public education institutions. The student appealed to the Kosovo Ombudsperson who released a nonbinding opinion that the Ministry's interpretation should only apply to schoolteachers or officials, not to students.

Protestants reported discrimination in access to the media, particularly by RTK. The absence of attacks on Protestants and their religious buildings during the March riots was, according to their leadership, a sign of increasing acceptance by the Kosovo public.

The PISG allocated \$5.7 million (4.2 million euros) for the first phase of reconstruction for 30 churches damaged during the March riots, but the Serbian Orthodox Church declined to cooperate with UNMIK on a transparent tender process to disburse the funds.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.*—UNMIK regulations and the Constitutional Framework provide for freedom of movement; however, interethnic tensions and security concerns restricted freedom of movement in practice, and UNMIK, KFOR, and the PISG generally failed to protect these rights for minority communities.

No special documents were required for internal movement; however, Kosovo Serbs, and to a lesser extent other minority communities, had considerable difficulty moving about safely without an international security escort. Following the March riots, KFOR and UNMIK police restricted movement in most of the affected areas and selectively imposed temporary curfews. Kosovo Serbs were frequently subjected to stonings and other low-level violence by Kosovo Albanians. Examples of stonings included: Busses en route to Skopje in September, October and December; a group of children on their way to elementary school in September; a commuter train used mainly by Kosovo Serbs as it passed through a Kosovo Albanian inhabited area in October; and a convoy escorted by KFOR when passing through Decan town in December.

In order to improve freedom of movement by rendering Serb and Albanian vehicles indistinguishable from each other, UNMIK continued to offer Kosovo license plates to Kosovo Serbs for no fee if they had already paid for vehicle registration in Serbia, but the Government of Serbia did not endorse the program. The deadline for registering vehicles with Kosovo plates was postponed to allow Kosovo Serbs to take advantage of the offer. UNMIK regulations provide that the Central Civil Registry may issue travel documents to any person registered as a resident of Kosovo. Since 2000, UNMIK has issued approximately 1.3 million identity documents, 500,000 travel documents, and 235,000 driver's licenses. Although there were more than 103,000 minorities, including 71,000 Serbs, in the civil registry, fewer than 1,000 applied for UNMIK travel documents. Kosovo Serbs often received Serbian identity and travel documents in addition to UNMIK issued Kosovo identity documents. Many Kosovo Albanians also obtained Serbian documents to enable travel beyond the countries that recognized the UNMIK travel documents. UNMIK and the PISG did not restrict emigration or repatriation.

The law prohibits forced exile, and the authorities did not employ it.

Since 1999, just over 910,000 internally displaced persons (IDPs) and refugees have returned or been repatriated, mostly ethnic Albanians; however, few IDPs returned during the year. Some international agencies and NGOs continued to organize small-scale return projects, which experienced setbacks as a result of the March riots. UNHCR estimated that 230,000 members of ethnic minority communities were displaced during the 1999 conflict. A total of 12,218 returned to Kosovo by year's end, it was unclear how many of the 230,000 persons originally displaced had returned or had integrated locally in Serbia by year's end. According to UNHCR, 2,302 minorities returned to Kosovo during the year, a 39 percent decrease from the 3,801 minority returns in 2003. This marked the first decline since 1999, a difference largely attributable to the impact of the March riots. Although the overall number of minority returns decreased during the year, a higher number of Roma, Bosniaks, and Goranis returned during the year compared to 2003. Of the additional 4,000 Serbs and Ashkali displaced during the March riots, 1,864 had not yet returned to their homes by year's end. The PISG reconstructed over 90 percent of the over 900 houses damaged or destroyed during the March riots, but many remained unoccupied at year's end.

The prospect for returns varied considerably according to region and ethnic group. The ability to speak the language of the majority community as well as the level of contact between IDPs and their neighbors prior to the conflict greatly affected the returnees' chances for reintegration. During the March riots, the Ashkali neighborhood in Vushtrri/Vucitrn was burned and looted, and its inhabitants took shelter at a KFOR base. Many refused to return by year's end. Many of those displaced in March, including Ashkali residents and Serbs, were displaced and had their homes burned for the second time.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, UNMIK granted displaced persons with status as “persons with temporary protection in Kosovo.” In practice, UNMIK provided protection against refoulement, the return of persons to a country where they feared persecution; however, UNMIK did not grant refugee status or asylum. UNMIK cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

UNMIK regulations and the Constitutional Framework provide residents with the right to change their government peacefully, and they exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage. Kosovo continued to be administered under the civil authority of UNMIK. A UNSC Resolution declared that the people of Kosovo shall be afforded “substantial autonomy and self-government.” UNMIK and its chief administrator, the Special Representative of the Secretary General (SRSG), established an international civil administration in 1999, following the conclusion of the NATO military campaign that forced the withdrawal of Serbian forces. In 2001, UNMIK promulgated the constitutional framework for the PISG (the Constitutional Framework). The PISG is made up of a 120-member Kosovo Assembly, which after the October elections again selected Ibrahim Rugova as President of Kosovo and Ramush Haradinaj as the new Prime Minister, as well as ministers and other government officials from several ethnic communities. Kosovo’s leaders criticized UNMIK for the slow pace of transfer of powers to the PISG.

UNMIK and the OSCE registered approximately 1.4 million voters for the October Assembly elections. Only residents of Kosovo and those who were residents of Kosovo on January 1, 1998 were eligible to vote. All of Kosovo’s ethnic communities participated in the election, although Serb participation was minimal. Some Serb leaders enforced the strategy of election boycott as a political tool in the Assembly elections through intimidation and implicit threats of violence and loss of social benefits against Serb voters, especially in the majority-Serb northern municipalities. The OSCE transferred considerable election administration authority for the first time to a locally staffed Central Election Commission, which conducted the October election while OSCE officials maintained oversight. International and domestic observers determined that the 2004 Assembly elections were generally free and fair.

Kosovo has a multiparty system dominated by four virtually monoethnic Albanian parties. There were also several minority parties and coalitions. The Democratic League of Kosovo (LDK) continued to be the most popular political party in Kosovo, but fell short of the majority required to form the central government on its own. The LDK formed a governing coalition with the AAK, led by Ramush Haradinaj, and the Six Plus parliamentary group, a coalition of Turkish and Bosniak parties. The leading political parties in the opposition were the PDK, led by Hashim Thaci, and ORA, led by Vetov Surroj. The nearly complete Serb boycott of the October elections left the two Kosovo Serb parties, the Serbian List for Kosovo and Metohija—successor to the Povratak Coalition—and the Citizens’ Initiative of Serbia, with a combined 10 Assembly seats set aside for Serbs by the Constitutional Framework. Party affiliation played an important role in access to government services and social opportunities. Traditional social arrangements and clan loyalties also played an important, though unofficial role in Kosovo’s social and political organization.

Under UNMIK regulations, individuals may nominate themselves as candidates to their parties, which must hold open and transparent internal elections to select their candidate lists. LDK and PDK all but ignored this requirement at their party conventions. UNMIK rejected calls by some political parties and civil society to implement an electoral system featuring an open candidate list (by which voters would cast ballots for individuals rather than political entities) and some variety of geographic districting.

There were reports of attacks and threats against Kosovo Albanian political and institutional figures (see Section 1.c.).

There was a widespread public perception of corruption in both the PISG and UNMIK. There were credible reports of irregularities involving the PISG’s handling of its first international bid for a mobile phone license. During the year, two international officials at the Pristina airport were arrested on money-laundering charges.

In November 2003, UNMIK promulgated the Law on the Access to Official Documents; however, the law exempts UNMIK documents and was rarely used.

Following the October elections, there were 36 women in the 120-seat Assembly. Women must occupy every third spot on each political party’s candidate list. Fol-

lowing the election, there were no women on the eight-member Assembly Presidency and only one woman served in the Prime Minister's Cabinet. Women represented 28 percent of the elected municipal representatives.

The Constitutional Framework requires that the Assembly reserve 10 seats for Serbs and 10 for members of Kosovo's other ethnic communities, but ethnic minorities were underrepresented at the municipal level. Following the October elections, there were 21 ethnic minority members in the 120-seat Assembly, including 10 Serbs and 11 members of Kosovo's other ethnic communities, including Turks, Bosniaks, Gorani, Roma, Ashkali, and Egyptians. There were three ethnic minority PISG ministers, two Serb and one Bosniak, and three deputy ministers. One Serb and one Turk held seats on the Assembly Presidency. At year's end, Serbs had not yet claimed their set-aside cabinet posts and continued to boycott the Kosovo Assembly.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without restriction, investigating and publishing findings on human rights cases. UNMIK, KFOR, and the PISG were generally cooperative and responsive to their views.

UNMIK registered more than 2,871 NGOs, including approximately 2,469 domestic and 402 international NGOs; 794 have been granted Public Benefit Status (tax exemption).

The International Organization for Migration (IOM) coordinated training and projects for the KPC in collaboration with other NGOs. Human rights observers, including those of the OSCE and some local NGOs, were active in documenting ethnically or politically motivated killings, attacks, and incidents of intimidation.

UNMIK, KFOR, and the PISG generally cooperated with the ICTY regarding crimes committed during the 1999 conflict. The ICTY trial of Fatmir Limaj, PDK caucus leader, and two other Albanians, began in November. The ICTY announced it may issue additional war crimes indictments of Kosovo Albanians; however, it had not done so by year's end. ICTY Chief Prosecutor Carla Del Ponte announced on several occasions that the Hague Tribunal was investigating additional Kosovo cases, but cited several difficulties, such as unwillingness of Albanians to testify, witness intimidation, lack of written documents, and lack of cooperation from local and international structures.

The Kosovo Ombudsman Institution (OI) investigated allegations of government abuses of international human rights laws. The OI had a multiethnic staff and was active in issuing reports and recommendations. Its recommendations were rarely followed by UNMIK, particularly UNMIK police, but cooperation improved after the March riots. The OI reported that 2,967 persons contacted the OI resulting in 34 investigations and 22 reports during the year. The OI had no authority to intervene in cases against KFOR. Since 2001, the OI has maintained that Regulation 2000/47 on UNMIK and KFOR Status, Privileges, and Immunities was in violation of internationally recognized human rights. On May 4, the OI criticized KFOR for having resumed objectionable detention practices (*see* section 1.c.).

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

UNMIK regulations specifically prohibit discrimination on the basis of gender, race, or ethnic origin; however, violence and discrimination against women, persons with disabilities, and ethnic minorities persisted. On August 25, UNMIK promulgated the Law Against Discrimination approved by the Kosovo Assembly. Minority communities, particularly Kosovo Serbs, were subject to severe social, economic, and cultural discrimination, as well as intimidation and occasional violence. On March 17 and 18, violent mobs targeted Serbs and other minority communities, as well as Orthodox Churches, in the widespread destruction and violence that swept across Kosovo. In addition, Kosovo Albanians were forced from their homes in some places where they were the minority.

*Women.*—Violence against women, including rape and a high level of domestic violence and spousal abuse, remained a serious and persistent problem. UNMIK regulations prohibit domestic violence and carry prison terms of 6 months to 5 years. Several court orders were issued during the year to protect victims of domestic violence.

Domestic abuse of women was common, and legal allegations and prosecutions involving domestic violence increased for the second year. The Center for Protection of Women and Children (CPWC), a local NGO, estimated that it received approximately 4,700 requests for assistance from victims of violence during the year. UNMIK DOJ Victim Advocacy and Assistance Unit (VAAU) victim advocates were

involved in 765 domestic violence cases. The Kosovo judicial system processed 188 cases of domestic violence during the year; 52 of the 53 completed cases resulted in convictions, with sentences ranging from judicial reprimands to imprisonment. Traditional social attitudes towards women may contribute to the high level of domestic abuse and low number of reported cases. The OSCE, the Office of the Prime Minister, and the UNMIK Department of Justice launched a public information campaign On November 25 to help raise awareness. The KPS School included special training segments on domestic violence and rape in its curriculum.

UNMIK regulations criminalize rape. On April 6, a new criminal code was implemented, including a comprehensive chapter with increased punishments for rape and sexual assaults; however, spousal rape was not specifically addressed. Rape was underreported significantly due to the cultural stigma attached to victims and their families. According to UNMIK, victim advocates provided services to victims in 31 cases of rape. During the year, courts processed 42 cases of rape resulting in 52 convictions, some cases involving multiple defendants.

There were no governmental agencies dedicated to dealing with family violence; however, four shelters assisted victims of domestic violence and trafficking, two run by local NGOs and two by international NGOs. Several domestic and international NGOs pursued activities to assist women; however, they were constrained by a tradition of silence about domestic violence, sexual abuse, and rape.

The law prohibits prostitution, but prostitution remained prevalent. The UNMIK Police Trafficking and Prostitution Investigation Unit (TPIU) actively investigated cases of prostitution and suspected trafficking in persons (*see* Section 5, Trafficking). Trafficking in women for the purpose of sexual exploitation was a serious problem (*see* Section 5, Trafficking).

There was no specific law against sexual harassment. Social awareness of sexual harassment remained low, and few cases were reported.

Women have the same legal rights as men, but traditionally not the same social status, which affected their treatment within the legal system. Despite a lack of legal impediments, relatively few women obtained upper-level management positions in commerce or government. Traditional social attitudes toward women resulted in discrimination. In some rural areas, women often had little ability to make decisions involving their children or to exercise control over property. While women and men have equal rights to inherit property under Kosovo law, family property customarily passes only to men. Albanian widows, particularly in rural areas, risked losing custody of their children due to a custom calling for children and property to pass to the deceased father's family, while the widow returns to her birth family.

In June, UNMIK ratified the Law on Gender Equality, the first law initiated by an Assembly committee rather than by the Government. The UNMIK Office of Gender Affairs coordinated gender issues. During the year, UNMIK transferred authority over 26 Albanian and 4 Serb municipal gender officers to the Office of Gender Issues in the Prime Minister's Office of Good Governance. Ministries completed the appointment of ministry-specific "gender focal points"; however, officials who also held unrelated responsibilities often ignored gender issues.

UNMIK police and the OSCE continued an outreach campaign to recruit women for the KPS, in which they made up 15 percent of KPS membership. However, only approximately 77 out of 3,000 active duty KPC members were women (3 percent). Women continued to be active in politics, and several women served as heads of domestic NGOs. While the number of women with jobs continued to increase, female unemployment remained high at around 70 percent, and very few rose to senior levels, including in the KPS or other government organizations.

*Children.*—UNMIK and the PISG were generally committed to the welfare and rights of children. The Ministry of Education, Science, and Technology and the Ministry of Health shared responsibility for issues related to child education and health; however, no one in the government dealt specifically with the issue of children's rights. A new Juvenile Justice Code entered into effect on April 20.

UNMIK regulations made enrollment in public school mandatory for children between the ages of 6 and 15, with some exceptions; however, some children from minority communities did not attend school due to security concerns. Primary education was compulsory, free, and universal. According to the Ministry of Education, the vast majority of school-age children under 15 attended school. Forty-six percent of children attended the nonobligatory secondary school, 43 percent of whom were female. Some children were forced to leave school early to work (*see* Section 6.d.).

UNMIK regulations require equal conditions for school children of all communities and accommodated minority populations by providing the right to native-language public education through secondary level. Schools teaching Serbian, Bosnian, and Turkish languages operated during the year. Enrollment for both Serb and Al-

banian children at the primary level was almost universal; however, at the secondary level, there was a marked gender and ethnic disparity, with lower rates of attendance and completion for Kosovo Albanian girls than for Kosovo Albanian boys or Kosovo Serb girls. A lack of freedom of movement and reluctance to depart from a Belgrade based curriculum led Kosovo Serb children to attend neighborhood schools that were sometimes housed in inadequate facilities and lacked basic equipment. Few schools in Kosovo house both Serb and Albanian pupils, who study different curricula.

UNMIK regulations provided for the licensing and funding of the Serb-run North Mitrovica University; however, UNMIK revoked its license during the year because of the illegal appointment of a new rector. This situation had not been resolved by year's end.

Romani, Ashkali, and Egyptian children attended mixed schools with ethnic Albanian children but reportedly faced intimidation in some majority Albanian areas. Romani children tended to be disadvantaged by poverty, leading many to start work at an early age to contribute to family income. Bosniak children were able to obtain some primary education in their own language, but faced a lack of trained Bosniak teachers. The Ministry also provided an expedited registration process for displaced minority children at the secondary and the higher education levels. On August 30, the OSCE and the Ministry of Education, Science, and Technology concluded a 4-week training course for 28 Romani teachers to establish a Romani minority curriculum. Albanian IDP children were not allowed access to the local school in the village of Biti in the majority-Serb Strpce municipality.

Humanitarian aid officials primarily blamed a high rate of infant and childhood mortality, as well as increasing epidemics of preventable diseases, on poverty that led to malnutrition, poor hygiene, and poor public sanitation. Public health conditions were especially poor among displaced persons and parts of the Romani community.

There were reports of child abuse, although it was not believed to be widespread. The Ministry of Labor and Social Welfare (MLSW) operated 31 centers for social welfare that assisted 1,200 orphans, 1,100 delinquent children, 50 abused children, and 120 children with behavioral problems during the year. The MLSW also managed foster homes and coordinated with NGOs to place children in the temporary shelters. High unemployment and family dislocation resulted in a high rate of child abandonment. Since the domestic adoption rate and foster family programs did not keep pace with the rate of abandonment, infants and children were sometimes housed in group homes with few caretakers. Since the end of war in 1999, Kosovars reportedly have abandoned 450 children, largely due to poverty, low level of education, and unwanted or unplanned pregnancy. Children with disabilities were often hidden away without proper care, particularly in rural areas. Children and their families, mostly Serbs, remained displaced following the 1999 war, and additional families were displaced following the March riots.

Child labor was a serious problem (*see* Section 6.d.). Children were trafficked to and through Kosovo for the purpose of sexual exploitation (*see* Section 5, Trafficking).

The Kosovo Child Rights Forum broadened its membership to include eight local and seven international NGOs during the year to address the gap in coordination among NGOs on children's issues. Save the Children initiated an advocacy project together with the local NGO, HANDIKOS, promoting rights of children with special needs. A Coordinator for Children's Rights was also appointed in the Prime Minister's Office of Good Governance and in the Ministry of Education.

*Trafficking in Persons.*—UNMIK regulations criminalize trafficking in persons; however, trafficking of women and children remained a serious problem. There was evidence of both international and local official involvement in trafficking.

Conviction for trafficking in persons is punishable by 2 to 20 years in prison. Engaging or attempting to engage in trafficking is punishable by 2 to 12 years in prison, or up to 15 years if the victim is a minor; organizing a group to engage in trafficking is punishable by 5 to 20 years in prison; facilitating trafficking through negligence is punishable by 6 months to 5 years in prison. A client engaging in sex with a victim of trafficking may be sentenced for up to 5 years in prison, while sex with a trafficked minor carries penalties of up to 10 years in prison. The sentence for sexual intercourse through use of violence (rape) is 1 to 10 years in prison; for sexual intercourse with a girl under 14 is 1 to 5 years in prison. Penalties are slightly more severe under the trafficking regulation and can apply to perpetrators not directly involved in sexual relations.

Efforts were made by UNMIK, the PISG, international organizations, and NGOs to combat trafficking. Despite considerable improvements to UNMIK's

antitrafficking efforts during the year, low prosecution rates and sentence lengths, as well as failure of police to adapt to new techniques increasingly employed by traffickers, were serious problems. UNMIK's Trafficking and Prostitution Investigation Unit (TPIU) arrested 56 persons for trafficking in human beings and made another 21 arrests for trafficking related offenses, resulting in 39 new trafficking cases filed by the office of the prosecutor. While precise data was not available at year's end, the majority of such cases resulted in convictions. In November, KPS officers, with assistance from the TPIU, arrested five Kosovo Albanians suspected of human trafficking; three of the defendants were convicted and sentenced to prison terms of 2 to 4 years. Victims often elected repatriation before testifying against traffickers, which undermined effective prosecutions. The low rate of convictions and short sentences further compounded this reluctance to testify. Other factors that contributed to the low number of prosecutions included the increasing sophistication of organized crime efforts to avoid direct links between the victims and senior crime figures, lack of a witness protection program, and inadequate training for judicial personnel.

Coordination of the antitrafficking effort is the responsibility of UNMIK police, including TPIU, KPS, and border police, UNMIK Department of Justice, including the UNMIK's VAAU, the OSCE, the Prime Minister's Office of Good Governance, and the Ministries of Health, Education, Public Services, and Labor and Social Welfare. UNMIK actively investigated trafficking. During the year, the TPIU conducted 60 raids, 477 regular operations, and 25 covert operations, and inspected 2,386 premises, resulting in a list of 206 off-limits premises and the closing of 76 premises suspected of involvement in trafficking.

Kosovo is a source, transit, and destination point for trafficked persons. Internal trafficking was a growing problem. As in previous years, the vast majority of victims were women and children trafficked from Eastern Europe into Kosovo for the purpose of sexual exploitation, and through Kosovo to Macedonia, Albania, and Western Europe. There are no reliable statistics of the overall scale of the trafficking problem in Kosovo. CPWC assisted 59 victims of trafficking during the year, of whom 88 percent were female, 70 percent were minors, 84 percent were residents, and 78 percent were Albanians. The IOM, which primarily focused on cross-border trafficking, assisted 58 victims, including 17 locals. IOM figures indicated that about half of Kosovar victims were internally trafficked, followed by about 20 percent to Macedonia, 10 percent to Albania and Italy, and 6 percent to other destinations in Western Europe. The TPIU worked with both of these organizations and others to assist a combined total of 48 victims, of whom 11 were residents and 32 were repatriated to their countries of origin, mainly Moldova and Albania.

International victims were trafficked to Kosovo almost exclusively from Eastern Europe, the Balkans, and the former Soviet Union. According to IOM, over 50 percent of assisted international victims trafficked into Kosovo since 2000 were from Moldova, 22 percent from Romania, 13 percent from Ukraine, and the rest from Bulgaria, Albania, Russia, and Serbia, while just under 5 percent were originally from Kosovo. Serbia was the entry point into Kosovo for 55 percent of trafficking victims, Macedonia for 24 percent, and Albania for 5 percent. Women from Moldova have also been trafficked into Kosovo through Austria and Switzerland. Some women were trafficked through Kosovo to Macedonia, Albania, Italy, and other Western European destinations.

According to CPWC, Kosovar victims were overwhelmingly women under age 18 from poor, ethnic Albanian families. Based on the experiences of local victims assisted by IOM since 2002, a large number of victims were minors (62 percent), particularly young girls between the ages of 13 and 15; the youngest reported victim was 12 years old. The overall number of cases involving minors increased during the year. Local children and young girls from rural areas were particularly at risk of being trafficked, as were those from urban areas plagued with a high level of poverty, unemployment, and illiteracy. According to a 2003 IOM report, prior abuse in the family and financial hardship were the strongest determining factors for potential victims of trafficking; 70 percent of victims were poor and over 80 percent lacked a high school education. Their families reportedly sold some victims.

Most trafficking in Kosovo was conducted for the purpose of sexual exploitation, but some victims were also subjected to forced labor through domestic servitude or in bars and restaurants. Trafficking victims worked primarily in the sex industry, mostly in brothels and nightclubs, and increasingly in private residences. Less than 5 percent reported that they were aware that they would be working in the sex industry when they left their homes. Trafficking victims reported that they were regularly subjected to beatings, rape, denial of access to health care, and confiscation of their travel and identity documents. Victims were often found in poor health and

psychological condition. Victims reported being beaten in 79 percent of cases examined by the IOM.

Methods of trafficking increased in sophistication. In reaction to an aggressive eradication campaign by the TPIU, traffickers increasingly shifted the commercial sex trade out of public bars and clubs and into private homes, where operations were more difficult to detect. Traffickers increasingly used financial incentives to encourage victims of trafficking to refuse assistance. The IOM reported that of the 409 (mostly international) victims it has assisted since 2000, 75 percent were recruited through false job promises, while 8 percent were forced or kidnapped. In 45 percent of the cases, the recruiter was an acquaintance of the victim, and in about 10 percent of the cases, the recruiter was a friend or family friend. Recruiters were more often female than male. The pattern for Kosovar victims differed somewhat; fewer Kosovar victims (33 percent) were recruited through false job promises, and more (25 percent) through force or false marriage proposals (20 percent).

Traffickers often worked as part of a coordinated effort between Kosovo Serb and Kosovo Albanian organized crime elements, with Serbia acting as a particularly active transit hub for trafficked victims from Eastern Europe into and through Kosovo. The Kosovo Organized Crime Bureau (KOCB) was responsible for investigating these cases but had not yet developed adequate cooperation mechanisms with specialized units such as the TPIU. Bar and brothel owners purchased victims from organized crime rings. The majority of clients of women trafficked for sexual exploitation were young men. Approximately 80 percent of the clients of women trafficked for sexual exploitation were local residents, while approximately 20 percent were international persons. Amnesty International (AI) released a report in May arguing that the presence of peacekeepers in Kosovo fueled the sexual exploitation of women and encouraged trafficking, and that some peacekeepers were directly involved in trafficking. The report claimed that international personnel made up about 20 percent of the persons using trafficked women and girls, even though its members comprise only 2 percent of Kosovo's population.

The PISG and UNMIK international administration acknowledged the problem of trafficking in persons, and made strong efforts to address the problem in practice. UNMIK and PISG authorities do not officially condone trafficking; however, there was anecdotal evidence that such practices occurred. Some local prosecutors reported instances in which the same lawyer represented an accused trafficker as well as the victim. Also, anecdotal evidence suggested the existence of a complex set of financial relationships and kinship ties between both political leaders and organized crime networks that have financial interests in trafficking. At year's end, there were 200 establishments on UNMIK's list of off-limits premises, with 70 percent of those in Prizren and Gnjilane, close to the Macedonia and Albania borders. There were no cases of international personnel caught in the act of soliciting or engaging in prostitution; however, 5 KFOR soldiers in Mitrovica and an UNMIK police commander were found in off-limits premises and sent home in 2003. The June 2003 case against an UNMIK police officer and three Kosovo Albanians arrested on suspicion of involvement in a child prostitution ring was dismissed due to insufficient evidence gathered from the victims' testimony. However, the investigation of a Pakistani officer involved in the case was ongoing at year's end.

Responsibility for victim assistance fell mostly to the PISG, but lacking adequate capacity and resources, it was led by international and local NGOs. While UNMIK, the OSCE, and the IOM did not directly provide shelter for domestic victims, they worked with international and local NGOs, such as UMCOR and CPWC, which operated shelters that provided medical care and psychological counseling services to victims of trafficking. An interim secure facility also provided temporary shelter to victims while they considered whether to be repatriated or to testify against traffickers. Police through OSCE regional officers referred suspected victims to the IOM for an initial interview.

Increased awareness of trafficking led to considerable progress on victim protection. UNMIK regulations provided a defense for victims of trafficking against criminal charges of prostitution and illegal border crossing; however, a few local judges sometimes incorrectly sentenced trafficking victims to jail. Some local judges wrongly issued deportation orders against women convicted of prostitution or lack of documents; however, UNMIK did not enforce such deportation orders. Victims who did not accept assistance from the IOM were released but were subject to rearrest, short jail sentences, and deportation if they continued to work as prostitutes. Victims were encouraged to provide information for criminal prosecutions. UNMIK's VAAU provided legal counsel and assistance to trafficking victims. According to the TPIU, almost all victims were reluctant to testify in court in front of their traffickers and were permitted to provide evidence directly to prosecutors with IOM representatives or other advocates present. Lack of adequate witness protection remained a serious

problem throughout the Kosovo criminal justice system. Cultural taboos and the threat of social discrimination caused most repatriated Kosovar victims to remain silent about their experience.

Prevention campaigns were led by international organizations and NGOs, particularly the IOM, which worked to increase local awareness and to prevent trafficking. The Prime Minister's Office of Good Governance in cooperation with the Ministry of Education, developed antitrafficking educational materials used in elementary and secondary school curricula. The IOM completed public awareness campaigns to prevent trafficking in 2003 and worked on another campaign targeting vulnerable populations, especially young women. The VAAU leads UNMIK's role on education efforts to prevent trafficking, including the establishment of a hotline for victims of trafficking.

*Persons With Disabilities.*—UNMIK regulations prohibit discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services; however, there was considerable discrimination in practice despite some improvements during the year. Other laws addressed aspects of disability issues, such as a law on pensions for persons with disabilities over the age of 18, and on education that provided separate classrooms for persons with disabilities; however, in practice, these laws were not yet fully implemented and faced practical obstacles, such as lack of transportation for children with special needs, lack of a centralized commission to evaluate children's needs, inadequate facilities, and crowded classrooms.

Relevant ministries were responsible for protecting the rights of persons with disabilities, including the Ministries of Education, Health, Social Welfare, and Public Services. There were no specific social welfare provisions for the estimated 14,000 persons with mental disabilities. The law did not meet international standards and there was no expertise on the issue of the rights of persons with disabilities. There continued to be no guardianship laws with appropriate due process protections. For instance, the law does not recognize the placement of individuals in institutions and treatment against their will (involuntary treatment) as two different legal issues. High unemployment rates placed particular burdens on job seekers with disabilities. The law mandates access to official buildings; however, it was not enforced in practice.

In the absence of UNMIK and PISG social services for persons with disabilities, the local NGO Handikos was the only provider of extensive services for persons with physical disabilities in Kosovo; however, Handikos had no presence in the Serb-dominated northern municipalities.

The NGO Mental Disability Rights International (MDRI) has promoted rights for persons with mental disabilities since publication of its 2002 report, which found extensive evidence of neglect, physical abuse, sexual assault, and arbitrary detention at mental health care facilities. Staff and patients at the Shtimje Institute, the Pristina Elderly Home, and the Pristina University Hospital reportedly committed these abuses, but no criminal charges were filed by year's end. The programs were a product of policies established by UNMIK; however, UNMIK had largely transferred responsibilities for persons with disabilities to local personnel. UNMIK also established "boards of visitors" to provide oversight of group homes; however, MDRI said the boards were not independent and lacked expertise in human rights monitoring. In July 2003, MDRI issued another report alleging that, despite improvements in facilities, UNMIK failed to protect patients' rights and create safe alternatives to institutional care in the community, which UNMIK denied. Facilities and training have since improved significantly. In response to MDRI's report, the PISG spent \$2.7 million (2 million euros) in 2003 to renovate Shtimje institution and fully utilize its original capacity of 300; it was occupied by 194 residents at year's end. MDRI alleged that patients were detained with no legal basis, since there is no law to regulate the process of committing persons to psychiatric or social care facilities or to protect rights within institutions. Following MDRI's suggestions, the PISG decided to expand options for independent living in the integration homes endorsed by MDRI.

On occasion, individuals in need of mental health treatment were convicted of fabricated or petty crimes and ended up in the prison system, which lacked resources for adequate treatment; however, MDRI trained some KPS officers to help prevent this. Additionally, despite documented abuses, no one in Kosovo has been punished for mistreatment of persons with mental disabilities.

In October, the OI criticized the Pristina University Clinic Center for housing prisoners with mental disabilities in the same ward as other patients and reported that some cases of incarceration of mentally ill patients in the psychiatric ward constituted illegal detention. In response, Kosovo prison authorities took over manage-

ment of the psychiatric ward at Pristina University Clinic. UNMIK also built separate detachments for these prisoners in hospitals in Peje and Prizren in 2003, but not in Pristina.

*National/Racial/Ethnic Minorities.*—Although UNMIK regulations and the Constitutional Framework protect ethnic minorities, in practice, Kosovo's most serious human rights problem was pervasive social discrimination and harassment against members of minority communities, particularly Serbs but also Roma, Ashkali, and Egyptians, with respect to ployment, social services, language use, freedom of movement, the right to return, and other basic rights. Violence and property crime directed at sovo's minorities remained serious problems.

The March riots, which targeted Serbs, Roma and Ashkali, were the most serious outburst of violence and destruction since the 1999 conflict. UNMIK police recorded approximately 1,100 ethnically motivated crimes during the year, the vast majority (859) committed during March. Excluding the March riots, the 172 incidents suspected of having an ethnic motivation constituted a moderate increase (18 percent) over the 138 incidents last year. Overall, property crimes increased and crimes against persons declined for the first time since 1999; 59 percent of the incidents were property related offenses. However, according to UNMIK's Office of Community Affairs, incidents targeting minorities were generally underreported due to distrust of the KPS and the Kosovo legal system. In the latter half of the year, NGOs recorded approximately 10 incidents per week, over twice the number recorded by UNMIK police. These crimes included low-level crimes such as incidents of stoning, assaults, and harassment of Serbs and other minorities, as well as property crimes such as arson and vandalism, which occurred on almost a daily basis throughout Kosovo.

Approximately 62 killings occurred during the year, including 20 deaths as a result of the March violence; 11 of the victims were Serbs, including 8 during the March riots. Outside of the March riots, Kosovo Serbs were victims of three killings, three attempted killings, and one serious attack, including the following: The double killing in Lipljan on February 19, the attempted killing of a teenager in Caglavica on March 15, the killing of teenager Dmitry Popovic in Gracanica on May 6, the attempted killing in Zubin Potok on May 27, the explosive attack on a Kosovo Serb family working in a Vitina/Viti field on June 10, and the attempted killing in Lipljan on October 1.

Increased violence, particularly during the March riots, may have been politically motivated and to some extent coordinated by ethnic Albanian extremists. Some Kosovo government leaders were slow to condemn the violence, exacerbating the problem and helping to legitimize the severe social abuse of minorities. Reports by international NGOs such as Human Rights Watch and AI, as well as the OSCE, asserted that UNMIK, KFOR, and KPS could have done more to protect minorities in the period following the March riots.

The March 16 drowning of three Kosovo Albanian children from Cabra village in Zubin Potok Municipality ignited the March riots; the surviving child claimed Kosovo Serbs had chased them into the Ibar River with a dog. The media, prior to police and judicial investigations, reported this story. In addition, the drive-by shooting on March 15 of a 19 year old Kosovo Serb male in the Serb village of Caglavica in the Pristina region caused local Serbs to block the main Pristina Skopje highway. On March 16, approximately 18,000 Albanians attended prescheduled demonstrations against the arrests of ex KLA members by UNMIK Police. On March 17, demonstrations by Albanians started in Mitrovica to protest the drownings and in Pristina against the Serb roadblocks in Caglavica and Gracanica. Unrest soon spread to other parts of Kosovo and became increasingly violent. It appeared that there was a pattern to destroy Serb property and to expel the Serb population from enclaves in southern Kosovo. As a result of the riots, 20 persons were killed, including 8 Kosovo Serbs and 12 Kosovo Albanians, more than 900 were injured, more than 900 Serb, Romani, and Ashkali houses and 30 orthodox churches or monasteries were burned or severely damaged, and over 4,000 Serbs, Ashkalis, and Roma were made homeless.

After public order was restored, police and KFOR commenced large-scale operations to apprehend those responsible for the riots. By June, over 270 persons had been arrested on a wide range of charges related to the riots, including murder, attempted murder, arson, and looting. UNMIK recruited 100 additional police investigators, 6 prosecutors, and 3 judges to boost its investigative capability. By mid-June, international prosecutors were managing 52 of the most serious cases. The KPS internal affairs unit, run by UNMIK police officers, started 100 disciplinary investigations against KPS officers for failure to act and involvement in the riots. Of the seven people originally detained on suspicion of organizing or leading the March

riots, criminal investigations were ongoing in four cases: KPC reserve commander, Naser Shatri; Chairman of the KLA War Veterans Association in Peja, Nexhmi Lajci; Chairman of the KLA War Veterans Association in Gjilan, Shaqir Shaqiri; and Chairman of the KLA War Veterans Association in Vushtrri, Salih Salihu. At year's end, the PISG had reconstructed over 90 percent of the damaged or destroyed houses, but church reconstruction remained frozen for political reasons (*see* Section 2.c.).

No progress was made during the year in investigating or prosecuting 2003 cases of violence against Serbs.

Civilians were responsible for the destruction, often through arson, of private property. The reported phenomenon of "strategic sales" of property persisted. There was evidence that Kosovo Albanians in several ethnically mixed areas used violence, intimidation, and offers to purchase property at inflated prices in order to break up and erode Kosovo Serb neighborhoods. For example, on May 26, a 35-year-old Kosovo Serb farmer was seriously wounded from gunfire from an unknown assailant in a neighboring, predominant Albanian village. Some cases of violence against Serbs may have been attempts to force persons to sell their property. An UNMIK regulation prevents the wholesale buy out of Kosovo Serb communities and seeks to prevent the intimidation of minority property owners in certain geographic areas; however, it was rarely enforced. Some municipalities were excluded from this regulation at their request. The Kosovo OI and human rights groups criticized the regulation as limiting the ability of Kosovo Serbs to exercise their property rights.

Kosovo Serbs also faced difficult conditions in the Republic of Serbia proper. For example, on May 23, a 14-year-old Kosovo Serb boy was killed on a school fieldtrip to the Republic of Serbia. After being harassed by a group of older Serbs, the boy was struck, lost his balance, and fell from a fortress to his death. Criminal proceedings in Serbia against the youths were ongoing at year's end.

Kosovo Serbs experienced societal discrimination in education and health care, but these services continued to be supplemented by funding from the SaM Government through the Coordination Center for Kosovo and parallel institutions, such as the hospital in North Mitrovica. Minority employment in the PISG continued to be low and confined to generally subordinate levels of the Government. In the PISG ministries, minorities occupied only about 10 percent of the posts, despite a PISG target of over 16 percent, and the overall percentage of minorities employed by the PISG has shown a downward trend.

The Turkish community was more closely integrated with Kosovo Albanians and felt the impact of social discrimination less than other minorities. Roma lived in dire poverty. Viewed as Serb collaborators by many Kosovo Albanians, they also suffered pervasive social and economic discrimination. They often lacked access to basic hygiene and medical care, as well as education, and were heavily dependent on humanitarian aid. Although there were some successful efforts to resettle Roma, Ashkali, and Egyptians in their prior homes, security concerns persisted. Bosniak leaders continued to complain that thousands of their community members had left Kosovo because of discrimination and a lack of economic opportunity.

*Other Societal Abuses and Discrimination.*—Traditional societal attitudes about homosexuality in Kosovo intimidated most gays and lesbians into concealing their sexual orientation. Gays and lesbians generally felt insecure, with many reporting threats to their personal safety. Kosovo print media reinforced these attitudes by publishing negative articles about homosexuality that characterized gays and lesbians as being mentally ill and prone to sexually assaulting children. Individual homosexuals also reported job discrimination. Kosovo's newly passed Antidiscrimination Law included protections against discrimination based on sexual orientation; however, the law was not applied during the year. At least one political party, the Islamic-oriented Justice Party, included a condemnation of homosexuality in its political platform.

*Incitement to Acts of Discrimination.*—International observers and the Temporary Media Commissioner accused Kosovo print and particularly broadcast media of inciting violence during the March riots (*see* Section 2.a.).

#### *Section 6. Worker Rights*

*a. Right of Association.*—UNMIK regulations allow workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. The only significant union, the Confederation of Independent Trade Unions of Kosovo (BSPK), claimed over 120,000 registered members, or about 6 percent of the total population; only 10 percent of its members were employed. UNMIK regulations prohibit antiunion discrimination; however, some union officials reported discrimination in practice. BSPK reported

that the regulation preventing antiunion discrimination was respected by only a small number of firms and claimed that worker rights were abused in every sector, including international organizations, where staff did not have access to security insurance or pensions.

*b. The Right to Organize and Bargain Collectively.*—UNMIK regulations allow unions to conduct their activities without interference, and UNMIK protected this right in practice. UNMIK regulations also provides for the right to organize and bargain collectively without interference, and the Government did not restrict this right in practice; however, collective bargaining rarely took place. UNMIK regulations do not recognize the right to strike; however, strikes were not prohibited and several strikes occurred during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—UNMIK regulations prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—UNMIK regulations protect children from exploitation in the workplace, including a prohibition of forced or compulsory labor and policies regarding acceptable working conditions; however, the Government did not always enforce these policies in practice. The pre-1989 labor laws that remain in force set the minimum age for employment at age 16 and at age 18 for any work likely to jeopardize the health, safety, or morals of a young person but permit children to work at age 15, provided such work is not harmful to the child or prejudicial to school attendance.

In villages and farming communities, younger children typically worked to assist their families. Urban children often worked in a variety of unofficial retail jobs, such as washing car windows or selling newspapers, cigarettes, and phone cards on the street. Some also engaged in physical labor, such as transporting goods. The number of these children working on the streets rose sharply since 1999, as large numbers of rural families resettled in cities after the conflict. According to one study, almost half of the children who worked such street jobs lived in rural villages before the 1999 conflict, and 20 percent commuted from villages to work in the cities. Almost 90 percent of the children interviewed said they were forced into such work by poverty, and over 80 percent said they worked up to 9 hours a day to support unemployed parents, often preventing school attendance. Primarily male children between the ages of 8 and 14 worked on the streets, but they also recorded children as young as age 6. There were no real employment opportunities for children in the formal sector. Trafficking of children was also a serious problem, mostly for prostitution (see Section 5).

The MLSW, in cooperation with the UNMIK DOJ, coordinated child protection policies, and the MLSW Department of Social Welfare has the responsibility for implementing interventions for the care and protection of children. In June, the International Program on the Elimination of Child Labor under the International Labor Organisation organized Kosovo's first workshop to establish a child labor monitoring system and signed a memorandum of understanding with UNMIK on child labor prevention.

Local and international NGOs, such as Save the Children, began children's rights campaigns to raise awareness of these issues.

*e. Acceptable Conditions of Work.*—UNMIK regulations provide for a minimum wage, but did not set its level. While many international agencies and NGOs paid adequate wages, the average full-time monthly public sector wage of \$204 (151 euros) and the average private sector wage of \$281 (208 euros) were insufficient to provide a decent standard of living for a worker and family.

UNMIK regulations provided for a standard 40-hour work week, required rest periods, limited the number of overtime worked to 20 hours per week and 40 hours per month, required payment of a premium for overtime work, and prohibited excessive compulsory overtime. Employers often failed to implement these regulations under conditions of high underemployment and unemployment.

Labor inspectors enforced health and safety standards, and the Kosovo Assembly passed a Law on Labor Inspectorate in 2003; however, it had not been implemented by year's end. The law does not permit employees to remove themselves from dangerous workplaces without jeopardizing their continued employment.

#### MONTENEGRO

Montenegro is a constituent republic of the state union of Serbia and Montenegro (SaM). Montenegro has a president and a parliamentary system of government. Filip Vujanovic was elected President in May 2003. A coalition led by Milo

Djukanovic (currently prime minister) won a majority of seats in Parliament in 2002 elections. International monitors deemed both elections generally free and fair. The Montenegrin Government acted largely independently from the Republic of Serbia on most issues. Montenegro has a separate customs regime, a separate visa regime, its own central bank, and uses the euro rather than the Yugoslav dinar as its currency. The Constitution provides for an independent judiciary; however, courts often were subject to political influence and corruption and remained overworked and inefficient.

The Republic's police, under the authority of the Ministry of Internal Affairs (MUP), have responsibility for internal security. The Montenegrin State Security Service (SDB), also located within the MUP, has authority to conduct surveillance of citizens. While civilian authorities generally maintained effective control of the security services, there were a few instances in which elements of the security forces acted independently of government authority. Some members of security forces committed human rights abuses.

The economy, more market-based than state-owned, was mixed agricultural, industrial, and tourist-oriented. The population was approximately 686,000, including refugees and displaced persons from Kosovo. Real gross domestic product growth for the year was approximately 4.1 percent, and annual inflation was approximately 4 percent. During the year, wages significantly outpaced inflation but remained low compared with the cost of living.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police at times beat and abused civilians. Impunity was a problem. Media independence was a problem. Pressure from politicians sometimes resulted in distorted coverage of events by state and some private media. Domestic violence and discrimination against women continued to be problems. Trafficking in women and children for sexual exploitation continued to be a problem. Some ethnic discrimination persisted, particularly with regard to Roma.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police occasionally beat suspects during arrest or while suspects were detained for questioning. The reported cases of police beatings were less severe and fewer in number than in previous years.

There were no actions taken against the police officer responsible for the May 2003 beating of Igor Zindovic by year's end.

The local state prosecutor initiated an investigation of police inspector Dobrasin Vulic and three other unidentified police officers for the August 2003 beating of Nikola Popovic. The investigation was ongoing at year's end.

During the year, the local state prosecutor dropped disciplinary proceedings against two police officers for beating Izet Korac in October 2003, citing lack of evidence.

During the year, three police officers were tried for the 2002 beating of Darko Knezevic; one officer was given a suspended sentence of 7 months while the two other officers were acquitted.

During the year, six police officers in Berane were tried for beating five Muslim men in Petnjica in 2002. One officer, a probationary recruit, was disciplined and fined 50 percent of his salary, and his contract was not renewed. The other five officers were acquitted.

Prison conditions generally met international standards; however, some problems remained. Prison facilities were antiquated, overcrowded, and poorly maintained. Due to inadequate prison budgets, prisoners often had to obtain hygienic supplies from their families, although the prisons provided basic supplies to those who could not obtain them otherwise.

Women were held separately from men. The law mandates that juveniles be held separately from adults and pretrial detainees be held separately from convicted criminals; however, in practice, this did not always occur due to overcrowding.

The Government permitted prison visits by human rights observers, including the International Committee of the Red Cross and local nongovernmental organizations (NGOs). The Ombudsman, elected by Parliament in 2003, had the right to visit detainees and prisoners at any time, without prior notice. The Ombudsman's office routinely made prison visits, meeting with detainees and inmates.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and, unlike in previous years, the Government generally observed these prohibitions.

The MUP controls both National and Border Police. These two services generally were effective in maintaining basic law and order; however, their effectiveness in fighting organized crime was limited. A sizable percentage of the police force was made up of Bosniaks (Bosnian Muslims), many of whom were deployed in a predominantly Muslim area in the north known as the Sandzak. Impunity was a problem. The Government investigated some police abuses. Criminal procedures and sentences against police were rare; when initiated, they were often prolonged with convictions resulting in minor penalties.

Corruption was a problem; the small, close-knit society discouraged reporting corruption and provided criminals access to law enforcement officers.

The international community provided substantial financial and technical assistance to upgrade the quality of training and facilities for the police, with a special focus on combating trafficking in persons. Assistance also was provided to train the police to better combat organized crime.

The new Criminal Procedure Act took effect in April, and replaced all previous criminal procedure laws. The act defines the authority of police in pretrial processes and permits police involvement in these processes only with the approval of a judge. Training of police lagged, hampering full implementation of the new act; however, reported beatings of prisoners in pretrial detention declined. The law also contains new measures for combating organized crime and for in-court witness protection. The Organization for Security and Cooperation in Europe (OSCE) noted that the act strengthens protection of human rights and freedoms of citizens while giving more power to police, prosecutors, and courts to combat the most serious criminal offenses.

Arrests require a judicial warrant or “high suspicion that the suspect committed an offense.” A suspect could be detained for up to 48 hours before being taken before a judge; the law provides for access to an attorney in this initial period, which in at least some cases did occur. Most abuses occurred in this initial detention period (see Section 1.c.). There is no general requirement for a juvenile suspect to have an adult present during police interrogation; however, if a juvenile faces a sentence of 5 years or more, an attorney must be present. If a criminal case goes to trial for a crime with a possible sentence greater than 5 years, a lawyer must be appointed if the defendant cannot afford one. There is a system of bail; however, it was not widely used because citizens could rarely raise money for bail. Pretrial prisoners were permitted visits by family members and friends, and this was generally respected in practice. Long trial delays, combined with the difficulty in meeting conditions for bail, occasionally led to lengthy pretrial detention.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, a historical lack of cooperation between police and prosecutors, a backlog of cases, often primitive courtroom facilities, and corruption remained problems. The Government at times influenced prosecutors for political reasons.

The court system consists of municipal, higher (or district), and supreme courts at the republic level. The 2002 Law on Courts mandates formation of an Appeals Court and an Administrative Court to reduce the burden on the Supreme Court; however, these new courts had not been formed by year’s end.

During the year, a Judicial Council was established and began functioning in accordance with the law. The Supreme Court President chairs the Council, and other members include judges, lawyers, and academics; no executive branch members are included. The Judicial Council selects and disciplines judges and handles court administration, such as preparation of the judiciary’s budget request. The law also requires that cases be assigned to judges by rotation.

The law provides for the right to a fair trial, the presumption of innocence, access to a lawyer, and the right of appeal; although the Government at times influenced the judiciary, these rights were generally respected in practice.

There were no war crimes trials in Montenegro during the year.

By the end of the year, the Supreme Court had not ruled on Nebojsa Ranisavljević’s appeal of the 2002 conviction by the Bijelo Polje District Court for a war crime committed in Bosnia. The HCM continued to pursue its request for an investigation of Dobrica Cosic.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the law allows the SDB to eavesdrop on citizens without court authorization. Some observers believed that police used wiretapping and surveillance against opposition parties and other groups on a selec-

tive basis. Many individuals and organizations operated on the assumption that they were, or could be, under surveillance.

Citizens could inspect secret files kept on them by the SDB from 1945 to 1989; however, they did not have access to post-1989 files.

Eviction of Roma from illegal settlements, and sometimes legal residences, was a problem (*see* Section 5).

Unlike in the previous year, there were no reports that membership in the appropriate political party was a prerequisite for obtaining positions or advancing within certain parts of the Government.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and laws provide for freedom of speech and of the press; however, there were some restrictions of freedom of the press in practice. Despite some steps to move away from government control of the media, certain media retained close ties to the Government. Officials brought or threatened libel suits when accused of wrongdoing. The motive for the May 27 killing of Dusko Jovanovic, the director and editor-in-chief of the leading opposition daily Dan, remained unknown at year's end; however, Dan and other media outlets called the killing a major attack on freedom of the press and journalistic safety. The Government indicted one suspect in connection with the killing and was seeking other suspects at year's end.

The independent media was active and expressed a wide variety of political and social views without government restriction.

The Media Law mandates regulatory structures designed to insulate former state-owned media from direct party control; these include a Radio and Television Council (RTVCG) which took over editorial oversight of the National Public Radio and Television from the Government. The Council was formed in 2003, with members selected by a variety of NGOs and professional groups; however, some observers noted that many Council members had close ties to the Government. Only one out of a dozen local, government owned newspapers was privatized; the other municipal-owned papers went out of publication due to lack of private capital.

The print media consisted of private news outlets and one national state-owned newspaper, which published a wide variety of domestic and foreign articles. Domestic radio and television stations regularly broadcast programs from Belgrade's BK Television, Croatian National Television, Italian National Television, the British Broadcasting Corporation, Deutsche Welle, the Voice of America, and Radio Free Europe.

During the year, radio and television stations could not get licenses to broadcast because of delays in transferring the regulatory authority from the Government to an independent regulatory body. The regulatory Broadcasting Agency was established in 2003; on December 29, it issued its first public tender for allocation of frequencies but had not begun allocating licenses by year's end.

In support of efforts to pass a law on direct elections for the State Union parliament, on October 20, part of the opposition ended a 16-month boycott of the Parliament. The opposition started the boycott when the RTVCG Council ordered that full coverage of Parliament cease in 2003, arguing that government domination of the media made it necessary for citizens to see unedited parliamentary coverage. On October 19, the editorial team of RTVCG declared that it would provide live coverage of all parliamentary sessions. Essentially all opposition parties returned to the Parliament by year's end; however, one party with one Member of Parliament remained out.

There were no publicized cases of direct government censorship of the media; however, officials continued to bring libel suits against some media outlets, the newspaper Dan in particular, when the media accused them of wrongdoing. On September 20, the Basic Court in Podgorica fined the deputy editor-in-chief of Dan \$18,900 (14,000 euros), in a libel suit filed by Prime Minister Djukanovic. Dan had reprinted a Belgrade newspaper's article alleging Djukanovic's involvement in a notorious human trafficking case. A second libel case by Djukanovic against Dan, for printing an opinion piece asserting that Djukanovic used the services of trafficked women, ended when Dan's editor was acquitted by the court. Dan was fined \$8,100 (6,000 euros) for defamation in a separate libel suit brought by the chief of the State Security Service. Despite the continued risk of libel suits, there continued to be a modest increase in the willingness of the media to criticize the Government.

The appeal of former editor-in-chief of Dan, Vladislav Asanin, in the 2001 Djukanovic case remained pending at year's end.

The Government did not restrict access to the Internet or academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. There was no state religion, although the Montenegrin Constitution mentions the Orthodox Church, Islamic Religious Community, and Roman Catholic Church as equal and separate from the State, and the Serbian Orthodox Church received some preferential treatment in practice.

While there was no formal registration requirement for religions, religious groups had to register as citizen groups with the Montenegrin MUP and the Republic Department of Statistics in order to gain status as a legal entity, which is necessary for real estate and other administrative transactions. There were no reported problems with registration in practice.

There was no progress noted during the year on restitution of previously seized church property.

Religion and ethnicity were intertwined closely and in many cases it was difficult to identify discriminatory acts as primarily religious or primarily ethnic in origin. Minority religious communities reported better cooperation with state organizations leading to increased ability to operate normally; however, some elements in society continued to discriminate against such communities.

Tensions continued between the canonically unrecognized Montenegrin Orthodox Church and the Serbian Orthodox Church. These tensions stemmed from disputes over claims to the large patrimony of the Montenegrin Orthodox Church from before its absorption into the Serbian Orthodox Church in 1920 and over political questions. Pro-Serbian political parties strongly supported moves to establish the Serbian Orthodox Church as the official state religion, while proindependence parties pushed for the recognition of the Montenegrin Orthodox Church. Contention between the two churches was not marked by the level of violence seen in previous years; however, the Serbian Orthodox Church reported harassment and the failure of local police to intervene to prevent threatened violence.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*

The Constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

There were approximately 17,000 internally displaced persons (IDPs) from Kosovo. The majority of IDPs were ethnically Montenegrins or Serbs; however, there were also Roma (1,300) and others. Discrimination and harassment against Roma remained a serious problem (see Section 5).

The law provides for the granting of refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. There is no law that provides for asylum. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status. Such cases were referred to the office of the U.N. High Commissioner for Refugees (UNHCR) in Belgrade for determination. Refugees that the UNHCR determined had legitimate fears of persecution were then resettled elsewhere. Persons who entered Montenegro illegally claiming fear of persecution were sent to Belgrade, where they were detained for up to 3 weeks in a special jail. In these cases, the UNHCR also was requested to determine the legitimacy of persecution claims.

The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. According to the UNHCR, there were approximately 8,400 refugees in Montenegro, the majority of whom were from Bosnia and Herzegovina, with most of the remainder from Croatia. Conditions for refugees varied; those with relatives or property in the country were able to find housing and, in some cases, employment. Approximately 1,300 Romani IDPs lived in collective centers with limited access to health care and education; however, the Government took measures during the year to move these Roma out of camps into more permanent and private living arrangements.

The law treats refugees as economic migrants and deprives them of the right to register with the Montenegrin Employment Bureau, a right IDPs also lacked; unregistered persons were denied full and equal access to the local labor market. The 2003 Decree on Employment of Nonresident Physical Persons was designed to limit economic migration; however, a \$3.38 (2.5 euros) per-day surcharge it levied on em-

ployment of nonresidents also applied to refugees and IDPs, making their labor more expensive than comparable labor of Montenegrin citizens.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Filip Vujanovic was elected President in May 2003 in generally free and fair elections. Djukanovic has been in power as President or Prime Minister almost all of the previous 13 years. Prime Minister Djukanovic's coalition, and a coalition led by Socialist People's Party president Predrag Bulatovic of pro-Serbia opposition parties dominated the political scene in Montenegro. The opposition coalition collapsed in 2003 following a series of interparty disagreements. The opposition has boycotted the Parliament since public television's 2003 decision to reduce live coverage of parliamentary sessions (see Section 2.a.).

There was a widespread perception of government corruption, particularly the executive and judicial branches.

There is no law providing public access to government information.

There were 8 women in the 75-seat Parliament, and 2 women in the cabinet (Ministers of Culture and Foreign Economic Relations). Vesna Medenica, a female judge, is the State Prosecutor. At year's end, there was one female mayor in Montenegro's 21 municipalities. In rural areas, husbands commonly directed their wives' voting.

There were 11 members of ethnic minorities in the 75-seat legislature, and 3 in the Cabinet. Ethnic Albanians and Bosniaks participated in the political process, and their parties, candidates, and voters participated in all elections. Four parliamentary seats are allocated by law to ethnic Albanians; two of these seats were held by members of Albanian parties and the other two were held by members of Prime Minister Djukanovic's coalition.

According to a 2003 survey by the Ministry for Protection of Rights of Minorities and Ethnic Groups, there were no Roma in the state administration, and only 0.15 percent of local administration employees were Roma. In late September, the Roma Republican Party was formed; it was the first political party representing Romani interests.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. There were a substantial number of NGOs investigating human rights cases, including HCM and the Center for Democracy and Human Rights. NGOs were credited with helping to reduce police brutality and other abuses.

The Government cooperated with the International Criminal Tribunal for the former Yugoslavia (ICTY) in allowing access to witnesses. In September, government representatives on the State Union Council for Cooperation with the ICTY withdrew from the council, claiming lack of cooperation from Serbia; the ICTY Prosecutor's office stated that the resignation was a local matter that should not impair cooperation with the Tribunal.

Parliament established an Ombudsman in 2003 to protect human rights and freedoms guaranteed by the Constitution, laws, ratified international human rights agreements, and generally accepted principles of international law, when these rights are violated by actions or omissions of state bodies, local governments, or public services. The Ombudsman does not have authority over the work of the courts, except in cases of prolonged procedure, obvious abuses of procedure, and failure to execute court decisions. Anyone can appeal to the Ombudsman, and the procedure is free of charge. Upon finding a violation of human rights or freedoms, the Ombudsman may initiate disciplinary procedures or dismissal of the violator. Failure to comply with the Ombudsman's request for access to official data, documents, or premises, or to the Ombudsman's request to testify at a hearing, is punished by fines of 10 to 20 times the minimum monthly wage of \$675 to \$1,350 (500 to 1,000 euros). No fines were imposed during the year. Although independent in practice, the Ombudsman was more effective in responding to individual violations of human rights than in addressing systemic problems.

A parliamentary committee on human rights continued to exist, but was inactive during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides for equal rights for all citizens regardless of ethnicity, social status, or gender; however, in practice, the Government provided little protection against discrimination.

*Women.*—High levels of domestic violence persisted, particularly in rural areas. During the year, official agencies, including the police, did a better job in responding to domestic violence; however, efforts were still inadequate. Domestic violence is a crime punishable by a fine or prison sentence of up to 10 years, depending on the seriousness of the offense or, if death results, by a sentence of 3 to 12 years in prison. Victims of domestic violence rarely filed complaints with the authorities. According to a survey conducted during the year by the NGO SOS Hotline for Women and Child Victims of Violence-Podgorica, only 30 percent of victims reported domestic violence incidents to police; however, domestic violence-related offenses made up 30 percent of all police arrests. The Government prosecuted a small number of domestic violence cases; however, NGOs reported that judges refused to impose jail sentences even though prosecutors routinely asked that convicted abusers be imprisoned; most convictions resulted in probation.

Punishment for rape, including spousal rape, is 1 to 10 years' imprisonment; however, the crime only can be prosecuted if the victim brings charges. According to a local NGO, 80 percent of domestic violence cases against women involved spousal rape; however, there were no reports of indictments of alleged rapists. A lack of female police officers contributed to long delays in investigating rapes, assaults, and offenses against women.

Prostitution is a crime, as are mediation and procurement of prostitution. The Government took active measures to suppress prostitution, mediation, and procurement.

Trafficking in women for sexual exploitation was a problem (*see* Section 5, Trafficking).

Sexual harassment was a problem. Women did not enjoy equal status with men, and few women held upper-level management positions in government or commerce; however, increasing numbers of women served as judges, and there were many women in professional fields such as law, science, and medicine. Legally, women were entitled to equal pay for equal work; however, in practice, they did not always receive it.

Traditional patriarchal ideas of gender roles, which hold that women should be subservient to male members of their families, continued to subject women to discrimination in the home. In rural areas, particularly among minority communities, women did not always have the ability to exercise their right to control property, and husbands commonly directed wives' voting.

*Children.*—The Government attempted to meet the health and educational needs of children; however, insufficient resources impeded achievement of this goal. The educational system provided 8 years of free, mandatory schooling. Although ethnic Albanian children had access to instruction in their native language, some Albanians criticized the Government for not developing a curriculum in which Albanians could learn about their ethnic culture and history. Most Romani children received little or no education beyond the primary school level; UNHCR and the International Committee of the Red Cross (ICRC) began programs during the year to make education more accessible for Romani children.

There were reports that child abuse was a problem, although there was no societal pattern of such abuse. The law does not allow a juvenile to make an allegation of a crime without a parent or guardian present; consequently, there was almost no reporting of child abuse or incest.

Trafficking in girls for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons remained a serious problem. There were reports that police and other officials were involved in trafficking.

The new Criminal Code, which took effect in April, sets the punishment for all trafficking in persons violations at up to 10 years' imprisonment. During the year, 18 persons were arrested on suspicion of trafficking in persons; 15 were charged, 1 case was dismissed, and charges were pending in the other cases at year's end. Nine cases from previous years were still in the courts; one person was sentenced to 5 months in prison after retrial on appeal from conviction. Convictions for trafficking remained infrequent and punishments were weak, largely due to judicial leniency.

The National Coordinator appointed by the MUP chairs the antitrafficking working group composed of relevant ministries, social services, the OSCE, the International Organization for Migration (IOM), and NGOs. A subgroup to combat trafficking in children was established in February. The Government coordinated its antitrafficking efforts with other countries in the region, particularly through the Southern European Cooperative Initiative Center in Bucharest.

A controversial case involving the rape and torture of a trafficked woman from Moldova, identified by the initials S.C., continued at year's end. Government officials allegedly were involved directly in the purchase, sale, rape, and torture of S.C. After a 4-month judicial investigation, Montenegrin Deputy State Prosecutor Zoran Piperovic and two other suspects were charged with mediation of prostitution, and a fourth person was charged with trafficking in persons and mediation of prostitution. In June 2003, after reviewing the judicial investigative report, Podgorica Prosecutor Zoran Radonjic dismissed charges against all the suspects, citing insufficient evidence. Foreign governments, the European Union, and the OSCE strongly criticized the decision not to try the case. The Government had not implemented several 2003 recommendations made by the international community concerning this case at year's end. Montenegro remained primarily a transit point for trafficked persons, particularly women and children, and, to a lesser extent, a destination. According to local NGOs, foreign victims likely came from Romania, Ukraine, Moldova, Bulgaria, and Russia, often passing through Belgrade and on to Kosovo or Albania, where they continued on to Italy and other West European countries. The police and NGOs reported larger number of cases of internal trafficking. Statistics on trafficking were difficult to obtain, as traffickers increasingly stopped holding their victims in public locales such as bars and nightclubs.

Traffickers were often Montenegrin nationals but sometimes worked with foreign partners. They usually used fraud to entice their victims and resorted to force and coercion to keep the victims from leaving. For example, in August, four citizens were charged with trafficking when Ukrainians, who were lured to Montenegro with false promises of high-paying jobs, instead were held in what the MUP called "slavery," forced to do manual construction labor in unhealthy conditions without pay, and were starved and sometimes beaten if they refused to work.

The highly publicized "S.C." case and police crackdowns on nightclubs and brothels may have forced the sex industry into a lower profile. Women's organizations reported a decline in requests for help by trafficked women, which they attributed to the removal of women from bars and nightclubs to brothels set up in private residences, where they had less opportunity to escape or be discovered.

A 2002 protocol provides procedures for protecting trafficking victims by distinguishing them from prostitutes and illegal migrants, as well as by establishing procedures for referring victims to appropriate social services; however, according to local NGOs, law enforcement authorities continued to mismanage some cases involving potential victims. The Government repatriated victims with assistance from the IOM.

International organizations sponsored police training in methods of dealing with human trafficking. Local NGOs, with funding from international donors, ran a shelter in Podgorica and hotlines throughout Montenegro; the Government, in cooperation with the IOM and OSCE, opened a second shelter in March. Internationally sponsored public awareness campaigns continued to be conducted throughout the country.

*Persons With Disabilities.*—There was no official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there was societal discrimination against persons with disabilities. The law mandates access to new official buildings for persons with disabilities, and the Government enforced these provisions in practice; however, facilities for persons with disabilities were inadequate, including at polling stations. The Government provided mobile voting for handicapped or ill voters who could not come to polling stations.

*National/Racial/Ethnic Minorities.*—Societal discrimination against ethnic minorities was a problem. Prejudice against Roma was widespread, and local authorities often ignored or tacitly condoned societal intimidation or ill treatment of Roma, some of whom were IDPs from Kosovo. According to a local NGO, 70 percent of Roma were illiterate, 70 percent did not speak the local language, 95 percent were officially unemployed, 40 percent had no access to public utilities, and 90 percent lived below the poverty level.

Romani IDPs, who lived primarily in collective centers and scattered settlements throughout the country, often lacked identity documents and access to basic human services (see Section 2.d.). Eviction from illegal settlements and, sometimes, legal

residences was a serious problem. During the year, there was some limited official recognition of the problem, with authorities in the capital providing land and utility connections for an international NGO project to replace illegal and inadequate Romani housing.

Some Bosniaks complained that the division of the Sandzak region between Montenegro and Serbia, which also divided some families and property, created some problems for residents.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all workers to join and form unions of their choosing; however, military personnel may not form unions. Non-military workers exercised this right in practice. Most, but not all, of the workforce in the official economy was unionized.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right of collective bargaining; however, collective bargaining remained at a rudimentary level of development. The law provides for the right to strike, and workers generally exercised this right in practice; however, the law prohibits strikes by military and police personnel.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The official minimum age for employment is 15 years, although in farming communities it was common to find younger children assisting their families. Children also could be found in a variety of unofficial retail jobs, typically washing car windows or selling small items such as newspapers. The high unemployment rate ensured that there was little demand for child labor in the formal sector. Some children worked in the “gray zone” between voluntary and forced labor; however, there were no reports that such practices occurred systematically.

*e. Acceptable Conditions of Work.*—The national minimum wage was \$67.50 (50 euros) per month, which did not provide a decent standard of living for a worker and family. The law requires a 30-minute rest period daily, limits hours worked to 40 per week except in specified unusual circumstances, and requires an unspecified premium for work in excess of 40 hours per week.

The Government did not give high priority to the enforcement of established occupational safety and health regulations. Workers did not have the right to remove themselves from situations that endanger health and safety without jeopardy to their employment.

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## SLOVAK REPUBLIC

The Slovak Republic is a multiparty parliamentary democracy, led by a prime minister and a 150 member parliament. In 2002, a reform oriented government, led by Prime Minister Mikulas Dzurinda, was elected. President Ivan Gasparovic serves as head of state and was elected for a 5 year term in April in free and fair elections. The Constitution provides for an independent judiciary; however, corruption and inefficiency were serious problems.

The national police have sole responsibility for internal and border security. With the exception of the Slovak Information Service (SIS), which reports directly to the Prime Minister, all internal security forces are under the Ministry of the Interior. A parliamentary commission composed of legislators from ruling and opposition parties oversee the SIS. Civilian authorities maintained effective control of the security forces. A few members of the security forces committed isolated human rights abuses.

The country had a population of approximately 5.4 million and an industrialized market economy. The gross domestic product (GDP) rose 5.4 percent during the first 9 months of the year. The private sector generated approximately 90 percent of the GDP in the first three quarters. Real wages rose 1.7 percent more than inflation, which was 8.1 percent during this period. The unemployment rate decreased to less than 14 percent nationwide but approached 30 percent in some regions.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police officers used excessive force, particularly against Roma. Lengthy pretrial detention was a problem. Racially motivated crimes,

predominantly by organized neo-Nazi groups targeting Roma, persisted. The crimes were not prosecuted to the fullest extent of the law, and police occasionally did not investigate the crimes thoroughly. Domestic violence against women and children remained problems. Trafficking in women also remained a problem. The Roma minority faced considerable societal discrimination, particularly in the areas of education, employment, and health care.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

An international Roma rights organization pursued a case of suspicious death after a large police raid in the eastern part of the country in February. A Roma was found dead in a shallow stream days after the police action. The autopsy determined the cause of death was drowning; however, the organization alleged the autopsy did not include injuries the Roma reportedly sustained earlier on the day of his death, and called for a more in-depth investigation. The case was closed when the family refused a further autopsy and requested burial.

The Supreme Court ruled that in the case of seven police officers charged with inhuman and degrading treatment in the 2001 death of a Roma in police custody, the Regional Court must begin the trial. This overturned the lower court's 2003 decision to return the case for further investigation. The trial had not begun by year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, on occasion, police used excessive force, particularly against the Roma minority.

Authorities reportedly charged six police officers with brutality after the Government sent approximately 2,000 police and 1,000 soldiers to the eastern part of the country in February to quell a rash of grocery store lootings. In an effort to discourage further lootings in Trebisov, police raided the Romani settlement in the area and arrested 40 persons. Roma rights activists reported that police physically assaulted Roma, injured small children, unnecessarily broke windows and doors, and restricted the movement of residents in the settlement near Trebisov. The European Roma Rights Center (ERRC) reported that several injuries were sustained from the use of electric cattle prods. The Roma Plenipotentiary's Office submitted several complaints about the police action.

Police reportedly used pressure and threats to discourage Roma from pressing charges (*see* Section 1.d.). There were credible reports that, at times, police contributed to the problem of violence against Roma by not investigating attacks against them in a timely and thorough manner or by coercing Roma not to submit potentially incriminating evidence (*see* Sections 1.d. and 5).

In Zahorska Ves, a group armed with bats forcibly entered Romani residences and set fire to their homes on two occasions. A special unit in the Police Presidium began investigating this case after allegations arose regarding the possible involvement of local government officials and the failure of local police to accept testimony and evidence relating to the case. Roma activists also alleged that local officials attempted to relocate victims to another village.

There is a special police unit to monitor extremist activities, and a commission consisting of NGOs, police, and government officials advised the police on minority issues. However, the European Commission Against Race and Intolerance criticized that all too often racially motivated violence, particularly when committed by police, was not fully prosecuted.

Prison conditions generally met international standards; however, overcrowding continued to be a problem. The Government implemented improvements and expanded prison infrastructure through the year due to an increase in the prison population. Six out of ten prisoners worked in prisons, but there was not a national standard regulating payment.

The Helsinki Committee, in line with a formal agreement with the General Management of Prisons, monitored conditions in all jails holding convicted prisoners. Men and women were held separately, as were juveniles and adults, and pretrial detainees from convicted criminals.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice.

The national police has sole responsibility for internal and border security and reports to the Ministry of Interior. The 2003 reorganization of the police force created an improved framework to increase effectiveness, particularly with regard to the length of investigations. Instances of police corruption and misconduct were reported. Human rights observers continued to charge that police investigators were occasionally reluctant to take the testimony of witnesses, particularly Roma and the homeless. They also contended that, on occasion, police failed to promptly and thoroughly investigate cases involving Roma. Amnesty International alleged that police acted with impunity when conducting actions in Romani settlements. Mechanisms were available to investigate police abuses within the Police Inspection Unit at Police Headquarters. In a recent report, the unit stated that most complaints were in response to the behavior of police while on duty. The Ministry of Interior announced a new pilot project to train Romani police specialists.

The Constitution provides that a person can be taken into custody only for explicit reasons and must be immediately informed of the reasons for detention. A written, substantiated court warrant is required for arrest. The court must grant a hearing to a person accused or suspected of a crime within 48 hours (or a maximum of 72 hours in serious cases) and either release or remand the individual. Detainees have the right to see an attorney immediately and must be notified of this right. If remanded by a court, the accused is entitled to an additional hearing within 48 hours, at which time the judge must either release the accused or issue a written order placing the accused in custody. The authorities respected these provisions in practice.

Attorney visits were allowed as frequently as necessary. The law allows monthly family visits upon request. There was a bail system.

Human rights observers reported that some Roma detained after the February store lootings in Trebisov were wrongly accused even though police had eyewitness accounts testifying to detainees' innocence. In many cases, detainees were not allowed to contact their families, and family members were denied information about detainees.

NGOs alleged that police targeted Roma for arbitrary arrest. In July, a Revuca judge dropped the sentence of two Roma accused of participating in an attack in 2002. The victims confirmed that they were not present at the crime scene.

Pretrial detention may last up to 6 months, but was frequently extended in increments by judicial order up to 3 years. In certain cases, the Supreme Court may extend it to 5 years in extenuating circumstances.

Delays in court procedures and investigations frequently led to lengthy pretrial detentions. Due to inefficiency, prosecutors and judges occasionally released a detainee when the maximum period for detention expired before the trial date. Some alleged that criminals were occasionally released due to the influence of organized crime elements and/or bribery of court officials.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, problems with corruption and inefficiency in the judiciary continued, despite government efforts to overcome them. The Justice Ministry continued to take disciplinary action against judges suspected of corruption. A computerized system for random case assignment functioned at almost every level of the courts to reduce corruption.

In May, a special prosecutor to fight corruption was nominated and approved by Parliament and was granted the extended use of undercover operations in investigating corruption charges against politicians and judges. The Special Prosecutor's Office filed charges against a mayor in Bratislava-Raca suspected of accepting a bribe. The General Prosecutor's offices have also forwarded cases to be re-opened and brought before a special anticorruption court. At year's end, the Banska Bystrica Regional Court was acting as the Special Court, until all judges were appointed. No case decisions were handed down at year's end.

In May, Parliament passed a law to reorganize the lower courts, reducing the number of district courts from 55 to 45, effective January 2005. The reorganization was an effort to promote judge specialization and increase the efficiency of the overburdened lower courts. There were 8 regional courts. The Supreme Court, consisting of 79 judges, was the highest court of appeals. The Constitutional Court, with 13 judges serving 12 year terms, has no ties to the Ministry of Justice. The Judicial Council, a constitutionally recognized independent body of lawyers and judges, made decisions regarding disciplinary actions, administrative issues, and appointments of judges.

Persons charged with criminal offenses are entitled to fair and open public trials, and have the right to be informed of the charges against them, to retain counsel, and to confront witnesses, although in practice observers stated that corruption

among judges could infringe on a person's right to a fair trial. Minority advocacy groups noted that Roma often did not receive a fair trial. A defendant, unless a person with disabilities or a minor, is not guaranteed free legal representation during a trial if the maximum criminal sentence is less than 5 years. Defendants enjoy a presumption of innocence, have the right to refuse self-incrimination, and may appeal adverse judgments. According to existing legislation, suspects are also presumed innocent during the appeal process.

Credible sources stated that it was difficult for indigent citizens and marginalized groups, such as minorities and persons with disabilities, to obtain noncriminal legal representation. Plaintiffs are required to pay a court fee of 5 percent of possible damages in advance. The fee is returned if the case is won, and the presiding judge may waive the advance payment. The Slovak Bar Association may ask lawyers to accept indigent cases under certain conditions, but only a small percentage of requests were eligible.

In November, the Government approved the concept for a new draft law for providing legal aid (free or partially paid). Under this concept, a public attorney office should be established, available in all districts, to provide legal services in criminal and civil cases.

Military courts hear cases concerning members of the armed forces, prisoners of war, and civilians suspected of war treason or who evaded mandatory armed forces service. There are three military circuit courts and one higher military court, decisions of which may be appealed to the Supreme Court. The Justice Minister appoints the chairman of the courts, who acts as the top administrative official, with agreement from the Defense Ministry. Occasionally, military courts have accepted high-level cases that may have an element of conflict of interest in regular courts, such as the investigations of police brutality during 1989 student protests and the recent bugging case of Pavol Rusko, chairman of the political party Alliance of New Citizens (ANO). There were no reports of political prisoners.

Since 1989, several laws provided for the remuneration of political prisoners and other victims of the Communist regime. In December, Parliament passed a new remuneration law sponsored by the Defense Ministry for those who worked as forced labor in military camps from 1939 to 1945. Additionally, individuals who served in foreign ally armies during this time or in domestic resistance are also eligible for compensation. During the year, a Justice Ministry analysis concluded that most groups have been adequately remunerated.

In 2003, Parliament approved a law on property restitution providing citizens a second opportunity to apply for the return of land confiscated by the state between 1948 and 1990. Under this law, over 13,407 cases were filed before the end of 2003. During the year, 1,258 of these cases were resolved.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these rights in practice. Police must present a warrant before conducting a search or within 24 hours afterwards; however, some Roma activists alleged that police entered Romani homes without a search warrant.

The law regulates wiretapping and mail surveillance for the purposes of criminal investigation, which may be conducted by order of a regional court judge. In August, military prosecutors announced charges against three SIS agents in relation to the 2002 wiretapping complaint of Pavol Rusko, chairman of the ANO. Investigators themselves complained of intimidation and surveillance by the SIS throughout the investigation. The military court concluded that the wiretap targeted a major national newspaper rather than Rusko. In mid-December, the trial was postponed due to an attorney's illness.

In March, seven wiretapped recordings collected in the bribery case against Bratislava-Raca Mayor Pavol Bielik disappeared while in police custody. Prosecutors charged three police officers with abuse of power and negligence, and they were suspended from service pending the result of charges. In November, an appeal against the charges was rejected.

In 2003, an NGO released a report alleging a number of Romani women were victims of coerced or forced sterilizations. Government investigations found no evidence to pursue charges and no governmental policy supporting such practices, although the Government later admitted procedural shortcomings. International NGOs continued to criticize the government investigations, claiming investigators did not fully examine whether patients underwent surgeries with fully informed consent. Human rights organizations and international organizations called for increased protections for patients' rights and more health care outreach programs for minorities. The Government revised its legal norms covering sterilization and began pilot programs,

such as Roma health assistants and clinics in areas with high populations of Roma. No victims received financial redress for alleged sterilizations.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, including academic freedom, and the Government generally respected these rights in practice.

Independent newspapers, magazines, and foreign press regularly published a broad range of opinion and news articles that were distributed nationwide. Journalists reported they were able to criticize the Government without fear of reprisal and were generally free from harassment or intimidation. Following allegations of undue political influence and noncompetitive practices, observers recommended that the Parliament-appointed supervisory boards for television and radio and the state funded News Agency of the Slovak Republic (TASR) should be restructured to ensure independence from the Government and political parties. The Constitutional Court examined the constitutional merits of the law governing TASR, and the Culture Ministry was preparing a new law at year's end.

ANO's chairman and Minister of Economy Pavol Rusko continued to influence TV Markiza's editorial policies, despite having divested his ownership interest. Media watchdog organizations criticized the station, saying its programming favored certain political parties. The Christian Democratic Party refused to grant Markiza personal interviews because of perceived unfair treatment by the station. TV Markiza employees filed a criminal complaint against Interior Minister Palko for comments about its programming; the complaint was later dismissed.

In 2003, highly criticized articles in the criminal code relating to defamation, including the paragraph classifying libel against public officials performing the duties of their office as a misdemeanor, were removed; however, in September, the Supreme Court ruled that a 2003 case against former journalist Peter Toth for verbally attacking a public office should be re opened. Toth allegedly lodged an anonymous criminal complaint that the Minister covered up a wiretapping scandal. At year's end, the case was still in investigation with no formal charges.

A military court concluded that an illegal wiretap targeted a major national newspaper rather than Pavol Rusko, the Minister of Economy, who lodged the complaint. The court charged three SIS officers with abusing the powers of authority. The trial had not begun at year's end.

In March, investigators closed a case against members of the press named in August 2003 by Prime Minister Dzurinda as co conspirators in a group seeking to destabilize the state. No charges were filed. In January, Prime Minister Dzurinda and his party SDKU sued two newspapers for libel for articles dealing with the case, as well as the Chairman of the Intelligence Committee, Robert Kalinak, for releasing the names. Both suits were rejected.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Registered churches, which require 20,000 permanent resident adherents, were eligible for state subsidies for clergy and office expenses. Leaders of a number of minority religious communities, in particular Muslims, smaller Protestant churches, the Hare Krishna community, and the Church of Scientology complained that the large numerical requirement effectively barred them from obtaining registered status, although smaller religions experienced no restrictions on assembly and worship.

The Government monitored, although it did not interfere with, religious "cults" and "sects." Unlike in previous years, there were no reports of SIS intimidation of members of the Church of Scientology.

In February, Parliament approved the governmental agreement pursuant to the 2001 framework treaty with the Vatican, which obliges students to take either a religion or an ethics class at the elementary school level. Classes began in September. Critics of the agreement claimed students in less populated areas may be denied the choice due to financial constraints or choose religion due to social pressure. The agreement also allows government-funded religious schools to remove material at odds with Catholic beliefs from the curricula.

Anti-Semitism persisted among organized neo Nazi groups, estimated to have 500 active members and from 3,000 to 5,000 sympathizers. In June, vandals destroyed seven tombs at the Jewish Cemetery in Zvolen, which was the fourth attack over the past several years. During the year, three juvenile offenders were successfully

prosecuted and given suspended sentences of 4 months to a year for vandalizing a Jewish cemetery in 2003. The Jewish community successfully pressed for parents of the vandals in the 2002 Banovce cemetery case to pay damages.

The Government extended the Action Plan to Fight Discrimination, Racism, Xenophobia, and Anti-Semitism, which supports antidiscrimination campaigns and teacher training, for an additional year.

Some property restitution cases remained unresolved; however, the Government compensated the Jewish community \$29.3 million (850 million SKK) for heirless property owned by Jewish families before the Holocaust.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The Constitution prohibits forced exile, and the Government did not employ it.

There were no restrictions on emigration or prohibition against the return of citizens; however, the Government closely monitored the emigration patterns of Roma.

The numbers of Roma seeking asylum in European countries decreased from previous years, although the Czech Republic continued to report large numbers of Romani asylum seekers and illegal migrants from the country. A Czech and Slovak governmental committee monitored increased migration patterns. Human rights organizations claimed increased migration was due to the lack of available economic opportunities in the country, close family ties in the Czech Republic, and a long standing tradition of seasonal construction work.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government had a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not routinely grant refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. The law provides for temporary protection, classified as tolerated residence, which is granted if asylum is denied and the individual is not eligible for deportation to his or her country of origin due to administrative problems or fear for the person's safety. During the year, the Border and Alien Police granted tolerated residence status to 111 asylum seekers.

During the year, 11 refugees received citizenship. According to National Migration Office statistics, 15 persons received asylum out of a total of 11,391 cases. 11,586 cases were terminated during the year. The UNHCR criticized the current asylum process for the low number of asylum applicants accepted combined with a trend for applicants to disappear, generally to other countries from refugee camps located on the country's western border.

The Government provided \$1 million (30 million SKK) for a center to accommodate unaccompanied minors. The recipient organization purchased property for the future center.

During the year, there were several corruption charges within the customs and immigration police, including the December arrest of the director of the country's alien detention facility under the suspicion of illegal migrant smuggling.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. In May, the country joined the European Union.

Citizens could freely choose and change the laws and officials that govern them. In April, Ivan Gasparovic won the second direct presidential election. A referendum calling for early parliamentary elections, which some parties boycotted, was held at the same time as the first round of the presidential election. The Organization for Security and Cooperation in Europe determined the presidential elections to be free and fair; however, the observer mission noted that the controversial timing of the referendum and questions surrounding its constitutionality impacted the presidential election. The former president, who was running for re election, set the date for the opposition-led referendum on the same day as the presidential election. Connecting the two important events politically and organizationally was controversial and became a major topic in the election campaigns.

In March, Parliament passed a new election law governing parliamentary elections. It strengthens the role of candidates in preferential voting and liberalizes media use for campaigning. The new law also provides for absentee voting for citizens residing abroad.

Corruption in the legislative and executive branches was reported and publicly perceived as a problem. The Government and police cooperated on several related arrests this year. In November 2003, authorities charged an opposition Member of Parliament (M.P.) and the head of the office of a regional government with accepting bribes. Parliament voted to lift parliamentary immunity to allow prosecution in this case; the case was currently in trial at year's end. In September, the Supreme Court ruled that a public official from the former Meciar government who received an illegal bonus must return the sum. In addition, the deputy mayor of Kosice, the second largest city in the country, was arrested and taken into custody for taking bribes. The Mayor of Bratislava-Raca was also facing bribery charges.

The new Conflict of Interest Law, which mandates the public disclosure of assets, applied to all mayors, town councils, M.P.s, regional authorities, and national government leaders. Parliamentary disciplinary action needs a quorum of three fifths of the conflict of interest committee. The committee had not begun a procedure by year's end, but continued to collect asset disclosure statements. The Government Office to Combat Corruption initiated complaints against public officials and completed nearly 90 percent of the Government Action Plan to Fight Corruption.

The law provides public access to government information; however, NGOs claimed more education was needed about the responsibilities of government to provide information. Frequently, local government offices denied requests without justification or left them unanswered.

There were 24 women in the 150 member Parliament, 34 of 79 on the Supreme Court, and currently none serving in the cabinet.

The ethnic Hungarian minority party won 20 seats in Parliament in the 2002 election and was well represented in the Government. The chairman of the Party of the Hungarian Coalition (SMK) served as a deputy speaker in Parliament. The SMK also controlled three ministries, and a member of the party was re-nominated as the Deputy Prime Minister for Nationalities, Human Rights, and European Integration.

Some ethnic Romani parties were successful at winning representation at the local level; however, Roma were consistently underrepresented in government service and no Roma were in Parliament.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The law requires foundations to register and have substantial financial resources in order to operate; however, no organization was denied registration or faced any other limitations on its operations.

The Government received recommendations from a council of NGOs on pending legislation and new initiatives. The Slovak National Center for Human Rights, a government-sponsored institution, held conferences, released a variety of publications, and is mandated by the new antidiscrimination law to be responsible for assisting individuals in resolving violations of human rights. The Human Rights Ombudsman, elected in 2002 to a 7 year term, accepted complaints about violations of fundamental rights and freedoms by public administration bodies. Both institutions received government funding but operated independently. However, observers stated further concentration was needed on educating the populace about human rights and personal responsibilities. The Office of the Ombudsman provided little information to the public about recommendations to the Government or the resolutions of claims.

In May, arsonists set fire to the office of the NGO People Against Racism, an organization that monitors the neo-Nazi movement in the country. Prior to the fire, three activists were also attacked. According to the director, the group received frequent e-mail and phone threats. The police offered more protection until the NGO's office could be relocated to a more secure location.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination and provides for the equality of all citizens. On May 20, the Slovak Parliament adopted the Law on Equal Treatment, which further defined discrimination and amended articles in labor, education, health, and state

service legislation. The law provides for elements of positive discrimination, which the Ministry of Justice challenged in the Constitutional Court. The Court decided not to suspend this article while the case was pending, and it went into effect in July. The Roma minority were victims of societal violence and reported the Government enforced the law inconsistently in regard to their members.

*Women.*—The law prohibits domestic violence; however, it was a pervasive problem. A new law provides stricter sentences for crimes against wives and family members in the same household and allows for continued criminal prosecution even when a spouse drops charges. Domestic violence was punishable from 2 to 12 years' imprisonment, depending on the nature of the crime. Activists claimed increased training about domestic violence and more victim specialists were needed to properly enforce the law. Victims' advocates demanded a better network of services for abused women, including government-funded treatment centers, in the face of increasing caseloads and lengthy court procedures.

In 2003, the police handled over 1,000 cases of domestic violence, but reportedly did not distinguish between family violence and violence against women. Since the crime is often underreported, statistics do not adequately reflect the extent of the problem. Nonetheless, official statistics continued to rise as public awareness grew after several NGO campaigns and police training.

The law prohibits rape, including spousal rape, and the Government enforced this effectively; however, it was a problem. The sentence for rape is 2 to 8 years' imprisonment and could be increased to 5 to 12 years depending on the age of the victim or whether violence was used. The sentence may be further increased to 10 to 15 years if there is a resulting death. The Prosecutor's Office reported 113 cases of rape in the first half of the year, with 39 sentences handed down. Specialists stated that this number was underreported. As for victims of domestic abuse, shelters and counseling are offered through NGOs and government-funded programs.

Prostitution is legal; however, the Criminal Code prohibits related activities such as renting apartments for prostitution, knowingly spreading sexually transmitted diseases, or trafficking in women for the purpose of sexual exploitation. There were reports that women were trafficked into the country for sexual exploitation (*see* Section 5, Trafficking).

A Government investigation did not find evidence to pursue charges based on the 2003 reports of coerced or forced sterilization. Nonetheless, the Government implemented several reforms, including amending the legal norms covering sterilization. Some alleged victims may also pursue claims for damages in civil courts (*see* Sections 1.f.).

Women are equal under the law, including in regards to property and inheritance rights; however, discrimination against women remained a problem in practice. Women typically earned approximately 30 percent less than men, particularly between the ages of 35 to 39. According to recent studies, the wage differential was approximately \$172 per month (5,000 SKK). Experts claimed that this was due to large numbers of women working in low paid occupations, such as the education or social services sectors.

The Office for Equal Opportunities is responsible for making recommendations on legislation and preparing the National Action Plan to Reduce Violence Against Women. Several active women's rights groups cooperated with the Government and Parliament. NGOs continued to push for increased opportunities for the political participation of women.

*Children.*—The Government was committed to children's rights and welfare. The Ministries of Labor and Education oversaw implementation of the Government's programs for children. The Constitution, the Law on Education, the Labor Code, and the Family Code each addressed children's rights. Education was universal, free, and compulsory for 9 years, or until the age of 15; parents may be prosecuted for not sending their children to school, and local government can garnish the social benefits of parents of truant children.

Government-provided healthcare for children was adequate and equal for both girls and boys. There was a higher infant mortality rate for Roma, and poor nutrition was more common among Romani children. Outbreaks of jaundice and hepatitis were a problem for children living in settlements with poor sanitary conditions.

Most ethnic Slovak and Hungarian children attended school on a regular basis, but Romani children exhibited a lower attendance rate. The Government instituted several programs to combat this problem and overcome language and cultural barriers, through teaching assistants, government funded preschool, and monthly stipends for travel and material costs for disadvantaged secondary school students. Romani children, nearly one fourth of the total number of children under 16, were disproportionately enrolled in special schools for the mentally handicapped. In cer-

tain special schools in the eastern part of the country, registered students are nearly 100 percent Romani.

Child abuse remained an underreported problem; however, a growing public awareness was evident in the increase in recent cases and reports in the media.

A number of children's foundations operated several programs for abused or disabled children. UNICEF Slovakia continued to operate a hotline for children, which received approximately 12,000 calls annually.

Child prostitution is prohibited. Community workers reported it was a problem in some Romani settlements with the worst conditions. The Penal Code contains a provision outlawing child pornography; there are only a few reported cases annually. During the year, there were no reported cases of trafficking in children.

There are approximately 6,000 children in institutional care and Roma constituted the majority of this population. Most government orphanages are long-term care facilities, rather than short-term residences. Activists claim that orphans have difficulties integrating into society at 18 years of age and are at increased risk to be victims of trafficking.

The Ministry of Labor funded programs to begin transforming large existing state institutions into smaller facilities operated by NGOs in accordance with a 2002 law.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked from and within the country. Under the law, traffickers may be sentenced from 3 to 10 years. If the offender is a member of a crime syndicate, the sentence is increased to between 12 and 15 years.

The Police Antitrafficking Unit, Ministry of Interior, and Prosecutor's Office are responsible for combating trafficking. Government efforts to combat trafficking and assist victims were hampered by the lack of resources and coordination among ministries and government offices. During the year, police opened 27 cases involving trafficking and successfully resolved 18 of these investigations. They filed 21 criminal complaints and identified 38 victims. The Ministry of Justice reported six convictions up to October 2004. The police participated in international investigations on a limited basis.

In September, Slovak police arrested 15 members of an international trafficking gang; the Czech police cooperated to charge 2 Slovak citizens along with 8 Czechs in the trafficking ring. The group operated a hostess agency and forced women to sign contracts obliging sexual services. Clients from around the world ordered the women through the Internet. The traffickers allegedly earned from approximately \$339,000 to \$1 million (11 to 30 million SKK) over a period of 4 years from approximately 230 women.

In 2003, police arrested 7 members of a trafficking gang who had sent at least 60 women to Germany, Poland, Switzerland, and France over an 8-year period, with the suspected involvement of a low-level government employee. The case was pending at the end of the year.

The Police and the International Organization for Migration (IOM) reported the country was an origin and transit point for victims of trafficking, mainly for the purpose of sexual exploitation. Most of the victims trafficked through the country came from the former Soviet Republics, the former Yugoslavia, and Bulgaria. The major trafficking routes for victims were through the Czech Republic or Austria to Western Europe. Victims, who usually traveled by car or plane, were typically between the ages of 18 and 25, from various social backgrounds, but particularly from areas with high unemployment. Some experts alleged that Romani women, because of their socio-economic situation and less freedom of mobility, were more vulnerable to being trafficked by organized criminal gangs. Another high-risk group included men and women looking for seasonal work abroad, sometimes illegally, who were ill informed of the potential risks.

Traffickers lured women with offers of employment and assured victim compliance through violence. Activists who work with the few victims forced to work while transiting the country say most are placed as prostitutes or as dancers in exotic clubs. Such activity is concentrated on the border with Austria and close to Ukraine and most probably along trucking routes with a prevalence of nightclubs. In order to assure the victims' compliance, their documents are withheld, and their captors closely monitor them. Some allegedly are threatened with violence or even death if they attempt to escape.

There is no evidence of governmental involvement in or tolerance of trafficking; however, corruption on the borders and among police may have hampered efforts to combat trafficking. According to NGO activists, government agents such as customs and police officers treated victims poorly.

The Police Antitrafficking Unit referred victims to NGOs for assistance, though no formal screening or referral process was in place. The Ministry of Interior pro-

vided funding to an NGO (Dafne) for assisting returned victims on a case by case basis. The Ministry of Labor gave a grant to an NGO to run an antitrafficking public awareness campaign in Romani communities in the central part of the country.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, access to health care, or in the provision of other state services; however, experts reported that access to buildings and higher education remained a problem. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. The law provides for health protection and special working conditions for persons with mental and physical disabilities, including special protection in employment relations and training.

The regional government of Presov operated a project for persons with severe disabilities in which they received training and subsequently were eligible for government provided employment opportunities.

NGOs reported that a better network of organizations is needed to monitor human rights violations and improve psychiatric care of patients with mental disorders. Organizations complained that the country lacked assistance programs for the mentally handicapped, such as work opportunities for persons with mental disorders after treatment. The Slovak Helsinki Committee criticized the continued use of “cage beds” that inhibit movement of mental health patients.

A working group, the Council for Citizens with Disabilities, served as a governmental advisory body regarding persons with disabilities. Several NGOs conducted public education campaigns on mental health diseases and worked cooperatively with the Health Ministry on the National Health Program.

*National/Racial/Ethnic Minorities.*—Roma constituted the second largest ethnic minority, reported by the 2001 census to number 90,000, although experts estimated the population at up to 375,000 (nearly 7 percent of the population). Widespread discrimination against Roma continued in the areas of healthcare, education, housing, and employment. Entrance to some dining and entertainment establishments was barred, particularly in the eastern part of the country.

There were several reports that Roma suffered discrimination with respect to health care. The mortality rate for Romani children was 3 times that of the majority population, and the life expectancy for Roma was lower by almost 17 years. Reports of segregated hospital wards and allegations that Roma were more likely to be sterilized continued (*see* Sections 1.f.). The Ministry of Health began pilot programs for health care assistants that speak Romani and opened gynecological facilities in selected areas with large Romani populations.

Many NGOs alleged that segregation in schools continued. The Ministry of Education offered assistance to Roma by providing scholarships, investing in bilingual program teaching assistants for Roma, and sponsoring private schools with Romani as one of the languages of instruction. Nonetheless, Romani children were at greater risk of enrollment in special schools for the mentally handicapped.

The Milan Simecka Foundation and the ERRC released a housing study alleging Roma were more likely to confront housing discrimination. For instance, on a few occasions, local authorities and groups blocked construction permits or the purchase of land, or forced evictions. The report noted that many Romani settlements lacked formal infrastructure, access to clean water, and proper sewage systems. The Government designated financing for housing projects in settlements, but the tendering and construction process was slow. Some local governments withdrew from project financing because of the inability to decide upon appropriate strategies, while other communities showed some improvement.

In some Romani settlements, the unemployment rate was approximately 95 percent. Activists frequently alleged that some employers refused to hire Roma.

In February, protests and lootings of grocery stores occurred in response to changes in the social benefit system, on which many Roma depend. The Government sent police and military to secure private property and patrol communities. Activists stated that some members of the police used an inappropriate level of force in the area of Trebisov, resulting in several civilian injuries (*see* Section 1.c.). The use of a police blockade of the Romani community that inhibited free movement to and from the city was also highly criticized (*see* Section 1.d.).

The Government reported that usury, the illegal charging of high interest rates on small loans, was one of the main causes for the deepening poverty of Roma in settlements and a possible contributing factor in the February unrest. Since the lootings, the police investigated more than 99 instances of usury and reported that one-fourth of these cases were successfully prosecuted.

Skinhead violence against Roma continued to be a serious problem. For example, in March, masked men posing as police entered a home in Nove Mesto Nad Vahom

and beat a Romani family, including children. The NGO People Against Racism reported that although police were increasingly responsive in their efforts to monitor and control the skinhead movement, the problem persisted.

The Government continued to fund minority language publications and media through the Ministry of Culture. International organizations criticized the mainstream national press for unbalanced reporting about minorities.

The Government's Plenipotentiary for Romani Communities opened five new regional offices to supervise the implementation of governmental policy on Roma, support infrastructure development, and cooperate with municipalities and villages to improve interaction between Roma and non Roma. The Ministry of Labor funded Roma Terrain Workers, specially trained social workers assigned to Romani settlements, to provide various kinds of assistance—from helping fill out paperwork to relaying the importance of education and preventative healthcare.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form and join unions, except in the armed forces, and workers exercised this right in practice. Approximately 30 percent of the work force was unionized. The Slovak Trade Unions Confederation included nearly 90 percent of all trade unions in the country. Unions were independent of the Government and political parties; however, they sometimes cooperated with opposition parties.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and workers exercised these rights in practice.

In September, the Government abolished the existing law on the tripartite process, which required negotiations with trade union representatives and employers' associations on most laws concerning social sector issues. The parties continued to meet and act as an advisory body, although their decisions were not binding for the Government.

The Constitution provides for the right to strike legally in two instances: When collective bargaining fails to reach an agreement, or to support other striking employees' demands (solidarity strike). The unions generally exercised these rights in practice without restrictions. Strikes must be announced in advance. The law prohibits dismissing workers legally participating in strikes; however, strikers are not ensured protection if a strike is considered illegal or unofficial.

There are no export process zones. Also, there are no special laws or exemptions from regular labor laws in free trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace, which were effectively implemented and enforced in practice. Problems with child labor were nearly nonexistent.

The minimum age for employment is 15, although children under 15 may perform light work in cultural or artistic performances, so long as it does not affect their health, safety, or schooling. The Labor Inspection Office and Health Protection Office must approve, agree on the maximum hours, and set conditions for child labor under 15. Children under 16 may not work more than 30 hours per week, and children 16–17 are limited to 37.5 hours per week. Children under 18 are not allowed to work underground, perform work that is inappropriate for their age or health, or work overtime.

Child labor complaints were received and investigated by district inspection units. If it was determined that a child labor law or regulation had been broken, the case was turned over to the national inspection unit of the Ministry of Labor.

*e. Acceptable Conditions of Work.*—The minimum wage of \$224 (6,500 SKK) per month provided a decent standard of living for a worker and family in rural areas of the country, but not in urban areas. During the year, the Government streamlined the fund established in 2000 that guarantees lost wages due to employer bankruptcy or insolvency. The poverty line was \$182 (5,290 SKK) for a single person. The average salary for the first 9 months of the year was \$521 (15,105 SKK). The Labor Code mandates a maximum work week of 48 hours (including overtime). The trade unions, Ministry of Labor, and local employment offices monitored observance of these laws, and authorities effectively enforced them.

The Labor Code establishes health and safety standards that the Office of Labor Safety generally enforced. For hazardous employment, workers undergo medical screening by a physician. They have the right to refuse to work in situations that endanger their health and safety and may file complaints against employers in such situations. Employees working under conditions endangering their health and safety

for a certain period of time are entitled to paid "relaxation" leave in addition to their standard leave.

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## SLOVENIA

Slovenia is a parliamentary democracy and constitutional republic. Power is shared between a directly elected president (head of state), a prime minister (head of government), and a bicameral parliament, composed of the National Assembly (lower house) and the National Council (upper house). On October 3, the country held free and fair elections for seats in the National Assembly. The judiciary is independent.

The Ministry of Interior (MOI), which was responsible for internal security, maintained effective control of the police. By law, the armed forces did not exercise civil police functions. A few members of the security forces committed isolated human rights abuses.

The country continued its transition from a centrally planned to a market economy. The population was approximately 2 million. Manufacturing accounted for most employment, with machinery and other manufactured products constituting the major exports. For the year, growth in the gross domestic product was estimated at 4 percent and inflation at 3.2 percent.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police in several cases allegedly used excessive force against detainees. Credible sources alleged that media self-censorship existed as a result of indirect political and economic pressures. Violence against women was a problem. Trafficking in women and girls through and to the country for sexual exploitation was a problem. Minorities (including former Yugoslav residents without legal status and certain Romani communities) reported some governmental and societal discrimination.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, in a few cases human rights observers alleged that police used excessive force such as kicks, punches, and pushes during arrest.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Male and female prisoners were held separately, juvenile offenders were held separately from adults, and convicted criminals were held separately from pretrial detainees.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Police are centrally organized under the supervision of the Police and Security Bureau of the MOI. The Bureau oversees the drafting of basic guidelines, security policy, and regulations governing the work of the police and exercises special inspectorial authority in monitoring police performance, with an emphasis on the protection of human rights and fundamental freedoms. The General Police Administration, headed by the General Director of the Police, has overall responsibility for the execution of police duties and oversees activities at the national level. Regional police duties are under the jurisdiction of police administration units, whose directors report to the General Director. Local police tasks fall to individual police stations, whose commanders report to the director of the relevant police administration.

During the year, the independent Commission for the Prevention of Corruption received nine credible reports of police corruption, which were referred to the police for further investigation. There had been no prosecutions, trials, or dismissals based on the reports by year's end. Police corruption and abuse initially are investigated internally. If there is evidence of wrongdoing, the officers involved may be referred to the MOI or the prosecutor's office, depending on the severity of the breach.

Detainees have the right to contact a legal counsel upon arrest, and authorities generally respected this right in practice. Authorities must advise detainees in writ-

ing within 24 hours of the reasons for the arrest. Detention may last up to 6 months before charges are brought; once charges are brought, detention may be extended for a maximum of 2 years. Persons detained more than 2 years while awaiting trial or while their trial is ongoing must be released pending conclusion of their trial (*see* Section 1.e.). Lengthy pretrial detention was not a widespread problem, and defendants generally were released on bail, except in the most serious criminal cases. The law also provides safeguards against self-incrimination.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair judicial process; however, court backlogs sometimes resulted in lengthy trials.

The judicial system consists of district courts, regional courts, courts of appeals, an administrative court, and the Supreme Court. A nine-member Constitutional Court rules on the constitutionality of legislation, treaties, and international agreements and is the highest level of appeal for administrative procedures. Judges, elected by the National Assembly upon the nomination of the Judicial Council, are constitutionally independent. The Judicial Council is composed of six sitting judges elected by their peers and five presidential nominees elected by the Parliament.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right; however, the judicial system was overburdened and, as a result, the judicial process frequently was protracted. In some cases, criminal trials have lasted from 2 to 5 years.

There were no reports of political prisoners.

Eligibility to file a claim for denationalization of property depends on the citizenship of the claimant at the time the property was nationalized; however, current citizenship is not a factor in how the claims are processed. The Government did not track the claims of non-citizens separately from those of citizens. Claims filed by individuals who were not resident in the country took longer to resolve because they commonly did not have local legal representation actively engaged in monitoring their cases and because it took longer for them to gather and submit required supporting documentation. Court backlogs also contributed to delays in resolving claims for denationalization of property.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, there were reports that indirect political and economic pressures continued to influence the media, resulting in occasional self censorship. There were credible reports that advertisers pressured media outlets to manipulate their presentation of public issues.

The press was active and independent; however, major media did not represent a broad range of political or ethnic interests. The major print media were supported through private investment and advertising, and the Government owned substantial stock in many of the companies that were shareholders in the major media houses. Three of the six national television channels were part of the government-subsidized RTV Slovenia network. Cultural publications and book publishing received government subsidies.

All major towns had radio stations and cable television. A newspaper was published for the ethnic Italian minority living on the Adriatic coast. Bosnian refugees and the Albanian community had newsletters in their own languages. Numerous foreign broadcasts were accessible via satellite and cable, and foreign newspapers, magazines, and journals were widely available. Minority language television and radio broadcasts were available.

The law requires the media to offer free space and broadcasting time to political parties at election time. Television networks routinely provided public figures and opinion makers from across the political spectrum access to a broad range of programming and advertising opportunities.

On February 10, the Maribor District Prosecutor filed five indictments in connection with the 2001 beating of investigative journalist Miro Petek, and a trial commenced on May 20. On June 8, a special National Assembly commission looking into the Government's role in the police investigation of the beating and trial stated that a determination of political interference could not be made. The trial was not concluded at year's end.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There were no formal requirements for recognition as a religion by the Government. Religious communities must register with the Government's Office for Religious Communities if they wish to be legal entities, and registration entitles such groups to value added tax rebates. In response to complaints from several groups that the office had failed to act on their registration applications, the Secretary General of the Government in June clarified registration procedures and instructed the office to process outstanding applications. During the year, the office had approved four out of six applications; two applications were still pending at year's end.

The Constitution states that parents are entitled to give their children "a moral and religious upbringing." Only those schools supported by religious bodies taught religion.

The law provides for denationalization (restitution or compensation) of church property—church buildings and support buildings, residences, businesses, and forests—nationalized after World War II by the Socialist Federal Republic of Yugoslavia. By the end of September, the Government had finalized 33,874 (89 percent) of the 38,216 denationalization claims filed.

In early October, a Jewish family grave was desecrated; police had not identified the perpetrators by year's end. Jewish community representatives reported prejudice, ignorance, and false stereotypes and negative images of Jews within society. Negative images of Jews were common in private commentary, and citizens generally did not consider Jews to be a native population.

The Government promoted antibias and tolerance education in the primary and secondary schools, and the Holocaust was an obligatory topic in the contemporary history curriculum. The country designated May 9 as a day of remembrance commemorating the end of World War II and the liberation of Ljubljana; some municipalities also included remembrance of the Holocaust on this day.

Societal attitudes toward the minority Muslim and Serbian Orthodox communities were generally tolerant; however, some persons feared the possible emergence of Muslim fundamentalism, and representatives of several opposition political parties spread this fear.

According to the 2002 census, 2.4 percent of the population of the country is Muslim. While there are no governmental restrictions on the Muslim community's freedom of worship, services commonly were held in private homes under cramped conditions. In December 2003, 34 years after the project was originally proposed, the Ljubljana Municipal Council approved zoning changes that would permit construction of a mosque. In February, opponents of the mosque's construction gathered enough signatures to call a referendum on whether to permit required zoning changes. On July 12, the Constitutional Court blocked the referendum on the grounds that it would violate the constitutional provision providing for freedom of religion. At year's end, the Islamic community had selected a plot of land for the mosque and was moving ahead with construction plans.

Interfaith relations were generally amicable, although the majority Catholic Church viewed foreign missionary groups as aggressive proselytizers.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. The Constitution prohibits forced exile, and the Government did not employ it.

The Constitution provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Since most potential refugees viewed the country as a transit point rather than a destination, few stayed long enough to be processed as refugees. During the year, the country granted refugee status to 39 persons and humanitarian refugee status to an additional 74 persons. The issue of the provision of temporary protection did not arise during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. On October 3, the country held free and fair elections for seats in the National Assembly and, on June 13, for seats in the European Parliament. In 2002, Janez Drnovsek was elected President in free and fair elections.

During the year, the independent Commission for the Prevention of Corruption noted six reports of corruption among politically appointed functionaries of the Government and one report of corruption within the National Council. On December 9, an Appeals Court sentenced former State Secretary in the Ministry of Economy Boris Sustar to a 2-year prison term and a \$27,890 (5 million tolar) fine for his involvement in a 2000 bribery scandal. The independent Commission for the Prevention of Corruption played an active role in educating the public and civil servants about corruption; however, at year's end, the Commission had neither adequate staff nor adequate funding to fulfill its mandate. On March 30, the Penal Code was amended to define corruption in line with the Organization for Economic Cooperation and Development's Convention on Bribery. On December 21, the National Assembly approved the use of a form that requires public servants to make financial disclosures.

The law provides for free public access to all information controlled by state or local institutions and their agents. The Government provided such access for both citizens and non citizens alike, including foreign media. The Government may deny access to public information only if information is classified, it contains personal data protected by privacy laws, and in certain other narrowly defined exceptions.

There were 14 women in the 90-seat National Assembly and 3 women in the 40-seat National Council. A total of 3 of 16 cabinet ministers were women.

There were 2 members of minorities in the 90-seat National Assembly and none in the 40-seat National Council. The Constitution provides the "autochthonous" (indigenous) Italian and Hungarian minorities the right, as a community, to have at least one representative in the Parliament. However, the Constitution and law do not provide any other minority group, autochthonous or otherwise, the right to be represented as a community in Parliament. In June 2003, the U.N. Committee on the Elimination of Racial Discrimination (CERD) issued a report recommending that the Government take further measures to ensure that all groups of minorities are represented in Parliament.

Twenty distinct Romani communities, each designated autochthonous at the local level, are entitled to a seat on their local municipal councils. At year's end, one municipality (Grosuplje) was not in compliance with this law.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international independent human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

An Ombudsman for Human Rights operated independently of government or party control, interference or influence. The Ombudsman reported that his office had both the staff and resources to be effective and that he enjoyed good cooperation with the Government. The Ombudsman issues an annual report with wide ranging recommendations that is made available to the public. The Government took some steps to address the problems raised in the report.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equality before the law regardless of race, sex, disability, language, or social status. The Constitution provides special rights for the autochthonous Italian and Hungarian ethnic communities and for the small Romani community; these provisions were generally respected in practice.

*Women.*—Violence against women occurred and was underreported; however, awareness of spousal abuse and other violence against women increased. SOS Phone, a nongovernmental organization (NGO) that provided anonymous emergency counseling and services to domestic violence victims, received thousands of calls during the year. The Government partially funded 9 shelters for battered women, which operated at capacity (approximately 109 total beds) and turned away numerous women. When police received reports of spousal abuse or violence, they actively intervened and prosecuted offenders.

Rape, including spousal rape, is illegal but the latter was rarely reported. The NGO Amnesty International estimated that one in seven Slovenian women is raped during their lifetime but that only 5 percent seek assistance or counseling. The police actively investigated reports of rape and prosecuted offenders.

Prostitution is illegal but decriminalized. Antitrafficking authorities and NGOs informally estimated that as many as 80 bars and clubs across the country could be engaged in prostitution. Trafficking in women for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking).

The law does not explicitly prohibit sexual harassment; however, it may be prosecuted under sections of the Criminal Code that prohibit sexual abuse. Sexual harassment and violence remained serious problems.

Government policy provides for equal rights for women, and there was no official discrimination against women or minorities in housing, jobs, or education. In rural areas, women, even those employed outside the home, bore a disproportionate share of household work and family care because of a generally conservative social tradition. However, women frequently were active in business and in government executive departments. Although both sexes had the same average period of unemployment, women frequently held lower paying jobs. On average, women's earnings were 90 percent of those of men. The Government's Office of Equal Opportunities promotes nondiscrimination between women and men.

*Children.*—The Constitution stipulates that children “enjoy human rights and fundamental freedoms consistent with their age and level of maturity,” and the Government was committed to protecting children's rights and welfare.

The Government provided compulsory, free, and universal primary school education for children through grade 9 (ages 14 and 15) and up to 4 additional years of free, voluntary secondary school education. Ministry of Education statistics showed an attendance rate of nearly 100 percent of school age children, with most children completing secondary school. The Government provided universal health care for all citizens, including children.

Child abuse was a problem; however, there was no societal pattern of abuse of children. The law provides special protection for children from exploitation and mistreatment. Social workers visited schools regularly to monitor any incidents of mistreatment or abuse of children.

Trafficking in girls for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking).

*Trafficking in Persons.*—On June 17, the Penal Code was amended to specifically criminalize trafficking in persons; nevertheless, trafficking of women and girls through, to, and from the country remained a problem. Penalties for trafficking range from 1 to 10 years' imprisonment. Persons can also be prosecuted for rape, pimping, procurement of sexual acts, inducement to prostitution, sexual assault, and other related offenses. Regional police directorates had departments that investigated trafficking and organized crime. During the year, 12 persons were prosecuted for “forced slavery,” and one was prosecuted for trafficking in human beings; all of the trials were ongoing at year's end.

The country was primarily a transit, and secondarily a destination, country for women and teenage girls trafficked from Southeastern, Eastern, and Central Europe to Western Europe and North America. The country was also a country of origin for a small number of women and teenage girls trafficked to Western Europe. Victims were trafficked for purposes of sexual exploitation.

A 2003 study by the International Organization for Migration reported that traffickers lured victims from Eastern Europe and the Balkan countries through offers of employment without indicating that it would involve the sex industry, media advertisements promising high wages, offers of employment as entertainers and dancers, and offers of marriage. Harsh conditions in their home countries also contributed to the willingness of some women to enter into prostitution, not knowing they would become trafficking victims, subjected to severe conditions.

Traffickers reportedly subjected some trafficking victims to violence.

There were no reports that government officials were involved in trafficking.

Organized crime was responsible for some of the trafficking. In general, authorities did not treat trafficking victims as criminals; however, they usually were voluntarily returned to their home country either immediately upon detention or following their testimony in court.

The Government's National Coordinator for Trafficking in Persons and Interagency Working Group on Trafficking in Persons have put forward a long-term national strategy to combat trafficking. The working group, which includes representatives of different ministries, NGOs, international organizations, and the media, es-

established standard operating procedures for first responders to ensure that victims receive information about the options and assistance available to them.

The domestic NGO Kljuc, which received some government funding in August, had a memorandum of understanding with the MOI that provided victims immunity from prosecution and temporary legal status, including work permits and access to social services. In April, Kljuc signed another memorandum with the police stipulating that police units would contact Kljuc during raids or investigations that potentially involved trafficking victims. Kljuc also worked to raise public awareness of trafficking, provide legal assistance, counseling, and other services to victims, and train police.

The MOI produced pamphlets and other informational materials for NGO-run awareness programs to sensitize potential target populations to the dangers of and approaches used by traffickers. The Ministry also worked with NGOs to provide specialized training to police and to assist the small number of victims with reintegration.

*Persons With Disabilities.*—There was generally no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other government services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Modifications of public and private structures to ease access by persons with disabilities continued, although at a slow pace. The Ministry for Labor, Family and Social Affairs has primary responsibility for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to the 2002 census, minorities made up approximately 17 percent of the population and included 35,642 Croats, 38,964 Serbs, 21,542 Bosniaks (Bosnian Muslims), 10,467 Muslims, 6,243 Hungarians, 6,186 Albanians, 3,246 Roma, and 2,258 Italians.

The Constitution provides special rights and protections to autochthonous Italian and Hungarian minorities, including the right to use their own national symbols and have bilingual education and the right for each to be represented as a community in Parliament (*see* Section 3). The Romani minority does not have comparable special rights and protections. The Constitution provides that “the status and special rights of Gypsy communities living in Slovenia shall be such as are determined by statute.” By year’s end, Parliament had not enacted laws to establish such rights for the Romani community. A study funded by the European Community estimated that 40 percent of Roma in the country were autochthonous.

On May 16, an outbreak of societal violence between the Romani community living near Krka and the local inhabitants reportedly resulted in the injury of several persons.

Many Roma lived in settlements apart from other communities that lacked basic utilities such as electricity, running water, sanitation, and access to transportation. Romani representatives reported that some local authorities developed segregated substandard housing facilities to which Romani communities were forcibly relocated. Romani representatives also reported that Romani children often attend segregated classes and were selected by authorities in disproportional numbers to attend classes for students with special needs. In July, the Government provided funding for a program to desegregate and expand Romani education by training Romani educational facilitators and create special enrichment programs in public kindergartens. The Government has not developed a bilingual curriculum for Roma on the grounds that there is not a standardized Romani language. However, the Government has funded research into codification of the language.

Romani representatives also reported discrimination in employment, which complicated their housing situation, and that Roma were disproportionately subject to poverty and unemployment. A 2003 report funded by the European Commission noted that the unemployment rate among Roma was 87 percent.

The law provides Romani political representatives with a seat in 20 municipal councils based on their autochthonous status in those communities. At year’s end, only the municipality of Grosuplje had not complied with this law. In a June 2003 report, the CERD expressed concern that discriminatory attitudes and practices against the Roma persisted and that the distinction between “indigenous” Roma and “new” Roma could give rise to new discrimination. Ethnic Serbs, Croats, Bosnians, Kosovar Albanians, and Roma from Kosovo and Albania were considered “new” minorities; they were not protected by the special constitutional provisions for autochthonous minorities and faced some governmental and societal discrimination.

Regularization of status for non-Slovenian former Yugoslav citizens remained an issue. The MOI reported that, at year’s end, it had 3,026 pending applications for citizenship. During the year, it positively adjudicated 3,096 applications for citizen-

ship and denied 477 applications. The MOI also reported that, at year's end, it had 985 pending applications for permanent residency. During the year, it positively adjudicated 3,976 applications for permanent residency and denied 254 applications.

Some Yugoslavs residing in the country at the time of independence did not apply for citizenship in 1991–92 and subsequently found their records were “erased” from the population register. The deletion of these records from the population register has been characterized by some as an administrative decision and by others as an ethnically motivated act. In April 2003, the Constitutional Court ruled unconstitutional portions of a law governing the legal status of former Yugoslav citizens because it does not recognize the full period in which these “erased” persons resided in the country, nor does it provide them the opportunity to apply for permanent residency. There were approximately 18,305 persons in the country who had their records erased. At year's end, the Government had not completed legislation to resolve the Court's concerns.

*Other Societal Abuses and Discrimination.*—The Constitution prohibits discrimination based on sexual orientation; however, there was societal discrimination against homosexuals. According to a poll of members of the gay and lesbian community conducted in 2001 by the domestic NGO Student Cultural Artistic Center, 49 percent of respondents had experienced some form of violence or harassment based on their sexual orientation, more than 20 percent reported discrimination in the workplace, and 7 percent reported discrimination in health care and in matters relating to tenancy.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides that unions and their membership shall be free, and workers formed and joined unions of their choice without previous authorization or excessive requirements. All workers, except police and military personnel, were eligible to form and join labor organizations. Approximately 35 percent of the workforce was unionized.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to bargain collectively, and it was freely practiced; however, the law requires that 10 percent of the workers in an industry sector be union members before collective bargaining can be applied to the sector as a whole. A large majority of workers were bound by collective bargaining contracts. The Constitution provides for the right to strike, and workers exercised this right in practice. The law restricts strikes by some public sector employees, primarily the police and members of the military services. There are no special laws or exemptions from regular labor laws in the country's three export processing zones in Koper, Maribor, and Nova Gorica.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment was 15; however, during the harvest season or for other farm chores, younger children worked. Urban employers generally respected the age limits. The Ministry of Labor is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating any violation of the law.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of approximately \$622 (111,484 tolar) provided a decent standard of living for a worker and family. The law limits the workweek to 40 hours and provides for minimum annual leave of 20 days. The Ministry of Labor is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating any violation of the law. The law was enforced effectively.

Special commissions under the Ministries of Health and Labor set and enforced standards for occupational health and safety. Workers had the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, it was not clear to what extent they could do so in practice.

Legally employed workers enjoyed the same rights and working conditions as citizens; however, since foreign workers were more likely to be engaged in illegal work than citizens, they generally had poorer rights and working conditions in practice.

## SPAIN

Spain is a democracy with a constitutional monarch. The Parliament consists of two chambers, the Congress of Deputies and the Senate. On March 14, Jose Luis Rodriguez Zapatero of the Socialist Party was elected Prime Minister, with the title President of the Government. Elections were free and fair. The judiciary is independent.

Internal security responsibilities are divided among the National Police, which are responsible for security in urban areas; the Civil Guard, which police rural areas and control borders and highways; and police forces under the authority of the autonomous communities of Catalonia and the Basque region. Civilian authorities maintained effective control of the security forces. A few members of the security forces committed isolated human rights abuses.

The market-based economy, with primary reliance on private enterprise, provided the population of over 42.6 million with a high standard of living. The economy grew during the third quarter at a 2.7 percent annual rate. The annual inflation rate was 3 percent at year's end. Wages generally kept pace with inflation.

The Government generally respected the human rights of its citizens; although there were a few problems in some areas, the law and judiciary provide effective means of addressing individual instances of abuse. There were credible allegations that a few members of the security forces abused detainees and mistreated foreigners and illegal immigrants. Lengthy pretrial detention and delays in trials were problems. Violence against women was a problem. Trafficking in women and teenage girls for the purpose of prostitution was a problem. Societal discrimination against Roma and immigrants remained a problem, as did occasional violence against immigrants.

On March 11, a coordinated series of 10 explosions occurred during rush hour aboard 4 commuter trains in Madrid. The attacks by the Moroccan Islamic Combatant Group, an Islamic extremist group affiliated with al-Qaida, killed 191 persons and injured more than 1,800.

The terrorist group Basque Fatherland and Liberty (ETA) continued its campaign of bombings. ETA sympathizers also continued a campaign of street violence and vandalism in the Basque region intended to intimidate politicians, academics, and journalists.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On March 11, a coordinated series of 10 explosions occurred during rush hour aboard 4 commuter trains in Madrid. The attacks by the Moroccan Islamic Combatant Group killed 191 persons and injured more than 1,800. On April 2, Islamic extremists attempted to bomb the high speed AVE train south of Madrid. On April 3, six of the suspected leaders of the Madrid attacks killed a policeman and then committed suicide during a police raid of an apartment in Leganes.

ETA, whose declared goal is to establish an independent Basque state, continued its terrorist campaign of bombings. ETA publicly claimed responsibility for its attacks.

The Government continued to pursue legal actions against ETA members. By year's end, police had arrested 74 ETA members and collaborators and had dismantled 3 ETA operational cells. Authorities in France, Belgium, and the Netherlands have arrested, and in some cases extradited to Spain, ETA members. In October, French police, working with Spanish investigators, arrested ETA leaders Mikel Albizu and Soledad Iparraguirre.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, suspects charged with terrorism at times were tortured and abused during detention. According to Amnesty International (AI), government investigations of such alleged abuses often were lengthy and punishments were light.

In February, the U.N. Special Rapporteur on Torture, Theo van Boven, issued a report on his visit to the country in October 2003. The purpose of the visit was to study the various safeguards for the protection of detainees in the context of anti-terrorism measures. The Rapporteur noted "the degree of silence that surrounds the subject and the denial by the authorities without investigating the allegations of torture has made it particularly difficult to provide the necessary monitoring of protec-

tion and guarantees.” He concluded that, “in the light of the internal consistency of the information received and the precision of factual details these allegations of torture cannot be considered to be fabrications.” Although not a regular practice, “their occurrence is more than sporadic and incidental.” He recommended that the Government draw up a comprehensive plan to prevent and suppress torture and that the incommunicado regime be abrogated. The Government rejected the van Boven report, describing it as lacking “objective well founded analysis.”

An AI report stated that torture was not present in a systematic form in the country, but certain practices such as holding detainees incommunicado could facilitate mistreatment. AI urged an end to legal provisions that allow police to hold suspects of certain terror-related crimes for up to 5 days with access only to a public lawyer. AI stated that giving suspects access to a lawyer of their choice would make for better observations of treatment in police custody. AI was also concerned about continuing reports of mistreatment of detainees in immigration detention centers and urged the Government to broaden its definition of torture to include rape by authorities while in custody.

The Council of Europe’s Committee for the Prevention of Torture made public a report in 2003 of its 2001 inspection that indicated that the Government had not complied with some of its recommendations to prevent mistreatment in jails. The committee reiterated its recommendations that the Government reduce from 5 days to 2 days the maximum period allowed for authorities to notify relatives or other persons of the fact and place of a subject’s detention; that persons held in incommunicado detention be allowed a medical examination by a doctor of their own choice and receive written information regarding this proposed right; and that detainees be provided with more immediate access to a lawyer.

There were credible allegations that a few members of the security forces abused detainees and mistreated foreigners and illegal immigrants. In July, regional Catalanian police were accused of having killed Moroccan national Farid Bendaoum on May 27 and having abused another six persons in an operation against drug trafficking.

In 2002, AI reported that police had abused undocumented Moroccan minors, particularly in the Spanish North African enclaves of Ceuta and Melilla, and that some undocumented minors were returned to Morocco without sufficient concern for their welfare (see Section 2.d.). AI continued to express concern about the treatment in reception centers for undocumented minors.

ETA bombings and attempted bombings caused numerous injuries and property damage. During the December 3 to 6 holiday weekend, ETA carried out 12 bombings in 2 sets of coordinated attacks in Madrid, Leon, Valladolid, Avila, Ciudad Real, Santillana del Mar, Alicante, and Malaga. Several of ETA’s attacks were directed at the tourist industry on the northern coast, including August bombings in Santander, Gijon, Santiago de Compostela, and smaller communities in Cantabria, Asturias, and Galicia. In addition to attacks aimed at tourist zones, in September, ETA placed explosives near electrical lines in Irun in the Basque region. In February, two ETA members were arrested near Cuenca, while driving towards Madrid with 536 kilograms of explosives allegedly intended for bombing a train station.

Prison conditions generally met international standards; however, in April, prisoners in Quatre Camins prison in Catalonia alleged abuse by prison guards while being transferred after a prison riot. The Department of Justice of Catalonia conducted an investigation of the incident and determined that no abuses had been committed.

Women were held separately from men; juveniles were held separately from adults; and pretrial detainees were held separately from convicted criminals.

The Government permits visits by independent human rights observers. In June, an AI delegation led by Secretary General Irene Khan visited the country. The group met with the new Government and presented a human rights action plan for the country. The delegation met the Prime Minister and the Ministers of Justice, Interior, and Foreign Affairs, as well as with the President of the Supreme Court.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Police forces include the National Police, Municipal Police, the Civil Guard, and police forces under the authority of the autonomous communities of Catalonia and the Basque Country. All police forces operated effectively with no reports of systemic corruption. The Constitution provides for an ombudsman, called the People’s Defender (Defensor del Pueblo), who investigated claims of police abuse (see Section 4).

Arrest warrants were based on sufficient evidence and issued by a duly authorized official. Persons were apprehended openly and brought before an independent

judiciary. Arrested persons were allowed prompt access to a lawyer of their choosing or, if they could not afford one, to an attorney appointed by the court. Defendants were released on bail unless the court believed that they might flee or be a threat to public safety. A suspect may not be held for more than 72 hours without a hearing, except in cases involving terrorism, in which case the law permits holding a suspect an additional 2 days—or a total of 5 days—without a hearing. A judge may authorize semi-incommunicado detention for terrorism suspects, in which suspects have access only to a court-appointed lawyer.

At times pretrial detention was lengthy. Under the law, suspects cannot be detained for more than 2 years before being brought to trial unless a judge, who may extend pretrial detention to 4 years, authorizes a further delay. In practice, pretrial detention usually was less than 1 year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial structure consists of local, provincial, regional, and national courts with the Supreme Court at its apex. The Constitutional Court has the authority to return a case to the court in which it was adjudicated if it can be determined that constitutional rights were violated during the course of the proceedings. The National High Court handles crimes such as terrorism and drug trafficking. The European Court of Human Rights (ECHR) is the final arbiter in cases concerning human rights.

The Constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There was a nine-person jury system. Defendants enjoy the presumption of innocence and have the right to be represented by an attorney (at state expense for the indigent), to confront witnesses and to present witnesses on their behalf, and to have access to government-held evidence. Following a conviction, defendants may appeal to the next higher court.

The law calls for an expeditious judicial hearing following arrest; however, the judicial process often was lengthy.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. However, in 2003, the Government closed the Basque newspaper, *Euskalunon Egunkaria*, because of its links to the ETA. The courts approved additional 4-month extensions of the closing of the newspaper in February, June, and November. The paper did not re open by year's end. Ignacio Uria, one of the managers of *Euskalunon Egunkaria*, who had been imprisoned since February 2003, was set free in August.

In May, the European Commission presented a report that denounced the restraints placed on journalists in the Basque region, particularly in covering the delegitimizing of the *Batasuna* political party (see Section 3). The Government imposed restrictions against publishing documents that the Government interpreted as glorifying or supporting terrorism. The report also denounced restraints on domestic journalists covering the ecological disaster, when the *Prestige* oil tanker broke up off the northwestern coast of the country in November 2002, causing damage to both the marine environment and the fishing sector.

The Government did not restrict access to the Internet.

ETA and its sympathizers continued their violent campaign of intimidation against political, press, and academic professionals and organizations in the Basque country. In March 2003, the International Press Institute issued a report that indicated that journalists worked under the threat of terrorism.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution declares the country is a secular state, and various laws provide that no religion should have the character of a state religion; however, Catholicism was the dominant religion and enjoyed the closest official relationship with the Government. Among the various benefits enjoyed by the Catholic Church was financing through the tax system. Judaism, Islam, and many Protestant denominations had official status through bilateral agreements, but they enjoyed fewer privileges. In

April 2003, the Government expanded the concept of “well known deeply rooted beliefs” (notorio arraigo) to the Church of Jesus Christ of Latter-day Saints (Mormons), which allows them to sign a bilateral agreement; however, the Mormons had not begun negotiations with the Government by year’s end.

The law establishes a legal regime and certain privileges for religious organizations to benefit from this regime. Religions not recognized officially, such as the Church of Scientology, were treated as cultural associations. Leaders of the Protestant, Muslim, and Jewish communities reported that they continued to press the Government for privileges comparable to those enjoyed by the Catholic Church. Protestant and Muslim leaders wanted their communities to receive government support through an income tax allocation or other designation.

In March, two Jewish synagogues in Barcelona belonging to the Jewish Community of Barcelona and the Atid Jewish Community were vandalized repeating vandalism of previous years. The vandalism included anti-Semitic graffiti on the walls of the synagogue. The groups also reported that local extremist groups monitored them. The regional government responded by increasing security at the center.

On May 27, Catalan police arrested three leaders of a neo Nazi group called the Circle of Indo-European Research on charges of being members in an illicit association that opposed the fundamental rights and public freedom of citizens within the international community. The police, as well as Jewish community leaders, believed the leaders were involved in the March synagogue attacks. One was charged with illicit association; the police released one of the leaders without bail, another was released with bail, and the third was released with an order to appear in court in July. The case was still pending at year’s end.

Officials from B’nai B’rith have suggested there was an increasing anti-Semitic tone in newspaper commentary and political cartoons as well as public displays of anti-Semitism at major sporting events. They cited the example of a soccer game. Some participants at the game wore swastikas and other Nazi emblems; they also displayed a banner with an anti-Semitic epithet.

On October 15, partly in response to attacks against Jewish persons and institutions, the Spanish Council of Ministers approved a proposal from the Ministry of Justice calling for a Foundation for Pluralism and Coexistence.

The law operationalizes Article 16 of the Constitution, which provides for religious freedom and the freedom from worship by individuals and groups. The Government generally enforced this law in practice. The Ministry of Justice has expressed concern about incidents of anti-Semitism in the country, stating that these incidents appear to be isolated events attributed mostly to small groups of youth or immigrants.

In December, the Government designated January 27 as Holocaust Remembrance Day.

Many citizens blamed recent Moroccan immigrants for increased crime rates in the country, which sometimes resulted in anti-Muslim sentiment. There has been no documented increase in violence towards Muslims following the March 11 train bombings in Madrid; however, Muslim leaders were concerned that media reports appeared to link the Islamic religion to the terrorist attacks. They also expressed concern over housing and employment discrimination. Unlike 2003, there were no reports of protests against the construction of mosques. The Islamic Federation reported that the building permit process for new mosque construction could be difficult and lengthy, especially for building sites in central urban locations. Some residents in the medieval quarter of Barcelona protested the Pakistani community efforts to build a prayer center.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and law provide for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The Constitution provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations, including the Spanish Committee for Assistance to Refugees, in assisting refugees and asylum-seekers.

Under the law, asylum requests are adjudicated in a two-stage process, with the Office of Asylum and Refugees making an initial decision on the admissibility of the application for processing. The Interministerial Committee for Asylum and Refuge (CIAR) examines the applications accepted for processing and included representatives from the Ministries of Interior, Justice, Labor, Foreign Affairs, and a non-voting member of the UNHCR. The Minister of the Interior must approve the decision of the CIAR in each case. According to provisional statistics, at year's end, there were 5,531 applications for asylum, of which the Government granted 1,088 persons asylum status and admitted 163 others for humanitarian or other reasons. The largest number of applicants came from Nigeria, Algeria, and Colombia.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it to approximately 160 persons during the year. Those granted admission for humanitarian reasons must renew their status annually. The law allows the applicant a 15 day grace period in which to leave the country if refugee status or asylum is denied. Within that time frame, the applicant may appeal the decision, and the court of appeal has the authority to prevent the initiation of expulsion procedures, which normally begins after 15 days.

In 2003, the Ministry of Interior and the International Organization for Migration (IOM) signed an agreement to promote voluntary return of illegal immigrants, as well as of asylum and refugee seekers who so desire, to their countries of origin. In March, the agreement was extended through the end of the year. During the September to December 2003 pilot program, IOM helped 199 persons return to their country of origin.

AI called for more in-depth, case-by-case reviews of the welfare of minors being returned to Morocco before their expulsion. The law prohibits the repatriation of minors without social services' knowing where the child will be returned, and authorities generally respected that provision. The Government sought more cooperation from Moroccan authorities in obtaining reinsertion information and passport and travel documents to facilitate the transfer of illegal minors. From December 2003 until April, more than 40 minors were returned and repatriated. Although document delays slowed progress between April and September, 11 minors were returned.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country has a multiparty democracy with regularly scheduled elections in which all citizens age 18 and over have the right to vote by secret ballot. At all levels of government, elections are held at least every 4 years. During the year, Jose Luis Rodriguez Zapatero of the Socialist Party was elected Prime Minister, with the title President of the Government.

In March 2003, the Supreme Court unanimously decided to declare Batasuna to be the political arm of ETA, a terrorist organization and, therefore, illegal. The delegalization means that Batasuna, Euskal Herritarrok, and Herri Batasuna were erased from the registry of political parties; that they will not be able to participate in any elections; that none of their activities (meetings, publications, electoral process) were permitted; and that their physical assets will be sold and the proceeds used for social or humanitarian activities. Despite the restrictions, Batasuna representatives were allowed to retain their seats in the Basque Parliament, although under a new organizational name. At year's end, the Government was investigating a Batasuna rally during which leaders of the organization reportedly expressed support for ETA members held in Spanish prisons.

In September 2003, the Basque government initiated a claim against the Government at the ECHR alleging that the Law of Political Parties, used as a basis to delegalize Batasuna, violated fundamental rights. On February 5, the ECHR rejected the claim of the Basque government, saying that the case was "inadmissible" for technical reasons.

The Government generally provides access to government information.

Of 16 Cabinet ministers, 8 were women. There were 127 women in the 350-seat lower house, 65 women in the 259-seat Senate. After the June elections, 18 of the 54 Spanish members of the European Parliament were women.

The Government did not keep statistics on the ethnic composition of the national parliament. The Catalan Parliament included a member of Moroccan origin.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Constitution provides for an ombudsman, called the People's Defender, whose duties included investigating complaints of human rights abuses by the authorities. The Ombudsman operated independently from any party or government ministry, was elected every 5 years by a three-fifths majority of the Congress of Deputies, and was immune from prosecution. He had complete access to government institutions and to all documents other than those classified for national security reasons; he could refer cases to the courts on his own authority. The Ombudsman had a staff of approximately 150 persons and received 23,150 complaints as of September. The majority of the complaints pertained to health and social services, integration and shelter services for immigrants, moving of imprisoned persons from one penitentiary to another, and lack of adequate facilities in such penitentiaries. Government agencies were responsive to the Ombudsman's recommendations. Several of the autonomous communities had their own ombudsman, and there were ombudsmen dedicated to the rights of specific groups, such as women, children, and persons with disabilities.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equal rights for all citizens, and discrimination on the basis of sex, race, ethnicity, nationality, disability, or ideology is illegal; however, social discrimination against Roma and immigrants continued to be problems.

*Women.*—Violence against women, particularly domestic violence, remained a problem. According to the Government, as of year's end, 72 women had been killed as a result of domestic violence. Through November, women had filed 52,899 complaints against their husbands or male partners. The Government continued to take steps to reduce violence against women. On October 7, the Congress unanimously approved the Integral Law Against Gender Violence, a domestic violence law that provides for heavier sentences when violence is directed against women or "especially vulnerable" victims; however, the law will not be enacted until 2005.

The law prohibits rape, including spousal rape, and the Government effectively enforced it. As of November, 1,375 reports of rape had been received. There were 54 Civil Guard units that assisted battered women and 43 similar units in the National Police. There were 53 offices that provided legal assistance to victims of domestic violence and approximately 225 shelters for battered women. A 24-hour free national hotline that advised women or where to find local assistance or shelter operated during the year.

The Government of Catalonia and the Chief Public Prosecutor signed an agreement in 2003 providing that a doctor should examine female immigrants in Catalonia in danger of suffering from female genital mutilation (FGM) "ablation" when traveling to their countries of origin and again upon return. If they were victims of FGM, the parents could lose custody of the child. In practice, doctors have not examined immigrants, because there was no suspicion that any such cases took place. No children were removed from their parent's custody. There have not been any complaints from nongovernmental organizations (NGOs).

Prostitution was a problem. Prostitution is not illegal, but forcing others into involuntary prostitution and organizing prostitution rings are illegal. Trafficking in women for the purpose of prostitution was a problem (*see* Section 5, Trafficking). The Government contracted with an NGO, Proyecto Esperanza (Project Hope), to provide protection, housing, and counseling support to women who were the victims of trafficking or other abuse.

The law prohibits sexual harassment in the workplace; however, the Government did not effectively enforce it. As of November, the Women's Institute reported 372 complaints of sexual harassment. Discrimination in the workplace and in hiring practices persisted.

Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men. In 2003 the female unemployment rate was almost twice the rate for males; women outnumbered men in the legal, journalism, and health care professions, but they still played minor roles in many other fields.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and health care. Education was compulsory until age 16 and free until age 18. However, many Romani children did

not attend school on a regular basis, and some of those who did complained of harassment in schools.

The Ministries of Health and Social Affairs were responsible for the welfare of children and have created numerous programs to aid needy children.

Access to the national health care system was equal for girls and boys.

There were isolated reports of violence against children, although there appeared to be no societal pattern of abuse of children.

Trafficking in teenage girls for prostitution was a problem (*see* Section 5, Trafficking).

Law enforcement and social service agencies reported an increasing number of undocumented immigrant children living on the streets.

Numerous NGOs promoted children's rights and welfare, often through government-funded projects. Several of the Autonomous Communities had an office of the Defender of Children, an independent, nonpartisan agency charged with defending children's rights.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women and teenage girls remained a problem.

The law prohibits trafficking in persons for labor and sexual exploitation, with penalties ranging from 5 to 12 years' imprisonment. The exploitation of prostitutes through coercion or fraud and the exploitation of workers in general also are illegal, although prostitution is not illegal. According to a September 18 press report, police dismantled approximately 100 illegal immigration, document falsification, and prostitution networks during the year. Police cooperation with source countries led to 303 trafficking-related arrests in source countries in 2003. The Government extradited seven individuals for trafficking related offenses in 2003.

The Government specifically targeted trafficking as part of its broader plan to control immigration; for example, the police actively pursued and prosecuted organized crime groups that used false identity documentation for immigrant smuggling of all kinds, including trafficking. Within the Interior Ministry, the National Police Corps had primary responsibility for all matters pertaining to immigration, including trafficking. Regional authorities also participated in contesting organized criminal activity, including trafficking. In addition, the Interior Ministry chaired an interagency committee on all immigration issues, including trafficking. The Ministries of Foreign Affairs, Health, Education, Treasury, and Labor also were members of the committee. The main police school gave courses on trafficking issues, such as the recognition of fake documents and the best ways to identify traffickers.

On September 29, Catalan police arrested four alleged members of an international prostitution ring. The gang reportedly trafficked women from Eastern Europe, particularly Romania, bringing them to Catalonia, where they were forced into prostitution. The alleged traffickers, one Albanian and three Romanians, deceived women into believing that they would work as waitresses in Spain. On arrival, allegedly, the men confiscated their victims' identification documents, rendering them vulnerable.

The country was both a destination and transit country for trafficked persons for the purpose of sexual exploitation and, to a lesser degree, forced labor (*see* Section 6.d.). Trafficked women were usually 18 to 30 years of age, but some girls were as young as age 16. Women were trafficked primarily from Latin America (Colombia and Ecuador), East European countries (Romania and Bulgaria), sub-Saharan Africa (Nigeria, Guinea, Sierra Leone), and, to a lesser extent, North Africa. Asians, including Chinese, were trafficked to a much lesser degree and more often for labor rather than for prostitution.

Victims were trafficked into the country for both sexual exploitation (most frequently involving prostitution and work in nude dancing and alternative clubs) and labor exploitation (primarily agriculture, construction, and domestic employment). Methods used by traffickers to maintain control of their victims included physical abuse, forced use of drugs, withholding of travel documents, and threats to the victim's family. As a group, women from Eastern Europe reportedly were subject to more severe violence and threats by traffickers. Traffickers lured some victims from other regions with false promises of employment in service industries and agriculture but then forced them into prostitution upon their arrival in the country.

The media reported that criminal networks often lured their victims by using travel agencies and newspaper advertisements in their home countries that promised guaranteed employment in Spain. Typically in the case of Romanian organized networks, women were forced into prostitution where 90 percent of their earnings were marked for the criminal network; men were often employed in low-paying construction jobs. Clandestine clothing production and sales as well as work in res-

taurants were typical types of employment for illegal Asian immigrants who came to the country with false documents through trafficking networks.

The law permits trafficking victims to remain in the country if they agree to testify against the perpetrators. After legal proceedings conclude, the individual is given the option of remaining in the country or returning to the country of origin. Victims were encouraged to help police investigate trafficking cases and to testify against traffickers. In 2003, police reported that 250 victims agreed to testify and were granted short-term residency status. The Government worked with and funded NGOs that provided assistance to trafficking victims. In addition, regional and local governments provided assistance either directly or through NGOs. The Government's violence education programs for female victims and an NGO partner on trafficking reported that 89 percent of the victims they assisted pressed criminal charges.

Project Hope, a program backed by the Catholic NGO Las Adoratrices and government agencies, specifically was designed to assist trafficking victims. The project operated shelters in Madrid, provided assistance with medical and legal services, and acted as liaison with law enforcement for victims who chose to testify against traffickers. Project Hope received many of its referrals directly from police.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice; however, levels of assistance and accessibility differed from region to region. According to documentation from the Spanish Center for Disability Documentation, regional regulations on access for persons with disabilities were most lacking in Murcia, Ceuta, and Melilla.

On January 30, the Council of Ministers approved increased incentives and subsidies for employers who hire disabled women. On June 21, the Ministry of Labor announced that the Government would reserve 5 percent of all public employment for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Public opinion surveys indicated the continued presence of racism and xenophobia, which resulted in discrimination and, at times, violence against minorities. In its annual report, the NGO "SOS Racism" denounced the increase in xenophobia.

On September 16, there were racially motivated attacks against Chinese-owned businesses in Elche.

At times, the growth of the country's immigrant population led to social friction, which in isolated cases had a religious component. Muslim community representatives stated that there were significant anti-Moroccan immigrant feelings. In September, the Reus Citizens Assembly in Catalonia denounced an attack by a neo-Nazi skinhead group at the Reus Mosque. In November, residents of Navas del Marques, a village in the province of Avila, began a campaign against the opening of a mosque. Police seized papers that were distributed asking for signatures to prevent the opening because the papers were deemed to be racist and xenophobic. In May 2003, a group of skinheads attacked some members of the Moroccan community in the Catalan town of Terrassa, but this attack was apparently more racially motivated than religious. Authorities have not identified the perpetrators.

Roma continued to face marginalization and discrimination in access to employment, housing, and education. The Romani community, whose size was estimated by NGOs at several hundred thousand, suffered from substantially higher rates of poverty and illiteracy than the population as a whole. Roma also had higher rates of unemployment and underemployment. According to the national NGO, Secretariado General Gitano, approximately 46 percent of Romani adults were unemployed. Roma occupied the majority of the country's substandard housing units. Several NGOs dedicated to improving the condition of Roma received federal, regional, and local government funding.

Citizens have filed more than 445 complaints with the Catalan regional government denouncing the lack of compliance with the law on linguistic policy, which requires that Catalan be the official language but provides Spanish-speaking citizens the right to be addressed in their native language. The Catalan Government has penalized the Post Office for repeatedly failing to comply with Catalan law.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and laws ensure that all workers, except those in the military services, judges, magistrates, and prosecutors, are entitled to form or join unions of their own choosing, and workers legally in the country exercised this right in practice. Approximately 15 percent of the workforce was

unionized. The law prohibits discrimination by employers against trade union members and organizers; however, unions contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, including for all workers in the public sector except military personnel, and unions exercised this right in practice. Public sector collective bargaining includes salaries and employment levels, but the Government retained the right to set these if negotiations failed. Collective bargaining agreements were widespread in both the public and private sectors; in the latter they covered 85 to 90 percent of workers, although only approximately 15 to 20 percent of workers were union members. The Constitution provides for the right to strike and workers exercised this right. There are no special laws or exemptions from regular labor laws in the three special economic zones in the Canary Islands, Ceuta, and Melilla.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was generally not a problem. The statutory minimum age for the employment of children is age 16. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The Ministry of Labor and Social Affairs primarily was responsible for enforcement, and the minimum age was enforced effectively in major industries and in the service sector. It was more difficult to enforce the law on small farms and in family-owned businesses, where some child labor persisted. Legislation prohibiting child labor was enforced effectively in the special economic zones.

Law enforcement and social service agencies reported an increasing number of undocumented immigrant children living on the streets. These children cannot legally work; as a result, many survived through petty crime.

*e. Acceptable Conditions of Work.*—The minimum wage was \$657 (490.80 euros) per month, which generally provided a decent standard of living for a worker and family; however, this was not the case in all areas of the country. The Ministry of Labor effectively enforced the minimum wage.

The law set a 40-hour workweek with an unbroken rest period of 36 hours after each 40 hours worked. Overtime is restricted by law to 80 hours per year, unless collective bargaining established something different. It is illegal for minors to work overtime.

The National Institute of Safety and Health in the Ministry of Labor and Social Security had technical responsibility for developing labor standards, but the Inspectorate of Labor had responsibility for enforcing the legislation through judicial action when infractions were found. Unions have criticized the Government for devoting insufficient resources to inspection and enforcement. Workers enjoy legal protections that allow them to remove themselves from dangerous work situations without jeopardy to their continued employment; however, employees with short-term labor contracts may not understand they have such protections.

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## SWEDEN

Sweden is a constitutional monarchy with a multiparty parliamentary form of government. The last national elections held in 2002, were free and fair. The Social Democratic Party (SDP) has controlled the Government for 64 of the past 72 years. The King is the largely symbolic head of state, and the Prime Minister is the head of the Government and exercises executive authority. The judiciary is independent.

Police provided internal security and the military provided external security. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country had an advanced industrial economy, mainly market based, with a total population of approximately 9 million. Citizens enjoyed a high standard of living, with extensive social welfare services. During the year, the economic growth rate was an estimated 3.3 percent. During the year, the inflation rate was 1.1 percent, down from 2.3 percent in 2003.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse.

Anti-Semitic crimes were a problem. Violence against women and child abuse were problems. Trafficking in women and children was a problem. Societal discrimination against foreign-born residents and homosexuals was a problem.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

During the year, the police officer charged with the 2001 wounding of three protesters was acquitted by the district court. The prosecution appealed the case to the Court of Appeal, which upheld the district court acquittal in November.

Prison conditions generally met international standards; however, the Council of Europe (COE) criticized the country for increasingly poor prison conditions, especially in the region of Stockholm where there were overcrowding and lengthy detention periods, often longer than the statutory 7 days.

Men and women prisoners were held separately. Juveniles were held separately from adults, and convicted criminals and pretrial detainees were held separately.

The Government permitted visits by independent human rights observers, although there were no such visits during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

There is a national-level police force divided into 12 districts, each of which reports to a National Police Board under jurisdiction of the Ministry of Justice. There were no reports of corruption or of problems related to impunity. Police recruitment policy sought to increase the number of women and augment ethnic diversity in the force.

The law requires warrants for arrests. Police must file charges within 6 hours against persons detained for disturbing the public order or considered dangerous and within 12 hours against those detained on other grounds. Police may hold a person for questioning for 6 hours, although the period may be extended to 12 hours if necessary for the investigation. If the person is a suspect, police must decide whether to arrest or release the person. If the suspect is arrested, the prosecutor has 24 hours (or 3 days in exceptional circumstances) to request detention. An arrested suspect must be arraigned within 48 hours, and initial prosecution must begin within 2 weeks, unless extenuating circumstances exist. Detainees routinely were released pending trial unless they were considered dangerous.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system is composed of three levels: District Courts, a Court of Appeals, and a Supreme Court. All cases are heard first in a district court regardless of the severity of the alleged crime. For some areas, there are specialized courts, such as labor, water, real estate, and market courts. These courts usually are the second and last instance for trial after the district court.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The court system distinguishes between civil and criminal cases. Defendants enjoy a presumption of innocence and have a right of appeal. Defendants in civil cases have the right to defend themselves or to hire an attorney. In criminal cases, the Government is obligated to provide a defense attorney if the defendant cannot afford one. A “free evidence” system allows parties to present in court any evidence, regardless of how it has been acquired. The legal system does not provide for release on bail. All trials are public. Juries are used only in cases involving freedom of the press or freedom of speech. In other cases judges or court-appointed civilian representatives make determinations of guilt or innocence.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The law prohibits hate speech that makes “agitation against ethnic groups” a crime. Under this law, neo-Nazi groups were not permitted to display signs and banners with provocative symbols at their rallies (see Section 5). In July, Pentecostal Pastor Ake Green was convicted under this law in connection with a sermon in which he voiced condemnation of homosexuality. He was sentenced to 1 month’s imprisonment; he has appealed the verdict on the basis of freedom of speech.

The independent media were active and expressed a wide variety of views without government restriction. The Government did not restrict Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not prohibit the practice or teaching of any faith.

The Swedish Commission for State Grants to Religious Communities financed 39 religious groups in 2003, the vast majority were Christian churches, and the remainder were four Islamic organizations and the Jewish community. The Swedish Buddhist Cooperation Council (Sveriges Buddhistiska Samarbetsrad) protested that it has not received such funding and that it was not represented on the Government’s Council for Contact with Religious Communities.

According to police statistics, the number of reported anti-Semitic hate crimes has increased since the end of the 1990s, averaging approximately 130 annually during the period 2000 to 2003. During 2003, 128 anti-Semitic crimes were reported; of these, 3 were classified as assaults, 52 as agitation against an ethnic group, and 35 as unlawful threat or harassment. There have been a number of high profile incidents in Malmo. For example, in March, stones were thrown at employees of the Jewish Burial Society at a Jewish cemetery. During the past few years, the Government has taken steps to combat anti-Semitism by increasing awareness of Nazi crimes and the Holocaust.

Since 2001, anti-Muslim incidents appeared to have increased. The office of the Ombudsman against Ethnic Discrimination confirmed that a number of Muslim women had reported incidents where they believed that they have been discriminated against because they wore headscarves. A court determined that discrimination did not take place in a ruling of a 2003 case in which the defendant alleged she had been denied employment because she wore a headscarf for religious reasons. The police were not able to identify the perpetrators of the arson committed against the Islamic school and the Islamic Center in Malmo in April 2003.

The Jehovah’s Witnesses and members of various smaller Christian churches reported incidents of discrimination during the past few years.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

The number of asylum seekers decreased slightly: 23,116 persons sought asylum, compared with 31,355 in 2003. Of the total number of asylum seekers, 4,022 were from Serbia and Montenegro, 1,456 from Iraq, 1,041 from Azerbaijan, and 905 from Somalia. The Government approved 6,140 applications during the year. Applications could remain under consideration for long periods of time with applicants in uncertain status. The appeals process in the courts may extend cases for several years, although there were few such cases.

The U.N. Committee against Torture received three new cases against the Government during the year, all of which were related to denial of applications for political asylum and consequent repatriations to countries where victims allegedly faced a risk of torture. During the year, the committee ruled on five cases and found that, in each case, the country had not violated the rights of the petitioners.

The Government expeditiously returned asylum seekers from European Union (EU) countries or from countries with which there were reciprocal return agreements. In most cases, persons who were returned expeditiously had passed through or had asylum determinations pending in other EU countries. In many cases, asylum seekers were deported within 72 hours of arrival. The Government experimented with pilot programs at selected border crossings to provide expeditious legal assistance, a concern raised by some nongovernmental organizations (NGOs). The Government's accelerated asylum procedures drew criticism from various NGOs. The Government reported an increase in the percentage of asylum applications it denied. Human rights organizations expressed concern that some asylum cases were adjudicated too quickly and that claimants were sometimes denied access to legal aid and forcibly returned to their home country where they feared persecution. Concern was also expressed for the protection of individual (unaccompanied) children seeking asylum.

The 2001 repatriation of two Egyptians gained attention during the year as the result of allegations that the deportees were subjected to torture in Egypt. Public criticism from human rights organizations and political parties sparked calls for a parliamentary inquiry into the legality of the deportations, as well as into alleged police brutality and alleged improper cooperation with a foreign country in the deportations. The Parliamentary Ombudsman opened an investigation of this incident by year's end.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections to the 349-member unicameral Parliament are held every 4 years; the last elections, which were generally free and fair, were held in September 2002. The SDP has dominated the political system for the past 7 decades, and SDP members occupied a disproportionately large number of publicly appointed positions. The Swedish Trade Union Confederation continued to provide significant financial and organizational support to the SDP.

The law provides for public access to government information, and the Government generally respected this in practice. The public has the right to access government documents unless they were subject to secrecy laws, according to which information may be withheld if its release posed a threat to national security and individual or corporate privacy.

Women were approximately 45 percent of the 349-seat Parliament and 50 percent of the 22-member Cabinet.

The Parliament included representatives of the principal religious, ethnic, and immigrant groups; however, Parliament does not provide information on the number of minorities serving in it. There were 4 minorities in the 22 member Cabinet: 1 Turkish-Assyrian, 2 Estonians, and 1 Jewish member.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

The Parliamentary Ombudsman investigates and publicizes abuses of government authority at the national and local level and initiates actions to rectify such abuses. This institution, provided for in the Constitution, constitutes a form of parliamentary control over the executive. Any person may file a complaint with the Parliamentary Ombudsman's Office. In addition to the Parliamentary Ombudsman, there are the following 6 government-appointed ombudsmen: The Consumer Ombudsman, the Equal Opportunities Ombudsman, the Ombudsman against Ethnic Discrimination, the Ombudsman against Discrimination because of Sexual Orientation, the Children's Ombudsman, and the Disability Ombudsman. Press organizations jointly finance a Press Ombudsman, empowered to investigate violations of newspaper practices. The Swedish Institute, a government-funded entity to promote knowledge about the country, reported that the Parliamentary Ombudsman's office

handled approximately 5,000 complaints per year, of which 20 to 25 percent resulted in full investigations.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on disability, ethnicity, religion, or sexual preference, and the Government effectively enforced these provisions.

*Women.*—Violence against women remained a problem. The National Council for Crime Prevention reported 22,669 cases of assault against women. Most involved spousal abuse. An average of 30 murders of women and girls are reported each year, half of them by men closely related to the victim. Authorities apprehended and prosecuted abusers. The typical sentence for abuse was a prison term (14 months on average) or psychiatric treatment. Unlike in the previous year, women's organizations did not complain about short sentences and early release of offenders.

Rape is illegal, and the law does not differentiate between spousal and nonspousal rape. The law stipulates higher sanctions for repeated crimes if the perpetrator had a close relation to the victim. The National Council for Crime Prevention reported 2,141 rapes of persons over age 14, compared with 1,851 in 2003. The law provides that rape may be prosecuted as sexual assault instead of the more serious crime of rape, based on a determination of the level of resistance offered by the victim.

The law provides complainants with protection from contact with their abusers. In some cases, authorities helped women obtain new identities and homes. The Government provided electronic alarms or bodyguards for women in extreme danger of assault. Both national and local governments helped fund volunteer groups that provided shelter and other assistance to abused women, and both private and public organizations ran shelters. A number of NGOs and local government authorities operated hotlines for victims of crime, and police were trained to deal with violence against women.

The Government continued to focus on honor killings and provided protected housing for young women vulnerable to honor-related violence from family members. In December, the Government hosted a 2-day international conference "Combating Patriarchal Violence against Women—Focusing on Violence in the Name of Honor."

The law specifically prohibits the purchase or attempted purchase of sexual services.

Trafficking in women for purposes of sexual exploitation was a problem (*see* Section 5, Trafficking).

Sexual harassment was a problem. The law prohibits sexual harassment; employers who do not investigate and intervene against harassment at work may be obliged to pay damages to the victim. As with other forms of discrimination, women and men may file complaints with the courts or their unions.

Employers are required by law to treat men and women alike in hiring, promotion, and pay, including equal pay for comparable work. Some sectors of the labor market still showed significant gender disparities, many with a strong preponderance of either men or women. During the year, women's salaries averaged 84 percent of men's salaries, adjusting for age, education, and occupational differences. To combat gender discrimination in the long term, the Equal Opportunities Act requires employers, in both public and private sectors, to promote actively equal opportunities for women and men in the workplace. The Equal Opportunity Ombudsman, a public official, investigates complaints of gender discrimination in the labor market. Complaints may also be filed with the courts or with the employer, with mediation by the employee's labor union. During the year, the Equal Opportunities Ombudsman's office registered 126 cases. Women filed approximately 81 percent of the cases, and 34 percent concerned salary issues.

The number of discrimination complaints related to pregnancy fell to 19, compared with 30 in 2003.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. An official Children's Ombudsman monitored the Government's programs. The Government provided compulsory, free, and universal education for children age 9 to 16. It also provided free medical care for all children up to the age of 16.

Child abuse was a problem. During the year, the National Council for Crime Prevention reported 8,198 cases of abuse of children under the age of 15. There were 467 reported cases of rape, and 1,400 reported cases of sexual abuse of children, compared with 332 reported cases of rape and 1,043 reported cases of child sexual abuse in 2003.

The law prohibits parents or other caretakers from abusing children mentally or physically in any way. Parents, teachers, and other adults are subject to prosecution if they physically punish a child, including slapping or spanking. Children have the

right to report such abuses to the police. The usual sentence for such an offense is a fine combined with counseling and monitoring by social workers. Authorities may remove children from their homes and place them in foster care. Foster parents seldom receive permission to adopt long-term foster children, even in cases where the biological parents were seen as unfit or sought no contact with the child. Unlike in the previous year, critics did not charge that this policy placed the rights of biological parents over the needs of children for security in permanent family situations.

The Government allocated funds to private organizations concerned with children's rights. The NGO Children's Rights in Society offered counseling to troubled youngsters. The Government continued to be active internationally in efforts to prevent child abuse.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, through, and within the country.

The Government continued to place a high priority on combating trafficking despite its relatively low incidence in the country. The law prohibits the trafficking of persons for sexual purposes, provides for sentences of 2 to 10 years' imprisonment for persons convicted of trafficking, and criminalizes attempting to traffic, conspiracy to traffic, and the failure to report such crimes. During the year, amendments to the law made it applicable to forced labor and the trade in human organs, also, the trafficking definition no longer requires the element of cross border activity.

To prosecute traffickers, authorities primarily continued to use laws against procurement and an offense called "placing in distress," which can be used in cases where traffickers lure women from other countries under false pretenses. During the year, there were 97 cases of procurement reported, many involving trafficking victims. Traffickers sentenced for procurement faced up to 6 years in prison, but most sentences were for 2 to 3 years' imprisonment.

According to police, the country remained primarily a trafficking destination, although it also served as a transit point for women and children. Police reported that between 400 and 600 women were trafficked to the country every year, coming primarily from the Baltic region, Eastern Europe, or Russia. Those transiting the country came primarily from the Baltic region, and the principal destination countries were Spain, Germany, Denmark, and Norway. There have been occasional cases of trafficked women from South America and Thailand. Police reported eight cases of child trafficking, involving victims ages 16 and 17. Most of these children were trafficked from Estonia with one from Moldova and one from Vietnam.

Women typically were recruited in their own countries to work as cleaners, babysitters, or in similar employment. Once in the country, victims were isolated and intimidated by traffickers and forced to work as prostitutes in hotels, restaurants, massage parlors, or private apartments; some were even locked up and had their passports confiscated.

The Government allocated funds to domestic and international NGOs for providing shelter to victims and aid in rehabilitation; the police and social services also provided funding. In October, new legislation came into force enabling trafficking victims to receive temporary residence permits to allow better care for victims and to facilitate police investigations. Prior to the October legislation, in most cases, trafficking victims were deported immediately. A new statutory amendment entitles trafficking victims to full social benefits while their cases are being investigated. The National Police Board launched a 1 year project to look into the problem of trafficked children.

*Persons With Disabilities.*—The law prohibits employers from discriminating against persons with disabilities in hiring decisions and prohibits universities from discriminating against students with disabilities in making admission decisions. No other specific laws prohibit discrimination against persons with disabilities. There is an Ombudsman for Disability Issues.

The Government provides for freedom of access and social support as basic rights for citizens with disabilities. Regulations for new buildings require full accessibility, but there is no such requirement for existing public buildings, except for certain public entities that are obliged to make their facilities accessible. Many buildings and some public transportation remained inaccessible.

*National/Racial/Ethnic Minorities.*—Approximately 12 percent of the population is foreign born, with the largest groups from Finland, Iraq, Iran, and the former Yugoslavia. In 2003, there were 2,308 reports of xenophobic crimes of which 417 were related to neo-Nazism. The total number of reported crimes connected with a racist motive numbered 1,539, an increase over the 1,374 committed in 2002. The Government investigated and prosecuted race related crimes. Most estimates placed the number of active neo-Nazis, or white supremacists, at fewer than 3,000, and

there appeared to be little popular support for their activities or sentiments. However, during the year, Expo (an NGO that tracks xenophobic groups) upgraded their estimates of white supremacists to between 4,000 and 5,000. Expo also estimated the number of active domestic neo-Nazis with serious criminal backgrounds, a high propensity for violence, and a potential for terrorist activity at around 50.

Approximately 1,400 persons attended an annual rally held in December, organized by the Salem Foundation (a neo-Nazi organization), commemorating the 2000 killing of a 17-year-old neo-Nazi sympathizer by immigrant youths. Neo-Nazi groups operated legally, but courts have held that it is illegal to wear xenophobic symbols or racist paraphernalia or to display signs and banners with provocative symbols at rallies, since the law prohibits incitement of hatred against ethnic groups.

During the year, several demonstrations against violence and racism were organized throughout the country. The Government supported volunteer groups that opposed racism and xenophobia and allocated funding for projects supporting those who have left neo-Nazi organizations.

The Ombudsman for Ethnic Discrimination received reports of 727 cases of discrimination during the year.

The law recognizes the Sami people, Swedish Finns, Tornedal Finns, Roma, and Jews as national minorities. The Government supported and protected minority languages. In response to a 2003 COE report that criticized government efforts to protect minority languages, Parliament initiated (at the Government's request) an investigation of ways to improve the status of the Finnish language in the greater Stockholm and Malar regions. Also in response to the COE report, the Government tasked a Parliamentary committee on media support to examine ways to improve support for Sami and Meankili minority-language newspapers. The School Authority also initiated an assessment of the role of minority languages in schools. In March, the Government released a report concluding a 2 year study on the situation of the Roma, which described the human rights situation for Roma in the country as unacceptable and indicated that their knowledge of their rights was limited.

The number of complaints reported by Roma to the Office of the Ombudsman for Ethnic Discrimination appeared to increase in 2003; most were related to poor treatment by government authorities and refusal of entry to restaurants or stores.

*Indigenous People.*—There were between 17,000 and 20,000 Sami (formerly known as Lapps and officially recognized in 2000 as a national minority) in the country. In March, the U.N. Committee on the Elimination of All Forms of Racial Discrimination criticized the Government for its failure to address Sami rights to land. In May, an EU human rights report reiterated the main points of the U.N. Committee's findings and criticized the Government for not having resolved issues surrounding the Sami rights to both land and water. During the last few years, reports to the Ombudsman Against Ethnic Discrimination have primarily come from Sami not belonging to a Sami village, since they do not enjoy the same hunting and fishing entitlements as Sami belonging to Sami villages. In 2003, there was a case of a Sami man, who was denied shared custody of his child on the grounds of his lifestyle as a reindeer herder.

The Sami Parliament acted as an advisory body to the Government. During the year, the Government funded and began construction on a national information center for Sami issues.

*Other Societal Abuses and Discrimination.*—Societal violence and discrimination against homosexuals was a problem. In 2003, 326 crimes with homophobic motive were reported to the police, a sizable increase from 2002.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law entitles workers to form and join unions of their choice, and workers exercised this right in practice. Approximately 80 percent of the workforce was unionized.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice. The law provides for the right to strike, as well as for employers to organize and to conduct lockouts, and workers exercised this right in practice. Within limits protecting the public's immediate health and security, public employees also enjoy the right to strike. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law permits full-time employment at age 16 under the supervision of local authorities. Employees under age 18 may work only during the daytime and under supervision. Children as young as 13 years may work part-time or in “light” work with parental permission. Union representatives, police, and public prosecutors effectively enforced these restrictions.

*e. Acceptable Conditions of Work.*—There is no national minimum wage law. Wages were set by collective bargaining contracts every year, which nonunion establishments usually observed as well. Even the lowest-paid workers were able to maintain a decent standard of living for themselves and their families through substantial benefits (such as housing or daycare support) provided by social welfare entitlement programs.

The legal standard workweek is 40 hours or less. Both the law and collective bargaining agreements regulate overtime and rest periods. The law requires a minimum period of 36 consecutive hours of rest, preferably on weekends, during a period of 7 days. The law also provides employees with a minimum 5 weeks’ paid annual leave.

Occupational health and safety rules were set by a government appointed board, the Work Environment Authority, and monitored by trained union stewards, safety ombudsmen, and, occasionally government inspectors. Safety ombudsmen have the authority to stop unsafe activity immediately and to call in an inspector. These rules were effectively enforced and work places were generally safe and healthy. In law and practice, workers could remove themselves from situations that endangered their health or safety without jeopardizing their future employment.

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## SWITZERLAND

Switzerland is a constitutional democracy with a federal structure. The bicameral Parliament elects the seven members of the Federal Council (Swiss cabinet), the highest executive body, whose presidency rotates annually. Due to the nation’s linguistic and religious diversity, the political system emphasizes local and national political consensus and grants considerable autonomy to the 26 individual cantons (states). The Parliament was elected in October 2003, allowing the Government to remain a coalition of the four major parties. A new Constitution took effect in 2000. The judiciary is independent.

The armed forces are a civilian-controlled militia based on universal military service for able-bodied males. There was virtually no standing army apart from training cadres and a few essential headquarters staff. Police duties are primarily a responsibility of the cantons, which had their own police forces that were under effective civilian control. A few members of the security forces committed isolated human rights abuses.

A highly developed free enterprise, industrial, and service economy strongly dependent on international trade allowed for a high standard of living for the country’s 7.4 million residents. After shrinking by 0.4 percent in real terms in 2003, GDP was expected to grow by 1.8 percent during the year. Despite rising unemployment, wages increased by approximately 1 percent in real terms. Inflation remained subdued at 0.8 percent.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Cantonal police were involved in at least two deaths during the year. Police occasionally used excessive force, particularly against foreigners and asylum seekers. There continued to be reports of discrimination against foreigners. Trafficking of women for prostitution continued to be a problem, which the Government took steps to address.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, cantonal police forces killed at least two persons during police interventions, a 38-year old Sri Lankan citizen in Lausanne in April and a 35-year old Turkish national in Basel in June. In both instances, police said that they acted in self defense. The Basel prosecutor’s office closed its investigation in July without bringing charges. The Lausanne investigation remained pending at year’s end.

In April, a 40-year-old Italian national died in a Zurich hospital after violently resisting police trying to arrest him for having threatened an acquaintance. The district attorney's investigation remained pending at year's end.

In December, a 24-year-old African national succumbed to the head injuries resulting from his fall from the third-floor of a center for asylum seekers in Zug canton. According to police, the rejected asylum applicant had no permission to be on the premises and fell out of a window trying to escape a night-guard check. Zug judicial authorities opened an investigation by year's end.

Judicial authorities have consistently investigated and prosecuted killings by security forces, and there were no reports of lapses during the reporting period.

The Lucerne cantonal prosecutor closed the investigation of the 2003 death of a citizen with mental disabilities without bringing charges.

In February, a court in the French town of Colmar acquitted a Basel policeman on trial for killing Michael Hercouet in 2001 just over the border in France. The Court gave credence to the defendant's assertion of wrongly believing himself on Swiss territory. The Canton of Basel had previously settled civil claims with the victim's family.

On February 23, the Federal Tribunal upheld a 3-month suspended prison sentence for negligence of a Swiss physician for his involvement in the death of a Palestinian asylum seeker, who suffocated during his forced repatriation to Egypt in 1999. However, the court rejected a related civil suit seeking financial compensation for the victim's family.

The acquittal in May 2003 of four Bernese police officials charged for their role in the violent death of Cemal Gomec in 2001 became final after both the cantonal prosecutor-general and the victim's widow withdrew their appeals.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, Amnesty International (AI) and the Swiss-based anti-racism platform "CRAN" reported during the year the occasional use of excessive force by police authorities. AI in its annual report highlighted several instances of police mistreatment of detainees, particularly foreigners and citizens of foreign origin. The cantons mentioned in particular are Geneva, Glarus, Zurich, and Bern. Whereas AI deemed the situation stable, CRAN saw police brutality and racism against blacks on the rise across the country. CRAN in particular accused Geneva police of heavy handedness, citing several alleged instances of black youths being forced to strip in public for body-cavity searches during counter-narcotic raids. The head of Geneva police confirmed that their anti-drug campaign launched in 2002 had led to a higher number of arrests among African nationals but that police had taken steps to raise human rights and cultural awareness among officers and internally investigate any instances of abuse. CRAN later issued a brochure explaining the rights of racial minorities when confronted with police violence, including appropriate police protocol. Cantonal police reaction has been positive, and some cantonal police units have expressed interest in obtaining the brochure as well.

In April, the Zurich district attorney's office halted criminal proceedings against a Zurich police officer, who in 2002 shot and seriously wounded an unarmed passerby while pursuing a burglar. The office's investigation found that the officer acted in full accordance with police regulations on the use of firearms and that a stray bullet hit the passerby. There were no further developments in the 2003 alleged police brutality case in Glarus canton. The decision of the out of canton prosecutor-general to halt the criminal investigation against the head of the Glarus criminal police has not been appealed.

There were no developments during the year in the case of Kurt von Allmen who got trapped by a police car in Zurich in 2002, causing injuries and the amputation of his leg.

In response to AI's concerns about reports of alleged police brutality against demonstrators during a G8 Conference in Evian in 2003, an independent Geneva parliamentary report published in May concluded that the police managed the spiraling violence adequately, limiting their intervention to the strict minimum.

AI also asserted that judicial investigations into instances of alleged police abuse of asylum seekers repeatedly failed to give them a fair hearing.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Prison overcrowding continued to be a cause of concern, particularly in the Cantons of Geneva, Zurich, and Bern. In July, guards at Geneva's Champs-Dollon prison complained about working conditions when the facility built for 270 inmates was housing over 450.

Male and female, juvenile and adult prisoners, and pretrial detainees and convicted criminals were held separately. In some cantonal prisons, the size of the cells fell below the 12 square meter standard as set by the European Convention on Human Rights.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, several NGOs reported that some cantonal police forces arbitrarily detained asylum seekers (see Section 2.d.).

The cantons are responsible for handling most criminal matters, and procedures vary from canton to canton. The Swiss Federal Police Office has a coordinating role and relies on the cantons for actual law enforcement. The Federal Attorney General in Bern oversees inter-cantonal and international crimes. Corruption and impunity were not problems.

In general, a suspect may not be held longer than 24 hours before being presented to a prosecutor (or investigating magistrate) who must bring formal charges or order release; however, asylum seekers and foreigners without valid documents may be held up to 96 hours without an arrest warrant. Release on personal recognizance or bail is granted unless the magistrate believes the person is dangerous or will not appear for trial. A suspect may be denied legal counsel at the time of detention but has the right to choose and contact an attorney by the time an arrest warrant is issued. In August, the Federal Criminal Court in Bellinzona confirmed that suspects detained under federal law were not entitled to legal support during the first preliminary hearing with the Federal Police. Legal counseling is allowed at a later stage when the suspects meet the investigative magistrate.

However, AI and refugee NGOs complained that detained asylum seekers were often effectively denied proper legal representation because they lacked the financial means to obtain legal counseling and, unless they are held for serious criminal offenses, the law does not provide for free legal assistance. The state provides free legal assistance for indigents who may be jailed pending trial.

Access to family members can be restricted to prevent tampering with evidence, but law enforcement authorities are obligated to promptly inform close relatives.

Investigations generally were prompt; however, in some cases investigative detention may exceed the length of sentence. Any lengthy detention is subject to review by higher judicial authorities. During the year, approximately one-third of all prisoners were in pretrial detention, and the average length of such detention was 50 days.

In the wake of a few much-publicized rape/murder cases by repeat offenders on furlough during the 1990s, on February 8, the electorate adopted a popular initiative demanding the incarceration for life without possibility of parole for sexual or violent offenders diagnosed as permanently untreatable. The proposition faced opposition from the Government, NGOs, and several constitutional experts who questioned its compatibility with the European Convention on Human Rights (ECHR). In September, the Justice Ministry opened public consultation on implementing proposals that purported to reconcile the demands of the popular initiative with ECHR's provision for regular judicial determination of the legality of detention. The draft legislation met with opposition from a majority of political parties, NGOs, as well as bar and medical associations.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

Courts of first instance generally are local or cantonal courts. The Federal Penal Court in Bellinzona, which became operational on April 1, is the court of first instance for criminal offenses that are under the jurisdiction of federal authorities to investigate and prosecute. Citizens have the right to appeal, ultimately to the Federal Tribunal (Supreme Court). Trials involving minor offenses are generally heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases (including murder) by a jury.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials usually were expeditious. The Constitution provides for public trials, including the right to challenge and to present witnesses or evidence.

The 2003 revised Military Penal Code (MPC) requires that war crimes or violations of the Geneva Convention be prosecuted only if the defendant has close ties with the country. Normal civilian rules of evidence and procedure apply in military trials. The MPC allows the appeal of any case, ultimately to the Military Supreme Court. In most cases, the accused used defense attorneys assigned by the courts. Any licensed attorney may serve as a military defense counselor. Under military law, the Government pays for defense costs.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

The law on telecommunication surveillance restricts wiretapping and the monitoring of e-mail to persons suspected of serious crimes. The legislation includes a list of offenses deemed serious enough to permit wiretapping, including money laundering, terrorism, and corporate crime.

Instances of forced sterilization of women continued to be the subject of public debate during the year. In December, Parliament adopted a federal law allowing sterilization only under strict conditions but rejected a proposal to pay financial compensation to victims of forced sterilizations and castrations. Such practices were used up to the 1970s primarily on young women of low social standing or with mental illnesses.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected this right in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

On July 22, a Zurich district court acquitted Frank Lubke, president of the David Centre Against Anti-Semitism in Zurich, of the charge of violating the anti-racism law. Lubke wrote an open letter to government officials and the press in November 2002 following the terrorist attacks in Mombassa, Kenya, which contained severe criticism of the Islamic religion.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

On January 24, demonstrators protesting the World Economic Forum were allegedly subjected to police violence and humiliating treatment. According to media and NGO reports, demonstrators aboard a train bound for Davos were forced to exit when police used tear gas against them. Demonstrators were later held for more than 6 hours in a nearby fenced-off area. In April, a total of 37 demonstrators filed a lawsuit against several cantonal police forces, the Swiss army, German troops, and the Graubunden canton, claiming that these parties violated their freedom of movement, used coercion, and put their lives at risk. The lawsuit remained pending at year's end.

Authorities will reassess the case of two policemen involved in an April 2003 paint ball incident that injured a WTO demonstrator despite preliminary police hearings that cleared them. In November 2003, the Geneva cantonal Government called for additional investigations, while the Geneva prosecuting authorities launched a parallel criminal investigation against a police officer for negligent bodily harm. Both investigations were pending at year's end.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There is no official state church; however, most cantons financially support at least one of three traditional denominations—Roman Catholic, Old Catholic, or Protestant—with funds collected through taxation. Each canton has its own regulations regarding the relationship between church and state.

Groups of foreign origin are free to proselytize. Foreign missionaries must obtain a religious worker visa to work in the country. Such permits were granted routinely and without bias against any particular religion. However, the Federal Office of Immigration, Integration, and Emigration in a precedent case rejected the 2003 work permit applications for two Islamic clerics that the Islamic Center in Geneva filed with local authorities. The decision was appealed to the Justice Ministry's appeals body and remained pending at year's end.

The generally amicable relationship among religions in society contributed to religious freedom. However, negative reaction to immigration, the conflict in the Middle East, and terrorist acts by Muslim extremists in foreign countries fuel intolerance in radical and populist publications and occasionally in mainstream daily newspapers. The Swiss Observatory of Religions based in Lausanne reported that anti-Islamic and anti-Semitic feelings have increased over the last decade. Although physical violence was rare, most anti-Semitic and anti-Muslim remarks have largely been fueled by extensive media reports over the Israeli Palestinian conflict, the Holocaust Assets issue, and terrorist acts by Muslim extremists in foreign countries. The few journalists that engaged in anti-Zionist rhetoric later apologized. Neverthe-

less, other xenophobic and revisionist publications exist, sometimes using Internet websites based abroad to avoid prosecution.

According to statistics gathered by the Foundation Against Racism and Anti-Semitism, the total of reported incidents against foreigners or minorities was 94 in during the year. These figures include instances of verbal and written attacks, which were much more frequent than physical assaults (*see* Section 5).

On January 27, schools across the country held a day of remembrance for victims of the Holocaust. Education authorities said the aim was to remember the Holocaust and other forms of genocide committed in the past century and raise awareness of inhumane ideologies.

In April 2003, Muslim leaders expressed fears of a “witch-hunt” against the community, following government revelations that members of half a dozen militant Muslim groups are operating secretly in the country. These fears were increased in January when police arrested eight foreign nationals suspected of links to the May 2003 terrorist attacks in Saudi Arabia.

On April 10, a Muslim shop selling religious Islamic objects in Basel was destroyed by arson. Police officials could find no reason for the crime. The investigation continued at the end of the period covered by this report.

On April 26, the Zurich lawyer and honorary chairman of the Jewish religious community, Sigi Feigel, sued the political party Europa Partei Schweiz and claimed that it sponsored newspaper advertisements comparing Israel to Nazi Germany. The party, which is not represented in Parliament, ran advertisements in the daily *Tages-Anzeiger* the day after the killing of Hamas leader Abdel Aziz Rantisi calling on the country to cut off diplomatic relations and end military cooperation with Israel. The advertisements referred to “Israel, nation of the Jews” and stated, “with the exception of the gas chambers, all the Nazi instruments are being used against (Israel’s) resident population.” The party was being charged under antiracism laws by year’s end.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights for citizens, and the Government generally respected them in practice. The Constitution prohibits forced exile, and the Government respected this right in practice. However, non-citizens convicted of crimes may receive sentences that include denial of reentry for a specific period following the completion of a prison sentence.

The Constitution provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. Foreigners seeking protection from persecution may file an asylum application at any Swiss consular office, border post, airport, or one of the four regional refugee reception centers in Switzerland. The Federal Office for Refugees (FOR) decides the merits of each individual asylum application. During the year, the FOR received a total of 14,248 asylum applications, a drop of 32 percent over the previous year. At year’s end, of the 79,374 people in the asylum process, 30 percent enjoyed refugee status, 29 percent were temporarily admitted, 22 percent were awaiting a decision on their asylum application, and 18 percent were awaiting repatriation.

The asylum law was amended to curb the misuse of asylum regulations and enable the rapid repatriation of uncooperative asylum applicants. The FOR may refuse to process the application of an asylum seeker who is unable to justify a lack of identity papers. In such cases, the rejected applicant must submit an appeal within 24 hours to stay deportation proceedings. NGOs contended that such a short time period did not constitute an effective remedy and therefore violated the ECHR. An asylum seeker may appeal a negative FOR decision of his application to the Asylum Appeals Commission (AAC), which is independent of the administration. If the AAC dismisses the appeal, the applicant must leave the country. Asylum seekers voluntarily departing before an officially set deadline may claim individual return assistance; after the deadline expires, repatriation is enforced.

In practice, the Government provided protection against the return of persons to a country where they feared persecution. The Government allowed rejected asylum seekers to stay temporarily for two reasons: The likelihood of political repression or armed conflict in their native country. However, NGOs accused the Government of expelling rejected asylum seekers in some cases when conditions in their native countries remained unfavorable. In April, Bern police authorities deported a Burmese citizen, who was immediately apprehended by local authorities and subse-

quently sentenced to a long prison sentence. The asylum application he filed in May 2003 had previously been rejected both by the FOR and the AAC.

In May, the Justice Ministry and the government of Vaud Canton agreed on a special review by the FOR of over 1,200 rejected asylum applications, mostly of refugees from former Yugoslavia who fled their homes during the 1990s. They had been living without residency permits in Vaud canton for several years, because its government did not follow federal instructions to repatriate rejected asylum applicants. In August, the FOR granted residency to more than 500 persons on grounds of personal hardship but ordered the repatriation of more than 500 individuals, causing a major controversy in the media and in the local political arena. Pressure by local politicians and NGOs forced the Federal Government to allow for a second review of the rejected applications involving cantonal officials and AI representatives, resulting in another 45 residency permits, but in December, the FOR insisted on the repatriation of more than 400 rejected applicants. AI criticized the FOR's handling of the dossiers as opaque and arbitrary.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. As part of the Budget Alleviation Program adopted in December 2003, the Government curtailed public welfare benefits and tightened deportation proceedings for rejected asylum seekers. Effective April 1, rejected asylum seekers whose application the FOR had refused to process were no longer entitled to social security benefits and could only claim minimum emergency assistance. The cantons, which are also responsible for deportation proceedings, determined and provided emergency assistance to rejected applicants, who were required to register with local immigration authorities in their designated canton in order to receive emergency assistance. However, in practice, only approximately 15 percent of rejected applicants registered with cantonal immigration authorities after April 1, reportedly because they feared detention pending their repatriation. On July 15, the Federal Tribunal unanimously ruled that the detention of rejected applicants pending their repatriation did not violate the ECHR.

In November, two cantonal courts made conflicting rulings on the eligibility for government emergency assistance of rejected asylum applicants who refuse to cooperate with authorities in their repatriation to their countries of origin. In Bern, the Administrative Court ruled that obstructive behavior was insufficient to deny the constitutional right to emergency assistance, but in Solothurn canton the Administrative Court in a similar case held that denying emergency assistance was legitimate to induce cooperation. However, on December 23, the Federal Tribunal ordered Solothurn cantonal authorities to keep providing emergency assistance pending a thorough Federal Tribunal ruling in the case.

In a special session in May, the lower house began parliamentary debate of a controversial new amendment to the asylum law. The draft bill had already been partly overtaken by the tightened asylum regulations passed by Parliament in 2003. In July, in stark contrast to the established legislative process, the Justice Ministry introduced a set of additional changes to the ongoing revision of the asylum law, which the UNHCR sharply criticized and which provoked a public outcry by church, refugee, and humanitarian aid organizations. On August 25, the Cabinet adopted most of the proposed changes, which are expected to be submitted to the upper house for parliamentary debate in 2005.

The Government also provided temporary protection to 23,407 individuals who may not qualify as refugees under the 1951 Convention/1967 protocol. The 1999 amendment of the asylum law provides for the collective admission of victims of violence and authorizes the Cabinet to grant them temporary protective status.

The FOR used a list of approximately 40 "safe countries" of origin, the nationals of which did not enjoy refugee status. NGOs criticized the list as arbitrary because the Government did not publicly justify the listings and because they deemed the human rights record and the political situation in some of the listed countries unstable.

NGOs reported that police used excessive force against asylum seekers (*see* Section 1.c.).

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Initiative and referendum procedures provide unusually intense popular involvement in the legislative process. In October 2003, in a fair and free election, the electorate chose a new federal parliament. Parties and candidates could nominate themselves freely.

Government information was available freely to all persons living in the country, including foreign media. There is no specific transparency law, but the Constitution requires that the Government inform the public on its activities. In December, Parliament adopted a new transparency law providing for public access to government documents.

There were 61 women in the 246-seat Federal Parliament and 1 woman in the 7-seat Federal Cabinet. At the cantonal level, the proportion of women representatives in legislatures has remained steady at around 24 percent in recent years. Women held approximately one-fifth of the seats in cantonal executive bodies.

There were three francophone members in the Federal Cabinet, and the representation of linguistic minorities in Parliament reflected their percentage of the population. A 2004 study commissioned by a minority lobby group regretted the diminishing importance of French and Italian in federal political bodies and the decreasing number of linguistic minorities among senior governmental management.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

In major cities such as Zurich, Bern, and Basel, as well as in some cantons, an ombudsman heard citizens' complaints about wrongful government action. Not every ombudsman could proactively investigate alleged abuses of government authority but all accepted complaints from third parties. No ombudsman exists at the federal level.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and legislation prohibit discrimination on the basis of race, sex, language, or social status, and the Government generally enforced these prohibitions effectively, although some laws discriminate against women. The Constitution includes provisions for equal rights for persons with disabilities and for minorities.

*Women.*—Violence against women was a problem. The law prohibits domestic violence but does not differentiate between acts committed against men and women. In its Annual Report, AI estimated that approximately 40 women died every year in the country as a result of violence suffered at home. A 1997 survey showed that one in five women age 20 to 60 suffered some form of domestic violence at least once in their lifetime.

Spousal rape is a crime. Prosecuting spousal abuse is a matter for the cantons, and statistical evidence remains uneven. Data from Zurich canton show that in 2003, police recorded 858 instances of domestic violence, 259 of which were repeat offenders. Police made 273 arrests, 13 on suspicion of spousal rape.

Victims of domestic violence may obtain help, counseling, and legal assistance from specialized government and NGO agencies, or from nearly a dozen hotlines sponsored privately or by local, cantonal, and national authorities. There were 1,375 women and children in 17 women's shelters across the country during 2003, but the shelter's operators estimated that nearly as many were denied access due to a lack of space and limited funding. There was a special unit dealing with domestic violence in the Interior Ministry's Federal Office for the Equality between Women and Men. The Crime Prevention Center, a planning unit of the umbrella organization of cantonal police forces, has established a best-practices checklist for police interventions and most cantonal police forces had specially trained domestic violence units. A majority of cantons also had special administrative units coordinating between law enforcement, prosecuting, and victim assistance bodies.

Since April 1, the Penal Code makes grievous forms of domestic violence, including repeated aggression, assault, threat, sexual assault and rape, a statutory offense. In six cantons—Appenzell, Bern, Lucerne, Neuchatel, Sankt Gallen, and Uri—police have the authority to temporarily ban abusive men from reentering the family premises. A study released during the year showed 10 percent of women polled suffered from physical violence in the previous 12 month.

Prostitution is legal for citizens and foreigners with valid work permits if the practitioners comply with taxation and other cantonal requirements. However, street prostitution remains illegal, except in certain areas specifically designated by local authorities. Every major city has such designated areas. The Penal Code criminalizes sexual exploitation and trafficking in women; however, trafficking in women remained a problem (*see* Section 5, Trafficking).

Forced sterilization of women was a concern (*see* Section 1.f.).

Sexual harassment in the workplace occurred but was limited. The law includes provisions aimed at eliminating sexual harassment and facilitating access to legal remedies for those who claim discrimination or harassment in the workplace. Sexual offenders face a fine or a prison sentence up to 10 years. Employers failing to implement the law face a maximum fine of \$32,000 (40,000 Swiss francs) or a 6-month prison sentence. Sexual harassment victims are protected against retaliatory dismissals. They can choose to be reinstated in their job position or file for 6-month salary compensation. Such criminal procedures only work if the complaint is filed before the end of dismissal period.

Although the Constitution prohibits all types of discrimination, and the law provides for equal rights, equal treatment, and equivalent wages for men and women, some laws continued to discriminate against women. A federal marriage law provides that in the event of a divorce, assets accumulated during the marriage will be divided equally; however, the Federal Tribunal ruled that the primary wage earner must be left with sufficient income to remain above the poverty level. Since the man was the primary wage earner in most marriages, when the income was too low to support both parties, it was usually the wife (and children) who was forced to survive on public assistance.

Immigrant women, who married Swiss husbands, but lived in the country for less than 5 years, risked deportation if they divorced their spouses. The 5-year residency requirement could be reduced to 3 years under exceptional circumstances. NGOs argued that this prevented women with marital problems from seeking help or leaving their husbands without incurring serious consequences. Police in different cantons considered factors such as the country of origin, education, and income levels of the immigrant women when deciding consequences.

The law includes a general prohibition on gender-based discrimination and incorporates the principle of equal wages for equal work; however, professional differences between men and women were evident. Women less often occupied jobs with significant responsibilities, and women's professional stature overall was lower than men's. Women also were promoted less than men and employers were less likely to pay women for training. According to a government study, women's gross salaries were 21 percent lower than men's in 2002. In July, the Government announced that in order to fight wage inequality it would start checking if its contractors paid equal wages for equal work. Companies in violation of the law risk an \$81,000 (100,000 Swiss francs) fine or losing their government procurement contract.

The labor law prohibits women from working in the first 8 weeks after giving birth, but no federal provision for maternity leave exists. The law does not provide for compensation; however, between 70 and 80 percent of working women have negotiated maternity benefits with their employers. Many private sector and most public sector employers voluntarily granted new mothers a paid leave of absence, commonly between 3 and 16 weeks. On September 26, the electorate in a national referendum approved new legislation granting working mothers a paid 14 week maternity leave at 80 percent of their salaries.

The Federal Office for Equality Between Women and Men (EBG) and the Federal Commission on Women worked to eliminate all forms of direct and indirect discrimination. A federal level interdepartmental working group continued to implement a 1999 action plan to improve the situation of women that includes measures that address poverty, decision-making, education, health, violence against women, the economy, human rights, the media, and the environment. To achieve its mission, the EGB allocated \$3.3 million (4.1 million Swiss francs) to different projects promoting gender equality. The office employed approximately 20 persons during the year.

Many cantons and some large cities have equality services mandated to handle gender issues. More than half of the cantons have an office in charge of promoting equality, but funding and personnel levels remained uneven. The majority of the cantons had commissions that reported to the cantonal Government.

*Children.*—The Government has no special programs for children, and there is no special Governmental office for children's matters; however, the Government was strongly committed to children's rights and welfare. It amply funded a system of public education and need-based subsidies of health insurance. Education was free and compulsory for 9 years, from age 6 or 7 through age 16 or 17, depending on the canton. Some cantons offered a 10th school year. Almost all children attended school.

There was some abuse of children, although there was no societal pattern of such abuse. The federal and cantonal governments, as well as approximately 80 NGOs that defend children's rights, have devoted considerable attention in the last few years to child abuse, particularly sexual abuse. For convicted child sexual abusers, the law provides for imprisonment of up to 15 years. The statute of limitations is

15 years. In cases of severe sexual abuse, the statute does not take effect before the victim turns 25. If a court of first instance hands down a sentence before the stipulated time, the statute of limitations is suspended indefinitely.

Since January, the Swiss Conference of Cantonal Ministers of Education, the national umbrella organization of cantonal education ministries, has kept a registry of schoolteachers who had their cantonal teaching license revoked in an effort to prevent them from finding new teaching positions in another canton. The blacklist is subject to local data protection requirements and does not record the reason why a license was revoked. However, some cantons decided not to submit information on revoked teaching licenses to the national registry.

With respect to the prosecution of child sexual abuse abroad, the law provides for prosecution in Switzerland only if the act is considered a crime in the country in which it took place. The 2003 revisions of the Penal Code will not take effect until the cantons implement the changes into cantonal law.

Under the law, the production, possession, distribution, or downloading from the Internet of hardcore pornography involving children, animals, or violence carries heavy fines or a maximum sentence of 1 year in prison. However, viewing child pornography on the Internet is not a criminal offence. Police in September arrested eight persons suspected of child molestation and production of child pornographic material. As part of a worldwide investigation, police searched more than 400 homes and examined more than 100,000 photo and video files. The raid was the biggest operation against child pornography on the Internet since the 2002 operation "Genesis," which led to the investigation of more than 1,000 persons. As part of Genesis, Bern judicial authorities sentenced 14 persons to suspended prison terms and fined 54 individuals between \$400 and \$6,400 (500 and 8,000 Swiss francs). In Zurich, 124 persons were fined between several hundred and a few thousand Swiss francs.

In an effort to combat child pornography on the Internet more effectively, the Federal Police established in 2003 the Internet watch body Cycos, which takes tips from the public and actively searches the Internet for suspicious content. According to police, Cycos handled approximately 500 complaints per month. The police were able to take off certain content from some sites but failed to shut down any offending website.

Children of migrant seasonal workers were not permitted automatically to join their parents. Children of foreigners who worked as migrant laborers only were permitted to visit on tourist visas for a period of 3 months at a time. After 3 months, they must return to their home country for 1 month.

*Trafficking in Persons.*—The law prohibits sexual exploitation and trafficking in persons; however, some women were trafficked into the country and forced into prostitution or domestic servitude.

Trafficking in persons can carry a prison sentence of up to 20 years and coercing a person into prostitution is punishable with up to 10 years in prison. In 2002, the Federal Tribunal decided that hiring women, even consenting women, from abroad to engage in prostitution qualified as human trafficking if their abusers exploited a situation of distress. The prosecution of illegal prostitution and trafficking in persons normally falls under the authority of the cantons; cases linked to organized crime are under the jurisdiction of the federal agencies. In 2003, authorities made 12 convictions for human trafficking and forced prostitution. The Coordination Unit against the Trafficking in Persons and Smuggling of Migrants, which is tied to the Federal Office of Police (BAP), coordinates and monitors all Swiss anti-trafficking efforts, including a federal interagency task force. In addition, the BAP has two anti-trafficking subsections, one within the international cooperation and investigation division and the other tied to the domestic intelligence division. Swiss authorities were active in international law enforcement activities and took the lead in coordinating several international trafficking investigations.

Switzerland is primarily a country of destination, and secondarily transit, for women trafficked for the purposes of sexual exploitation and domestic servitude. Federal police estimated that between 1,500 and 3,000 potential victims of human trafficking were in the country. However, since Swiss federalism dictates that alien registration and enforcement be handled at the cantonal level, there were few reliable statistics on the extent of the trafficking problem. According to authorities, most persons trafficked originated in Thailand, parts of Africa, or South America. An increasing number of trafficked women arrived from Eastern Europe, particularly Hungary, Russia, Ukraine, or other states of the former Soviet Union. Police figures indicated that approximately 14,000 prostitutes worked in the country both legally and illegally. More than half worked in Basel, Bern, Zurich, Lucerne, Geneva, and Ticino.

Traffickers often forced victims into prostitution and in many cases subjected them to physical and sexual violence, threatened them or their families, encouraged drug addiction, withheld their documents, and incarcerated them. Many victims were forced to work in salons or clubs to pay for travel expenses and forged documents and found themselves dependent on the traffickers. Generally the victims were unable to read, write, or speak the country's languages and were afraid to seek help from the authorities.

Since the mid-1990s, a growing number of salons and clubs have appeared in which women registered as artists engaged in illegal prostitution. Authorities suspected that traffickers were bringing some of these "artists" into the country. Police monitoring was difficult because artist visas (also called the "L" residency permits, which is only valid for 8 months) include an allowance for a short work period during which individuals may engage in some form of self-employed activity. According to the Chief of the Geneva vice squad, police had no legal means of preventing cabaret dancers from prostituting themselves after work hours but tried to prevent physical abuses against prostitutes. Smaller prostitution networks also existed and often involved relatives of foreign families established in the country, or members of the same ethnic groups.

Trafficking victims may seek help from centers providing shelter, counseling, legal assistance, and medical aid. In 2003, these centers assisted 64 victims. Federal and cantonal governments continued to provide funding to NGOs and women's shelters, and authorities may grant temporary residency permits on a case by case basis to victims willing to testify in court. In cases of serious hardship, a federal ordinance allows cantonal police to grant a residency permit to victims of sexual exploitation or forced labor. In August, the Federal Office of Immigration, Integration and Emigration, sent to all cantonal immigration authorities a set of guidelines on offering temporary residency status to trafficking victims in order to make this process both more transparent and in accord. Despite the range of protections, NGOs alleged that some potential trafficking victims were not recognized as such and repatriated to their country of origin without due respect for the safeguards under the law.

The federal police and immigration authorities encouraged cantonal authorities to them to take a more tolerant approach toward delaying deportation to allow for victim counseling and an increased likelihood that victims may testify against traffickers. NGOs and authorities in Zurich have worked together to improve the protection and security of victims by regulating the procedures for identifying and referring victims for assistance. Efforts to establish a binding "code of cooperation" failed. Efforts to strengthen cooperation between NGOs and local authorities were also underway in other cities, such were Bern, Basel, and Lucerne at year's end.

The law safeguards victims' rights in criminal prosecutions with special rules for trial procedures and for compensation and redress. Trafficking victims who testified enjoyed special protection of their identity and could request the trial to take place behind closed doors and a confrontation with the defendant avoided.

The Government funded several anti-trafficking information and education campaigns in Eastern Europe, the former Soviet Union, Asia, and South America. The Government also continued to partially fund the Women's Information Center, a victim assistance NGO, that has established an international network of contacts for victim repatriation and distributes trafficking information in origin countries. The Swiss embassy in Moscow has tightened visa processing and, together with a local NGO, has implemented awareness raising seminars for its staff, which have been replicated at Swiss embassies in Kiev and Bogota. Consular officials routinely undergo trafficking-awareness raising programs before being posted abroad.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and it was generally enforced. Since January 1, the law mandates access to public buildings and government services for persons with disabilities, and the Government generally enforced these provisions in practice. The new Federal Equal Opportunity Office for Disabled People promoted awareness of the law but had no formal mandate to monitor cantonal enforcement. The office had a staff of two and disposed of an annual budget of \$805,000 (1 million Swiss francs), of which \$282,000 (350,000 Swiss francs) was earmarked for nationwide projects. According to the NGO Equality Handicap, most complaints of discrimination concerned labor issues, education, and access to public buildings.

During the year, the Swiss National Science Foundation published a study revealing that one in five disabled persons lived near or below the poverty level, was often alone, and relied on help from outsiders. Another survey on labor market integration found that persons with disabilities held approximately one percent of job posi-

tions; however, companies had only limited knowledge of available government compensatory schemes.

*National/Racial/Ethnic Minorities.*—According to statistics gathered by the Foundation Against Racism and Anti-Semitism, the total number of reported incidents directed against foreigners or minorities was 94 during the year. These figures included instances of verbal and written attacks, which were much more common than physical assaults. Investigations of such attacks generally were conducted effectively and led, in most cases, to the arrest of the persons responsible. Persons convicted of racist crimes commonly were sentenced to between 3 days and 3 years imprisonment and a fine of up to \$32,000 (40,000 Swiss francs). Between 1995 and 2002, the authorities opened 218 criminal proceedings under anti-racism legislation, 95 of which ended in a first instance conviction. In 2002, 9 persons were convicted of racial discrimination.

During the year, neo-Nazi, skinhead, and other extremist organizations continued to attract police and Government attention because of such groups' organization at international levels, the violence they commit, and the youth of the group members. However, a Federal Police report published in August concluded that extremist groups posed no real threat to domestic security even if such groups have repeatedly engaged in minor assaults and vandalism at the local level. Although the number of right-wing extremists has risen to approximately 1,000 over the last few years, the report deemed the potential for violence emanating from left-wing extremist groups as considerably higher.

The number of incidents involving skinheads decreased from approximately 120 incidents in 2002 to about 100 in 2003. These incidents involved more violence and were more frequently directed against foreigners rather than property.

In March, a Bern district court sentenced the three neo-Nazis accused of killing 19-year-old Marcel von Allmen in 2001. The main culprit was sentenced to life in prison for homicide and the two accomplices received 16-year prison terms. The fourth defendant involved in the killing has already been tried and sentenced as a juvenile.

There were a few reported cases during the year of violent confrontations between skinheads and young foreigners. The night of August 14/15, approximately 100 skinheads and young foreigners clashed in the town of Olten, leaving at least 8 persons injured.

The Anti-Racism Law criminalizes racist or anti-Semitic expression, whether in public speech or in printed material. On May 27, the Federal Tribunal further delineated the scope of the law by broadly defining public as opposed to private speech. The court ruled that a 1999 Nazi propagandist lecture held before a skinhead gathering that was closed to the public constituted public speech because the speaker was not personally familiar with the listeners. The Court thus blunted a common ploy among right-wing activists to organize by-invitation-only events to circumvent the public speech clause of the anti-racism legislation. Henceforth, all racist speech that could be heard by third parties, with no personal bonds to the speaker, is considered public and therefore punishable under the law.

On September 7, the Muslim community in the country and the Federal Commission against Racism condemned a controversial advertisement about Muslim birth rates run by a group close to the rightwing Swiss People's Party (SVP). Its publication appeared less than 3 weeks before the country was due to vote on easing restrictions on citizenship for second- and third generation foreigners. Using extrapolated figures on the Muslim population trends in the country, the publication suggested that the number of Muslims in the country would double every 10 years, making up 72 percent of the population by 2040. While the SVP denied responsibility and funding, its president and many members welcomed the advertisement. While the Muslim community dropped the idea of lodging formal complaint, a Bern lawyer filed a lawsuit against the promoters for racial discrimination. Several legal experts expressed opposing views about the advertisement's legality.

The Department of the Interior's Federal Service for the Combating of Racism, which began operation in 2001, manages the Federal Government's "Fund Projects against Racism and for Human Rights" with a budget of \$12.1 million (15 million Swiss francs) for the 2001 to 2005 period. An annual budget of \$403,000 (500,000 Swiss francs) has been earmarked for the establishment of new local consultation centers to assist victims of racial or religious discrimination. Approximately 130 consultation centers or contact points existed in the country. In addition, the Federal Service for the Combating of Racism sponsored a variety of educational and awareness-building projects to combat racism, xenophobia, and anti-Semitism. Over \$805,000 (1 million Swiss francs) was spent to support youth projects.

Victims of racial discrimination may appeal a national court ruling either to the ECHR or the U.N. Committee on the Elimination of Racial Discrimination (CERD). Cases must first be litigated before national courts. Citizens have the choice of appealing a national court ruling to either the CERD or the ECHR but may not appeal a U.N. decision to the ECHR or vice versa.

In January, the European Commission against Racism and Intolerance in its third report on Switzerland stated that the 2003 federal law on itinerant trade, which replaced the numerous different cantonal regulations and provides for a 5-year trade permit valid for the entire country, improved the situation for traveling Jenish; however, the report also held that the provision of sufficient permanent and transit stopping places for travelers remained a cause of concern.

In July 2003, the Federal Tribunal ruled that cantonal practices of holding secret ballots to decide individual applications for citizenship were unconstitutional. In two separate unanimous rulings, the court decided that naturalization decisions must be neither arbitrary nor discriminatory, nor included secret balloting. The two rulings triggered a national debate. As a consequence, the six cantons concerned have discontinued the practice of secret balloting, and examining bodies of citizenship applications across the country are now obliged to justify a rejection. The rulings produced some confusion, as the Federal Tribunal did not rule on the constitutionality of town hall meetings deciding citizenship applications by a show of hands, a common practice. On September 26, the electorate in a national referendum rejected two constitutional amendments to facilitate the naturalization of second-generation immigrants and automatically grant citizenship to the third-generation. The number of Swiss naturalizations fell slightly from 36,500 in 2002 to 35,400 in 2003.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows all workers, including foreigners, to associate freely, form and join unions of their choice, and to select their own representatives, and workers exercised these rights in practice. Unions operated independently of the Government and political parties. Approximately 25 percent of the work force was unionized.

The law protects workers from acts of antiunion discrimination, and the Government generally respected this provision in practice. In May 2003, the Swiss Trade Union Council (STUC) filed a complaint with the International Labour Organisation (ILO) arguing that legal provisions for abusive dismissals do not sufficiently protect activists from antiunion discrimination. The law provides for a maximum compensation of six months' worth of wages but not for reinstatement. On March 31, the Government asked the ILO to dismiss the STUC complaint on the grounds that Swiss legislation was fully compliant with the relevant ILO Convention. An ILO decision remained pending at year's end.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the freedom to organize and bargain collectively, and unions exercised these rights in practice. Periodic negotiations between employer organizations and unions determine wages and settle other labor issues at the local, regional, or, infrequently, at the industry level. Roughly half of the entire work force is covered by such collective labor agreements.

Non-syndicated firms generally abided by the terms of their industries' collective labor agreement. The Government has the authority to declare a voluntary collective labor agreement binding if employer organizations and unions representing a majority of firms and workers in a given industry jointly demand it. With the gradual opening of the labor market to workers from the EU ending the preferential treatment of Swiss workers, effective June 1, the quorum to declare a voluntary collective labor agreement binding was lowered to 30 percent of employers and 30 percent of employment contracts. The Federal Government and the 26 cantons have each set up special committees, comprising the Government, employer associations, and unions, to monitor the labor market and prevent dumping practices by EU firms or workers.

The Constitution provides for the right to strike, and workers exercised this right in practice. The Government is allowed to curtail the right to strike of federal public servants only for reasons of national security or safeguarding foreign policy interests, but public servants were still denied the right to strike in some cantons and many communes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, prohibiting forced or compulsory labor and setting acceptable working conditions, and the Government effectively enforced these provisions in practice.

The minimum age for the full-time employment is 15 years, and children generally remained in school until this age. Children over 13 years of age may be employed in light duties for not more than 9 hours per week during the school year and 15 hours otherwise. The employment of youths between the ages of 15 and 20 was regulated strictly; they were not allowed to work at night, on Sundays, or in hazardous or dangerous conditions.

The Economic Ministry (SECO) monitors the implementation of child labor policies but actual enforcement is the responsibility of the cantonal labor inspectorates; government officials inspected companies allegedly violating the law.

*e. Acceptable Conditions of Work.*—There was no national minimum wage, which resulted in low wage structures for unskilled and service industry workers; however, some of the voluntary collective labor agreements contain clauses on minimum compensation.

The law sets a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The law prescribes a rest period of 35 consecutive hours plus an additional half-day per week. Annual overtime is limited by law to 170 hours for those working 45 hours per week and to 140 hours for those working 50 hours per week. The Government effectively enforced these regulations.

The Labor Act and the Accident Insurance Act contain extensive regulations to protect worker health and safety. SECO and cantonal labor inspectorates held responsibility for their implementation. There were no reports of lapses in the enforcement of these regulations. Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment.

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## TAJIKISTAN

Tajikistan is ruled by an authoritarian government, which has established some democratic institutions such as, a constitution and a multiparty political system that includes legally registered opposition parties. President Emomali Rahmonov and an inner circle of loyal supporters continued to dominate the Government. Parliamentary elections in February 2000 were neither free nor fair. The Constitution provides for an independent judiciary; however, it was subjected to political pressure from the executive branch, and corruption was a serious problem.

Stability throughout the country continued to increase, as it has each year since the end of the country's 5-year civil war in 1997. The Ministries of Interior, Security, and Defense share responsibility for public order, internal security, and intelligence. The security forces are under full control of the Government and report to the President. Members of the security forces committed serious human rights abuses, including torture, during interrogation.

The economy was in transition from a state-controlled system to a market-based one. The country's population was approximately 6.5 million. Most of the work force was engaged in agriculture, which remained partly collectivized. The country remained extremely poor. Despite 7 years of sustained economic growth, an estimated 57 percent of the population lived below the poverty line. Per capita gross national product was approximately \$180, and gross domestic product grew approximately 7 percent during the year. The official unemployment rate was 10 percent; however, international organizations active in country estimated that the actual unemployment rate was approximately 34 percent. Narcotics trafficking through the country and pervasive corruption throughout society continued to be serious problems. The combination of the two exacerbated income disparities between the majority of the population and a small number of former pro-government and opposition warlords who controlled many of the legal, and most of the criminal, sectors of the economy.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Citizens' right to change their government remained restricted. Security forces tortured, beat, and abused detainees and other persons and were also responsible for threats, extortion, and abuse of civilians. Prison conditions remained harsh and life threatening. A few prisoners died of hunger. From January until September, the International Committee of the Red Cross (ICRC) had access to prisons controlled by the Ministry of

Justice (MOJ). At year's end, the ICRC was negotiating with the MOJ to regain access to all prisons.

Impunity and lengthy pretrial detention remained problems. Authorities used torture to obtain confessions, which were routinely accepted as evidence in trials without qualification. The Government continued to restrict freedom of speech and freedom of the press. Journalists practiced self-censorship to avoid problems with the authorities, and there were some instances of violence against journalists by unidentified persons. There were some restrictions on freedom of religion, primarily for women, and the government arrested persons alleged to be members of a banned extremist Islamist political organization. The Government continued to deny the registration of two opposition political parties amid allegations that authorities made politically motivated arrests. Some international democracy, nongovernmental organizations (NGOs) faced government harassment and registration problems. Violence and discrimination against women, and trafficking in persons remained problems. Trafficking in women and children was a serious problem, which the Government took significant steps to address. Child labor was a problem, and there were some instances of forced labor, including children.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Unlike the previous year, there was no significant progress in investigating political killings that occurred during the 1992–97 civil war and more recent killings linked to the war (*see* Section 1.d.). Local and international observers questioned the objectivity of ongoing investigations by a special Ministry of Interior unit into killings that occurred during the civil war.

Unlike 2003, no deaths were reported due to land mines in the Karetegin Valley, where both the Government and the opposition had laid land mines during the civil war. During the year, the Government completed demining of the valley. However, there were some reported land mine deaths on the Tajik-Uzbek border. The Government has made demining the area a priority and, to prevent additional Tajik deaths and casualties, worked with international organizations during the year to remove land mines along the border that were laid by Uzbekistan.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that government security officials employed them.

Torture occurred during the year, though to a lesser extent than in 2003. Security officials, particularly from the Ministry of Interior (MOI), continued to use systematic beatings to extort confessions, torture, sexual abuse, and electric shock during interrogations. During the year, several persons alleged to be members of Hizb ut-Tahrir, an extremist Islamist political organization, and members of their families claimed that they were tortured and beaten while in police custody (*see* Sections 1.d. and 2.b.). One person said the beating resulted in permanent hearing loss.

Beatings and mistreatment were also common in pretrial detention facilities, and the Government took minimal action against those responsible for the abuses (*see* Section 1.d.). In May 2003, following the arrest and detention of Shamsiddin Shamsiddinov, deputy chair of the opposition Islamic Revival Party of Tajikistan (IRP), authorities allegedly beat him and used electric shock torture (*see* Section 1.e.).

In the southern regions of the country, citizens made numerous complaints of harassment and abuse committed by some border guards who were involved in drug trafficking. Afghan refugees also alleged continued harassment and mistreatment by law enforcement authorities (*see* Section 2.d.).

In July 2003, according to two international human rights groups, nine high-ranking police and Interior Ministry officials in Sughd Province were convicted of using torture to force confessions from falsely accused suspects. They were sentenced to 3 to 7 years in jail.

Prison conditions remained harsh and life threatening for an estimated 7,000 to 10,000 incarcerated persons. Prisons were generally overcrowded, unsanitary, and disease-ridden. The spread of tuberculosis was a serious problem, and there were reports that a few prisoners died of hunger. According to the law, family members were allowed access to prisoners only after indictment. However, family members of prisoners sentenced to death were neither told the date of the execution nor al-

lowed access to the prisoner's effects until the sentence was carried out. On May 10, President Rahmonov signed a moratorium on the death penalty.

There was one prison that held only former members of so-called "power ministries," such as the police, intelligence and secret officers, and the military. Men and women were held separately, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners.

From January to September, the ICRC was allowed access to prisons controlled by the MOJ, including pretrial detention centers. At year's end, the ICRC and the MOJ were in negotiations to regain access to all of the MOJ's prisons. During the year, local NGOs also made prison visits on behalf of the Organization for Security and Co-operation in Europe (OSCE); however, the NGO visitors submitted to Government conditions.

*d. Arbitrary Arrest or Detention.*—Arbitrary arrest and detention remained serious problems. The law, which is an amended holdover from the Soviet era, allows for lengthy pretrial detention, and there are few checks on the power of prosecutors and police to make arrests.

Impunity remained a serious problem, and officers who committed abuses were rarely prosecuted. The Government acknowledged that police and security forces were corrupt and that most citizens who were abused chose to remain silent rather than risk retaliation by authorities.

The Ministries of Interior, Security, and Defense shared responsibility for internal security. The Ministry of Interior is primarily responsible for public order, the Ministry of Security has responsibility for intelligence, and the Ministry of Defense is responsible for military security.

Police may detain persons without a warrant for up to 72 hours. Prosecutors are empowered to detain persons for 10 days, after which time charges must be filed, and this was generally followed in practice. Following indictment, the law allows for pretrial detention of up to 15 months. The first 3 months of detention are at the discretion of a local prosecutor; the next 3 months must be approved at the regional level. The Prosecutor General must approve longer periods of detention, and the Government generally followed this in practice.

All investigations must be completed 1 month before the 15th month of detention to allow time for the defense to examine government evidence. There is no requirement for judicial approval or for a preliminary judicial hearing on the charge or detention. There is no bail system; however, in criminal cases detainees may be conditionally released and restricted to their place of residence pending trial. Officials occasionally denied attorneys and family members access to detainees. At year's end, many of the persons detained during the year were held incommunicado for long periods of time and remained in police custody without being charged.

In most cases, security officers, principally from the MOI and the Ministry of Security, did not obtain arrest warrants and did not bring charges within the time specified by the law. Persons released from detention often claimed that they were mistreated, beaten, and tortured (*see* Section 1.c.).

During the year, authorities made politically motivated arrests. For example, on August 27, a deputy chairman of the Progress Party of Tajikistan was arrested for libeling the President, and there were reports that the Government illegally detained other members of rival political factions.

According to media reports, approximately 70 members of Hizb ut-Tahrir (Party of Islamic Liberation) were arrested during the year. Of that number, about 50 were sentenced in connection with crimes related to their membership in the banned extremist political organization, which calls for the overthrow of secular governments and establishment of a theocratic Islamic state or Caliphate throughout the Muslim world (*see* Sections 1.c. and 2.b.).

In 2003, authorities arrested and charged a number of persons for crimes committed against journalists during the civil war. They remained in detention together with other detainees who had not been formally charged. Some of the detainees were held incommunicado.

Muhummadruzi Iskandarov, head of the Democratic Party of Tajikistan, was detained in Moscow on December 9th at the request of the Tajik Prosecutor General's office. He was detained on multiple charges, some of which may be politically motivated.

There was no reliable estimate of the number of political detainees because until recently, the law precluded visits to pretrial detention centers operated by the authorities.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, courts and judges were subject to political pressure from the executive branch and criminal networks, and corruption and inefficiency were problems.

Problems with judicial integrity continued; however, during the year, the Government took steps to improve the overall situation and to address problems by holding judges accountable and by arresting some of the most corrupt judges and prosecutors. In October, a deputy prosecutor and three judges were convicted of corruption.

The President is empowered to appoint and dismiss judges and prosecutors with the consent of Parliament. Judges at the local, regional, and national level were generally poorly trained, lacked understanding of the concept of an independent judiciary, and had extremely poor access to legal reference materials and other resources. Low wages for judges and prosecutors left them vulnerable to bribery, which remained a common practice.

The Government took steps to improve the quality of judges and used written and oral examinations to screen out unqualified candidates. In addition, the Council of Justice began a judicial training program to improve technical knowledge of the judicial sector.

The judicial system is composed of city, district, regional, and national courts, and there are parallel economic and military court systems. Higher courts serve as appellate courts for lower ones. There also is a Constitutional Court that reviews citizens' claims of constitutional violations. The law provides for the right to appeal; however, there were few reports of appeals because citizens generally did not trust the court system.

Trials are public, and juries are used, except in cases involving national security or the protection of minors. The law stipulates that a case must be brought before a judge within 28 days after it is entered for trial; however, most cases were delayed for months at a time (*see* Section 1.d.). Under the law, courts appoint attorneys at public expense; however, in practice, arrested persons often were denied timely access to an attorney, and some were not allowed access to any legal counsel.

Prosecutors are responsible for conducting all investigations of alleged criminal conduct. According to the law, both defendant and attorney have the right to review all government evidence, to confront witnesses, and to present evidence and testimony. No groups are barred from testifying, and, in principle, all testimony is given equal consideration.

MOJ officials maintained that defendants benefit from the presumption of innocence, despite an unmodified Soviet-era statute that presumes guilt rather than innocence. In practice, an indictment implied that the Government was convinced of a suspect's guilt, and Government officials routinely made public, pretrial statements proclaiming a suspect's guilt.

Law enforcement officials often used torture and beatings to coerce evidence, including confessions to obtain an admission of guilt (*see* Section 1.c.). Such evidence was routinely used in trials without qualification.

In rare instances, military courts try civilians, who have the same rights as defendants in civilian courts. A military judge and two officers drawn from the service ranks hear such cases.

There was little official information about criminal court procedures and the number of political prisoners; however, credible international and local sources estimated that approximately 100 former opposition fighters of the United Tajik Opposition remained in prison after the civil war despite two general amnesties in 1998. Controversy over which crimes the amnesties covered delayed resolution of the cases. However, following a government review of the cases, most were determined to be appropriately jailed for grave crimes; others were released.

In January, following a partially closed trial, a closed session of the Military Board of the Supreme Court sentenced Shamsiddin Shamsiddinov, a deputy chair of the opposition IRP, to 16 years in prison for organizing an armed group and illegally crossing the border. Both crimes were covered under the 1998 post-war amnesties. While in pretrial detention, he was allegedly abused and denied access to counsel (*see* Section 1.c.). The IRP maintained that the trial and sentencing were politically motivated to discredit the party.

In April, another top IRP official, Qosim Rakhimov, was sentenced to 9 years' imprisonment on charges of statutory rape, which some observers considered politically motivated, but which most credible sources considered plausible.

From January to September, the ICRC was allowed access to political prisoners and prisons controlled by the MOJ. At year's end, the ICRC was negotiating with the MOJ to regain access to all MOJ prisons.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, while there were some violations by police forces, in practice, authorities generally respected the prohibitions.

Police cannot enter and search a private home without the approval of a prosecutor, except in special, compelling circumstances in which a delay caused by ob-

taining a warrant would impair national security. If police search a home without prior approval, they must inform a prosecutor within 24 hours; however, police frequently ignored these laws and infringed on citizens' right to privacy. There is no independent judicial review of police searches conducted without permission.

Family members of persons alleged to be members of Hizb ut-Tahrir, an extremist Islamist political group, claimed that they were mistreated and beaten while in police custody (*see* Sections 1.c., 1.d and 2.b.).

Police and Ministry of Interior officials often harassed the families of suspects in pretrial detention or threatened to do so to elicit confessions (*see* Section 1.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice. Journalists, broadcasters, and citizens who disagreed with government policies on occasion were subjected to intimidation and discouraged from speaking freely or critically.

The Government's methods of control and intimidation of non-governmental media included: Barring access to state-owned printing presses, "warnings" made by telephone and in person at a prosecutor's office or during visits to editorial offices, restricting broadcast licenses, selective tax inspections, and increased scrutiny of relatively independent publications and television and radio stations.

The Government controlled most printing presses, the supply of newsprint, and broadcasting transmission facilities and subsidized a large majority of publications and broadcast productions. However, the number of independent and local newspapers continued to increase during the year, several of which were affiliated with political parties or blocs.

Most persons in the country obtained news and information from radio, particularly in rural areas. There were an estimated 309 print media outlets, 17 private television stations and 4 radio stations in the country. During the year, the Government did approve a value added tax (VAT) exemption for print media but continued to look at other measures to promote local media. International media were allowed to operate freely, including rebroadcasts of Russian television and radio programs.

There was one government-run television network; its local affiliates covered regional and local issues only from the Government's point of view. Its signal reached most of the country, except for the most remote areas, and an estimated 90 percent population watched it. The Government also added television transmitters in the Rasht valley to increase viewership of state-run television.

Opposition politicians had limited access to state-run television; however, it continued to broadcast a series of political party debates. Of the 17 private television stations, only a handful were genuinely independent, and not all of them operated at the same time. Some of the independent stations had their own studio facilities and broadcast equipment, but most depended on government-owned transmission equipment to broadcast their programs. However, the Government did not interfere with their broadcasts.

In contrast to 2003, the Government reversed moves to relax pressure on the media. According to international observers and media monitoring groups, the reversal was part of the Government's effort to consolidate power and influence in advance of parliamentary elections scheduled for February 2005.

Independent radio and television stations continued to experience administrative harassment and bureaucratic delays. To obtain a broadcast license, individuals must apply to the Ministry of Communications and the State Television and Radio Committee. At every stage of the process, there were high official and unofficial fees. The process of obtaining a license sometimes took years. Those who were denied licenses were allowed to reapply; however, there was no formal appeals process.

Journalists on occasion were subjected to harassment and intimidation, sometimes perpetrated by government authorities. During the year, Mavluda Sultonzoda, a correspondent for the opposition newspapers Nerui Sukhan and Ruzi Nav, faced harassment and received death threats for writing an article that questioned the sources of Rahmonov's wealth and influence. In July, Rajabi Mirzo, outspoken editor-in-chief of Ruzi Nav, was severely beaten by unknown assailants near his home in Dushanbe. The government launched an investigation into the attack, but there were no developments by year's end.

In August, the Government closed down Jiyonkhon, an independent printing press that published two opposition newspapers, Ruzi Nav and Nerui Sukhan, for alleged tax violations by Nerui Sukhan. Ruzi Nav appealed to the government-owned publishing house to resume publishing, but the appeal was denied. Afterwards, Ruzi Nav's editor contracted with an independent printing house in Kyrgyzstan, to print the newspaper. However, in November, authorities confiscated the first edition upon

its arrival into the country. This situation led to publishing difficulties for other newspaper. For example, Odamu Olam, a new independent political and social newspaper that began publishing during the year, had difficulty finding a printing house willing to risk publishing its controversial material. Other independent newspapers faced similar difficulties.

The law affirms the right to free speech, and interfering with a journalist's work is a crime; however, journalists reported that government officials improperly limited their access to information or provided "friendly advice" on what news should not be covered. Fearing reprisals and the kind of violence committed against journalists during the civil war, editors and reporters often exercised self-censorship. Under the law, a person can be imprisoned for up to 5 years for insulting the President. The few publications that published articles highly critical of the Government subsequently experienced harassment or ceased publishing, particularly before major political events.

Unlike in previous years, the Government did not block access to Internet sites. The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government at times restricted this right in practice.

Registered organizations must apply for a permit from a local executive committee to organize any public assembly or demonstration. Permits were usually granted; however, on occasion, the Government retaliated against organizers. Fear of reprisal was so widespread that public protests or political demonstrations were rare.

In June, the Progress Party of Tajikistan (PPT) was denied a permit to organize a demonstration to protest the MOJ's refusal to register the PPT (*see* Section 3). Party officials said the Government's rejection of their registration application was arbitrary and politicized. At year's end, the Prosecutor General had instituted libel cases against the chairman and deputy chairman of the PPT.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. There were strict controls over organizations involved in political activities, and registration requirements for non-political groups, like trade unions and NGOs, were cumbersome. According to the law, all NGOs must register with the MOJ. The approval and verification process is slow and bureaucratic; however, in 2001 the Government lowered registration fees for NGOs, which led to an increase in the number of local NGOs. According to a recent survey, there were approximately 2,000 locally registered NGOs in the country.

During the year, the Government monitored the activities of religious institutions and groups to prevent them from becoming overtly political. Some individuals, such as members of the banned extremist Hizb ut-Tahrir organization, were arrested and sentenced to long prison terms for subversion and other crimes. Others remained in detention awaiting trial or sentencing (*see* Sections 1.c. and 1.d.).

The Government's concern about Islamic fundamentalism among the country's Muslim population prompted it to ban Hizb ut-Tahrir, which was alleged to have links with terrorist organizations. The group has a significant following among the ethnic Uzbek population in the north and a growing following in the south.

According to the Ministry of Security, 60 Hizb ut-Tahrir activists were arrested during the year, of whom 6 were sentenced to jail terms ranging from 6 months to 15 years. However, according to media reports, 70 members were arrested, and all were convicted on charges of active membership in the organization, failure to report criminal activity, distribution of extremist literature, inciting religious hatred, and seeking to disrupt constitutional order (*see* Section 1.d.).

In January and April, two senior IRP officials were sentenced to long prison terms for criminal offenses (*see* Section 1.e.). The IRP alleged that the convictions were politically motivated to discredit the party and not an abuse of religious freedom. However, local and international observers said the two cases exemplified how the authorities can subject members of Islamic groups and the political opposition to pressure.

During the year, several international democracy NGOs faced registration problems and increased scrutiny, which made it difficult for them to operate (*see* Section 4).

The Government refused to register two political parties during the year (*see* Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however the Government imposed some restrictions.

The country is a secular state and the Government did not explicitly ban, prohibit, or discourage specific religions from practicing their beliefs; however, the law requires all religious communities to be registered by the State Committee on Reli-

gious Affairs (SCRA). According to the Government, registration helps to ensure that religious groups act in accordance with the law; however, in practice, it sometimes was used as a means to control their political and religious activity.

Islam is the majority religion, and the government promoted respect for traditional Islam, however, it viewed extremist Islamist groups as a threat to national security (*see* Section 2. b.).

In May 2003, local authorities prosecuted and fined two members of the Jehovah's Witnesses in Tursunzade for teaching religion without a license and meeting in an unlicensed place of worship. Although the community of Jehovah's Witnesses was registered in Dushanbe with the SCRA, the local court ruled that they also had to register at the local level. By year's end, the case remained unresolved, despite several attempts by the Jehovah's Witnesses community to register their ministry with authorities in Tursunzade.

Unlike in previous years, no mosques were closed and no imams were removed by the SCRA. In July 2003, the SCRA and Sughd government officials conducted "training" for all imams in the region. Two imams were removed and 2 mosques were closed for improper registration. In 2002, 15 imams in the Sughd region were removed, 3 of who were members of the IRPT. Local observers alleged that the Government used the training and testing process as a means to silence certain politically outspoken religious figures.

The Government continued restrictions on pilgrims undertaking the hajj during the period covered by this report, mandating that pilgrims travel by air. The Government stated that it made the decision because no tour operators in the country could meet Saudi government safety and hygiene regulations for buses carrying pilgrims and to ensure that the instability in Iraq would not put pilgrims at risk. There were no quotas on the total number or regional origin of pilgrims. A total of 5,000 citizens made the pilgrimage (out of a Saudi-imposed limit of 5,900), which was an increase of 2,000 compared with the previous hajj.

Some regional and local interior departments refused to issue internal identification documents to women who refused to be photographed without the hijab. The SCRA intervened when cases were brought to its attention to allow those women to obtain documents.

Authorities at times restricted other Muslim religious activities. For example, government printing houses are prohibited from publishing texts in Arabic and generally did not publish religious literature; however, they did so in special cases, including copies of the Koran in Arabic script. There were no restrictions on private Arabic language schools; however, restrictions on home-based Islamic instruction remained in place because of political concerns.

Missionaries of registered religious groups were not legally restricted and proselytized openly; however, the Government's fear of Islamic extremism prompted it to restrict visas for Muslim missionaries. Some Mullahs spoke out against women attending mosques, despite support from some Islamic scholars and several mosques for them to attend. The Government indicated that religious instruction should not take place at home, which could deprive many women of access to religious practice.

Unlike in the previous year, the country's small Baha'i community generally did not experience harassment or discrimination.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government imposed some restrictions.

Both citizens and foreigners are prohibited from traveling within a 15-mile zone along the country's borders with China and Afghanistan without permission from the Ministry of Foreign Affairs. However, the restriction was not always enforced along the western part of the border with Afghanistan, although a special visa was required for travelers—including international workers and diplomats—to Gorno-Badakhshan. Travel to border areas near Uzbekistan in the southwest was not restricted significantly, except occasionally at the border that was closed intermittently by Uzbekistan during the year. Diplomats and international aid workers could travel to the Afghanistan border region without prior authorization, although 48-hour prior notice to the Ministry of Security was required. Russian Border Forces guarding the Tajik-Afghan border occasionally restricted border crossings.

Unlike in the previous year, border guards in the northern regions did not routinely subject travelers to degrading searches for narcotics.

Foreign travelers wishing to remain in the country longer than 3 days were required to register with central authorities, and regulations required registration at

a local Ministry of Interior office upon arrival and departure. However, these regulations were generally not enforced in practice.

There are no laws that provide for exile, and there were no reports of forced exile; however, some Government opponents remained in self-imposed exile in Russia.

There are no legal restrictions on changing residence or workplace, and there is no law on emigration. However, persons wishing to emigrate to countries of the former Soviet Union must notify the Ministry of Interior prior to their departure. Persons who wish to emigrate to other countries must obtain an immigrant visa to receive a passport, and persons who settle abroad are required to inform the Tajikistan embassy or Tajikistan interest section of the nearest Russian embassy or consulate. According to a report by a local research organization, more than 600,000 persons left the country during the year to seek employment; the vast majority went to Russia.

Most persons who left the country were permitted to return freely; however, some persons active with the Tajik opposition who left during the civil war, experienced administrative difficulty in obtaining new documents to replace expired ones that would permit them to return. The Government provided protection and modest assistance to resettle any citizens who returned voluntarily and cooperated with international organizations in the process.

The Constitution provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. Under the law, a person granted refugee status has the right to work and to move freely throughout the country. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

According to the UNHCR, 17 asylum cases were granted refugee status, and 37 cases were denied status. Court challenges to these denials continued at year's end. The appeal process was adequate, albeit slow.

During the year, 80 refugees were resettled to third countries, and the UNHCR repatriated 66 Afghans. The State Migration Service estimated that 2,500 Afghan refugees remained in the country, not including Afghans who had permanently resettled in the country.

Police officers continued to mistreat and harass the country's Afghan refugees, who resided mainly in the capital and in Khujand (*see* Section 1.c.). Although their treatment improved in some areas, many Afghani refugees claimed they were frequently harassed and intimidated into paying illegal registration fees, bribes, and other fines to police who falsely accused them of being affiliated with the Taliban. Despite legislation allowing Afghan refugees to resettle in the country and to obtain citizenship, to date no Afghan refugee has been granted citizenship.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their Government peacefully; however, the Government restricted this right in practice.

The country made little progress in its transition from a Soviet-style system to a more open and transparent society. The President, together with an inner circle of loyal supporters, continued to dominate the Government and further consolidated his hold on power.

In November 2003, a candidate of the Democratic Party of Tajikistan won a district-level by-election. In January, the President's dominant People's Democratic Party (PDP) challenged the outcome with an appeal to a district court. The appeals court overturned the lower court's decision, a ruling that local legal experts said was wrong and politically manipulated.

In June 2003, the President's power was further consolidated following a national referendum in which voters approved 56 constitutional amendments that were combined into one package.

Voters could only answer yes or no to the entire package. The OSCE and other international organization criticized the ballot as neither free nor fair. Many voters never received voting registration cards and lacked adequate information about what constitutional changes they were voting for. The most significant amendment permits the President to run for two more 7-year terms. This could allow Rahmonov to remain in office until 2020. Rahmonov has been president since 1994, and his current term in office ends in 2006. He was re-elected in 1999 in an election that was seriously flawed and was neither free nor fair.

In February 2000, the pro-Presidential PDP overwhelmingly won parliamentary elections that international observers said were neither free nor fair. The PDP controlled an overwhelming majority of seats in both houses of Parliament (Majlisi Oli). Of the total 96 seats in the bi-cameral legislature, two opposition parties, the IRP and the Communist Party, won 7 seats drawn from party lists. Twelve independent candidates also won seats. The majority party control of the PDP, combined with a lack of genuine political pluralism, resulted in a legislative branch dominated by the executive branch.

There were six legally registered political parties. However, three parties continued to be banned, the Adolatkho Party, the Party of Popular Unity, and the Agrarian Party—which merged with the Democratic Party. At year's end, the MOJ still refused to register The Unity Party and the PPT (*see* Section 2.b.). The law prohibits political parties from receiving support from religious institutions; however, political parties that are of religious character, such as the Islamic Revival Party (IRP) were registered.

Opposition political parties, including unregistered ones, remained small, had limited popular support, and were kept under close scrutiny by the Government. While they were generally able to operate, they had difficulty obtaining access to state-run media. During the year, two prominent IRP members were convicted of crimes and sentenced to long prison terms (*see* Section 1.e.).

In June, President Rahmonov signed into law amendments to the code on parliamentary elections. While the law included a number of positive reforms, international observers said it contained two problematic provisions. It requires candidates to pay a registration fee of approximately \$500 (1,400 somoni), which is 200 times the minimum monthly wage and could prevent opposition candidates from running in the election. The second provision does not explicitly permit civil society election observers but does allow election observers from political parties and the media.

Corruption in the country is widespread and pervasive. The Government acknowledged the problem and took steps to combat corruption, including trying officials and judges for taking bribes.

There were 12 women in the 96-seat legislature, two of whom held positions as deputy chairs, one in the lower house and one in the upper house of Parliament. Many women also served as deputy ministers in the Government, and one was a Deputy Prime Minister.

There were four members of minorities in the 96-seat legislature. Ethnic Uzbeks were represented in the Government, although not in direct policymaking roles.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights abuses.

The Government did not block the registration of local NGOs addressing human rights, and the number of domestic human rights organizations increased during the year. According to the UNHCR, there were more than 2,000 NGOs in the country focusing on a wide variety of issues, including child welfare, civil society, mass media, and health. However, authorities at times restricted freedom of assembly and association for organizations involved in political activities. Forming and registering an NGO with the MOJ remained cumbersome and bureaucratic, and registered groups must obtain permission to hold demonstrations and protests (*see* Section 2.b.). However, unlike in previous years, local NGOs generally did not face governmental harassment.

Discussion at seminars sponsored by international NGOs on topics such as, the rule of law, independent judiciary, international humanitarian law, and media freedom, were frequently critical of the Government. Government officials were somewhat responsive to the views of human rights groups.

The Government permitted international NGOs to operate in the country on a regular basis. For example, the OSCE mission in Dushanbe continued to monitor human rights problems with the help of its five field offices, which experienced varying levels of cooperation with local authorities. However, during the last 2 months of the year, the Government made it increasingly difficult for some international democracy NGOs to function by delaying registration on technical grounds and denying entry visas for international staff. The ICRC maintained an office in the country under its delegation in Uzbekistan. At year's end the ICRC continued to negotiate with the MOJ to regain access to all prisons (*see* Section 1.c.).

The Government's Office for Constitutional Guarantees of Citizens' Rights under the President continued its work of investigating and answering citizens' com-

plaints; however, the office was understaffed and received uneven cooperation from other government institutions.

In June, the Government's Commission on Fulfillment of International Rights Commitments submitted its first U.N. report. Throughout the year, it worked with international organizations to draft all required U.N. reports on human rights, including the report to the Committee on the Elimination of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination Against Women.

The Parliament's Committee on Legislation and Human Rights also monitored human rights violations; however, like the rest of the legislature, in practice it was not independent. During the year, the Committee was not very active and issued no reports.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for the rights and freedoms of every person regardless of ethnicity, race, sex, language, political persuasion, or social status; however, in practice, there was discrimination against women.

*Women.*—Violence against women, including spousal abuse, remained a widespread problem. Most cases of domestic abuse went unreported, and cases reported to authorities were seldom investigated.

In addition, there continued to be widespread reports, particularly in rural areas, about abductions of young women who were then raped or forced to marry their abductors.

The Criminal Code prohibits rape (although not specifically spousal rape), which is punishable by up to 20 years imprisonment; however, it was widely believed that most cases were unreported and that the problem was growing, particularly in urban areas. The threat of rape often was used to intimidate women. There were no special police units for handling rape cases and no statistics on the number of rapists charged, prosecuted, or convicted.

During the year, many domestic and international NGOs supported women's resource centers to address the concerns of victims of rape and spousal abuse; however, government funding for such centers was extremely limited, although it had a specific committee for women's and family affairs within the office of the President. Unlike in the previous year, NGOs and some government structures discussed violence against women in the framework of the Government's reporting obligations for U.N. conventions.

Prostitution is illegal; however, in practice, prostitutes were assessed a nominal fine and released, although pimps and madams were prosecuted regularly. The law prohibits operating brothels, procuring, making, or selling pornography, infecting another person with a venereal disease, and the sexual exploitation of women.

Trafficking of women for the purposes of sexual exploitation and forced labor was a serious problem (*see* Section 5, Trafficking).

Women were employed in government, businesses, and in institutes of higher learning. While there was no formal discrimination against women, they faced traditional societal discrimination, diminishing educational opportunities, and increasing poverty. The law provides women with equal pay for equal work with men; however, this was not always enforced in practice.

In August, the country's highest Islamic body issued a fatwa that prohibited women from praying in mosques that do not have fully separate facilities for men and women. The Government supported the fatwa but expressed concern over the separation of church and state. In November, in a nation-wide address, President Rahmonov said he would not interfere with the decision and stressed that religion should be kept out of politics. Local observers said the decree was discriminatory and a step backwards from gender equality because most mosques in the country did not have separate facilities for men and women.

The law protects women's rights in marriage and family matters; however, young girls often were pressured to marry men whom they did not choose, and polygyny, although illegal, was increasingly common among men. Inheritance laws do not discriminate against women; however, in practice, some inheritances passed disproportionately to sons. Deaths of male heads of households in connection with the country's civil war left a large number of widows, many of whom still faced societal discrimination and lived in extreme poverty.

Women increasingly played an important role in the country's civil society. Many NGOs and local groups were headed by women, who organized programs and projects on the improvement of the status of women, on human rights and on gender-related issues. A number of international organizations in the country also focused programs on improving the livelihood of women.

*Children.*—The Government remained committed to children's rights and welfare; however, it did not devote adequate financial resources to maintain the social security network for child welfare.

Education is compulsory until age 16; however, the law was not enforced. Public education is free and universal; however, due to a lack of resources, the public school system has badly deteriorated. Girls have increasingly become marginalized in the school system, with families electing to keep them home to help take care of siblings.

Parents who could afford private education sent their children to private schools or joined together with other parents to hire teachers who gave private lessons. While most children were enrolled in school up to the mandatory secondary level, actual attendance was estimated to be lower because children supplemented family income by working in the home or in informal activities (*see* Section 6.d.). Approximately half of the population is under 17 years of age. With the virtual collapse of the country's public schools, some poor male students were recruited and sent to Egypt, Turkey, and Pakistan to receive a free Islamic education.

Medical care is available equally to both boys and girls. Due to poverty, however, the medical infrastructure has deteriorated since the country's independence from the Soviet Union.

In 2004, a national survey by Action Against Hunger, a European-based NGO, estimated that one child in three was malnourished. The Government acknowledged that malnutrition was a severe problem and worked with international humanitarian organizations and foreign governments to support school feeding programs.

There were a few unconfirmed reports of violence against children, although there was no societal pattern of child abuse.

Trafficking continued to be a problem (*see* Section 5, Trafficking).

Child labor continued to be a problem (*see* Section 6.d.).

Most NGOs focused on providing resources to organizations that care for children and protect their rights. Many local NGOs started trainings and summer camps that explicitly outlined their rights under U.N. conventions.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons from and through the country was a problem. There were reports that low-level government officials facilitated trafficking.

On August 1, President Rahmonov signed a new comprehensive law to combat trafficking in persons, which addresses prevention, prosecution of traffickers, and protection of victims. Penalties for trafficking include imprisonment from 5 to 15 years and confiscation of personal property. The law also criminalizes trafficking in teenagers.

Traffickers may also be prosecuted under laws prohibiting exploitation of prostitution, rape, kidnapping, buying and selling of minors, document fraud, and immigration violations. The penalties for these offenses range from fines to imprisonment from 5 to 20 years.

On November 4, a Dushanbe court sentenced Jahon Hilalova to 14 years imprisonment after convicting her of trafficking her adopted daughter. It was the country's first verdict under its new anti trafficking law.

Also in November, authorities began an investigation into allegations made by a credible local humanitarian and anti-trafficking NGO that there may be a trend of young boys being abducted or sold for sexual exploitation to the Gulf States, Afghanistan, and South Asia.

In May, the Government created a special division within the MOI for combating kidnapping, trafficking in persons, and racketeering. Five officers in the new division were assigned to investigate trafficking cases. The division reported that there were at least 12 criminal rings in the country involved in trafficking young girls to Gulf countries. The Government generally worked openly and cooperatively with the international community, the International Organization for Migration (IOM) and other countries to combat trafficking; however, it still has not developed a national plan to combat trafficking in persons.

In December 2003, the Dushanbe city court sentenced one trafficker to 14 years in prison and confiscated her property for trafficking. Three other trafficking trials begun in August, October, and November 2003 were still pending.

During the year, the Supreme Court continued hearing a case begun in 2003 on an 11-person criminal ring accused of trafficking in persons, including minors. The hearing was pending at year's end. In 2003, a member of the opposition IRP was implicated in a case of recruiting and trafficking children to Gulf countries and to Turkey. He was detained and released but neither tried nor punished.

The country was a source and a transit point for trafficked persons, primarily women and young girls. Trafficking within the country was also a problem. Media

reports estimated that over 1,000 persons were victims of trafficking during the year. According to the MOI and to information gathered from anti-trafficking hotlines, victims came primarily from Khojand or Dushanbe and most were trafficked to Russia, Central Asia, and the Persian Gulf states, including the United Arab Emirates, Yemen, Iran, and Saudi Arabia. Other destinations included former Soviet Union countries, Turkey, Syria, and Pakistan.

The majority of trafficking victims were female Tajiks, single, aged 20 to 26. Many were new arrivals to Dushanbe or Khojand from rural areas with little formal education. Child trafficking victims usually were in the care of extended family. Ethnic minorities were over-represented among victims, particularly those of Slavic origin.

Victims commonly were recruited through false promises of employment. Advertisement of such work was conducted through social contacts; traffickers used their local status and prestige to help recruit victims. There also were cases of false wedding proposals and, on occasion, kidnappings in rural areas. Traffickers generally transported victims by air to the Middle East and by train to Russia and other former Soviet Union countries. Traffickers tightly controlled arrangements for travel and lodging and employed contacts among tourism agencies. They sometimes used forged documents to evade entry restrictions in destination countries. Victims commonly were not separated from their travel documents until arrival in the destination country. Debt bondage was a common form of control. There were also reports of male and female medical professionals trafficked from the country to Yemen to work at medical clinics for substandard wages; traffickers reportedly seized their travel documents and forced female medical personnel into prostitution.

Traffickers included persons who rose to positions of power and wealth as field commanders—so-called warlords—during the country's civil war. Others, including women, were powerful local figures who used their wealth to cultivate patron-client relationships throughout their community to create a network that monitored supply and demand for trafficking victims.

Corruption was endemic in the country, and reports indicated that low-level government authorities working in customs, border control, immigration, police, and tourism took bribes from traffickers. It was also believed that certain government figures acted as patrons or protectors of individuals who were involved directly in trafficking; however, there was no indication of widespread institutional involvement in trafficking by the Government. Early in the year, authorities began criminal proceedings against several low-level government officials; however, the individuals fled the country.

There were few resources available to trafficking victims and the Government provided none; however, the Government endorsed efforts by international and domestic NGOs to prevent trafficking and provide services to victims.

There were approximately 20 NGOs involved in anti-trafficking activities operating throughout the country. Several provided various services to trafficking victims and carried out a wide range of information programs in conjunction with local authorities throughout the country. For example, the NGO Modar in the Sughd region helped trafficking victims to find social services for abused women. The NGO Women Scientists ran a crisis center for abused women and trafficked women. The NGO Gamkhori in the southern city of Kurgan-Teppe operated a crisis center and hotline for victims of trafficking and domestic abuse.

According to an IOM survey, nearly half of trafficking victims who returned to country were blackmailed by local officials who received bribes from traffickers to force the victims to change their story or face exposure as a victim. Victims usually did not pursue legal action against traffickers due to the social stigma attached to such victims.

Local NGO programs, which worked with support from international organizations, focused on increasing awareness of trafficking. Working with local officials they conducted training and awareness seminars for the general public. The Government did not directly fund any anti-trafficking public service announcements, but it did promote such announcements as well as informational materials produced and distributed by local and international organizations.

*Persons With Disabilities.*—The law provides for the right of persons with disabilities to employment and adequate medical care. However, in practice, the Government did not require employers to provide physical access for persons with disabilities, and a lack of resources exacerbated their high unemployment rate.

The Ministry of Labor and Social Welfare, the Government Commission on Fulfillment of International Human Rights, the Prosecutor General's office, the Society of Invalids, and appropriate local and regional governmental structures were all charged with protecting the rights of persons with disabilities.

There is no law mandating access to buildings for persons with disabilities, and the Government did not require employers to provide such access. There were group-living and medical facilities for persons with disabilities; however, funding was limited, and the facilities were in poor condition. Several international NGOs provided limited assistance to persons with disabilities by providing vocational training and helping to rehabilitate some of the above-mentioned facilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions and they did so in practice.

According to official figures, approximately 90 percent of the labor force was unionized. Most unions were affiliated with the Federation of Trade Unions of Tajikistan, an independent, umbrella organization that attempted to represent all trade unions in the country. However, it was largely seen as ineffective and as an organization that generally supported government policies.

*b. The Right to Organize and Bargain Collectively.*—The laws provide for the right to organize and bargain collectively, and workers exercised this right in practice.

The Government sets the minimum monthly wage, and wages for government sector workers. Private employers set their own wages.

The law does not restrict the right to strike; however, there were no strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including of children, except in cases defined in the law; however, there were reports that such practices occurred (*see* Sections 5, Trafficking, and 6.d.).

Persons who formerly worked on state or collective farms were regularly compelled to pick cotton on privatized farms by their owners. However, they usually were not paid wages, and the farms no longer provided the services they once did, such as health care and education.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor remained a problem, and the Government neither effectively enforced child labor laws nor instituted any initiatives to strengthen existing regulations on acceptable working conditions for children.

The minimum age for employing children is 16; however, with the concurrence of a local trade union, children may begin work at age 15. By law, children under the age of 18 may work no more than 6 hours a day and 36 hours per week. However, children as young as 7 may perform household-based labor and participate in agricultural work, which is classified as family assistance. Many children under 10 worked in bazaars or sold goods on the street.

Trade unions were responsible for reporting any violations in the employment of minors. Unresolved cases between unions and employers may be brought before the Prosecutor General, who may investigate and charge the manager of the enterprise with violations of the Labor Code. However, very few violations were reported; most children worked under the family assistance exception. Enforcement of child labor laws was the responsibility of the Prosecutors Office, the MOJ, the Ministry of Social Welfare, the MOI, and appropriate local and regional governmental offices.

The illegal Soviet-era practice of closing secondary schools at cotton harvest time and putting students to work continued. The IOM estimated that 40 percent of the country's cotton was picked by school-aged children, and according to World Bank statistics, as many as one in eight children worked instead of attending school.

The Government does not have a comprehensive policy or national action plan to prevent or eliminate the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The official national minimum monthly wage of \$2.30 (7 somoni) did not provide a decent standard of living for a worker and family.

The wage is established by the President with the advice of the Ministry of Labor and in consultation with trade unions.

There was no official estimate of the poverty income level; however, some observers estimated that a decent earned income in the capital would be \$29 dollars per month (80 somoni) to live comfortably.

The Government acknowledged the problem of low wages and provided certain subsidies for workers and their families at the minimum wage. Some establishments, both governmental and private, compensated their employees in kind with food commodities or with products produced by the enterprise, which employees either sold or bartered in local private markets.

The law provides for a standard work week of 40 hours for adults over the age of 18. The law mandates overtime payment, with the first 2 hours paid at 1.5 times the normal rate and the remainder at double the rate. Overtime payment was inconsistent in all sectors of the labor force. The Ministry of Finance enforces financial aspects of the labor law, and the Agency of the Financial Control of the Presidential Administration oversees other aspects of the law.

The Government has established occupational health and safety standards, but they fell far below accepted international norms, and the Government did not enforce them in practice.

The State Technical Supervision Committee under the Council of Ministers was responsible for enforcing health and safety standards. The law permits workers to remove themselves from hazardous conditions without risking loss of employment; however, this law was not enforced effectively, and few did so in practice.

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## TURKEY

Turkey is a constitutional republic with a multiparty parliamentary system and a president with limited powers elected by the single-chamber parliament, the Turkish Grand National Assembly. In the 2002 parliamentary elections, the Justice and Development Party (AKP) won the majority of seats and formed a one party government. In March 2003, AKP Chairman Recep Tayyip Erdogan was named Prime Minister. The State and Government remain separate, and sometimes conflicting, concepts. The State, including the presidency and bureaucracy, is seen as the embodiment of the core principles of the republic, while the elected Government is more closely tied to the popular will. The military exercised indirect influence over government policy and actions in the belief that it was the constitutional protector of the State. The Constitution provides for an independent judiciary; however, the judiciary was sometimes subject to outside influences.

The Turkish National Police (TNP), under Interior Ministry control, has primary responsibility for security in urban areas, while the Jandarma, paramilitary forces under joint Interior Ministry and military control, carries out this function in the countryside. The Government maintained a heavy security presence in parts of the southeast. A civil defense force known as the village guards was less professional and disciplined than other security forces and was concentrated in the southeast. Civilian and military authorities generally maintained effective control of the security forces. Some members of the security forces committed serious human rights abuses.

The country has a market economy and a population of approximately 67.8 million. Industry and services are dominant sectors of the economy; the agricultural sector also remains important. During the year, the real gross domestic product was expected to grow by over 10 percent and consumer prices were expected to rise by less than 12 percent. Approximately 9.3 percent of the workforce was unemployed. There were major disparities in income, particularly between the relatively developed west and the much less developed east.

The Government generally respected the human rights of its citizens; although there were significant improvements in a number of areas, serious problems remained. Security forces reportedly killed 18 persons during the year; torture, beatings, and other abuses by security forces remained widespread. Conditions in most prisons remained poor. Security forces continued to use arbitrary arrest and detention, although the number of such incidents declined. Lengthy trials remained a problem. Convictions of security officials accused of torture remained rare, and courts generally issued light sentences when they did convict. In politically sensitive cases, the judiciary continued to reflect a legal structure that favors State interests over individual rights. The State and Government continued to limit freedom of speech and press; harassment of journalists and others for controversial speech remained a serious problem. At times, the Government restricted freedom of assembly and association. Police beat, abused, detained, and harassed some demonstrators. The Government maintained some restrictions on religious minorities and on some forms of religious expression. At times, the Government restricted freedom of movement. The Government restricted the activities of some political parties and leaders, and sought to close the pro-Kurdish Democratic People's Party (DEHAP). The Government continued to harass, indict, and imprison human rights monitors, journalists, and lawyers for the views they expressed in public. Violence against women remained a serious problem, and discrimination against women persisted. Traf-

ficking in persons, particularly women, remained a problem. Child labor was a widespread problem.

The Government carried out extensive legal reforms during the year aimed at meeting the requirements for European Union (EU) membership. In September, Parliament adopted a new Penal Code and, in May, approved a package of constitutional amendments. Elements of the new Penal Code included: Sentences for torture convictions were increased; "honor killings"—the killing by immediate family members of women suspected of being unchaste—were defined as aggravated homicides; the statutes of limitations for all crimes were lengthened; and actions aimed at preventing free religious expression were defined as a crime punishable by 1 to 3 years' in prison. Constitutional amendments included: International agreements were given precedence over national law; military and defense expenditures were placed under Audit Court review; the State was assigned responsibility for ensuring gender equality; and the military lost its authority to name members of government boards overseeing higher education and broadcasting. Legislative amendments abolished the State Security Courts (SSCs); however, they created comparable high penal courts that picked up the caseload of the former SSCs.

The Government implemented a number of reforms adopted in 2003 and 2002. While security forces applied torture and ill-treatment widely, particularly in the southeast, the overall use of torture appeared to decrease during the year. Police and local authorities demonstrated more tolerance for controversial speech and were more flexible in handling nonviolent demonstrations. Kurdish language courses and news and cultural broadcasts began during the year, under tight restrictions.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no known political killings; however, there were credible reports that security forces committed a number of unlawful killings. Police, Jandarma, and soldiers killed a number of persons, particularly in the southeast and east, for allegedly failing to obey stop warnings. The Human Rights Foundation (HRF) estimated that there were 18 killings by security forces between January and September, including shootings by village guards and border patrols. For example, in August, security forces in Van Province shot and killed Senol Kizil after he allegedly failed to heed a stop warning. In November, Jandarma officers shot and killed Fevzi Can in Hakkari Province, also alleging that he failed to heed a stop warning. One officer was arrested in the case and was awaiting trial at year's end. HRF estimated there were 43 killings by security forces in 2003.

The courts investigated most alleged unlawful killings by security forces; however, the number of arrests and prosecutions in such cases remained low compared with the number of incidents, and convictions remained rare (*see* Section 1.d.).

In May, Adana police shot and killed Siar Perincek after he allegedly ignored a stop warning and shot at police. However, three human rights organizations—HRF, the Human Rights Association (HRA), and Mazlum-Der—and the Confederation of Public Sector Trade Unions conducted a joint investigation and concluded that the evidence indicated police shot Perincek at close range while he was lying on the ground unarmed. The organizations also stated that police apparently tortured two men who were detained in the incident. Prosecutors charged one police officer with manslaughter and two others with torture; their trials began in October and were ongoing at year's end.

In November, Mardin police shot and killed Ahmet Kaymaz and his 12-year-old son in front of their home in Kiziltepe. Security officials alleged that Kaymaz and his son were planning a terrorist attack and had fired on police; however, a number of witnesses reportedly denied those claims. HRA representatives investigated the incident and stated that the victims had been shot at close range and there was no evidence they had exchanged fire with police. A parliamentary subcommittee also concluded there was no evidence that the victims had fired at police. Prosecutors opened a case against four police officers involved in the incident. Legal proceedings continued at year's end.

According to the HRF and press reports, four trials in cases of past alleged killings by security officials ended during the year, resulting in nine acquittals and no convictions. Civilian judges transferred cases against six soldiers to military courts.

Court proceedings continued in the trial of 10 village guards arrested in connection with the 2002 killing of 3 internally displaced persons (IDPs) returning to their homes in Ugrak village. One defendant remained in detention during the trial while the others were released pending a verdict.

In November, the High Court of Appeals upheld the conviction of a police officer charged with the 1999 death in detention of trade unionist Suleyman Yeter and sentenced the officer, Mehmet Yutar, to 4 years and 2 months in prison. According to the law under which convicts serve a portion of their sentences, Yutar would spend 1 year and 8 months in prison. A second officer charged in connection with the death, Ahmet Okuducu, failed to attend the trial; the court issued a warrant for his arrest. In November, an Istanbul court closed a separate trial of four police officers charged with torturing Yeter (*see* Section 1.c.).

In April, a prosecutor in Mus Province opened a case against seven village guards in connection with the 1994 killing of Ramazan Oznarci. The case continued at year's end.

According to the Government, seven persons died while in police or Jandarma custody during the year: Four deaths were recorded as suicides, two as heart attacks, and one was under investigation at year's end to determine the cause of death.

According to the HRF, landmines and unattended explosives killed 31 civilians and injured 78 during the year. Both security forces and the Kurdistan Workers Party (PKK)—a terrorist organization that in 2003 changed its name to the Kurdistan Freedom and Democracy Congress (KADEK) and later to the Kurdistan People's Congress (KHK, or Kongra-Gel)—used landmines; it was not possible to verify which side was responsible for the mines involved in the incidents.

The Government, as well as the PKK/KADEK/KHK, continued to commit human rights abuses against noncombatants in the southeast. According to the military, 18 civilians, 62 members of the security forces, and 79 terrorists died between January 1 and October 7 as a result of armed clashes.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

The Government continued to investigate and explain some reported disappearances. The Ministry of Interior operated the Bureau for the Investigation of Missing Persons, which was open 24 hours a day. According to the Government, 14 persons were reported missing during the year due to suspected terrorist activities and 4 missing persons were located alive.

There were no new developments in the 2002 disappearance of Coskun Dogan.

In March, a Diyarbakir SSC determined that there was insufficient evidence to prosecute 47 soldiers for their alleged involvement in the 2001 disappearance of Serdar Tanis and Ebubekir Deniz.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, members of the security forces continued to torture, beat, and otherwise abuse persons regularly, particularly in the southeast. Security forces most commonly tortured leftists and Kurdish rights activists.

According to the HRF, there were 918 credible cases of torture and mistreatment reported at its 5 national treatment centers during the year. Human rights advocates claimed that hundreds of detainees were tortured during the year in the southeast, where the problem was particularly serious, but that only a small percentage of detainees reported torture and ill-treatment because they feared retaliation or believed that complaining was futile.

During the year, senior HRF and HRA officials stated that there had not been a significant change in the frequency of torture over previous years. However, officials at a number of HRA branch offices, including in the southeast, said they had observed a decline in the practice. A number of attorneys in the southeast and other regions also reported that torture and ill-treatment had become significantly less common. Observers reported that police demonstrated greater restraint in their treatment of detainees and protestors during the year due to legal reforms and government directives.

In June, Mehmet Nurettin Basci and Mehmet Gazi Aydin claimed Adana police tortured them while they were being held in detention. Basci said police administered electric shocks to his testicles and squeezed them, and hung him by his arms. Aydin said police hung him by his arms. Prosecutors charged three police officers in the case, which continued at year's end. In July, a 14-year-old claimed that Izmir police officers repeatedly kicked him, struck him with a truncheon, threw him down a staircase, and then released him without charges. In October, an attorney for Sezai Karakus filed a complaint with prosecutors alleging that Istanbul police tortured Karakus during 4 days of detention between late September and early October. Karakus claimed police squeezed his testicles, struck his head against the wall, beat him repeatedly, and forced him to sign a confession. Authorities did not file charges in the case. Karakus committed suicide in prison in November. In November, several persons detained by police during a raid of the Yeniden Ozlem pub-

lishing house in Istanbul filed a complaint alleging that police tortured them. They claimed police repeatedly struck them with pistol butts and kicked them.

In January, an Istanbul prosecutor opened a case against police officers Ali Senoz and Yilmaz Savas for allegedly torturing two juveniles in November 2003. The police were charged with hanging the juveniles by their arms, squeezing their testicles, and spraying them with cold water and forcing them to stand in front of an air conditioner. The trial continued at year's end.

There were no developments in the alleged rape and torture of DEHAP official Gulbahar Gunduz in 2003.

In July, a Burdur court convicted three Jandarma officers for torturing 17 farmers in 2000; it sentenced 1 officer to 6 years in prison and the other 2 officers each to 2 years in prison. The court acquitted four co-defendants. The case was under appeal at year's end.

Proceedings continued in the 5-year-old Iskenderun trial of four police officers—Murat Cikar, Halil Ozkan, Aysun Yuksel, and Gurkan Ilhan—on charges of torturing and raping two teenage girls in detention in 1999. The trial had experienced repeated delays related to the handling of forensic evidence. In March, the court rejected a request by prosecuting attorneys to bring charges against the chairman of the Forensic Medicine Institute for not submitting evidence in a timely manner. The defendants remained on duty and were promoted during the trial; one of the alleged victims was released from prison in November, while the other remained in prison at year's end on charges of membership in an illegal organization.

In November, an Istanbul court closed the trial of four police officers charged with torture because the statute of limitations on the charges had expired. The defendants were accused of torturing trade unionist Suleyman Yeter and 13 other detainees in 1999.

Human rights observers said that, because of reduced detention periods, security officials mainly used torture methods that did not leave physical traces, including repeated slapping, exposure to cold, stripping and blindfolding, food and sleep deprivation, threats to detainees or family members, dripping water on the head, squeezing of the testicles, and mock executions. They reported a continued reduction, compared with past years, in the use of methods such as electric shocks, high-pressure cold water hoses, beatings on the soles of the feet (falaka) and genitalia, hanging by the arms, and burns.

The HRA reported that women detainees were sometimes subject to rape, including vaginal and anal rape with truncheons, and sexual harassment. Female detainees sometimes faced sexual humiliation and, less frequently, more severe forms of sexual torture. After being forced to strip in front of male officers, female detainees were sometimes touched, insulted, and threatened with rape.

Human rights attorneys and physicians who treated victims said torture generally occurred during police or Jandarma detention before detainees appeared in court. Because arresting officers were responsible for interrogating suspects, they sometimes used torture to obtain a confession that would justify the arrest.

Treatment of those arrested for ordinary crimes reportedly differed from treatment of those arrested for political crimes. Observers said that security officials sometimes tortured political detainees to intimidate them and send a warning to others with similar political views.

Government-employed doctors administered all medical examinations of detainees. Examinations occurred once during detention and a second time before either arraignment or release; however, the examinations generally were brief and informal. According to the Society of Forensic Medicine Specialists, only approximately 300 of 80,000 doctors in the country were forensic specialists, and most detainees were examined by general practitioners and specialists not qualified to detect signs of torture. There were forensic medical centers in 27 of 81 provinces. Some former detainees asserted that doctors did not conduct proper examinations and that authorities denied their requests for a second examination.

A Justice Ministry regulation requires doctor-patient privacy during the examination of suspects, except where the doctor requests police presence for security reasons. Under a legal amendment adopted in January, a suspect cannot request the presence of police; international and domestic human rights observers had argued that police could intimidate suspects into requesting their presence. However, the Society of Forensic Medicine Specialists reported that security officials often remained in the room despite objections, although this occurred less often than in past years. According to the Medical Association and human rights observers, the presence of a security officer could lead physicians to refrain from examining detainees, perform cursory examinations and not report findings, or to report physical findings but not draw reasonable medical inferences that torture occurred.

In June, the European Committee for the Prevention of Torture (CPT) published a report on its September 2003 inspection of prisons and detention facilities in the country. The report noted that a majority of former detainees interviewed by the CPT said law enforcement officials had been present during their medical examinations. However, some medical staff told CPT representatives that police had become more cooperative when asked to leave the room during examinations.

Authorities opened an investigation against Dr. Ilker Mese for “insulting soldiers” and “failing to examine a prisoner in the presence of soldiers” after he asked soldiers to leave the room while he was examining a prisoner at the Tekirdag State Hospital in December 2003. Dr. Mese was also transferred to another medical facility.

The law mandates heavy prison sentences and fines for medical personnel who falsify reports to hide torture, those who knowingly use such reports, and those who coerce doctors into making them. The law provides the highest penalties for doctors who falsify reports for money. In practice, there were few prosecutions for violation of these laws. The Medical Association may fine and suspend for up to 6 months the license of any doctor who falsifies a report. However, Association officials said they were unable to enforce these sanctions in many cases because most doctors worked at least partly for the Government, which protected them.

The CPT’s June report stated that, due to recent reforms, the legislative and regulatory framework necessary for combating torture and ill-treatment had been established. The Committee’s report stated that the challenge facing the Government involved implementing the reforms and “transforming mentalities” among law enforcement and judicial officials.

The CPT found clear evidence that local and regional authorities were attempting to comply with the Government’s stated zero tolerance policy on torture. The Committee’s report concluded that there had been a sharp decline over previous years in the use of the more severe forms of torture. At the same time, the CPT reported that it continued to find credible claims of recent torture and ill-treatment.

In September, Parliament adopted a new Penal Code that provides increased punishment for torture (*see* Section 1.d.).

During the year, courts tried and convicted members of the security forces for torture and abusive treatment (*see* Section 1.d.).

Police harassed, beat, and abused demonstrators (*see* Section 2.b.).

The Government continued to organize, arm, and pay a civil defense force of approximately 58,000, mostly in the southeast region. This force, known as the village guards, was reputed to be the least disciplined of the security forces and continued to be accused repeatedly of drug trafficking, rape, corruption, theft, and other human rights abuses. Inadequate oversight and compensation contributed to this problem, and in some cases Jandarma allegedly protected village guards from prosecution. In addition to the village guards, Jandarma and police special teams were viewed as those most responsible for abuses.

Conditions in most prisons remained poor, although the Government made significant improvements in the system, and the country’s best prisons maintained high standards. Underfunding, overcrowding, and insufficient staff training remained common problems. The HRF reported that the Government provided insufficient funds for prison food, resulting in poor-quality meals; food sold at prison shops was too expensive for most inmates, and there was a lack of potable water in some prisons. According to the Medical Association, there were insufficient doctors, and psychologists were only available at some of the largest prisons. Some inmates claimed they were denied appropriate medical treatment for serious illness.

According to the HRF, six people died during the year in hunger strikes protesting F-type (small cell) prisons. The Government reported that, since 2000, the President pardoned 189 inmates on hunger strike. As of September, six hunger strikers remained in prison, according to the HRF.

In March, an Istanbul court ruled that authorities had used disproportionate force during the “Return to Life” prison operation in 2000, during which 12 prisoners were killed and 77 wounded. The court ordered \$32,750 (44 billion lira) in compensation for each victim.

At any given time, at least one-quarter of those in prison were awaiting trial or the outcome of a trial. Men and women were held separately; most female prisoners were held in the women’s section of a prison. Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. According to the Government, detainees and convicts were held either in separate facilities or in separate sections of the same facility. However, some observers reported that detainees and convicts were sometimes held together.

The Government permitted prison visits by representatives of some international organizations, such as the CPT; however, domestic nongovernmental organizations

(NGOs) did not have access to prisons. The CPT visited in March, and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons were routinely granted.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government did not always observe these prohibitions in practice. During the year, police routinely detained demonstrators (*see* Section 2.b.). Police detained dozens of members of the legal pro-Kurdish party DEHAP on several occasions (*see* Section 3). Police continued to detain and harass members of human rights organizations and monitors (*see* Section 4). The Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballah.

The Turkish National Police (TNP), under Interior Ministry control, are responsible for security in large urban areas. The Jandarma, paramilitary forces under joint Interior Ministry and military control, are responsible for policing rural areas. The Jandarma are also responsible for specific border sectors where smuggling is common; however, the military has overall responsibility for border control. There were allegations of police corruption.

In September, Parliament adopted a new Penal Code that provides increased punishment for torture. Under the new law, the sentence for most torture convictions is 3 to 12 years in prison. Previously, the maximum penalty was 8 years per victim, and most persons sentenced to jail terms received 2 years. The new Code also establishes higher penalties, including life imprisonment, for aggravated torture, and prison terms of up to 3 years for police who fail to report torture. The new Penal Code increases the maximum statute of limitations for torture cases and other felonies from 15 years to 30 years and allows for the statute to be suspended in certain circumstances. The law requires that trials, including appeals, be completed before the statute of limitations expires; otherwise, the trial ends without a verdict. The extension of the statute of limitations was expected to make it difficult for defendants in torture cases to avoid a verdict by delaying court proceedings.

During the year, prosecutors opened trials against 2,395 security personnel on torture or ill-treatment charges. Through September, courts reached final verdicts in 625 torture and ill-treatment cases begun in previous years, convicting 345 defendants and acquitting 1,094. Seven security officers received short suspensions from duty during the year for ill-treatment.

Courts investigated many allegations of ill-treatment and torture by security forces; however, they rarely convicted or punished offenders. When courts did convict offenders, punishment generally was minimal; monetary fines did not keep pace with the rate of inflation, and sentences were sometimes suspended. The rarity of convictions and generally light sentences in torture cases contradicted the Government's official policy of zero tolerance for torture. Authorities typically also allowed officers accused of abuse to remain on duty and, in some cases, promoted them during their trial, which often took years.

Administrative and bureaucratic barriers impeded prosecutions and contributed to the low number of torture convictions. Under the law, courts could not convict unless a defendant attended at least one trial session. Police defendants sometimes failed to attend hearings in order to avoid conviction; prosecuting attorneys claimed courts failed to make serious attempts to locate such defendants, even in cases where the defendants received salary or pension checks at their home address.

In separate decisions in March and September, an Ankara court convicted five police defendants in the 1991 Birtan Altinbas death-in-detention case and sentenced them each to 4 years and 5 months in prison. The court acquitted five codefendants. In November, the High Court of Appeals overturned the verdict on the grounds that the sentences were too lenient, sending the case back to the lower court.

The TNP and Jandarma were effective and received specialized training in a number of areas, including human rights and counterterrorism. The armed forces emphasized human rights in training for officers and noncommissioned officers. Non-commissioned police officers received 2 years of training.

The Government's Ten Year Human Rights Education Committee held regional seminars to educate civil servants and others on human rights problems. Regional bar associations and the EU held training seminars with police, judges, and prosecutors across the country, focusing on EU human rights standards. The Justice and Interior ministries conducted numerous training programs for law enforcement and security officials, judges, and prosecutors on recent legal reforms and European Court of Human Rights (ECHR) case law.

Except when police apprehend suspects in the commission of a crime, a prosecutor must issue a detention order for a person to be taken into custody. The maximum

detention period for persons charged with individual common crimes is 24 hours. Persons charged with collective common crimes can be held for 48 hours.

The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. In practice, authorities did not always respect these provisions and most detainees did not exercise these rights, either because they were unaware of them or feared antagonizing authorities. Once formally charged by the prosecutor, a detainee is arraigned by a judge and allowed to retain a lawyer. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence.

Private attorneys and human rights monitors reported uneven implementation of these regulations, particularly with respect to attorney access. According to HRA and a number of local bar associations, only approximately 5 percent of detainees consulted with attorneys. HRA claimed police intimidated detainees who asked for attorneys, sometimes telling them a court would assume they were guilty if they consulted an attorney during detention. A number of attorneys stated that, unlike in past years, law enforcement authorities did not generally interfere with their efforts to consult with detainees charged with common crimes; however, they said they continued to face difficulties working with detainees charged with terrorism.

The CPT reported that, during its September 2003 visit to the southeastern region, it discovered that only between 3 and 7 percent of recent detainees in the area had consulted with an attorney. A number of former detainees told CPT officials they did not know they had the right to consult with an attorney at no cost if they could not afford to hire one. Several said police refused their requests for access to an attorney or discouraged them from consulting an attorney, for example by implying they would have to pay the attorney. The CPT stated it was skeptical of records indicating that a high proportion of detainees held in antiterror departments had waived their right to consult an attorney and concluded that authorities in these departments were reluctant to allow attorney access.

In June, the General Directorate of Security issued a circular directing law enforcement authorities to notify detainees of their right to consult with an attorney and to retain an attorney at no cost if they lack the means to hire one. The circular warned police that failure to inform detainees of their rights could render an arrest illegal.

Regulations on detention and arrest procedures require authorities to notify relatives as soon as possible of an arrest, and authorities generally observed this requirement.

Lengthy pretrial detention was a problem. The Constitution provides detainees the right to request speedy arraignment and trial; however, judges have ordered that some suspects be detained indefinitely, at times for years. Most such cases involved persons accused of violent crimes, but there were cases of those accused of nonviolent political crimes being held in custody until the conclusion of their trials.

Detainees could be held for up to 6 months during the preliminary investigation period. If a case was opened, the pretrial detention period could be extended for up to 2 years. If the detainee was charged with a crime carrying a maximum punishment of more than 7 years, a court could further extend the detention period.

Persons detained for individual crimes under the Antiterror Law have to be brought before a judge within 48 hours. Persons charged with crimes of a collective, political, or conspiratorial nature can be detained for an initial period of up to 4 days at a prosecutor's discretion and for up to 7 days with a judge's permission, which was almost always granted.

International humanitarian organizations were allowed access to "political" detainees, provided the organization obtained permission from the Ministry of Justice. With the exception of the CPT, which had good access, the Ministry granted organizations such permission few times.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was sometimes subject to outside influences. There were allegations of judicial corruption.

In June, the Court of Appeals President's Council, headed by Court President Eraslan Ozkaya, rejected a request by prosecutors to investigate eight Court of Appeals judges for corruption in a bribery-related case. Prosecutors sought to pursue evidence obtained from wiretaps indicating that the suspect in a bribery ring investigation had been in contact with the eight judges.

In August, the press reported allegations that organized crime figure Alaaddin Cakici maintained links to two High Court of Appeals judges—Eraslan Ozkaya and Court Deputy Secretary General Ercan Yalcinkaya—as well as to officials of the Turkish National Intelligence Organization. Cakici allegedly was informed about the

status of his case at the Court of Appeals and used this information to escape the country in May. Yalcinkaya resigned from the Court of Appeals in October and was reassigned as public prosecutor for Kazan, Ankara. In October, the Court of Appeals President's Council decided not to pursue either a criminal or disciplinary investigation of Ozkaya. A Justice Ministry investigation of Yalcinkaya continued at year's end.

The Constitution prohibits the Government from issuing orders or recommendations concerning the exercise of judicial power; however, the Government and the National Security Council (NSC), an advisory body to the Government composed of civilian government leaders and senior military officers, periodically issued announcements or directives about threats to the State, which could be interpreted as general directions to the judiciary. The seven-member High Council of Judges and Prosecutors, appointed by the President and chaired by the Minister of Justice, selects judges and prosecutors for the higher courts and is responsible for oversight of the lower courts. The High Council, which is located in the Ministry of Justice and does not have its own budget, was widely criticized for restricting judicial independence. While the Constitution provides for security of tenure, the High Council controlled the careers of judges and prosecutors through appointments, transfers, promotions, reprimands, and other mechanisms.

The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the nation's highest court; and three other high courts. The High Court of Appeals (Yargitay) hears appeals for criminal cases; the Council of State (Danistay) hears appeals of administrative cases or cases between government entities, and the Audit Court (Sayistay) audits state institutions. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. During the year, Parliament adopted legislation providing for the establishment of regional appeals courts to relieve the Yargitay caseload and allow the judiciary to operate more efficiently.

In June, Parliament adopted legislation closing the SSCs, special courts designed to try crimes against the State. The courts had been widely criticized for prosecution bias, and the ECHR had overturned many SSC convictions over the years on the grounds that the defendants had been denied a fair trial. However, the legislation established new, specialized heavy penal courts to take most of the former SSC caseload. Since the new courts have special powers similar to those of the SSCs, a number of attorneys and human rights activists asserted that the legislation amounted to little more than a name change.

The Constitutional Court examined the constitutionality of laws, decrees, and parliamentary procedural rules and heard cases involving the prohibition of political parties. If impeached, ministers and prime ministers could be tried in the Constitutional Court. However, the Court could not consider "decrees with the force of law" issued under a state of emergency, martial law, in time of war, or in other situations as authorized by Parliament. Military courts, with their own appeals system, heard cases involving military law for members of the armed forces.

The law provides prosecutors far-reaching authority to supervise police during investigations; however, prosecutors complained that they had few resources to do so. In December, Parliament adopted legislation establishing judicial police, who will be assigned to take direction from prosecutors during investigations; however, the Interior Ministry maintains authority over judicial police, including their promotions. Prosecutors also were charged with determining which law had been broken and objectively presenting facts to the court.

Defense lawyers did not have equal status with prosecutors. In heavy penal courts, prosecutors sat alongside judges, while defense attorneys sat apart. In courts with computers, prosecutors were generally provided with computers and had access to the hearing transcript; defense attorneys were not provided computer access. Judges and prosecutors lived in the same government apartment complexes, and some defense attorneys claimed that the social ties between judges and prosecutors disadvantaged the defense in court.

Defense attorneys in politically sensitive cases sometimes faced harassment, although human rights groups and bar associations said this was less common than in the past. Attorneys could face threats and other harassment, particularly if they defended clients accused of terrorism or illegal political activity, pursued torture cases, or sought prompt access to their clients, which police often viewed as interference.

There is no jury system; a judge or a panel of judges decides all cases. The Constitution provides for the right to a speedy trial; however, at times trials lasted for years (*see* Section 1.d.). Proceedings against security officials often were delayed because officers did not submit statements promptly or attend trials. In some cases,

such delays extended beyond the statute of limitations, causing the trial to end without a verdict.

The law prohibits the use of evidence obtained by torture in court; however, prosecutors sometimes failed to pursue torture allegations, and exclusion of evidence only occurred after a separate case on the legality of the evidence was resolved. In practice, a trial based on a confession allegedly coerced under torture could proceed and even conclude before the court had examined the merits of the torture allegations.

The law requires bar associations to provide free counsel to indigents who request it from the court, and bar associations across the country did so in practice.

The legal system did not discriminate in law or in practice against ethnic, religious or linguistic minorities; however, legal proceedings were conducted solely in Turkish, with interpreting available sometimes, which seriously disadvantaged some defendants whose native language was not Turkish.

In September, Parliament adopted a new Penal Code that reduced sentences for some crimes and decriminalized some acts that had previously been considered crimes. As a result, the Government released 3,240 convicts through November.

There were no developments in the appeal of the 2003 ECHR ruling that jailed PKK leader Abdullah Ocalan did not receive a fair trial during the proceedings that led to his 1999 conviction.

The HRA estimated that there were approximately 6,000 to 7,000 political prisoners, including leftists, rightists and Islamists. Of these, approximately 1,500 were alleged members of Hizballah or other radical Islamist political organizations. The Government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations. According to the Government, there were 4,508 convicts and detainees held on terrorism charges at year's end.

International humanitarian organizations were allowed access to "political" prisoners, provided they could obtain permission from the Ministry of Justice. With the exception of the CPT, which generally had good access, such organizations were seldom granted permission in practice.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these provisions in practice.

The law allows officials to enter a private residence and intercept or monitor private correspondence with a judicial warrant. If delay might cause harm to a case, prosecutors could authorize a search without a warrant.

The law permits wiretaps on national security grounds with a written court order or, in an emergency situation, written permission of a prosecutor, and the Government generally respected these requirements in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government continued to limit these freedoms in some cases.

The Government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the Penal Code prohibiting insults to the Government, the State, or the institutions and symbols of the Republic. Other laws, such as those governing the press and elections, also restrict speech. In September, Parliament adopted legislation prohibiting imams, priests, rabbis, and other religious leaders from "reproaching or vilifying" the Government or the laws of the State while performing their duties (see Section 2.c.). The "reasoning" attached to the Penal Code states that persons could be found in violation for accepting payment from foreign sources for the purpose of conducting propaganda in favor of withdrawing troops from Cyprus or (quoting from the text of the "reasoning") "saying that Armenians were subject to a genocide at the end of the First World War." The reasoning is not law, but serves as guidance to judges and prosecutors on how to apply the law.

According to HRA, in the first 9 months of the year, courts tried 416 persons on charges relating to spoken or written expression.

Individuals could not criticize the State or Government publicly without fear of reprisal, and the Government continued to restrict expression by individuals sympathetic to some religious, political, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued, particularly on issues relating to the country's EU membership process, the role of the military, Islam, political Islam, and the question of Turks of Kurdish origin as "minorities"; however, persons who wrote or spoke out on such topics risked prosecution.

In January, prosecutors opened a case against Vetha Aydin, chairman of the HRA Siirt branch, for distributing posters featuring slogans in both Turkish and Kurdish.

Aydin was charged with hanging posters without permission and was later acquitted.

In February, an Ankara prosecutor indicted Fusun Sayek, president of the Turkish Medical Association, and Metin Bakkalci, Association vice president, on charges of insulting the Health Minister. The two were charged for public comments made in response to the Minister's criticism of a stop-work action by physicians. According to the indictment, Sayek said the Minister "has a problem understanding" and Bakkalci said, "Not seeing the greatness of this action is a kind of pathological case." In June, a court acquitted the defendants on criminal charges. Civil charges were also filed against the Medical Association officials; a civil court acquitted Sayek but fined Bakkalci, whose appeal of the ruling continued at year's end.

In May, a prosecutor in Marmaris indicted Mehmet Yurek, editor of the newspaper Degisim, for insulting former President Evren in an article published in April.

In June, police detained and released DEHAP official Nedim Bicer for using the expression "sayin" ("esteemed") in reference to Abdullah Ocalan during a May press conference.

In September, an Istanbul prosecutor opened a case against journalist Mehmet Ali Birand and three attorneys for jailed PKK leader Abdullah Ocalan in connection with an April CNN Turk broadcast during which Birand interviewed the attorneys. Birand and the attorneys—Irfan Dundar, Mahmut Sakar, and Dogan Erbas—were charged with aiding the PKK.

During the year, there were indications that some judges in speech-related cases were conforming their rulings to recent, EU-related legal reforms. In May, SSCs in Van and Erzurum acquitted DEHAP President Tuncer Bakirhan on charges of separatism and spreading terrorist propaganda in public speeches. The courts determined that Bakirhan's comments did not encourage violence and were within the realm of legally protected speech. In August, a Van court acquitted Selahattin Demirtas, president of the HRA Diyarbakir branch, on charges of making terrorist propaganda, reportedly basing its ruling on the European Convention on Human Rights.

There were no new developments in the appeal of DEHAP parliamentary candidate Ruknettin Hakan's 2003 conviction and 6-month suspended prison sentence for "making propaganda in a language other than Turkish."

In January, an Istanbul SSC sentenced Sefika Gurbuz, chairwoman of the Social Support and Culture Association of Migrants, to 10 months imprisonment in connection with the organization's 1999 2001 report on forced displacement. The court converted the sentence to a fine of \$1,430 (1.9 billion lira).

Freedom of the press was restricted; however, the Government took a number of steps during the year to ease some of the restrictions. In June, Parliament adopted a law to expand press freedom. The new law replaces prison sentences with fines for a number of crimes, reduces fines, permits noncitizens to own periodicals and serve as responsible editors, protects editors and reporters from being forced to disclose sources, provides punishment for preventing the distribution of a publication, allows law enforcement authorities to confiscate a maximum of three copies of a publication under investigation, generally prohibits courts from converting fines to prison sentences in press-related cases, and prohibits authorities from closing publications or preventing their distribution due to violations of the Press Law.

In May, Parliament amended the Constitution so that it no longer authorizes law enforcement authorities to seize printing presses or other publishing equipment.

Independent domestic and foreign periodicals that provided a broad spectrum of views and opinions, including intense criticism of the Government, were widely available, and the newspaper business was extremely competitive. However, news items reflected a proauthority bias.

The Government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK), there were 226 local, 15 regional, and 16 national officially registered television stations, and 959 local, 104 regional, and 36 national radio stations. Other television and radio stations broadcast without an official license. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels. Most media were privately owned by large holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate.

The RTUK monitored broadcasters and sanctioned them if they were not in compliance with relevant laws. Parliament elected the RTUK Council members, who were divided between ruling and opposition parties. In July, Parliament revised the RTUK law to eliminate the NSC-nominated member from the Council, reducing Council membership from nine to eight. Although nominally independent, the RTUK

was subject to political pressures. The RTUK penalized private radio and television stations for the use of offensive language, libel, obscenity, instigating separatist propaganda, or broadcasting programs in Kurdish. RTUK decisions could be appealed to the Provincial Administrative Court and then to the Council of State (Danistay). The RTUK reported that, in the first 9 months of the year, it closed 4 television stations and 6 radio stations for periods of 30 days each.

In March, the RTUK ordered Ozgur Radio and Serhat Television to cease broadcasting for 30 days for inciting people to hatred and violence. Ozgur was sanctioned in connection with an August 2003 broadcast during which articles from the newspaper *Evrensel* were read on the air; Serhat was sanctioned due to a July 2003 program titled "Isildak." In April, the RTUK ordered ART Television of Diyarbakir to cease broadcasting for 30 days on the grounds that an August 2003 broadcast featuring Kurdish music constituted separatist propaganda. In June, the RTUK banned one broadcast of the Show TV program "Valley of Wolves" for encouraging violence and inciting racial hatred. In September, RTUK ordered Gun TV of Diyarbakir to cease broadcasting for 30 days as punishment for a December 2003 broadcast that authorities deemed to be "against the values of Ataturk, against the unity of the State." The sanction stemmed from Gun TV's live broadcast of a symposium on local administration, human rights, and the media. In October, the RTUK ordered Imaj Radyo to cease broadcasting for 30 days for playing a song that it considered incited hatred and violence.

Prosecutors harassed writers, journalists, and political figures by bringing dozens of cases to court each year under various laws that restrict media freedom; however, judges dismissed many of these charges. Authorities often closed periodicals temporarily, issued fines, or confiscated periodicals for violating speech codes. Despite government restrictions, the media criticized government leaders and policies daily and adopted an adversarial role with respect to the Government.

In May, an Ankara court ordered three journalists of the Islamist-oriented *Vakit* newspaper—owner Nuri Aykon, editor Harum Aksoy, and writer Mehmet Dogan—to pay \$408,000 (551 billion lira) to 312 generals for insulting them. The charges stemmed from an article published in August 2003 titled, "The Country Where a Soldier Who Does Not Deserve to be Sergeant Becomes a General." An appeals court upheld the ruling.

In October, a Bursa court convicted Genc Party leader Cem Uzan, sentenced him to 8 months in prison, and fined him \$462 (623 million lira) for insulting the Government in a 2003 speech in which he called Prime Minister Erdogan "godless." The case was under appeal at year's end.

There were no new developments in the case of Sabri Ejder Ozic, who appealed his December 2003 conviction for insulting and mocking Parliament in a radio broadcast.

At year's end, writer and scholar Fikret Baskaya continued to face charges involving the 2003 republishing of an article he wrote in 1993.

According to the Government, there were no journalists held on speech violations during the year; however, at year's end, there were 43 prisoners claiming to be journalists who were charged with a variety of crimes.

Authorities sometimes used forms of censorship against periodicals with pro-Kurdish or leftist content, particularly in the southeast. In January, Sinan Kutluk claimed police kidnapped him and threatened to kill him as he was distributing the leftist daily *Ozgur Gundem* in Adana. In June, a juvenile said plainclothes police beat him as he was distributing *Ozgur Gundem* in Van. Journalists practiced self-censorship.

While there were improvements during the year, the Government maintained significant restrictions on the use of Kurdish and other minority languages in radio and television broadcasts. In June, state television and radio began limited broadcasts in Kurdish and three other minority languages. RTUK regulations limited the minority-language broadcasts, including news and cultural programming, to 60 minutes per day, 5 hours per week on radio, and 45 minutes per day, 4 hours per week on television. The regulations also require that non-Turkish radio programs be followed by the same program in Turkish and that non-Turkish television programs have Turkish subtitles. At year's end, local stations were prohibited from broadcasting similar non-Turkish programs pending the completion of a RTUK viewer-listener profile.

In October, the Government's Human Rights Consultation Board issued a report, which found that legal restrictions on the use of minority languages violated the country's commitments under the 1923 Lausanne Treaty to provide Turkish nationals the right to use any language in the press, commerce, religion, public meetings, and private life without restriction. A number of Government officials harshly criti-

cized the report and Ankara prosecutors opened an investigation against the report's principal authors. There were no developments in the investigation at year's end.

In November, the High Court of Appeals reinstated a case against the teachers' union Egitim-Sen on charges stemming from an article in the union's statute supporting the rights of individuals to receive education in their mother tongue; the case continued at year's end.

While Kurdish-language audio cassettes and publications were available commercially, local authorities periodically prohibited specific cassettes or singers, particularly in the southeast. Prosecutors ordered the confiscation of numerous issues of leftist, Kurdish nationalist, and pro-PKK periodicals and prohibited several books on a range of topics. Police frequently raided the offices of such publications.

The Government did not restrict access to the Internet; however, the law authorizes RTUK to monitor Internet speech and to require Internet service providers to submit advance copies of pages to be posted online. The law also allows police to search and confiscate materials from Internet cafes to protect "national security, public order, health, and decency" or to prevent a crime. Police must obtain authorization from a judge or, in emergencies, the highest administrative authority before taking such action.

The Government did not overtly restrict academic freedom; however, there was some self-censorship on sensitive topics.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Significant prior notification to authorities was required for a gathering, and authorities could restrict meetings to designated sites.

Police beat, abused, detained, or harassed some demonstrators. In April, Istanbul police reportedly prevented students from marching in Taksim Square to protest the Higher Education Council. Police allegedly beat students with truncheons, used tear gas, and detained 48 demonstrators. In July, Diyarbakir police reportedly prevented a group of women from staging a demonstration in support of jailed PKK leader Abdullah Ocalan. Police allegedly beat demonstrators, injuring 6 persons and detaining 38.

In August, the Interior Ministry issued a circular directing governors and law enforcement authorities to take measures to avoid the use of excessive force in responding to demonstrations. The circular instructed authorities to identify the root causes of excessive force, working with NGOs and other civil institutions as necessary, and to punish law enforcement officials who engage in the practice.

There were no new developments in the court appeal by police officers of their postponed prison sentences for beating Veli Kaya during a 2002 protest against the Higher Education Council.

On March 21, most celebrations of Nevruz, the Kurdish New Year, took place without incident, according to the HRF; however, the HRF reported that police beat celebrants at a number of locations. In Agri Province, authorities refused to allow celebrations because the application featured the Kurdish spelling "Newruz," including the letter "w," which is not found in Turkish.

In February, an Aliaga court sentenced Alp Ayan, a psychiatrist with the HRF Izmir Treatment and Rehabilitation Center, to 1 year in prison for holding an unauthorized demonstration. The court also sentenced 31 codefendants in the case and acquitted 34; the ruling was under appeal at year's end.

The HRF reported that authorities in most cases did not interfere in celebrations of May Day (May 1); however, police detained a number of celebrants. Organizers canceled May Day celebrations in Diyarbakir because the Governor designated a site 12 kilometers from the city center.

The Constitution provides for freedom of association; however, there were some restrictions on this right in practice.

In March, prosecutors opened a case seeking the closure of the Human Rights Agenda Association for allegedly failing to make required changes to its statute. In September, an Izmir court decided to drop the case, determining that the changes were not necessary.

In April, Istanbul police sealed the headquarters of the Association of Prisoners' Relatives under a closure order from the Governor for alleged violations of the Associations Law.

In May, the Directorate General for Foundations issued a circular stating that all foundations were required to seek government permission prior to applying to participate in projects funded by international organizations.

In June, an Ankara court ordered the closure of the National Youth Foundation for promoting "Arab nationalism." In December, the High Court of Appeals upheld the ruling.

In June, the Interior Ministry issued a circular that directed local authorities to regard public statements by civil society organizations as constitutionally protected speech. It also instructed law enforcement officials not to film or photograph meetings and activities of organizations unless so instructed by the governor's office.

In August, a Diyarbakir prosecutor opened a case against the local branch of the Kurdish Writers Association for "receiving a committee from the EU" without permission from the governor's office. A court acquitted the defendants in October.

In November, Parliament adopted a law that reduces limits on the right to form and join associations by removing restrictions on the establishment of associations based on race, religion, sect, region, or minority status, and on student associations. The law also allows associations to cooperate with foreign organizations and establish branches abroad without prior permission. The law removes the requirement that associations inform local authorities of general assembly meetings and prohibits law enforcement authorities from searching association premises without a court order. However, the new law maintains the requirement that foreign associations receive permission from the Interior Ministry, in consultation with the Ministry of Foreign Affairs, before engaging in activity in the country.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government imposed some restrictions on Muslim and other religious groups and on Muslim religious expression in government offices and state-run institutions, including universities, usually for the stated reason of preserving the "secular State."

The Constitution establishes the country as a secular state and provides for freedom of belief, freedom of worship, and the private dissemination of religious ideas; however, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights. The Constitution prohibits discrimination on religious grounds. The state bureaucracy has played the role of defending traditional Turkish secularism throughout the history of the Republic. In some cases, elements of the bureaucracy have opposed policies of the elected government on the grounds that they threatened the secular state.

The Government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which reports directly to the Prime Ministry. The Diyanet has responsibility for regulating the operation of the country's 75,000 registered mosques and employing local and provincial imams, who are civil servants. Some groups, particularly Alevis, claim that the Diyanet reflects mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the Government asserts that the Diyanet treats equally all who request services.

There are an estimated 7 to 9 million Alevis, including ethnic Turks, Kurds, and Arabs. In general, Alevis follow a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religions found in Anatolia as well. Alevis in Central Anatolia base their beliefs on 12er Shi'ism. Alevi Kurds in the Tunceli area follow the Kurdish "Cult of Angels," or Yarsanism. The Government considers Alevism a heterodox Muslim sect; however, some Turkish Alevis and radical Sunnis maintain that Alevis are not Muslims.

A separate government agency, the General Directorate for Foundations (Vakiflar Genel Mudurlugu), regulates some activities of non Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious property. There are 161 "minority foundations" recognized by the Vakiflar, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The Vakiflar also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages.

Secularists in the military, judiciary, and other branches of the bureaucracy continued to wage campaigns against what they label as proponents of Islamic fundamentalism. These groups view religious fundamentalism—which they do not clearly define, but which they assert is an attempt to impose the rule of Shari'a law in all civil and criminal matters—as a threat to the secular State. The NSC categorizes religious fundamentalism as a threat to public safety.

According to the human rights NGO Mazlum-Der and other groups, some government ministries have dismissed or barred from promotion civil servants suspected of antistate or Islamist activities. Reports by Mazlum-Der, the media, and others indicated that the military regularly dismisses religiously observant Muslims from military service. Such dismissals were based on behavior that military officials believed identified these individuals as Islamic fundamentalists, which they were concerned could indicate disloyalty to the secular State. According to Mazlum-Der, the military charged individuals with lack of discipline for activities that included per-

forming Muslim prayers or being married to women who wore headscarves. According to the military, officers were sometimes dismissed for maintaining ties to what the military considered to be Islamic fundamentalist organizations, despite repeated warnings from superior officers.

The law prohibits mystical Sufi and other religious-social orders (tarikats) and lodges (cemaats). The military ranked tarikats among the most harmful threats to secularism; however, tarikats remained active and widespread and some prominent political and social leaders associated with tarikats, cemaats, and other Islamic communities.

The Government did not recognize the ecumenical status of the Greek Orthodox Patriarch, acknowledging him only as the head of the country's dwindling Greek Orthodox community. As a result, the Government has long maintained that only citizens of the country could be members of the Church's Holy Synod and participate in Patriarchal elections. Members of the Greek Orthodox community said these restrictions threatened the survival of the Patriarchate in Istanbul, because, with fewer than 2,500 Greek Orthodox left in the country, the community was becoming too small to maintain the institution. In March, Ecumenical Patriarch Bartholomew I appointed six non-Turkish-citizen metropolitans to the Holy Synod, representing the first time in the 80-year history of the country that noncitizens had been appointed to the body. At year's end, the Government was still conducting a legal analysis of the unprecedented move.

The law restricts religious services to designated places of worship. Municipal codes mandate that only the Government can designate a place of worship; if a religious group has no legal standing in the country, it may not be eligible for a designated site. Non-Muslim religious services, particularly for groups that do not own property recognized by the Vakıflar, often took place on diplomatic property or in private apartments. Police occasionally prohibited Christians from holding services in private apartments, and prosecutors sometimes opened cases against Christians for holding unauthorized gatherings.

In May, a Diyarbakir court acquitted Ahmet Guvener, pastor of the Diyarbakir Evangelical Church, of multiple charges of operating an illegal church after the prosecutor told the court that Guvener's actions no longer constituted a crime due to international law and recent domestic legal reforms. In November, a local board charged with protecting cultural and historic sites approved the church's application to have its property zoned as a place of worship, reversing its May ruling against the church. In December 2003, the Interior Ministry issued a circular directing provincial governors to facilitate efforts by non-Muslim communities to open places of worship; however, some local officials continued to impose standards, such as minimum space requirements, on churches while failing to apply them to mosques.

In March, authorities approved an application by a group of expatriate, German-speaking Christians to establish a religious/charity association in Alanya, Antalya Province. In the past, authorities rejected such applications on the grounds that the law prohibited associations based on religion. The arrangement authorizes group members to build and maintain a church, but does not explicitly allow them to worship.

The Ecumenical Patriarchate in Istanbul continued to seek to reopen the Halki seminary on the island of Heybeli in the Sea of Marmara, which was closed in 1971 when the State nationalized private institutions of higher learning. The Ecumenical Patriarchate faced a series of other problems related to its properties. Under existing restrictions, religious communities other than Sunni Muslims cannot legally train new clergy in the country for eventual leadership. Coreligionists from outside the country have been permitted to assume leadership positions in rare cases, but in general all religious community leaders, including Patriarchs and Chief Rabbis, were required to be citizens.

In September, Parliament adopted a law prohibiting imams, priests, rabbis, or other religious leaders from "reproaching or vilifying" the Government or the laws of the State while performing their duties. Violations are punishable by prison terms of 1 month to 1 year, or 3 months to 2 years if the crime involves inciting others to disobey the law, which was scheduled to go into effect in April 2005.

While no law explicitly prohibits proselytizing or religious conversions, many prosecutors and police regard proselytizing by non-Muslims and religious activism with suspicion. Police occasionally prohibited Christians from handing out religious literature and sometimes arrested proselytizers for disturbing the peace, insulting Islam, conducting unauthorized educational courses, or distributing literature that has criminal or separatist elements. Courts usually dismissed such charges. Proselytizing is often considered socially unacceptable; Christians performing missionary work are sometimes beaten and insulted. If proselytizers are foreigners, they may be deported, but generally they are able to reenter the country. Police may report

students who meet with Christian missionaries to their families or to university authorities.

Authorities enforced the long-standing prohibition on the wearing of headscarves at universities and by civil servants in public buildings. Women who wore headscarves and persons who actively showed support for those who defied the prohibition were disciplined or lost their jobs in the public sector. Students who wear head coverings are officially not permitted to register for classes. Many secular Turkish women accused Islamists of using advocacy for wearing the headscarf as a political tool and expressed fear that efforts to remove the headscarf ban would lead to pressure against women who chose not to wear a head covering. Secular women also maintained that many women wore headscarves under pressure from men. In June, the ECHR ruled that Turkish universities have the right to ban Muslim headscarves; the ruling was under appeal at year's end.

The law establishes 8 years of compulsory secular education for students. After completing the 8 years, students may pursue study at imam hatip (Islamic preacher) high schools. Imam hatip schools are classified as vocational, and graduates of vocational schools faced an automatic reduction in their university entrance exam grades if they applied for university programs outside their field of high school specialization. This reduction effectively barred imam hatip graduates from enrolling in university programs other than theology. Most families that enroll their children in imam hatip schools did so to expose them to more extensive religious education, not to train them as imams. In May, President Sezer vetoed a bill that would have eliminated the disadvantage faced by graduates of imam hatip and other vocational schools seeking to enroll in the full range of university social sciences programs.

Only the Diyanet is authorized to provide religion courses outside of school, although clandestine private courses existed. Students who complete 5 years of primary school may enroll in Diyanet Koran classes on weekends and during summer vacation. Many Koran courses functioned unofficially. Only children 12 and older could legally register for official Koran courses, and Mazlum-Der reported that police often raided illegal courses for younger children.

Members of the Christian community reported that the Government revised school textbooks in response to complaints about inaccurate, negative references to Christianity. They said the revised versions represented a significant improvement.

The 1923 Lausanne Treaty exempts non-Muslim minorities—which the Government interprets as referring exclusively to Greek Orthodox Christians, Armenian Orthodox Christians, and Jews—from Islamic religious and moral instruction in public schools upon written notification of their non-Muslim background. These students may attend Muslim religious courses with parental consent. Others, such as Catholics, Protestants, and Syriac Christians, are not exempted legally; however, in practice they were allowed to obtain exemptions. Officially recognized minorities may operate schools under the supervision of the Ministry of Education. Such schools are required to appoint a Muslim as deputy principal; reportedly these deputies had more authority than their nominal supervisors. The curriculum of these schools included Greek Orthodox, Armenian Orthodox, and Jewish instruction. In May, the Education Ministry stated that children with non-Muslim mothers could attend minority schools; previously, only those with non-Muslim fathers were permitted.

Some religious groups, particularly the Greek and Armenian Orthodox communities, have lost property to the Government in the past and continued to fight ongoing efforts by the Government to expropriate properties. Many such properties were lost because the law allows the Vakiflar to assume direct administration of properties that fall into disuse when the size of the local non-Muslim community drops significantly. The Government expropriated other properties that were held in the name of individual community members who emigrated or died without heirs. The Vakiflar also took control of non-Muslim foundations after the size of the non-Muslim community in a particular district dropped below the level required to elect foundation board members. In September, the Government adopted a regulation allowing governors to expand the boundaries of electoral districts in cases where there are not enough voters in a district to hold foundation board elections.

The law allows the 161 minority foundations recognized by the Vakiflar to acquire property and the Vakiflar has approved 292 applications by non-Muslim foundations to acquire legal ownership of properties. However, the legislation does not allow the foundations to reclaim hundreds of properties expropriated by the State over the years. Foundations have also been unable to acquire legal ownership of properties registered under names of third parties, including properties registered under the names of saints or archangels, during periods when foundations could not own property in their own name.

In February, the Vakıflar expropriated an orphanage on the Prince's Islands that had belonged to the Ecumenical Patriarchate, asserting that the deed, in the name of the Patriarch, was invalid and that the property belonged to a Greek Orthodox foundation that had previously been expropriated by the Government. In November, the High Court of Appeals upheld the expropriation. By year's end, the Patriarchate was unable to receive permission to repair churches, including one damaged in the November 2003 terrorist bombings in Istanbul.

In January, the Government replaced the Minorities Subcommittee, a body that monitored minorities as potential threats to the country, with the Board to Assess Problems of Minorities. Unlike the subcommittee, the board does not include representatives of the military and intelligence agencies and is charged with supporting the rights of non-Muslims. However, there were no indications that the new board made any serious efforts to address the concerns of non-Muslims during the year.

In September, Parliament adopted a law that prohibits forcing persons to declare or change their religious, political, or philosophical beliefs or preventing them from expressing or spreading such beliefs. The law specifically prohibits the use of force or threats to prevent persons from gathering for worship or religious ceremonies. Violations of the law are punishable with 1 to 3 years in prison.

At year's end, members of the Baha'i community continued to seek authorization from a local board to renovate a sacred property in Edirne.

National identity cards list a person's religious affiliation. Some religious groups, such as Baha'is, alleged that they were not permitted to state their religion on their cards; however, there were reports that authorities have become more flexible regarding the religious affiliation that may be listed. In September, an Ankara court approved the application of a family requesting permission to leave the religion portion of their children's identity cards blank until they reach 18 years of age. Conversion to another religion entails amending a person's identity card; there were reports that local officials harassed persons who converted from Islam to another religion when they sought to amend their cards. Some persons who were not Muslim maintained that listing religious affiliation on the cards exposed them to discrimination and harassment.

In March, two bombers attacked an Istanbul Masonic Lodge, killing two and wounding seven. It was widely believed in the country that Masons have Zionist and anti-Islamic tendencies; evidence gathered in the subsequent investigation suggested that anti-Semitism was at least a partial motivating factor in the attack. According to press reports, one of the suspects arrested also confessed to the August 2003 murder of a Jewish dentist in Istanbul. Reports suggested that the crime's perpetrator used his victim's address book and subsequently telephoned a number of Jewish board members of a retirement home and threatened them with violence.

At year's end, court proceedings continued in the Istanbul trial of 69 suspects charged in connection with the November 2003 terrorist bombings of two synagogues, the British Consulate, and a bank. In an incident that arose out of the bombings, a court case was opened in September against the 17-year-old son of one of the alleged perpetrators and three journalists on anti-Semitism charges. The charges stemmed from an interview with the daily *Milliyet* in which the youth said, "the attacks did not touch the hearts of the members of my family because the target was Jews," and, "if Muslims hadn't been killed, we would have been happy. We don't like Jews." Three *Milliyet* journalists were charged with providing a platform for incitement against members of another religion.

Some Muslims, Christians, Jews, and Baha'is faced societal suspicion and mistrust. Jews and Christians from most denominations freely practiced their religions and reported little discrimination in daily life. However, there were regular reports that citizens who converted from Islam to another religion were sometimes attacked and often experienced social harassment. Proselytizing on behalf of non-Muslim religions was socially unacceptable and sometimes dangerous. A variety of newspapers and television shows have featured anti-Christian and anti-Jewish messages, and anti-Semitic literature was common in bookstores.

In October, the Government's Human Rights Consultation Board issued a report on minorities, which stated that non-Muslims are effectively barred from holding positions in State institutions, such as the armed forces, the Ministry of Foreign Affairs, the National Police, and the National Intelligence Agency. A number of representatives of non-Muslim communities confirmed the report's conclusions (see Section 5).

During the observance of Ramazan in October-November, there were reportedly several incidents of university students attacking students who were not fasting. In October, the rector of Gaziosmanpaşa University in Tokat opened an investigation against 10 students and a faculty member in connection with such attacks. In No-

ember, police intervened after fasting students at Ankara University attacked non-fasting students, according to press reports.

In March, the Bursa court trying three members of the Nationalist Movement Party accused of severely beating Yakup Cindilli, a convert to Christianity, postponed hearings for 15 months on the grounds that such a period of time was needed before a medical evaluation could be conducted to determine the full extent of Cindilli's injuries.

In April, an Ankara SSC sentenced Kerim Akbas of Baskent TV to 23 months in prison for inciting attacks against local Protestants and their places of worship. The court convicted Akbas for a series of broadcasts claiming Protestants were bribing Muslims to convert and attempting to disturb the peace. The ruling was under appeal at year's end. Following the broadcasts, vandals damaged several local Protestant facilities.

In September, Bodrum police closed a Protestant church and confiscated its signs under orders from the Governor. Authorities reopened the church several days later.

Members of a Protestant church in Kecioren, Ankara, said local residents opposed to their presence repeatedly threatened them, attempted to attack church members, and vandalized the church. They said police were dismissive of their reports; church members filed a complaint against the local police chief. Church members opened a case against the alleged organizer of the harassment; however, at year's end the suspect remained at large and the threats and vandalism continued.

In September, an estimated 1,000 protestors gathered outside the Greek Orthodox Patriarchate in Istanbul and burned an effigy of Ecumenical Patriarch Bartholomew I. The protest was organized by the youth wing of the Nationalist Movement Party, whose leaders accused the Patriarch of interfering in internal politics by commenting on religious reform and the country's EU candidacy. In October, unknown persons threw a homemade bomb over the wall of the Patriarchate; the bomb blew out several windows and damaged the roof of a cathedral.

Jehovah's Witnesses reported increasing official harassment of their worship services because they were not members of an officially recognized religion. On several occasions during the year, members of Jehovah's Witnesses in Mersin and Istanbul were fined for conducting religious meetings without permission. Members also reported some difficulties in claiming conscientious objector status and exemption from military service. Jehovah's Witnesses who were conscripted into the military refused to take the military oath or carry weapons and, as a result, faced arrest and detention; such detention generally lasted for about a month, after which the individual was released pending trial.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, at times the Government limited some of these rights. The Constitution provides that a citizen's freedom to leave the country could be restricted only in the case of a national emergency, civic obligations (military service, for example), or criminal investigation or prosecution. The Government maintained a heavy security presence in the southeast, including numerous roadway checkpoints. Provincial authorities in the southeast, citing security concerns, denied some villagers access to their fields and high pastures for grazing.

The Constitution prohibits forced exile, and the Government did not employ it. There were no new cases of internal exile during the year.

Various NGOs estimated that there were from 1 to 3 million IDPs remaining from PKK conflict, which reached its height between 1984 and 1990. The Government reported that 378,000 residents "migrated" from the southeast during the conflict, with many others departing before the fighting. In July, Parliament adopted a law allowing persons who suffered material losses during the conflict with the PKK to apply for compensation. Under the law, IDPs who fled the region are eligible for cash or in-kind payment for losses caused by terrorism or by the State's antiterror operations. However, the Foundation for Society and Legal Studies and a number of international organizations criticized the law because some villagers who fled the region, particularly those who fled the country, would have difficulty meeting the 1-year deadline for applying for payment and because villagers who received token amounts of compensation in the past would be ineligible for benefits. Residents of the southeast and representatives of regional bar associations also said the law established unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR.

According to human rights activists, villagers, and some southeast members of Parliament, the Government did not allow some displaced villagers to return to the

southeast unless they signed a document stating that they had left their homes due to PKK terrorism, rather than government actions, and that they would not seek government assistance in returning. Village guards occupied homes abandoned by IDPs and have attacked or intimidated IDPs attempting to return to their homes with official permission. Voluntary and assisted resettlements were ongoing. In some cases, persons could return to their old homes; in other cases, centralized villages have been constructed. The Government claimed that a total of 127,927 displaced persons had returned to the region as of November and that it had assisted in the reopening of more than 400 villages and hamlets.

In August, the HRA reported that soldiers forcibly evacuated residents from the village of Ilicak in Sirtak Province, marking the first such evacuation in 3 years. Local officials arranged for the return of the villagers 3 days later.

In September, the Governor and Jandarma officials in Sirtak Province evicted village guards who were preventing a group of Syriac Christians from returning to their homes. The Syriacs, who fled due to the PKK conflict, returned during the year and found 20 village guards occupying their homes in the village of Sarikoy. The Sirtak Governor cut off electricity to the village, and Jandarma officers evacuated the village and disarmed the village guards. The Syriacs reportedly paid local authorities \$93,700 (126 billion lira) for the relocation effort.

Foreign governments and national and international human rights organizations continued to criticize the Government's program for assisting the return of IDPs as secretive and inadequate.

There were no new developments in the Mersin trial of seven members of the Migration and Humanitarian Aid Foundation (GIYAV) on charges of aiding and abetting an illegal organization. There were also no new developments in the separate Mersin trial in which prosecutors are seeking to disband GIYAV on charges of establishing relations with foreign associations without seeking the required approval from the Interior and Foreign ministries.

An administrative regulation provides for the granting of asylum or refugee status in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, the Government exercised its option under the Convention of accepting obligations only with respect to refugees from Europe. The Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. According to the Government, Europeans recognized as refugees could remain in the country and eventually acquire citizenship; however, it was not clear how often this happened in practice. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting the small number of European refugees and asylum seekers. Chechens, many of whom arrived in 2001, reported problems making asylum applications with the Government and renewing temporary residence permits.

The Government offered non-European refugees temporary asylum while they were waiting to be resettled in another country. The UNHCR conducted refugee status determination for applicants from non-European countries and facilitated the resettlement of those recognized as refugees.

The UNHCR reported that no recognized refugees were returned to a country where they feared persecution during the year; however, three asylum seekers whose applications remained under review by the UNHCR were deported to their country of origin.

Detained illegal immigrants found near the country's eastern border areas were more likely to be questioned about their asylum status and referred for processing than those caught while transiting or attempting to leave the country. Even along the eastern border, however, access to the national procedure for temporary asylum was hindered by the lack of reception facilities for groups of interdicted migrants, potentially including asylum seekers, and interpreters to assist security officials.

The UNHCR experienced difficulty gaining access to some persons who expressed a wish to seek asylum while in detention and facing deportation. According to the UNHCR, the Government deported 23 persons in this situation during the year, in most cases to their country of origin, without giving the UNHCR an opportunity to assess their possible need for international protection.

Regulations require asylum seekers to apply within 10 days of arrival and submit proof of identity in order to register for temporary asylum. An appeal can be lodged within 15 days of a decision by authorities not to receive an asylum claim; after the appeal procedure, rejected applicants are issued a deportation order that can be implemented after 15 days. According to the UNHCR, the Government demonstrated greater flexibility than in past years in applying these regulations; however, asylum seekers arriving in the country after transiting through one or more other countries

continued to face difficulties in lodging an application. As a result, some of the refugees and asylum seekers registered with the UNHCR were unable to register with the Government or otherwise legalize their status in the country.

The Government provided free medical care to non-Europeans recognized as refugees by the UNHCR, pending efforts to resettle them abroad. Local authorities also extended support to non-European refugees in some cases. The UNHCR remained the main source of support to refugees, working with the Government and civil society organizations.

*Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage; however, the Government restricted the activities of some political parties and leaders.

The 2002 parliamentary elections were held under election laws that the Organization for Security and Cooperation in Europe (OSCE) found established a framework for democratic elections in line with international standards; however, the OSCE mission noted that several parties—notably the AKP, the winner of the elections—faced action aimed at closing them down, and many candidates were also prohibited from running. The mission reported that, while there were a substantial number of cases of harassment reported by some political parties and by human rights groups, the situation had improved markedly compared with previous elections.

Political parties and candidates could freely propose themselves and be freely nominated by various elements in the country; however, the High Court of Appeals Chief Prosecutor could seek to close political parties for unconstitutional activities by bringing a case before the Constitutional Court.

There were no new developments during the year in the legal case seeking the closure of the pro-Kurdish DEHAP on charges of separatism.

In February, the Constitutional Court ordered the Felicity Party to stop using the abbreviation “SP,” which was the abbreviation used by the banned Socialist Party.

In July, the High Court of Appeals overturned the April conviction of Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak, former members of Parliament from the Democracy Party. An Ankara SSC had convicted the four defendants in their retrial on charges of being members of, or supporting, the PKK. The Court of Appeals ruled that the SSC had failed to conform to recent legal reforms in its conduct of the retrial. The Court of Appeals’ reasons for overturning the verdict included the SSC’s rejection without explanation of a defense request for the replacement of the chief judge, the use of statements and testimony by the prosecution that were not read in court, the SSC’s refusal to permit some defense witnesses to testify, and the failure to have audio and video recordings used as evidence transcribed by impartial parties. In June, the Court of Appeals ordered the release of the defendants. As a result of the Court of Appeals ruling, a heavy penal court in October began a new trial for the defendants.

In October, a Bursa court sentenced Genc Party leader Cem Uzan to 8 months in prison for insulting the Government (*see* Section 2.a.).

During the year, police raided dozens of DEHAP offices, particularly in the southeast, and detained hundreds of DEHAP officials and members. Jandarma and police regularly harassed DEHAP members, through verbal threats, arbitrary arrests at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DEHAP. Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization, inciting separatism, or for violations of the law. In January, an Erzurum prosecutor opened a case against DEHAP Chairman Tuncer Bakirhan on charges relating to a 2002 speech. A court convicted Bakirhan and sentenced him to 1 year in prison, but postponed the sentence. In February, the High Court of Appeals upheld the conviction of DEHAP Party Assembly member Abdulkерim Bingol on charges relating to a 2003 speech. Bingol began serving his 18-month prison sentence in April. In April, DEHAP official Giyasettin Torun claimed that Istanbul police kidnapped him, blindfolded him, and subjected him to threats and beatings for several hours before releasing him without charge. In June, a prosecutor in Van indicted local DEHAP Chairman Hasan Ozgunes, HRA official Zuleyha Cinarli, and 11 others on terrorism charges stemming from their participation in a press conference on the Kurdish problem and the prison conditions of jailed PKK leader Abdullah Ocalan. A court acquitted them in August. In December, a Bursa prosecutor opened a case against eight DEHAP members, including Murat Avci, head

of the party branch in Bursa, in connection with slogans allegedly shouted at a DEHAP event in June.

Corruption was a problem. Former Prime Minister Mesut Yilmaz and former State Minister Gunes Taner were charged with corruption during the year and were scheduled to be tried in 2005. Other former high-level officials faced trial for allegedly abusing their authorities. Several retired military officers were also charged with corruption, including former Naval Forces Commander Ilhami Erdil, former NSC Secretary General Tuncer Kilinc, and former Jandarma Commander Sener Eruygur. Prosecutors dropped the charges against Kilinc because the statute of limitations had expired; legal proceedings against the other former officers continued at year's end.

Opposition party members criticized the ruling AKP for refusing to lift the immunity of AKP parliamentarians suspected of corruption and other abuses.

In October 2003, the Government adopted the Freedom of Information Law, under which citizens could apply to government institutions for information. The HRF maintained that the law gives the Government broad leeway to reject applications on national security and other grounds; HRF requests for information during the year were denied, and there was no opportunity to appeal. The Press Council reported that it received no complaints during the year from journalists making applications under the law.

There were 24 women in the 550-seat Parliament. There was 1 female minister in the 24-member Cabinet. There were no female governors but approximately 20 female subgovernors. Following the March local elections, there were 25 women among the 3,209 mayors in the country.

Some minority groups were active in political affairs. Many members of Parliament and senior government officials were Kurds.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated in many regions, but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. The Government met with domestic NGOs (which it defined broadly to include business organizations and labor unions), responded to their inquiries, and sometimes took action in response to their recommendations.

The HRA had 34 branches nationwide and claimed a membership of approximately 14,000. The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearinghouse for human rights information. Other domestic NGOs included the Istanbul based Helsinki Citizens Assembly, the Ankara-based Turkish Democracy Foundation, the Turkish Medical Association, human rights centers at a number of universities, and Mazlum Der.

Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities. For example, the HRA reported that prosecutors opened 98 court cases and investigations against the organization between October 2003 and August, and 58 cases remained ongoing at year's end.

In March, prosecutors dropped a case against the members of the HRF Executive Board on charges of translating HRF reports into English and distributing them without permission, soliciting donations on the Internet, and encouraging protestors to engage in hunger strikes by providing treatment to ill strikers. If convicted, the board members would have been forced to resign.

There were no developments in the Government's investigation of the HRA headquarters and Ankara branch office. The investigation was opened following the May 2003 police raid of the facilities.

Amnesty International maintained a headquarters in Istanbul and reported good cooperation with the Government during the year. The Government also cooperated with international governmental organizations such as the CPT, UNHCR, and the International Organization for Migration. In October, the Government permitted the visit of and met with the U.N. Special Representative for Human Rights Defenders.

In October, the Interior Ministry issued a circular directing local authorities to comply with U.N. and EU guidelines for protecting the rights of human rights defenders.

Representatives of diplomatic missions who wished to observe human rights developments were free to speak with private citizens, groups, and government officials. However, security officials routinely placed such official visitors in the southeast under visible surveillance. Visiting foreign government officials and legislators

were able to meet with human rights observers. There were no public reports that the Government denied permission for foreign officials to make such visits; however, police reportedly harassed and intimidated some human rights activists in the southeast after they met with foreign diplomats.

There were government-sponsored human rights councils in all 81 provinces and 850 subprovinces to serve as a forum for human rights consultations among NGOs, professional organizations, and the Government. The councils investigated complaints and, when deemed appropriate, referred them to the prosecutor's office. However, some councils failed to hold regular meetings or effectively fulfill their duties. Human rights NGOs generally refused to participate on the councils, maintaining that they lacked authority and were not independent, in part because unelected governors and subgovernors served as chairmen.

A Human Rights Presidency monitored the implementation of legislation relating to human rights, coordinated with NGOs, and educated public officials. The Presidency was attached to the Prime Ministry; it did not have a separate budget, and its resources were limited. Other government human rights bodies include the High Human Rights Board, an interministerial committee responsible for making appointments to human rights posts; a Human Rights Consultation Board, which serves as a forum for the exchange of ideas between the Government and NGOs; and a Human Rights Investigative Board, a special body to be convened only in cases where lower-level investigations are deemed insufficient by the Human Rights Presidency. The Human Rights Investigative Board has never been convened.

The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution regards all citizens as equal and prohibits discrimination on ethnic or racial grounds; however, societal and official violence and discrimination against women and minorities remained problems.

In May, Parliament amended the Constitution to specify that men and women have equal rights and that it is the duty of the State to ensure that this protection is put into practice. Before the amendment, the Constitution only stated broadly that all individuals were equal before the law.

*Women.*—Violence against women remained a chronic problem, and spousal abuse was serious and widespread. The law prohibits spousal abuse; however, complaints of beatings, threats, economic pressure, and sexual violence continued. Beating in the home was one of the most frequent forms of violence against women. A March 2003 study by Istanbul Bilgi University of married or divorced women in 25 provinces found that 31.5 percent of the women were beaten by their husbands; 21.5 percent were beaten by their fathers before marriage; and 41 percent had entered into arranged marriages. While approximately 35 percent of the group said they would file a complaint if their husbands beat them, a 2003 study by Hacettepe University found that 39 percent of women believed husbands were justified in beating their wives under certain circumstances. Citizens of either sex could file civil or criminal charges for abuse but rarely did so. Spousal abuse was considered an extremely private matter involving societal notions of family honor, and few women went to the police in practice. Police were reluctant to intervene in domestic disputes and frequently advised women to return to their husbands.

The law provides that victims of spousal violence may apply directly to a judge for assistance and authorizes judges to warn abusive spouses and order them to stay away from the household for 6 months. Judges may order further punishments for those who violate such orders. According to women's rights advocates, authorities enforced the law effectively, although outside of major urban areas few spouses sought assistance under the law.

The law prohibits rape, including spousal rape; however, laws and ingrained societal notions made it difficult to prosecute sexual assault or rape cases. Women's rights advocates believed cases of rape were underreported. In September, Parliament adopted a new Penal Code that considers rape a crime against the individual, rather than a crime against society. The Code eliminates several rape-related laws that women's rights advocates criticized as discriminatory, including a measure that allowed rapists to escape punishment by marrying their victims and another that linked punishment for rape to the victim's marital status or virginity.

Women's rights advocates reported there were eight government operated guest houses and three municipal shelters that provided services to battered women. The Social Services and Child Protection Institution operated 53 family centers, and a number of NGOs operated community centers. Bar associations in more than 30

provinces provided legal services for women. In July, Parliament adopted a law requiring municipalities with populations of over 50,000 to provide shelters for women and children.

Honor killings—the killing by immediate family members of women suspected of being unchaste—continued in rural areas and among new immigrants to cities. Women’s advocacy groups reported that there were dozens of such killings every year, mainly in conservative Kurdish families in the southeast or among migrants from the southeast living in large cities. In September, Parliament adopted a law under which murders committed with a motive related to “moral killing” are considered aggravated homicides, requiring a life sentence. The law is designed to discourage the practice of issuing reduced sentences in honor killing cases; however, some human rights advocates argued that the wording of the law is not explicit enough to prevent judges from viewing the honor killing tradition as a mitigating factor for sentencing.

Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing.

In April, 14-year-old Nuran Halitogullari was killed by her father and brother in Istanbul. According to press reports, a 32-member family council had ordered her killing to “clean the family honor” after she was kidnapped and raped earlier in the year. Prosecutors opened a case against the father, whose trial continued at year’s end.

In February, 22-year-old Guldunya Toren was killed by two of her brothers in an Istanbul hospital. According to press reports, a family member raped and impregnated Toren in 2003. Toren fled Bitlis, in the southeast, for Istanbul, where she gave birth. Two of her brothers later tracked her down and shot her. She survived and was taken to a hospital, where her brothers shot and killed her in front of witnesses. Prosecutors opened a case against several family members; trial proceedings continued at year’s end.

Trial proceedings continued in the case of Semse Allak, who was killed by relatives in Mardin Province in 2003 for becoming pregnant out of wedlock. Trial proceedings also continued in the case of Kadriye Demirel, who was killed by her 16-year-old brother in Diyarbakir in 2003 for becoming pregnant out of wedlock.

In March, a Sanliurfa court sentenced the brother of 14-year-old Emine Kizilkurt to life imprisonment for murdering her in 2002 because a neighbor had raped her; the court sentenced 8 other family members to 17 years in prison for approving the killing. The case was under appeal at year’s end.

Human rights organizations continued to report a high rate of suicide among girls, particularly in the southeast and east. Observers said forced marriages and economic problems contributed to the suicides.

Prostitution was legal; however, police made numerous arrests involving foreigners working illegally as prostitutes.

Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the trade, restaurant, and hotel sectors worked as unpaid family labor.

In March, Senol Demiroz, the newly appointed director of the state-owned TRT broadcasting company, fired 13 female employees from high-level administrative positions and replaced them with men. Demiroz told a reporter that a rivalry among female employees at the company had made them unproductive. Women’s advocacy groups and the women’s auxiliary of the Republican People’s Party said the move reflected Government opposition to women in leadership positions in the workplace.

The Directorate General on the Status and Problems of Women, under the State Minister for Women’s and Children’s Affairs, is responsible for promoting equal rights and raising awareness of discrimination against women. In October, Parliament adopted legislation that allows the Directorate General to expand its limited staff.

Independent women’s groups and women’s rights associations existed but have not significantly increased their numbers or activities, mostly due to funding problems. There were many women’s committees affiliated with local bar associations. Other organizations included the Association for Supporting and Training Women Candidates (Ka-Der), Flying Broom, the Turkish Women’s Union, the Association for Researching and Examining Women’s Social Life, and the Foundation for the Evaluation of Women’s Labor. Women continued to be very active in ongoing debates between secularists and more religiously oriented persons, particularly with respect to the right to choose whether to wear religious head coverings in public places, such as government offices and universities (*see* Section 2.c.).

According to Flying Broom, there was a sharp increase during the year in the level of media attention to women's issues. The status of women at times became an issue in the context of the country's EU candidacy. Flying Broom prepared 26 1-hour radio programs during the year; the print media also covered women's issues more closely than in the past.

*Children.*—The Government was committed to furthering children's welfare and worked to expand opportunities in education and health, including a further reduction in the infant mortality rate. The Minister for Women's and Children's Affairs oversaw implementation of official programs for children. The Children's Rights Monitoring and Assessment High Council focused on children's rights issues.

Government-provided education through age 14 or the eighth grade is compulsory. Traditional family values in rural areas placed a greater emphasis on education for sons than for daughters. According to the Ministry of Education, 95.7 percent of girls and 100 percent of boys in the country attended primary school; however, a UNICEF report released during the year indicated that, in the rural areas of some provinces, over 50 percent of girls between 7 and 13 and over 60 percent of girls between 11 and 15 did not attend school.

Gaps in social security and health insurance programs left approximately 20 percent of families and their children without coverage. Persons not covered by insurance may use a special program to access public health care. Immunization rates in some eastern and southeastern provinces lagged behind the rest of the country. According to UNICEF, the infant mortality rate dropped to 29 per 1,000 in 2003.

Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives (*see* Section 5, Women).

In September, Parliament eliminated an article of the Penal Code under which a mother who killed an illegitimate child to protect family honor could receive a reduced sentence.

Child labor was a problem (*see* Section 6.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were numerous confirmed cases of trafficking of women and children to and within the country for the purposes of sexual exploitation and forced labor.

The law provides penalties for trafficking ranging from 8 to 12 years in prison and, at judicial discretion, an additional penalty of up to 10,000 days (approximately 27.4 years) in prison.

As of November, the Government reported that prosecutors opened 12 cases against alleged traffickers. Two cases resulted in seven convictions; several other cases were ongoing at year's end. In February, a Yalova court convicted four of five defendants on trafficking charges and sentenced them to 50 month prison terms and fines of \$976 (1.3 billion lira). In May, a Fethiye court convicted three defendants on trafficking charges and sentenced them to 58-month prison terms and fines of \$716 (966 million lira).

In August, September, and October, police raided villages near the southern city of Adana, freeing more than 20 victims from forced labor camps. Many of the victims were orphaned minors or infirmed elderly with mental and physical disabilities that prevented them from escaping. Police detained 11 patrons in the raids but later released them when the victims settled out of court for compensation. Child protective services returned juvenile victims to family members. Jandarma forces remanded elderly victims to state shelter facilities if family could not be located.

In typical scenarios, victims were falsely led to believe that payment for agricultural work (for male victims) and sex work (for female victims) was forthcoming. Most victims reportedly lacked the capacity to understand the terms of the agreements presented to them by their traffickers or to seek redress when payment was continuously delayed.

Ambassador Murat Ersavci of the Ministry of Foreign Affairs is the National Coordinator for the Government's Task Force on Human Trafficking, which is composed of representatives from the Ministries of Health, Interior, Justice, and Labor, plus the Directorate General for Social Services and Child Protection, the Directorate General on the Status and Problems of Women, and scholars from Marmara University.

The Government participates in antitrafficking initiatives through the OSCE, the Southeast European Cooperative Initiative (SECI), the Council of Europe, the North Atlantic Treaty Organization, the International Center for Migration Policy Development, Interpol, Europol, and the Stability Pact Task Force on Trafficking in Human Beings. During the year, the Government expanded bilateral and multilateral protocols with neighboring countries and regional groups to include antitrafficking law enforcement agreements. The Government's effectiveness in assisting other coun-

tries in combating trafficking varied. Counterparts in source countries reported that, in many instances, Turkish law enforcement agencies refused to share intelligence, evidence, and other critical trafficking case information. For example, a February survey conducted through the National Bureau of Interpol in Ukraine of 32 local law enforcement officers from 8 Ukrainian cities found that nearly half of the Ukrainian officers polled asserted Turkish authorities did not respond to repeated requests for information critical to their investigations. In the remaining cases, local and national Turkish law enforcement agencies reportedly failed to reply by legal deadlines. Typical requests involved details about the location of brothels where victims were exploited, the names of traffickers and their accomplices, the names of Ukrainian trafficking victims awaiting repatriation from the country, and statements from witnesses who were either citizens or residents of the country.

In May, TNP officers raided the Flash Hotel in Istanbul, arresting a group of traffickers and recovering evidence that led to the arrests of the syndicate's operators in Romania. TNP officers shared photos, financial records, and customer logbooks with Romanian police officials, who acted on the leads.

In June, the country joined 12 other member countries from the SECI Regional Center for Combating Transborder Crime to conduct a sweep of regional sex trafficking networks. Internationally, more than 1,000 police officers reportedly cooperated to identify 594 victims and 545 traffickers. Teams from the country were involved in at least five of the arrests.

In July, the Government assisted visiting federal police officers from a destination country in their efforts to investigate possible trafficking crimes and to obtain testimony against organizers of a migrant smuggling network. The visiting officers complained of rigid bureaucratic hurdles that hampered the speed of the investigation, but agreed that Turkish authorities assisted in the investigation.

The country was a destination and transit point for human trafficking. Most trafficking activity within the country, including for forced labor, occurred in Antalya, Istanbul, Izmir, and Trabzon. Trafficking syndicates also used the country as a transit country to supply the sex trade in Central Asia, the Middle East, Africa, the former Yugoslavia, and Western Europe. The Government placed the number of trafficking victims during the year at more than 200; however, the Government did not have a reliable system for victim identification. Various NGOs operating in the country and in neighboring source countries estimated the number of trafficking victims to be closer to 1,500. NGOs in Moldova reported assisting more than 105 Moldovan trafficking victims. While reliable data was not available, NGOs in Azerbaijan, Armenia, Bulgaria, Georgia, Iran, Kazakhstan, the Kyrgyz Republic, Macedonia, Romania, Russia, Ukraine, and Uzbekistan reported cases totaling well over the Government's estimate.

Some victims reportedly arrived in the country knowing that they would work illegally in the sex industry; however, most arrived believing they would work as models, waitresses, dancers, domestic servants, or in other regular employment. Victims additionally reported the use of fraudulent documents, sham marriages, and falsified work contracts. Traffickers typically confiscated victims' documents and confined them, then raped and beat them, intimidated them by threatening their families, and forced them into prostitution. In May, police took testimony from a 17-year-old Romanian victim who described a common trafficking scenario. The victim reported that when she was in ninth grade she came in contact with traffickers who promised her a job with good wages in Istanbul as a baby sitter or housekeeper. In October 2003, traffickers brought her to Istanbul by bus with other Romanian girls and put her up in a hotel. Her captors destroyed her passport and other identification documents, gave her false documents, and threatened to kill her if she spoke to police. She was forced to have intercourse with approximately 200 persons over an 8-month period.

Foreign victims trafficked to the country were typically recruited by small networks of foreign nationals and Turkish citizens who relied on referrals and recruitment from friends and family members in the source country. Such groups could be as small as four or five persons. Trafficking networks operating as tourist agencies or service firms in source countries brought women to the country with official work permits. Most reports indicated that profits were channeled into expanding the network's capacity and affluence, by adding computers, automobiles, and amenities for traffickers.

Networks tended to deposit proceeds in source country bank accounts, usually through Turkish banking system transfers. Turkish Jandarma and officials at the Interior Ministry maintained that trafficking in humans, arms, and narcotics was closely connected.

Young women seeking employment, particularly from Moldova, Ukraine, Romania and Russia, were at the greatest risk of being trafficked to the country.

There were allegations that police corruption at all levels contributed to the trafficking problem and may have been responsible for the delays in implementation of certain cooperative agreements, antitrafficking operations, and other law enforcement measures.

During the year, the Ministry of Justice continued to investigate allegations of further police misconduct in Erzurum following the 2003 conviction of police officers for trafficking.

In Istanbul, police confiscated a notebook in which traffickers required victims to record customers' names and personal information. News media reported that the notebook included the names of police officers and government officials.

In October, a shelter operated by the Municipality of Istanbul and the Human Resource Development Foundation, an NGO, began accepting victims. The facility was the first shelter for trafficking victims in the country; more than 20 victims received health care as well as psychological and legal assistance at the shelter during the year. While the 12-bed shelter remained filled to capacity, the Government continued to shelter trafficking victims in other locations on a case-by-case basis, using police safe houses, shelters for elderly citizens and abused women, and hotels. Some local law enforcement officers reportedly found accommodation for victims at their personal expense.

Through the Health and Justice Ministries, the Government also implemented programs to provide free medical and legal services to foreign victims who chose to remain in the country. During the year, the Government amended its humanitarian visa regulations to allow victims to remain in the country for a maximum of 6 months. During their stay, victims are entitled to medical and social services and are allowed to engage in regular work in the economy. During the year, the Government issued 26 such humanitarian visas. The Government did not have a repatriation program for victims, although authorities repatriated some on a case by case basis.

There were credible reports that the Government continued its practice of processing trafficking cases as cases of voluntary prostitution and illegal migration, failing to pursue traffickers under available laws and summarily deporting victims, who were often subjected to re trafficking.

Traffickers reportedly used a network of contacts to identify and intercept deported victims at the port of departure, arrival, and in transit.

The Security Directorate published and distributed widely a comprehensive guidebook on trafficking-related issues for law enforcement officers. The guidebook was reportedly incorporated into police and Jandarma academy training seminars for new officers.

To deter trafficking, the Government amended the law to require a provisional period of 3 years before a foreign applicant may obtain citizenship based on a marriage petition. The Ministry of Tourism further established and implemented a questionnaire, in various languages, designed to identify potential victims through the visa application process. The Government also reported that warnings on visa applications now printed in Russian direct potential victims to an emergency law enforcement hotline.

*Persons With Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although they did suffer from a lack of economic opportunity. The law does not mandate access to buildings and public transportation for persons with disabilities. Persons with disabilities have some privileges, such as the right to purchase products of State economic enterprises at a discount or acquire them at no cost.

The Administration of Disabilities Office under the Prime Ministry has a mandate to develop cooperation and coordination among national and international institutions and to conduct research into issues such as delivery of services to persons with disabilities. Companies with more than 50 employees were required to hire persons with disabilities as 2 percent of their employee pool, although the requirement was not consistently enforced.

*National/Racial/Ethnic Minorities.*—The Constitution provides a single nationality designation for all Turks and does not recognize ethnic groups as national, racial, or ethnic minorities. Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the country's citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked censure, harassment, or prosecution.

While there were some improvements during the year, the Government maintained significant restrictions on the use of Kurdish and other ethnic minority languages in radio and television broadcasts and in publications (*see* Section 2.a.).

During the year, the HRF recorded fewer complaints that authorities prevented parents from registering their children under traditional Kurdish names.

During the year, private Kurdish language instruction courses were opened in Istanbul and six southeastern cities (Van, Batman, Sanliurfa, Diyarbakir, Kiziltepe, and Adana) pursuant to legislation adopted in 2002. According to observers, officials had delayed the courses by raising bureaucratic obstacles. For example, authorities in Batman required the school to expand classroom doorframes by 5 centimeters, while authorities in Sanliurfa required the school to install a fire escape for its two-story building, even though many taller buildings in the area did not have fire escapes. Kurdish rights advocates said students enrolling in the courses were required to provide extensive application documents, including police records, that were not required for other courses. They maintained that the requirements intimidated prospective applicants, who feared police were keeping records on students taking the courses.

No official estimate of the Romani population existed, but the population may be significant in regions near Bulgaria and Greece, and Roma were found in many cities throughout Anatolia. Human rights observers said many Roma did not disclose their ethnic identity for fear of discrimination. The law states that “nomadic Gypsies” are among the four categories of people not admissible as immigrants.

In February, the *Hurriyet* newspaper’s publication of a report that Sabiha Gokcen—an adopted daughter of Mustafa Kemal Ataturk, who was the country’s first female pilot—was of Armenian descent drew a number of racist public statements. The Turkish General Staff issued a statement criticizing the reports on Gokcen’s Armenian ancestry as “a claim that abuses national values and feelings” while the Turkish Air Association called the report “an insult” to Gokcen and to Ataturk.

*Other Societal Abuses and Discrimination.*—While the law does not explicitly discriminate against homosexuals, representatives of the gay and lesbian rights organizations Lambda Istanbul and Kaos GL claimed that vague references in the law relating to “the morals of society” and “unnatural sexual behavior” were sometimes used to punish homosexuality. Gay and lesbian rights activists maintained that homosexuals risked losing their jobs if they disclosed their sexual orientation and said the law did not protect their rights in such circumstances. In July, Kaos GL reported that unknown persons smashed two windows at the organization’s Ankara center.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers, except police and military personnel, the right to associate freely and to form representative unions, and they generally did so in practice. However, the Government maintained some limited restrictions on the right of association. Unions were required to obtain official permission to hold meetings or rallies and to allow government representatives to attend their conventions and record the proceedings; however, these requirements were not always enforced. Prosecutors could ask labor courts to order a trade union or confederation to suspend its activities or to go into liquidation for serious infractions based on alleged violation of specific legal norms; however, the Government could not dissolve a union summarily. Approximately 1.6 million of the 11 to 12 million wage and salary earners were unionized. The labor force numbered approximately 24 million, with approximately 35 percent employed in agriculture.

The law prohibits antiunion discrimination; however, such discrimination occurred occasionally in practice. Union representatives claimed that employers sometimes laid off workers because they had joined a union, using alleged incompetence or economic crises as a pretext.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Industrial workers and civil servants have the right to bargain collectively, and approximately 1.3 million workers, or 5.4 percent of the workforce, were under collective contracts. The law requires that, in order to become a bargaining agent, a union must represent 50 percent plus one of the employees at a given work site and 10 percent of all the workers in that particular industry. This requirement favored established unions, particularly those affiliated with Turk-Is, the confederation that represented approximately 80 percent of organized labor. In June, the International Confederation of Free Trade Unions reported that the law resulted in workers in many sectors not being covered by collective agreement.

The law prohibits strikes by civil servants, public workers engaged in the protection of life and property, the mining and petroleum industries, sanitation services, national defense, and education; however, many workers conducted strikes in violation of these restrictions with general impunity. The majority of strikes during the year were illegal; while some illegal strikers were dismissed, in most cases employers did not retaliate.

The law requires a union to take a series of steps, including collective bargaining and nonbinding mediation, before calling a strike; a union that fails to comply with these steps forfeits its right to strike. The law prohibits unions from engaging in secondary (solidarity), political, or general strikes or in work slowdowns. In sectors in which strikes are prohibited, labor disputes are resolved through binding arbitration.

The law allows the Government to suspend strikes for 60 days on national security or public health and safety grounds. Unions may petition the Council of State to lift such a suspension. If an appeal fails, and the parties and mediators fail to resolve the dispute, a strike is subject to compulsory arbitration at the end of the 60-day period. During the year, the Government suspended a strike by the glass industry union *Kristal-Is* on national security grounds.

There are no special laws or exemptions from regular labor laws in the country's 21 free trade and export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred. Some parents forced their children to work on the streets and to beg (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than 8 hours a day. At 15, children may engage in light work provided they remain in school. The Constitution provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the Government prohibited children from working at night or in areas such as underground mining. The law prohibits children attending school from working more than 2 hours per day or 10 hours per week.

Child labor was widespread. The State Statistical Institute reported that the number of child laborers between the ages of 12 and 17 dropped from 948,000 in 2003 to 764,000 during the year; however, some observers claimed that the actual number of working children was rising. An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls rarely were seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas. According to the Labor Ministry, 65 percent of child labor occurred in the agricultural sector. However, some observers maintained that the bulk of child labor had shifted to urban areas as rural families migrated to cities. Many children worked in areas not covered by labor laws, such as agricultural workplaces with fewer than 50 workers or the informal economy. According to the Labor Ministry, the Government allocated \$15 million (20.3 trillion lira) for programs to eliminate child labor during the year.

Small enterprises preferred child labor because it was cheaper and provided practical training for the children, who subsequently had preference for future employment in the enterprise. If children employed in these businesses were registered with a Ministry of National Education Training Center, they were required to go to the center once a week for training, and the centers were obliged by law to inspect their workplaces. There were 346 centers located in 81 cities; these centers provided apprenticeship training in 113 occupations. The Government identified the worst forms of child labor as children working in the streets, in industrial sectors where their health and safety were at risk, and as agricultural migrant workers. In December 2003, the Government completed its report on the worst forms of child labor and identified 18 provinces where the problem was most serious.

The Ministry of Labor effectively enforced these restrictions in workplaces that were covered by the labor law, which included medium and large-scale industrial and service sector enterprises. A number of sectors were not covered by the law, including small-scale agricultural enterprises, maritime and air transportation, family handicraft businesses, and small shops.

In June and April, the Labor Ministry issued regulations on child employment that identified specific jobs that could threaten the physical or mental well-being of children.

There were no reliable statistics for the number of children working on the streets nationwide. The Government operated 28 centers to assist such children.

*e. Acceptable Conditions of Work.*—The Minimum Wage Commission, a tripartite government-industry-union body that reviews the minimum wage every 6 months, set the minimum monthly wage for the second half of the year at \$328 (444 million lira). The minimum wage did not provide a decent standard of living for a worker and family; however, most workers earned considerably more than the minimum wage. Approximately one-third of the labor force was covered by the labor law and received fringe benefits that, according to the Turkish Employers' Association, accounted for approximately 63 percent of total compensation.

The law establishes a 45-hour workweek and a weekly rest day, and limits overtime to 3 hours per day for up to 90 days a year. The Labor Inspectorate of the Ministry of Labor effectively enforced wage and hour provisions in the unionized industrial, service, and government sectors, which covered approximately 12 percent of workers.

The law mandates occupational health and safety regulations; however, in practice the Government did not carry out effective inspection and enforcement programs. The law allows for the shutdown of an operation if a five-person committee, which included safety inspectors, employee, and employer representatives, determined that the operation endangered workers' lives. In practice, financial constraints, limited safety awareness, carelessness, and fatalistic attitudes resulted in scant attention to occupational safety and health by workers and employers alike. The law allows workers to remove themselves from hazardous conditions without risking loss of employment, and they did so in practice.

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## TURKMENISTAN

Turkmenistan is an authoritarian, one-party state dominated by President-for-life Saparmurat Niyazov who exercised power by retaining his monopoly on political power and on the Democratic Party, the only legally recognized political party in the country. Niyazov has been President since independence in 1991, and legally may remain in office until 2010. In August 2003, Niyazov was elected by the Halk Maslahaty (People's Council) to a life term as its Chairman, giving him a substantial say in the selection of any presidential successor. Government efforts continued to focus on fostering centralized state control and the glorification of the President. The 50 member unicameral Parliament (Mejlis) has no genuinely independent authority; in August 2003, the Peoples' Council replaced it as the supreme legislative body. The judiciary was not independent and was under the control of the President. The Ministry of National Security (MNB), formerly the Committee on National Security (KNB), had primary responsibility to ensure that the Government remained in power through tight social controls and suppressing dissent. The Ministry of Internal Affairs (MVD) directed the criminal police, which worked closely with the MNB on matters of national security. The civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous human rights abuses.

The country's economy was centrally planned under government control. The population was estimated at over 6 million. The estimated growth rate was 9.7 percent for 2003. The unemployment rate was estimated at 50 percent in urban areas and 70 percent in the rural areas. The Turkmen National Institute of Statistics estimated that 25 percent of the workforce was in agriculture and 58 percent was in the public sector, including government-run farming associations. Wages often were not paid for months.

The Government's human rights record remained extremely poor, and the Government continued to commit serious abuses. Authorities severely restricted political and civil liberties and citizens did not have the ability to change their government. Security forces killed six persons trying to cross the border from Iran, and there were reports that several prisoners died in custody due to denial of medical treatment. Torture and mistreatment of detainees and prisoners were serious problems. The denial of access to prisoners of family, legal counsel, the International Committee of the Red Cross (ICRC), or any other international observers was a serious problem. Criminal police and MNB impunity was a serious problem. Arbitrary arrest, incommunicado detention, and prolonged detention were serious problems. Denial of due process and fair trial was a problem. The Government held at least one political prisoner. The Government continued to arbitrarily interfere with privacy, home, and correspondence. The Government restricted freedom of speech and did not permit freedom of the press. The Government restricted freedom of assembly and association. All opposition political activity was banned. The Government con-

tinued to restrict religious freedom. During the year, freedom of movement improved when the Government repealed the exit visa requirement; however, the Government maintained a blacklist of individuals not permitted to travel abroad. No domestic human rights groups existed. Violence against women and child labor continued to be problems. Government discrimination against minorities was a problem. The Government also restricted labor rights by not permitting strikes or free association of employees.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, during the year border guards shot and killed six persons who the Government claimed were illegally attempting to cross the border from Iran.

During the year, there were reports that some prisoners died due to malnutrition and untreated illnesses as a result of authorities withholding food and medical care (see Section 1.c.).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that security officials tortured, routinely beat, and used excessive force against criminal suspects, prisoners, and individuals critical of the Government.

In January, members of the MNB forcibly abducted and beat an associate of a Radio Free Europe/Radio Liberty (RFE/RL) correspondent. The assailants repeatedly beat the man, threatened to kill him, and demanded that he cease contact with foreigners. No investigation was opened into the incident.

On April 30, Moscow-based Memorial Human Rights Center reported members of the MNB brutally beat Moscow-based RFE/RL correspondent and executive director of the human rights organization, Turkmen ili, Mukhametgeldy Berdyew. Berdyew suffered broken ribs, a concussion, partial loss of vision, and bruising. His apartment was ransacked, as was that of his son. The incidents took place in Moscow.

There were credible reports that former government officials and others imprisoned for various alleged crimes, including those implicated in the November 2002 armed attack against the President, were singled out for harsh treatment. An international NGO reported in 2003 that authorities drugged and tortured more than 100 of those arrested after the 2002 attack. According to the same NGO and other local sources, security officials suffocated some to the point of unconsciousness, beat them, and subjected them to electric shock torture and injections of psychotropic substances to coerce confessions during interrogations.

Local sources reported that authorities detained and threatened relatives of those implicated in the November 2002 attack to coerce confessions and limit their contact with foreigners. Many of these relatives were placed on the “black list” and were prevented from traveling outside of the country.

In February, retired citizen Gurbandurdy Durdykuliev was forcibly detained in a psychiatric hospital after requesting permission from authorities to conduct a peaceful demonstration against the policies of President Niyazov (see Section 2.a.).

Government opponents reported that former high-level officials were denied proper medical treatment and suffered beatings while in detention. In 2003, government opponents outside of the country claimed that prisoners needing medical treatment were beaten on their way to and from the hospital. Security forces also used denial of medical treatment and food, verbal intimidation and placement in unsanitary conditions to coerce confessions.

Members of minority religions claimed that law enforcement officers tortured and otherwise abused their members (see Section 2.c.). Three Jehovah’s Witnesses remained imprisoned as conscientious objectors at year’s end and were subject to regular beatings (see Section 5).

There was no action taken in the following 2003 cases: The March detention, beating, and injuring of a person suspected of buying a forged passport, the July reported detention, torture, and severe injuring of five relatives or associates of Saparmurat Yklymov, and the November abduction and beating of a local correspondent by suspected MNB officers.

Conditions were poor in prisons, which were unsanitary, overcrowded, unsafe, and posed a threat to life. Disease, particularly tuberculosis, was rampant. The Turkmenistan Helsinki Foundation, an opposition website, reported that of the 9,000 prisoners released in 2003, many had tuberculosis and were released untested and untreated into the general population. Nutrition was poor and prisoners de-

pended on relatives to supplement inadequate food supplies. Prisoners convicted for treason were unable to receive food or sundries from relatives.

Some prisoners died due to the combination of overcrowding, untreated illnesses, and lack of adequate protection from the summer heat.

Prisoners amnestied in 2003 swore an oath of allegiance to the "Rukhnama," President Niyazov's 2001 spiritual guidebook on the country's culture and heritage (see Section 2.c.). Prisoners who refused to swear this oath were beaten.

There were three types of prisons throughout the country: Educational-labor colonies, correctional-labor colonies, and prisons. Some prisoners, usually former government officials, were sent into internal exile. In the correctional-labor colonies, relatives of prisoners reported excessive periods of isolation of prisoners in cells and "chambers." Authorities allegedly threatened, harassed, and abused minority religious prisoners in an attempt to force them to renounce their faiths (see Section 2.c.). In Gyzylgaya prison, located in the Karakum Desert, prisoners were forced to work in a kaolin mine under hazardous and unhealthy conditions (see Section 6.c.).

Men were held separately from women, and juveniles were held separately from adults. Pretrial detainees usually were held separately from convicted prisoners in detention centers. Prisoners held in connection with the November 2002 attack were reportedly held separately at the Ovadan Depe prison.

Government officials refused to respond to inquiries from family members and diplomats about prisoners' whereabouts or physical conditions. Government officials also refused to allow family members, foreign diplomats, or international observers, including the ICRC, to visit detainees or prisoners associated with the November 2002 attack. In May, however, the President made public comments that representatives of the international community would be welcome to visit prisons in the country. The Government held preliminary discussions with the ICRC regarding access.

*d. Arbitrary Arrest or Detention.*—The Constitution and law prohibit arbitrary arrest and detention; however, arbitrary arrest and detention were serious problems.

The MNB's primary responsibility was ensuring the Government remained in power. The MNB exercised wide discretion over issues such as exit visas and Internet access. The MNB also worked to limit personal freedoms. The MVD directed the criminal police, who worked closely with the MNB on matters of national security. The Minister of the MNB did not formally supervise other ministries; however, the MNB exercised control over personnel changes in other ministries and enforced presidential decrees. Both the MNB and criminal police operated with impunity. The Government rarely investigated allegations of abuse and did not hold members of the security forces accountable for abuses. Corruption was widespread in the security forces.

A warrant is not required for an arrest. The Chairman of the Cabinet of Ministers, a position held by the President, has sole authority for approving arrest warrants. Authorities could detain individuals for 72 hours without a formal arrest warrant, but legally had to issue a formal bill of indictment within 10 days of arrest to hold detainees longer; however, these provisions were not always adhered to in practice.

Those expressing views critical of or different from those of the Government were arrested on charges of economic crimes against the state and various common crimes (see Section 2.a.).

In February, two men were arrested for allegedly smuggling books into the country. They were sentenced to 5 years probation and released in March.

In April and May, Dunya Yklimova Mahtimagamedova, a relative of one of the convicted 2002 coup plotters, was repeatedly detained by security forces, forcibly removed from her house, and accused of supporting regime opponents.

Detainees were entitled to immediate access to an attorney once a bill of indictment had been issued; however, in practice they were not allowed prompt or regular access to legal counsel. Incommunicado detention was a problem. Authorities denied some prisoners visits by family members during the year. Families sometimes did not know the whereabouts of their imprisoned relatives (see Section 1.c.).

The law characterizes any opposition to the Government as an act of treason. Those convicted faced life imprisonment and were ineligible for amnesty or reduction of sentence. By the end of 2003, approximately 50 to 60 persons were arrested or convicted under the law.

Representatives of minority religions claimed that law enforcement officers forcibly detained their members throughout the year (see Section 2.c.).

The Government widely used house arrest, without due process, to control regime opponents and to prevent citizens from meeting with visiting foreign diplomats. During the year, relatives of those suspected in the November 2002 armed attack remained under house arrest.

Some of the 100 individuals placed under house arrest in March 2003, to prevent them from meeting with the visiting Organization for Security and Cooperation in Europe (OSCE) Chairman-in-Office, remained under house arrest, others' movement was restricted to the regions of their residence.

The exact location of over 50 prisoners being held in connection with the November 2002 attack remained unknown at year's end. There were unconfirmed reports they were being held at a new secret prison outside of Ashgabat; there were also unconfirmed reports of abuses.

The law provides that a person accused of a crime may be held in pretrial detention for no more than 2 months, which in exceptional cases may be extended to 1 year. In practice, authorities often exceeded these limits. Opposition groups and international organizations, such as Amnesty International (AI), claimed the Government held many political detainees, although the precise number was unknown. Several hundred relatives and associates of those implicated in the November 2002 attack were held without charge for their perceived political opinions and possible involvement in the attack.

Geldy Kyarizov, who was arrested in 2002 for numerous crimes reportedly because of his disagreements with President Niyazov's policies, remained in detention at year's end. His family was able to visit him in detention.

In August, the Government released a revised Criminal Procedure Code that could significantly alter the 1961 Soviet code, still in force. The proposal incorporated rights of the accused—including the introduction of the presumption of innocence, restraints on police searches, establishment of a bail mechanism, and limits on pretrial detention. The proposal was pending at year's end.

In 2003, numerous former ministers and government officials were dismissed from their positions, sent into internal exile, and remained under house arrest (*see* Section 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was not independent. The President's power to select and dismiss judges subordinated the judiciary to the Presidency. The President appointed all judges for a term of 5 years. There was no legislative review of these appointments, except for the Chairman (Chief Justice) of the Supreme Court who was reviewed by the rubber stamp Mejlis. The President has the sole authority to dismiss all appointees before the completion of their terms.

The court system consists of a Supreme Court, 6 provincial courts (including 1 for the city of Ashgabat), and, at the lowest level, 61 district and city courts. Criminal offenses committed by members of the armed forces are tried in civilian courts under the authority of the Office of the Prosecutor General.

The law provides for the rights of due process for defendants, including a public trial, access to accusatory material, the right to call witnesses to testify on their behalf, a defense attorney, a court-appointed lawyer if the defendant could not afford one, and the right to represent oneself in court; however, in practice, authorities often denied these rights, and there were few independent lawyers available to represent defendants. At times, defendants were not allowed to confront or question witnesses against them. Defendants and their attorneys sometimes were denied access to government evidence against them. Frequently defendants did not enjoy a presumption of innocence. Even when due process rights were observed, the authority of the government prosecutor far exceeded that of the defense attorney, and it was very difficult for the defendant to receive a fair trial. Lower courts' decisions could be appealed, and the defendant could petition the President for clemency.

Courts allegedly ignored allegations of torture that defendants raised in trial.

In general, observers were not permitted access to ostensibly open court proceedings. In April 2003, the Government physically prevented foreign diplomats from attending the trial of alleged regime opponents; however, in May, diplomats attended the property trial of Dunya Yklimova Mahtimagamedova.

There were regular reports of individuals being arrested and requested to pay fines for breaking specific laws; however, when asked to see the law, Government officials refused.

At year's end, the Government held at least one political prisoner, Mukhametkuli Aimuradov.

The Government systemically failed to enforce the law with respect to restitution or compensation for confiscation of private property (*see* Section 1.f.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, authorities frequently did not respect these prohibitions in practice. Laws restrict searches of private homes, though authorities violated these restrictions routinely during the year. There were credible reports that authorities forcibly searched the homes of suspected regime opponents,

minority religious groups, and relatives of those suspected in the November 2002 attack. Unlike in previous years, no evictions occurred, but the threat persisted.

The law does not regulate the conduct of surveillance by the state security apparatus, which regularly monitored the activities of officials, citizens, opponents and critics of the Government, foreign diplomats, other foreign residents, and visitors. Security officials used physical surveillance, telephone tapping, electronic eavesdropping, and the recruitment of informers. There was one government-controlled Internet service provider. The Government monitored citizens' e-mail and Internet usage and cut service for accounts used to visit sensitive sites. Critics of the Government, and many other persons, reported that their surface mail was intercepted before delivery. Mail taken to the post office had to remain unsealed for inspection.

There was evidence that the Government monitored citizens' e-mails.

The Government engaged in forcible resettlement and stated its intention to do so on a broad scale. In April, families of dismissed Government officials lost their homes and were relocated to the Dashoguz Velayat. The 2003 decree for resettlement of residents in Dashoguz, Lebap, and Ahal Velayats to the northwest part of the country was partially implemented (see Section 5).

Unlike in the previous year, authorities did not dismiss children from school or remove adults from their jobs due to the political activities of relatives. Those who left school or lost jobs in the previous year were not able to return to their education or positions.

During the year, the Government continued to demolish large numbers of private homes to make way for new construction in Ashgabat, including those to which residents had valid legal title, as part of an urban renewal program. Affected areas in the Ashgabat suburbs included Archabil, Bagir village, and Keshi. In some of the worst cases, the Government required evicted families to pay for removal of the rubble of their destroyed homes, reportedly gave persons as little as 12 hours to collect their belongings and vacate, and did not provide homeowners with alternate accommodations or compensation. Others were given 2 weeks notice to vacate and offered apartments or plots of land in compensation; however, such plots were often undeveloped and/or nonirrigated, resulting in the loss of livelihood for many. The Government justified the demolitions in some cases by asserting previous authorities gave land away illegally; therefore, those plots had to be returned to the state. In July, demolitions in the Ashgabat suburbs resulted in newly homeless individuals taking refuge in abandoned schools and prisons. The evictions also resulted in isolated public protests (see Section 2.b.) and the April 22 shooting in Rukhabat Etrap of local mayor Amansoltan Mahmedova by an evicted man.

A 2001 presidential decree prohibits foreigners or stateless persons from marrying citizens without meeting several requirements. The noncitizen must have been a resident of the country for a year, own a home, be at least 18 years of age, and must post a "divorce bond" of \$50,000 (1.1 billion TMM) with the Government. There were no reports of such marriages in the country under the law; however, there were reports that some individuals married abroad to bypass the law. The requirements were purportedly instituted to protect citizen spouses and children.

In a pattern of harassment of the relatives of Saparmurat Yklymov, who was convicted as one of the primary plotters of the November 2002 attack, law enforcement officers reportedly forcibly evicted Edzhebay Yklymov, his 75-year-old wheelchair-bound mother, who passed away in August, and several children in November 2002 and again on March 27. In August, his sister and two of her children were granted refugee status in Sweden.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, in practice, the Government restricted freedom of speech and did not permit freedom of the press. Persons expressing views critical of or different from those of the Government were arrested on false charges of committing common crimes. Criticism of the Government could also lead to personal deprecation and abuse, including loss of opportunities for advancement and employment, and harassment.

In February, retired citizen Gurbandurdy Durdykuliev was forcibly detained in a psychiatric hospital after requesting permission from authorities to conduct a peaceful demonstration against President Niyazov's policies (see Section 1.c.). Durdykuliev remained incarcerated at year's end.

In the spring, the OSCE Representative on Freedom of the Media criticized the country's "absolute lack of any freedom of expression." The President, in response, was critical of the OSCE and its interference and supposed misrepresentation of the situation in the country. In July, the Government expelled the OSCE Ambassador

by not renewing her mandate, although the OSCE maintained its mission in the country.

The Government funded almost all print media. The Government censored newspapers; approval from the Office of the President's Press Secretary was required for prepublication galleys. There were 22 newspapers published in Turkmen and only 1 official newspaper in Russian; the only major daily newspaper was printed in Turkmen and Russian. The major stories were identical in both papers while advertising and some content varied. Foreign newspapers, including Russian-language publications, from abroad were banned. To regulate domestic printing and copying activities, the Government required all publishing houses and printing and copying establishments to obtain registration licenses for their equipment. The Government required the registration of all photocopiers and mandated that a single individual be responsible for all photocopying activity.

All publishing companies were government-owned, and works by authors of fiction who wrote on topics that were out of favor with the Government were not published. The government controlled Union of Writers expelled members who criticized government policy, and libraries removed their works.

On August 19, the President dismantled the Ministry of Culture and Information to create a new Ministry of Culture and Television to promote the Government's cultural agenda, and a Radio Broadcasting and National State Press service, to supervise print media bodies. Observers feared the changes would allow more intense Government control of the media.

In February, two men were arrested for allegedly smuggling books into the country. They were sentenced to 5 years' probation.

The Government completely controlled radio and local television. There were four Turkmen TV stations, but satellite channels were prevalent. Owners of satellite dishes had access to foreign television programming, and use of satellite dishes was widespread.

In July, the Government shut down the only Russian language news and radio service available and the country's main source of credible international information, Radio Mayak (Russian-owned), citing technical difficulties. A Turkmen language station quickly replaced Radio Mayak.

The Government required all foreign correspondents to apply for accreditation.

During the year, journalists were subject to arrest, harassment, intimidation, and violence, reportedly by government agents.

In January, members of the MNB forcibly abducted and beat an associate of a Radio Free Europe/Radio Liberty (RFE/RL) correspondent. The assailants repeatedly beat the man, threatened to kill him and demanded he cease contact with foreigners.

Journalists associated with RFE/RL were arrested. On February 28, 78-year-old Rakhim Esenov was arrested and charged with instigating social, ethnic, and religious hatred. On March 1, Ashyrguly Bayryev was arrested for smuggling novels into the country. He had previously been warned by authorities to end his relationship with RFE/RL. Former film director Khalmurad Gylychdurdyev was also detained and questioned about his work with the Radio. RFE/RL correspondents have been subject to arbitrary arrest and abuse in the past, including the 2003 abduction and torture of Saparmurat Ovezberdyev. In July, Ovezberdyev was released; he requested asylum overseas and was permitted to leave.

On April 30, Moscow-based Memorial Human Rights Center reported Radio Liberty correspondent Mukhametgeldy Berdyev was brutally beaten by the MNB after he filed a lawsuit against President Niyazov, charging that the President had plagiarized large segments of the Rukhnama. His apartment was ransacked, as was that of his son. The incidents took place in Moscow.

In June, the MNB detained a local correspondent for 3 days and demanded he sign a confession stating that he was passing government secrets to foreign powers.

The Government prohibited the media from reporting the views of opposition political leaders and critics, and it did not allow criticism of the President. Domestic journalists and correspondents for foreign news services engaged in self censorship due to fear of government reprisal.

The government-dictated focus of the media on the achievements of President Niyazov and his love of his people continued during the year and amplified his cult of personality. Criticism of officials was only permitted if directed at those who had fallen out of favor with the President, and public criticism of officials was done almost exclusively by the President.

On numerous occasions early in the year, the Government warned its critics and foreign diplomats against speaking with visiting journalists or other foreigners wishing to discuss human rights problems.

Intellectuals and artists reported that security officials instructed them to praise the President in their work and warned them not to participate in receptions hosted by foreign diplomatic missions. The Ministry of Culture's approval was required before plays opened to the public, ensuring against antigovernment or antipresidential content. Though classical music was still taught and performed throughout the country there was little or no government support for non Turkmen music.

While Internet access was available, government-owned Turkmen Telecom was the sole Internet provider. Internet access was prohibitively expensive for most citizens and service was poor. The Government worked with NATO's Silk Highway Project to introduce Internet services to a limited number of universities and allowed the Internet Access and Training Program (IATP) to operate throughout the country. In June, the Turkmen Telecom began blocking customers' access to RFE/RL's Turkmen Service website ([www.azatradio.org](http://www.azatradio.org)); access was not restored by year's end.

During the year, the Government increased its already significant restrictions on academic freedom. It did not tolerate criticism of government policy or the President in academic circles, and it discouraged research into areas it considered politically sensitive, such as comparative law, history, or ethnic relations. No master's degrees or doctorates have been granted in the country since 1998. Government permission is required to study abroad and receive acceptance of foreign degrees earned. Since 2000, universities have reduced the period of classroom instruction from 4 years to 2 years in accordance with President Niyazov's declaration that higher education should consist of 2 years of classroom education and 2 years of vocational training. Governmental restrictions on instruction in non-Turkmen languages, limited availability of Turkmen language textbooks, and ongoing downsizing of secondary schools contributed to the declining quality of education.

In February, the President criticized correspondence courses and foreign diplomas, called for cleanliness and ethics in education, and announced plans to release a book of ethics for curricula in higher education.

Since September 2002, each child was required to bring to school a personal copy of the Rukhnama. Teachers were discouraged from bringing alternative viewpoints into the classroom. The works of several writers, poets, and historians were placed on a blacklist and withdrawn from public schools and libraries because their portrayal of Turkmen history differed from that of the Government. In September, a Rukhnama Volume II was published and teachers reported having to set aside more time examining the Rukhnama rather than traditional academic subjects.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Permits were required for public meetings and demonstrations; however, authorities did not grant them. Nonregistered organizations, particularly those perceived to have political agendas, were not allowed to hold demonstrations.

In June, approximately 50 women assembled outside the local U.N. building in Ashgabat to request U.N. support against planned house demolitions. The MVD detained the women at the local Hakim's (Mayor) office; however, with the acting U.N. Head of Mission in attendance, the women were allowed to present their grievances to the Hakim and then were released.

In April, residents of Archabil, a suburb of Ashgabat, gathered at their local administrative office and blocked roads leading up to it to protest continued house demolitions. Authorities used troops to break up the demonstration. Ten or more people, including women, were arrested (*see* Section 1.f.).

It was unclear whether students from Turkmen State University, who were incarcerated for distributing leaflets criticizing the Government in 2002, remained in detention at year's end.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. A 2003 law on public associations and NGO registration requires that all nongovernmental organizations (NGOs) register with the Ministry of Justice, criminalizes the operation of unregistered groups, and restricts the ability of foreign donors to provide grants and assistance to civil society groups by requiring that all foreign assistance be registered with the State Agency for Investment, Ministry of Justice, and coordinated through the Ministry of Foreign Affairs.

In July, the Government told diplomats that 89 domestic NGO groups and public associations had registered under restrictive rules adopted in 2003; however, Government representatives asserted that most groups were unable to operate due to lack of funding. Of the registered NGOs, only a handful were independent. While some groups reported good cooperation with the MOJ in the registration process, other NGOs reported difficulties registering with the Government, such as applications frequently being returned for technical difficulties or application materials not

being released for first-time applicants. Despite the threat of criminal penalties, some NGOs found alternative ways to carry out activities, such as registering as businesses or subsidiaries of other, registered groups. Others considered themselves temporarily closed. At year's end, criminal penalties had been lifted.

No political groups critical of government policy were able to meet the requirements for registration. The only registered political party was the Democratic Party, the former Turkmen Communist Party. The Government did not prohibit membership in political organizations; however, in practice those who claimed membership in political organizations other than the Democratic Party of Turkmenistan were harassed.

Authorities have fired or threatened to fire supporters of opposition movements, removed them from professional societies, and threatened them with the loss of their homes. In addition, some citizens with links to foreigners were subject to official intimidation.

*c. Freedom of Religion.*—The Constitution and the Law on Freedom of Conscience and Religious Organizations provide for freedom of religion; however, in practice the Government restricted these rights. There is no state religion, but the majority of the population is Sunni Muslim. The Government has incorporated some aspects of Islamic tradition into its efforts to redefine a national identity; however, the Government placed some restrictions on Muslims. In practice, the Government closely controlled and monitored all religious activities.

Some members of minority religions claimed that law enforcement officers tortured and abused their members. In particular, there was a credible report that five Jehovah's Witness conscientious objectors detained at the Seidi Labor Camp Prison were beaten by authorities and ordered to renounce their faith; however, in June, the Government released seven Jehovah's Witnesses from detention. During the year, reports of harassment declined significantly; however, Jehovah's Witnesses continued to experience sexual harassment, detention, interrogations, evictions, and pressure to abandon their beliefs. Some were forced to pay fines.

On September 5, Jehovah's Witnesses Gulkamar Dzhumayeva and Gulsherin Babkulyeva were arrested while holding a private discussion with fellow citizens. Police officials hit Babkulyeva on the head, sexually harassed her, and threatened to rape her. The women were held overnight without contact with their families and eventually released.

On November 12, Bilbil Kulyyeva was forcibly evicted from a hostel based on her religious affiliation with the Witnesses.

On January 14, President Niyazov signed a decree that further strengthened a 2003 law on religious organizations that provided a legal basis for the Government's systematic harassment of religious minority groups. The law required that all religious organizations register, criminalized activities of unregistered religious organizations, and further restricted religious education. The legal system provided no safeguards to remedy violation of religious freedom or persecution by private actors. New rules set out in the decree included increased registration fees, the lifting of the requirement for the MOJ to publish a list of registered religious organizations, and the requirement that registration be completed in the Turkmen language.

In March, the Government published amendments to the religion law, scaling back the number of members required for registration from 500 to 5, and pledged to register all religious groups and adhere to international norms regarding the treatment of religious minorities. On May 13, President Niyazov signed two decrees removing criminal penalties and financial and reporting requirements from the law on religious organizations. In June, as a result of these legal changes, the Government registered the Sunni Muslims and Russian Orthodox Church as well as four minority religious groups: The Seventh Day Adventists, Baha'i, Baptists, and the Hare Krishnas.

Minority groups reported that harassment lessened since these changes in the law, and that the MOJ cooperated with some unregistered groups to provide assistance in the registration process. However, the registration process remained burdensome and subject to delays, and the Government continued to harass some registered and nonregistered religions during the year.

Nonregistered religious congregations were present in the country, such as Jehovah's Witnesses, Pentecostals, a separate group of Baptists, and Evangelical Christian groups among others; however, the Government restricted their activities. Non-registered groups were officially prohibited from conducting religious activities.

Religious minorities such as the Jehovah's Witnesses were still actively discouraged and pressured to give up their beliefs. On March 10, Aleksandr Zorin, a Witness, was called to the Council for Religious Affairs (CRA) and pressured to abandon his faith or lose his job. He was dismissed from his work the following day.

Many groups, including registered religious groups, were unable to establish places of worship. During the year, authorities demolished a number of privately-operated mosques and refused to allow two Hare Krishna temples, a Seventh-Day Adventist church, and Christian denomination churches that had been either demolished or confiscated to be either rebuilt or returned.

The Government controlled the establishment of Muslim places of worship and limited access to Islamic education. In March, President Niyazov announced no more mosques would be built in the country. The government-supported Council on Religious Affairs (CRA) was part of the government bureaucracy and appeared to exercise direct control over the hiring, promotion, firing, and in some cases compensation, of both Sunni Muslim and Russian Orthodox clergy, although the Law on Religion does not include this role among the CRA's duties.

Some Muslim groups felt demolitions were conducted under the guise of preventing religious extremism, and to control religious teaching. In March, the Government closed three mosques, replaced the Imams with state appointees, and placed one Imam under house arrest for unspecified charges.

Also in March, Turkmenistan's respected former Chief Mufti was secretly tried and sentenced to 22 years in prison for his alleged role in the November 2002 attack and his failure to promote the Rukhnama.

Ethnic Turkmen who converted to Christianity were subjected to official harassment and mistreatment.

Foreign missionary activity is prohibited, although both Christian and Muslim missionaries were present in the country.

The Government attempted to restrict the freedom of parents to raise their children in accordance with their religious beliefs. There was no official religious instruction in public schools; however, students were required to study the Rukhnama at all public schools and institutes of higher learning. Extracurricular religious education was allowed only with CRA and presidential permission.

Only one institution of Islamic education remained open and the Government controlled the curriculum. All annual classes of religious students were limited to between 15 to 20 students a year.

Government supported mosques were required to keep copies of the Rukhnama. The President attempted to use these teachings in part to supersede other established religious codes, as well as historical and cultural texts, and thereby shape citizens' religious and cultural behavior. In November 2003, the MNB closed down a mosque that failed to place the Rukhnama on the same stand with the Koran for Friday prayer.

Religious literature is no longer published in the country. In August, members of two minority religious groups reported their members were questioned by police and had literature and other material confiscated. The material for one group was later returned. In December, a similar incident occurred when a member of a religious minority returned from overseas travel. The Government confiscated religious literature and materials, including Bibles.

Ethnic Turkmen members of unregistered religious groups accused of disseminating religious material received harsher treatment than members of other ethnic groups, particularly if they received financial support from foreign sources.

In January, the Government formally lifted an exit visa requirement; there were no reports of members of religious groups not being permitted to leave the country (see Section 2.d.).

During the year, the Government controlled the number of persons allowed to participate in the annual Muslim pilgrimage to Mecca (the Hajj), specifying that only 187 pilgrims would be allowed to journey to Mecca, out of the country's quota of 4,600 persons.

During the year, seven Jehovah's Witnesses were released from prison, where they were being held as conscientious objectors. The prisoners reported they were under constant pressure to renounce their faith and received harsher treatment. Three Jehovah's Witnesses remained imprisoned as conscientious objectors at year's end.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution does not provide for full freedom of movement; although the Government took steps to ease restrictions on freedom of movement, restrictions remained.

Citizens still carried internal passports, which were used primarily as a form of identification, rather than as a means of controlling movement. The Government maintained restrictions on travel to border cities and regions and maintained large

parts of the country as restricted zones. Residence permits were not required, although the place of residence was registered and noted in passports. The Government confiscated the passports of political opponents to enforce internal exile during the year.

In January, the Government eliminated the exit visa requirement, following international pressure from the diplomatic corps, the OSCE, and the U.N. The elimination of the exit visa regime allowed the majority of citizens to travel abroad; however, the Government maintained a "black list" of those not allowed to travel. Some members of minority religious groups, regime opponents, relatives of those implicated in the November 2002, and those suspected of having "state secrets" were not permitted to leave the country.

The Government refused to allow some students selected for study abroad and exchange programs to participate in the programs.

Since 2002, there have been restrictions on citizens traveling to Iran and Uzbekistan, purportedly out of concern of narcotics trafficking and other smuggling. The Government charged a \$6.00 (132,000 TMM) fee for travel and required individuals to register their travel, indicating the reason and duration of the trip and whom they intended to visit.

The law permitted forced exile, and some individuals remained in forced exile; however the Government did not use forced and internal exile as punishment during the year. Numerous former ministers and government officials were dismissed from their positions, sent into internal exile, and remained under house arrest. The President proposed that the officials, who were sometimes accompanied by their families, could work off their sentences in exile. Almost all prominent political opponents of the Government chose to move to other countries for reasons of personal safety; none returned during the year.

Sazak Begmedov, who was forced to leave Ashgabat in late 2003 after his daughter founded the Turkmenistan Helsinki Foundation in Bulgaria, remained in internal exile at year's end.

Maral Yklymova, the daughter of one of the accused organizers of the November 2002, remained in Mary where she was regularly watched by Turkmen security officials and periodically had her passport confiscated. Although granted political asylum by Sweden, the Government has so far chosen to ignore the decision.

There were reports that authorities harassed ethnic Russians and confiscated their property to hasten their migration after the imposition of the 2003 Citizenship Law.

The Government discouraged emigration of ethnic Turkmen living in Iran, Iraq, Turkey and other countries and emigration of non-Turkmen from the former Soviet Union.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution; however, the Government deported some ethnic Uzbek refugees to Uzbekistan in 2003. The Government granted refugee or asylum status to some ethnic Turkmen from Afghanistan. The Government also allowed some Tajik refugees and migrants to reside in the country. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

Since the beginning of international military operations in Afghanistan, the Government has agreed to increase its cooperation with the UNHCR, the International Organization for Migration (IOM), and other international refugee and relief agencies to assist refugees from Afghanistan. The Government also played an important role in facilitating the flow of humanitarian assistance to refugees who remained in Afghanistan.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

Citizens could not freely choose and change the laws and officials that govern them. The Constitution declares the country to be a secular democracy in the form of a presidential republic. It calls for the separation of powers among the various branches of Government, but vests a disproportionate share of power in the presidency. In practice, the President's power over the state was absolute; despite the appearance of decision-making by consensus, most decisions were made at the presidential level.

There are two parliamentary bodies, a 50-member Parliament (Mejlis) and a People's Council (Halk Maslahaty) made up of 2,500 delegates. Parliament supported all presidential decrees. In 2003, a new law reduced the powers of the Parliament, making the People's Council the supreme legislative body and the President Chairman of the Council for life.

Parliamentary elections took place December 19. All candidates were members of the Democratic Party and were cleared by the authorities. Many citizens in contact with foreign diplomats had very little knowledge about the elections, including both the date and candidates' biographies. Foreign observers were not invited to monitor the elections. The Government reported a 76.8 percent turnout.

Elections for the People's Council and local council representatives took place in April 2003. Polling stations visited by foreign diplomats were nearly deserted, but the Government claimed that 99.8 percent of eligible voters participated. All candidates were members of the Democratic Party. Some voters reported that at the end of the election-day election workers went door-to-door asking people to vote and asked some to vote for other family members and neighbors. The People's Council, which included tribal elders, members of the Mejlis, and other state officials, fully supplanted the Mejlis in authority. It has the power to dissolve the Mejlis and was the primary forum where President Niyazov proposed and received immediate approval for his new laws.

A constitutional amendment gives President Niyazov the position as Chairman for life of the People's Council, giving him substantial authority to approve any potential successor.

A 1994 national referendum, which was neither free nor fair, extended the President's term to 2002, eliminating the need for the scheduled presidential election in 1997. A 1999 law allowed an exception to the constitutionally mandated maximum of two 5 year terms for President Niyazov, effectively conferring on him a lifetime term in office; the exception only applies to Niyazov, an honor as the country's first president. According to this arrangement, Niyazov effectively makes the laws and determines candidates for elections.

All political parties, other than the President's Democratic Party, are banned. The policy of the Democratic Party, according to its leadership, was to implement the policy of the President. Citizens swear a national oath of personal allegiance to President Niyazov in particular, rather than just to the presidency as a general institution.

There were 8 women in the 50-member Mejlis. Women were also represented in the 2,500-delegate People's Council. Women served in a few government positions, including Deputy Chair of the Mejlis, Acting Chairman of the Central Bank, Prosecutor General, Ambassador to the U.N., and a provincial governor (Hakim). Women often occupied the position of Deputy Hakim.

Preference was given to ethnic Turkmen in appointed positions in the Government but ethnic minorities occupied several high governmental positions. There was 1 ethnic Russian in the 50-seat Mejlis. Ethnic minorities were also represented in the 2,500-delegate People's Council. The largest tribe, the President's Teke tribe, held the most prominent roles in cultural and political life.

On July 12, the President acknowledged the existence of bribery and nepotism in university admissions. The President regularly fires administration officials for bribery.

There is no law that allows access to government information. There was a state website, although not all information is available and most individuals do not have access to the Internet.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights monitoring groups, and government restrictions on freedom of speech, press, and association severely restricted the ability of international organizations to investigate and criticize publicly the Government's human rights policies. With the exception of questions regarding religious freedom, officials were neither cooperative nor responsive to questions regarding alleged human rights abuses. During the year, diplomats engaged in dialogue with the Government on a number of religious freedom cases. In one case, confiscated literature was returned and local authorities apologized. Several independent journalists based in Russia reported on human rights in the Russian press and had contact with international human rights organizations. On numerous occasions early in the year, the Government warned its critics against speaking with visiting journalists or other foreigners wishing to discuss human rights problems.

During the year, the Government declined to renew accreditation of the OSCE country director, accusing her of focusing on negative information.

During the year, the Government maintained pressure on nonpolitical social and cultural organizations. This included detention and routine summoning for questioning at security services. The Government monitored visits by embassy officers to NGOs and warned NGO leaders to limit contact with foreigners.

On April 29, members of the MNB beat Moscow-based RFE/RL correspondent and executive director of the human rights organization, Turkmen ili, Mukhametgeldy Berdyew, and ransacked his apartment (see Section 1.c. and 2.a.).

There were no international human rights NGOs with an ongoing permanent presence in the country; however, the Government permitted visits by international organizations, including the OSCE, UNHCHR, and the ICRC, and international human rights groups monitored the situation during the year. The OSCE maintained a mission in the capital of Ashgabat, although the OSCE ambassador was forced to leave during the year.

The Human Rights Institute, nominally headed by President Niyazov, oversaw the work of law enforcement agencies, the military and the judiciary, but it appeared to have little real authority. The National Institute for Democracy and Human Rights (IDHR) continued to receive complaints during the year. The Institute's mandate was to support the democratization of the Government and society and to monitor the protection of human rights. The Institute maintained four full time staff members to receive and resolve citizen complaints of arbitrary action. In principle, the Institute reviewed complaints and returned its findings to the individual and the organizations involved; however, the Institute was not an independent body, and its ability to obtain redress was limited.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution provides for equal rights and freedoms for all, independent of nationality, origin, language, and gender; however, violence against women and discrimination against ethnic minorities were problems.

*Women.*—Domestic violence is prohibited by law; however, laws were not effectively enforced. Anecdotal reports indicated that domestic violence against women was common. The problem was not usually discussed in society, and it is assumed that the majority of victims of domestic violence kept silent, either because they were unaware of their rights or afraid of increased violence from their husbands and relatives. There were a few court cases and occasional references to domestic violence in the media. One official women's group in Ashgabat and several informal groups in other regions assisted victims of domestic violence.

The law states that rape, including spousal rape, is illegal. Penalties were between 3 to 25 years based on the violence associated with the rape and if the attacker is a repeat offender, and the Government generally enforced it effectively against civilians; however, persons held for religious offenses stated that authorities threatened to rape female family members if they continued their activities.

Prostitution is illegal; however, authorities did not enforce the law effectively and it was a growing problem, particularly in Ashgabat.

There was no law specifically prohibiting sexual harassment, and there were anecdotal reports from local employees that sexual harassment existed in the workforce.

Women were underrepresented in the upper levels of government-owned economic enterprises and were concentrated in health care, education, and service professions. In April, President Niyazov ordered the firing of 15,000 government health workers, the majority of whom were women, because of budget cuts. Women were restricted from working in some dangerous and environmentally unsafe jobs.

The law provided women the same inheritance and marriage rights as men, and this was generally respected in practice.

Some NGOs worked on women's issues. The Government did not acknowledge that women suffered discrimination and therefore had no specific program for rectifying their disadvantaged position in society.

*Children.*—The Government's social umbrella covered the welfare needs of children; however, the Government did not take effective steps and did not have adequate resources to fully address the needs of children.

The Government provides 9 years of basic education. Girls and boys had equal access to education. Primary and secondary education was free and compulsory; however, class sizes continued to increase rapidly, facilities deteriorated, and funds for textbooks and supplies decreased. The Government stated approximately 95 percent of children between the ages of 7 and 16 attended school on a regular basis; however, a 2003 U.N. Development Program report listed school attendance at 81 percent. Girls comprised an estimated 49.1 percent of the student population. The amount of classroom time dedicated to learning the Rukhnama increased during the

year, negatively affecting the overall quality of education. In September, Rukhnama II was introduced into the school curriculum, further reducing the time allotted to a traditional curriculum.

A 2000 presidential decree continued to reduce the number of teachers, which exacerbated the problems of already crowded classrooms and overworked teachers and further reduced the quality of education in the country.

During the year, the Government continued to downsize secondary schools, and limit courses taught in non-Turkmen languages, further degenerating the secondary school system and educational opportunities.

Poverty and healthcare problems led to a high rate of infant mortality. The Government invested in state of the art medical equipment and facilities; however, it did not invest in the training or budgeting of doctors or other medical personnel. From February to July, the Government dismissed approximately 15,000 nurses, replacing them with military conscripts untrained in administering medical treatment. There were a few reports of abuse of children, although there was no societal pattern of such abuse.

Child labor was a problem (*see* Section 6.d.).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no verifiable reports that persons were trafficked to, from, or within the country.

The Penal Code prohibits prostitution, which is punishable by 2 years' imprisonment or hard labor. The penalty for involvement of a minor in prostitution or using force, threat, or blackmail to involve someone in prostitution is 3 to 8 years' imprisonment. The penalty for procuring persons for prostitution is 3 to 8 years' imprisonment with the possibility of confiscation of property.

There were unconfirmed and anecdotal reports of women from the country traveling to Turkey, the United Arab Emirates, and other countries to work as prostitutes, some of whom may have been trafficked. There were no reports of trafficking within the country. NGOs noted that the problem is of concern in rural areas where economic opportunities are extremely limited.

The Ministry of Justice worked with foreign missions and with international organizations to establish public awareness of trafficking issues by participating in conferences and registering NGO groups that address the needs and vulnerabilities of potential victims. The Government also cooperated with foreign governments and international organizations to strengthen its borders, which may help prevent trafficking.

*Persons With Disabilities.*—There was some discrimination against persons with disabilities in employment, education, access to health care, and the provisions of other state services. The Government provided subsidies and pensions for persons with disabilities, although they were inadequate to maintain a decent standard of living. Care for persons with disabilities was provided at the local level. Children with disabilities, including those with mental disabilities, were placed in boarding schools. They were provided with educational and future employment opportunities if their condition allowed them to work; in practice neither was provided.

Legislation requires that new construction projects include facilities to allow access by persons with disabilities; however, compliance was inconsistent, and older buildings were not accessible.

Although some societal discrimination existed, many citizens engaged in activities to assist persons with disabilities, including Special Olympics and Paralympics groups.

*National/Racial/Ethnic Minorities.*—The Constitution provides for equal rights and freedoms for all citizens. Approximately 77 percent of the population was Turkmen; Uzbeks comprised 9 percent; and Russians 7 percent. There were smaller numbers of Kazakhs, Armenians, Azeris, and many other ethnic groups. Turkmen themselves are divided into five main tribes, the Teke, the Yomut, the Ersary, the Yasyr, and the Goklen. On March 11, President Niyazov signed a decree rescinding the previous numerical requirements for minority group registration; however, no minority groups had registered as result by year's end.

The 2003 decree for resettlement of residents in Dashoguz, Lebap, and Ahal Velayats to the northwest part of the country was partially implemented. Observers suggested the resettlement plan principally affected ethnic Uzbeks.

The Constitution designates Turkmen as the official language. It was a mandatory subject in school, although it was not necessarily the language of instruction. The Government closed most remaining Russian-language schools and continued to reduce classes taught in Russian to encourage use of the Turkmen language.

The Constitution also provides for the rights of speakers of other languages to use such languages. While Russian remained common in commerce and everyday life,

the Government intensified its campaign to conduct official business solely in Turkmen. The Government reportedly gave ethnic minority employees at ministries deadlines to learn Turkmen, and dismissed some government employees for failure to learn the language. During the year, the Government required employees of ministries to pass tests demonstrating knowledge of the Rukhnama and dismissed those who failed.

Non-Turkmen complained that some avenues for promotion and job advancement were no longer open to them and only a handful of non-Turkmen occupied high-level jobs in the ministries. Non Turkmen were often the first targeted for dismissal when layoffs occurred. There was societal discrimination against ethnic minorities, specifically Russians.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form or join unions; however, in practice the Government does not permit independent unions. Under the Center for Professional Unions of Turkmenistan, led by a presidential appointee, there were numerous professional unions in most fields, including medical, construction, and banking. Some unions circumvented government restrictions on independent unions by registering as public associations (or NGOs), for example: the unions of accountants, economists, entrepreneurs, and leaseholders. The law does not prohibit antiunion discrimination by employers against union members and organizers; and there were no mechanisms for resolving complaints of discrimination.

*b. The Right to Organize and Bargain Collectively.*—The law does not allow unions to conduct their activities without interference, and the Government controlled union activities. The law does not protect the right of collective bargaining. The law neither prohibits nor permits strikes, nor does it address the issue of retaliation against strikers. Strikes were extremely rare. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor; however, there were reports that prisoners were forced to work under hazardous and unhealthy conditions in a kaolin mine in Gyzylgaya prison, near Dashoguz. The law provides for labor as a component of prison sentences; the prison system includes educational-labor colonies and correctional-labor colonies.

The Government prohibits forced and compulsory labor by children; however, local officials used children for cotton harvesting. Eyewitnesses in Dashoguz province reported that schools there were rotating students to the cotton fields for the harvest (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment of children was 16 years; in a few heavy industries, it was 18 years. The law prohibits children between the ages of 16 and 18 years from working more than 6 hours per day (the normal workday was 8 hours). A 15 year-old child could work 4 to 6 hours per day but only with the permission of the trade union and parents. This permission rarely was granted. Child labor laws were not effectively enforced in practice.

On May 12, the President issued a decree against child labor, condemning the use of children for cotton harvesting. However, violations of child labor laws occurred in rural areas, particularly during the annual cotton harvest season. No action was taken by the state to prevent such activities. Local government officials strongly encouraged children to help in the cotton harvest; families of children who did not help could experience harassment by the local government officials. Children as young as 10 years of age were allowed to help with the harvest, and parents noted many were not provided with adequate accommodation, food, or compensation.

Classes were cancelled and children were reportedly pulled from schools to participate in the harvest. In some cases, local officials claimed that cotton belonged to schools and that the harvest was part of the school's program. Farms were not effectively mechanized, which required that the majority of the harvest be handpicked to meet state production goals.

*e. Acceptable Conditions of Work.*—The minimum monthly wage in the state sector of approximately \$75 (1.5 million TMM) per month did not provide a decent standard of living for a worker and family.

The standard legal workweek was 40 hours with 2 days off. Individuals who worked fewer hours during the week or were in certain high-level positions could also work on Saturdays. The Labor Code states overtime or holiday pay should be double the regular payment; maximum overtime in a year is 120 hours and can not exceed 4 hours in 2 consecutive days. This law, however, is not enforced.

Industrial workers often labored in unsafe environments and were not provided proper protective equipment. Some agricultural workers were subjected to environmental health hazards. The Government recognized that these problems existed and took some steps to address them; however, it did not set comprehensive standards for occupational health and safety. Workers did not always have the right to remove themselves from work situations that endangered their health or safety without jeopardy to their continued employment.

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## UKRAINE

The country is a mixed presidential and parliamentary republic governed by a directly elected president, a prime minister who heads a cabinet of ministers, and a unicameral parliament (Rada). The prime minister is nominated by the president and approved by the Rada. The cabinet is nominated by the prime minister and approved by the president, but generally is under the president's direction. A series of elections for national and local offices during the year revealed serious shortcomings in democratic practice. After a badly flawed campaign in which government resources were misused to support the government backed candidate and to hinder the candidacy of his opponent, a presidential election was held on October 31, with a second round runoff between opposition leader Viktor Yushchenko and Prime Minister Viktor Yanukovich on November 21. Massive fraud conducted on behalf of the government backed candidate during the runoff election triggered the largest non violent protest movement in modern Ukrainian history, known popularly as the Orange Revolution. The Supreme Court ruled the runoff to be invalid and ordered that a repeat runoff election take place on December 26. The December 26 repeat runoff election, which Yushchenko won, and the short campaign that preceded, it were substantial improvements. The Constitution provides for an independent judiciary; however, many courts were inefficient and subject to political interference and corruption.

There are two principal security agencies, which share responsibility for internal security: The Security Service of Ukraine (SBU), which is formally responsible for domestic security and law enforcement, and the Ministry of Internal Affairs, which controls the various police forces. In addition, the State Tax Administration controls the tax police. A Foreign Intelligence Service (FIS) was established as a separate government agency in October with responsibilities that include, in addition to foreign intelligence collection, combating international organized crime and terrorism and promoting the security of Ukrainian institutions and citizens abroad. The armed forces largely remained outside of politics. Government agencies interfered in the political process through criminal and tax investigations of opposition politicians, independent journalists, and businessmen. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The economy was mixed, with the private sector accounting for 65 to 70 percent of gross domestic product. The country had a total population of approximately 47.4 million reflecting a continued downward trend. The gross domestic product grew by 12 percent during the year. The economy remains burdened by a lack of transparency, with the shadow economy accounting for a significant proportion of real income. Wage arrears, a problem in prior years, decreased, partly because of election year politics. The official rate of unemployment through August was 3.4 percent, although the International Labor Organization estimated the unemployment rate at 9 percent. Wealth was concentrated within the political elite and among directors of the state dominated and newly privatized sectors.

The Government's human rights record remained poor and worsened in a number of areas; however there were also improvements in some areas, particularly toward the end of the year. The citizens' right to change their government peacefully was restricted during most of the year by the authorities, who engaged in many forms of manipulation of parliamentary and local elections and particularly of the October 31 presidential race and the November 21 runoff. However, the repeat runoff on December 26, which followed the Supreme Court's invalidation of the first, was judged by international observers, including the OSCE, to have reflected the will of the people and to have brought Ukraine substantially closer to meeting Western standards for free and democratic elections.

Police and prison officials tortured and beat detainees and prisoners, and at least two detainees died under suspicious circumstances. Police abuse and harassment of racial minorities was a continuing problem. The beating of conscripts in the army

by fellow soldiers was common and at times resulted in death. Reforms in the penal system led to some improvement in prison living conditions; however, prison conditions remained harsh. The Government rarely punished officials who committed abuses. Arbitrary searches, seizures, arrests, and detention from what appeared to be political motives were problems, as was lengthy pretrial detention in very poor conditions. Long delays in trials were a problem, and judges continued to readily grant most requests by prosecutors for residential search and wiretap warrants.

During most of the year, authorities interfered with the news media by harassing and intimidating journalists, censoring material, blocking interregional broadcasts of independent media, closing down independent media outlets, and pressuring them into practicing self censorship. There were some limits on freedom of assembly, and the authorities impeded the efforts of individuals to participate in some demonstrations. Freedom of association was restricted. There were some problems with registration and property disputes; however, the Government took steps to address the concerns of religious communities. There were instances of anti Semitic acts, including attacks on Rabbis and desecration of Jewish graves. There were some limits on freedom of movement. Violence and discrimination against women, including sexual harassment in the workplace, were problems as was violence against children. Trafficking in women and children for commercial sexual exploitation was a serious problem, which the Government took steps to address. Ethnic minorities and Muslims complained of harassment and frequent identity checks. The Government discouraged workers from organizing independent unions and regularly harassed independent unions.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents; however, at least four individuals died under questionable circumstances, two of them in police custody.

On April 23, the independent newspaper *Ukraina Moloda* reported that Melitopol resident Mykola Zahachevsky died in the city's pretrial detention facility under suspicious circumstances. Relatives reported that Zahachevsky's body was covered with signs of physical abuse and asserted that he had been beaten to death by investigators. The Zaporizhzhya Oblast prosecutor opened a criminal case against the police officers for exceeding their authority. There was no further information on progress in the case at year's end.

On September 18, a homosexual man, Dmytro Pakhomov died, reportedly while being questioned by police in Kryvyi Rih. According to human rights groups, police officials made derogatory remarks about Pakhomov's sexual orientation to his mother and told her that, in the midst of interrogation, her son suddenly jumped out a window and fell four floors to his death. When she retrieved her son's body at a local hospital, medical staff told her that Pakhomov had suffered multiple internal injuries, including liver, kidney, lung, and neck vertebrae damage not consistent with the police version of his death. The family of the deceased declined to request an investigation.

On March 3, the director of the independent Poltava television and radio company Yuta, Heorhiy Chechyk, died in an auto accident as he was traveling to Kiev to sign an agreement to broadcast Radio Liberty programs on Yuta's FM station, Poltava Plus. The Prosecutor General's office stated that Chechyk caused the accident by "violating traffic safety rules" and added that Chechyk "showed signs of acute myocardial ischemia" shortly before the crash. Most human rights groups accepted the Government's version of the accident; however, company officials, some opposition politicians, and some human rights NGOs continued to suspect that Chechyk may have been deliberately killed as part of the Government's broader effort to silence Radio Liberty's voice (*see* section 2.a.).

On May 24, the longtime Rector of Uzhhorod State University, Volodymyr Slyvka, was found unconscious in his bathroom with slit wrists and a kitchen knife in his chest. He subsequently died. Local prosecutors refused to investigate the case and called it a suicide. However, opposition politicians said that Slyvka was killed because he refused to bow to pressure from the Governor of Zakarpatska Oblast, Ivan Rizak, to force students and faculty to support pro government candidates in elections. In the weeks prior to Slyvka's death, Governor Rizak used the pro government media and police to pressure the rector into stepping down, which he refused to do. After Slyvka's death, a political ally of Governor Rizak, Vasyl Rusyn, was "elected" the university's new rector in a Soviet style, single candidate special election.

Human rights groups asserted that soldiers continued to kill other soldiers during violent hazing events, although officials denied that any servicemen had died because of physical violence (*see* Section 1.c.). *Segodnya* newspaper reported on May 20 that, according to the Defense Ministry, 11 servicemen had committed suicide so far during the year, 6 of them while off duty. The Ministry blamed family and personal problems for the suicides; however, the Ukrainian military has frequently described death by hazing as suicide.

The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts. Opposition politicians, politically active businessmen, and journalists were the victims of attacks that sometimes were fatal and may have been politically motivated. Serious allegations persisted that Ministry of Internal Affairs officials were involved in killings and kidnappings in previous years.

Police declined to release any further information, either to the public or a special Parliamentary investigating commission, about the August 2003 death of Ivan Havdyda, Deputy Head of the opposition Ukrainian People's Party. Havdyda died from a blow to the head and his body was found one block from his apartment in Kiev. Friends and colleagues asserted that his death was a result of his political activities. Due to a lack of confidence in the Prosecutor General's office, which was investigating the incident, lawmakers established a commission to investigate Havdyda's death. At year's end, that parliamentary inquiry was at a standstill.

There were no indications that authorities were investigating the November 2003 death of Yuriy Bosak, a leader of the opposition party Reforms and Order in Khmelnytskyi Oblast, who was found hanging in a forest. Relatives and colleagues continued to assert that the circumstances of his death were inconsistent with suicide and that Bosak was killed and then hanged because of his political activity.

The Prosecutor General's office continued to refuse to investigate the December 2003 death of Volodymyr Karachevtsev, head of Melitopol's independent journalists' union and a deputy editor at the independent newspaper *Courier*. Karachevtsev, who wrote frequently about corrupt local officials, was found hanging by his sweater on the handle of his refrigerator. Melitopol police insisted that, after drinking heavily, Karachevtsev accidentally strangled himself when he tripped and fell, catching his sweater on his refrigerator door handle; the official cause of death was listed as "mechanical asphyxia." However, findings by the local coroner contradicted police assertions that Karachevtsev was drunk at the time of his death.

The search continued during the year for two individuals allegedly involved in the murder of Ivano-Frankivsk Deputy Governor Mykola Shkriblyak. In April 2003, the Chernivtsi Oblast Appeals Court sentenced to life imprisonment both Shkriblyak's killer and the individual who organized the killing. According to Yuri Cherkasov, the former Chief of Interior Ministry's Department for Combating Organized Crime, the killer was an unidentified former officer of the Russian security services who lived in Ukraine. The authorities declined to provide information on the convicted organizer in the interests of the continuing investigation. Shkriblyak, who was running for a constituency Rada seat, was shot on the day before the 2002 parliamentary elections. There was speculation that Shkriblyak was killed because of his involvement in privatization issues related to the energy and fuel sector.

At year's end there had been no verdicts in cases related to the 2001 killing of Ihor Aleksandrov, the director of a Donetsk regional television station. According to an October 20 report from the Interfax news agency, a total of 12 people were being tried on a variety of charges related to the Aleksandrov murder and a subsequent attempted cover up. The cases were being heard by the Luhansk Court of Appeals at the direction of the Supreme Court, which expressed a lack of confidence in the Donetsk Court of Appeals, the original venue for the trials. The killing of Aleksandrov, who had aired a number of critical reports about Donetsk based politicians and was a noted critic of alleged corruption among local law enforcement authorities, had been attributed to his professional activities. In February, two police officers were arrested in Kramatorsk for "precipitating the death" of a key witness in the case.

During the year there were several major developments in the unresolved 2000 killing of prominent journalist Heorhiy Gongadze, which continued to be a subject of active domestic and international interest, including continuing accusations that senior officials in the Government were implicated. Gongadze's decapitated body was identified in November 2000, after his disappearance 2 months earlier. On June 19, the British newspaper *The Independent* published official documents, acknowledged by Prosecutor General's office to be genuine, indicating that Heorhiy Gongadze was under police surveillance shortly before his disappearance and death. The same newspaper reported that a former Kiev police officer, Ihor Honcharov, the

purported leader of an organized criminal gang suspected of killing Gonggadze, died in 2003, in police custody, from a combination of severe physical abuse and an injection of the drug Thiopental. Honcharov allegedly had information about the involvement of high level officials in the kidnapping and killing of Gonggadze and had planned to testify in court about this involvement. The guard at the Lukyanivska detention facility who allegedly killed Honcharov was arrested in October.

The Prosecutor General's office announced on June 21 that it had in custody the self confessed killer of Gonggadze, an alleged career criminal identified only as "Citizen K." However, the head of the parliamentary commission investigating the case, Member of Parliament (M.P.) Hryhoriy Omelchenko, told the press that "Citizen K" merely beheaded Gonggadze's corpse at the direction of the police; according to Omelchenko, Gonggadze was accidentally shot in the head as he struggled with police officers who were attempting to kidnap him. Gonggadze's head was removed, Omelchenko asserted, because it contained a bullet that could lead to the identification of a police handgun as the murder weapon.

In March, Omelchenko's parliamentary commission concluded that President Kuchma, Volodymyr Lytvyn, then Presidential Chief of Staff, and Yuriy Kravchenko, then Interior Minister, were the instigators of Gonggadze's kidnapping. The commission was unsuccessful in obtaining enough votes in the Rada to begin impeachment proceedings against Kuchma.

The Government continued to assert publicly that a full scale investigation into Gonggadze's disappearance was continuing, but members of the media and the public seriously criticized the Government's handling of the case. The Government continued to dispute the authenticity of an audio recording that allegedly contained conversations between President Kuchma and other senior government officials discussing the desirability of Gonggadze's death. Experts have judged another recording from the same source to be authentic.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

On January 13, the head of the parliamentary committee for freedom of speech urged the Interior Ministry to search for Vasyl Hrysyuk, a reporter for the newspaper Narodna Sprava in Lviv Oblast town of Radekhiv, who disappeared in December 2003. There was no indication during the year that the case was being actively pursued.

There were no indications that the authorities were continuing to investigate the 2002 disappearance of Oleksandr Oliynyk, an election monitor from the NGO Committee of Voters of Ukraine (CVU), who disappeared from Kirovohrad approximately a week after the March 2002 Parliamentary elections, or the 2002 disappearance of Andriy Tatarchuk, Vice Chairman of the Reforms and Order Party of Odesa (Our Ukraine Bloc) and a former city council candidate.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, reports that police regularly beat detainees and prisoners persisted, and opposition candidate Viktor Yushchenko accused the Government of attempting to kill him with poison.

Human Rights Ombudsman Nina Karpachova told the media that during her nearly 7 year tenure she has received approximately 12,000 complaints from persons who asserted that they had been tortured in police custody. In an August 2 special program on the opposition owned Fifth Channel television network, Karpachova acknowledged that torture of citizens by police officers remained a major problem.

The Fifth Channel program reported that police officers frequently beat detainees with rubber batons, hung them upside down and doused them with cold water. According to Fifth Channel, police officers tortured individuals in order to extract confessions or simply to get money; a lawyer interviewed on the program said he had been taken into custody and beaten until he agreed to pay approximately \$5,000 (26,000 Hryvnyas/UAH) to a policeman. An October 2002 report by the European Committee for the Prevention of Torture (CPT) stated that individuals in detention ran a significant risk of physical mistreatment, including beating, electric shock, pistol whipping, and asphyxiation. Human rights lawyers also reported that requesting an attorney often led to a worse beating, and detainees at times were beaten until they waived their right to an attorney.

On August 6, police in Sumy Oblast, acting on direct orders from the Governor, attacked a large group of students protesting a university merger. An opposition M.P. who was on the scene said that police pushed students to the ground, kicked them, and beat them with truncheons (*see* Section 2.b.).

In a September 21 speech at the Rada, Presidential candidate Viktor Yushchenko accused the Government of attempting to kill him with poison. Yushchenko had suddenly fallen seriously ill in early September. In early December, doctors at a rep-

utable medical clinic in Vienna determined that Yushchenko had been poisoned with dioxin, a diagnosis subsequently confirmed by Dutch specialists. The Government and a special parliamentary commission—chaired by an outspoken supporter of Yushchenko's opponent—disputed Yushchenko's allegation.

The media reported on March 10, that the police assaulted and seriously injured the son of a prominent opposition M.P. in retaliation for his father's political and trade union activities (*see* Section 6.a.). According to media reports, on March 7, Andriy Volynets, son of M.P. and Confederation of Free Trade Unions leader Mykhaylo Volynets, was taken from a bus stop in Kiev by a small group of individuals in police uniforms. They beat Volynets, put a plastic bag over his head, poured alcohol into his mouth, and then dumped him in the stairwell of a building in Kiev's Obolon district. Opposition M.P.s in the Rada called for the Prosecutor General's Office to open an investigation into the incident; at year's end, there had been no response from the Prosecutor General's office.

In March, the head of the Poltava Oblast police department resigned in connection with the torture and deaths of suspects in police custody in 2003. Only one of the four police officers suspected of involvement was detained. In June, a court in Zaporizhzhya began the trial of former police Lieutenant Colonel Serhiy Polovnikov in connection with an incident in February 2003, in which a suspect attempted to commit suicide by jumping through a fourth floor window of the police station. Allegedly, the suspect was driven to suicide by physical abuse that included the use of electric shocks. In April 2003, both feet of Oleksandr Lobanov, a prisoner at Prison 120 in Volnovakha, Donetsk Oblast, were amputated because of gangrene allegedly resulting from injuries sustained during a severe beating by riot police during a riot control exercise at the prison. Prison officials reportedly forced Lobanov to sign a statement that he had injured his feet himself while exercising in the prison yard. The Penal Department and prosecutor's office opened an investigation on this case, although no results were made public by year's end.

The law prohibits the abuse of psychiatry for political and other non medical reasons and provides safeguards against such abuse; however, on a few occasions, according to human rights groups, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The confinement often resulted from the corruption of psychiatric experts and court officials. Persons diagnosed with mental illness risked being confined and treated forcibly, declared not responsible for their actions, and stripped of their civil rights without being present at the hearings or notified of the ruling. According to the Ukrainian Psychiatric Association, the Health Care Ministry did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

Despite extensive legislation to protect the rights of service members and the existence of regulations governing relationships among military personnel, reports continued during the year of harsh conditions and violence against conscripts in the armed forces. Senior conscripts often beat recruits, sometimes to death, and forced them to give up money and gifts that they received from home. According to human rights associations, garrison prosecutors often did not investigate complaints of physical harassment. Punishment administered for committing or condoning such activities was insufficient to deter further abuses. Although military officials reported that there were no deaths due to soldier on soldier physical violence, human rights groups, including the Association of Soldiers' Mothers, reported that violent hazing continued to be widespread (*see* Section 1.a.). They had reported in 2002 that the Office of the Prosecutor General opened 129 criminal cases pertaining to violent hazing. It is unlikely that further information will be available on the progress, if any, in these cases.

Police abused Roma and harassed and abused dark skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them (*see* Section 5). On May 10, according to testimony given to the Roma NGO, Roma European Rights Center that could not be separately corroborated, an individual identified only as "Mr. S.G.," reported that in the days following the May 6 theft of two horses in the area of Lutsk, police terrorized the 30 family Romani community in the neighboring Prilutsk village. Mr. S.G. reported that several members of the community, including teenage Romani boys, were taken to the police station and severely beaten. Similarly, in the town of Kivertsy, Mr. S.G. had been informed that two young Romani men were taken to the police station and beaten almost to death before they were released. Mr. S.G. reported that when he visited the Lutsk District Police Department to discuss these matters, the Deputy Chief of Police threatened him and physically mistreated him.

Prison conditions improved somewhat as a result of reforms in the penal system. Prison officials reported that, due in part to the decriminalization of many offenses,

there was a reduction in the number of inmates in prison, which eased overcrowding. Nevertheless, prisons were sometimes overcrowded or lacked adequate sanitation and medical facilities.

Although information on the physical state of prison walls and fences, as well as on pretrial detention blocks, is officially considered to be a government secret, the press reported freely about harsh prison conditions.

Conditions in pretrial detention facilities were harsher than in low and medium security prisons. There were reports that inmates in pre trial facilities were sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding was more common in these centers; their total capacity was 36,000 but 39,021 detainees were held in them as of September 1, according to the State Penal Department (SPD).

Human Rights Ombudsman Karpachova expressed indignation over conditions in temporary detention centers, particularly Crimea, and in April it was reported that the Prosecutor General's Office was concerned about poor conditions in pretrial detention facilities nationwide.

The SPD, in cooperation with the NGO community, implemented some programs for the professional development of prison and police officials. According to the SPD, as of September 1 no criminal proceedings involving torture or mistreatment of prisoners had been opened against SPD employees; however, as of September 1, six criminal cases had been opened against employees for unspecified "non human rights related" offenses. No employee of the penitentiary system was disciplined for improper treatment of detainees; however, 420 employees were disciplined in the first 8 months of the year for "serious flaws in their work and violation of work ethics," according to the SPD.

The 2003 Criminal Penal Code was intended to regulate prison life and provide safeguards against the mistreatment of prisoners. Officials stated that it was still too early to evaluate the code's effectiveness, but maintained that NGOs, international experts, prisoners, and prison employees had reacted favorably to it. In accordance with the new code, all new inmates were required to undergo psychological screening, and prison administrators were required to develop a plan for the rehabilitation and eventual release of inmates. Correctional institutions for adults were also subdivided into three categories: Minimum, medium, and maximum security. Also in keeping with the new Code, deprivation of the right to receive a parcel is no longer used against prisoners as a punishment. Prisoners are permitted to receive much larger parcels than in the past, which may include food items, medicine, books, writing implements, clothing, shoes, and personal hygiene items.

According to official statistics from the SPD, there were 464 deaths in prisons during the year: 438 due to illness, 20 suicides, 2 homicides (1 murder and 1 manslaughter), and 4 lethal traumatic injuries. In addition, there were 88 deaths in pretrial facilities: 82 due to illness and 6 to suicide (*see* section 1.a.) Tuberculosis in prisons continued to be of concern; however, officials stated that mandatory screening of all new inmates for the disease of all new inmates had reduced infection rates. Inmates with tuberculosis were isolated from the general population and treated at one main prison hospital complex in Kharkiv Oblast. Almost 25,000 individuals reportedly were held in prison cells with neither windows nor toilets.

Men and women were held in separate facilities, and juveniles were held separately from adults. Additionally, pretrial detainees were always held separately from convicted prisoners. The law does not recognize political prisoners as a separate category of detainee.

The Government continued to allow prison visits from human rights observers and generally granted full access to prison facilities; however, some monitors reported that at times it was difficult to obtain access to prisons to visit specific prisoners, and there were instances in which they were not allowed full access to prison facilities. The SPD maintained, however, that there had been no instances of domestic or international human rights groups being denied access to pretrial detention facilities. Prisoners were permitted to file complaints with the Human Rights Ombudsman about the conditions of detention, but human rights groups reported that prisoners were sometimes punished for doing so.

At present, two Corrective Labor and Treatment Centers for alcoholics remain subordinated to the SPD.

The Ukrainian Red Cross Society was granted unimpeded access to at least two prisons during the year, in Melitopol and Kovel. At those facilities, Red Cross representatives conducted an HIV/AIDS/TB awareness campaign for teenage inmates. The Red Cross also provided the teenagers with vitamin supplements and hygiene kits.

*d. Arbitrary Arrest or Detention.*—The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention remained problems.

The Minister of Internal Affairs, who is responsible for the police, is a member of the Cabinet of Ministers, while the SBU enjoys special status within the executive branch and reports directly to the President. The State Tax Administration, which is accountable to the President and the Cabinet of Ministers, also has law enforcement powers, which it exercises through the tax police. The Office of the Prosecutor General prosecutes criminal cases and is responsible for enforcement of court decisions in criminal cases. In July 2003, legislation providing for civilian control over the army and law enforcement agencies was enacted and an implementation plan approved. The law authorizes parliamentarians to conduct investigations into national security and defense issues, including public hearings. The law also significantly broadens the authority of the Human Rights Ombudsman to initiate investigations pertaining to the military's activities, as well the activities of law enforcement bodies. The law also assigns to the Audit Chamber of Ukraine control over national defense and security budget allocations.

Police corruption was a problem during the year. For example, a 2003 law prohibits the police from stopping vehicles and levying immediate fines, which officers frequently pocket to supplement their low salaries; only courts have the right to impose such fines. That law had an increasing deterrent effect on the police, who no longer could legally collect spot fines after stopping vehicles for alleged traffic violations, although these "traffic stop shakedowns" still regularly occurred.

Authorities made some effort to end police abuses, including taking disciplinary action against law enforcement authorities who committed them; however, impunity remained a serious problem. Police were seldom prosecuted for misbehavior. Ombudsman Karpachova suggested that those police officers who were charged and convicted received light or suspended sentences, primarily because of what she called the "corporate inter dependence" between law enforcement officials and the judicial branch.

Legislation passed in July 2003 strengthened the role of the Human Rights Ombudsman and of M.P.s in investigating human rights violations, providing for the imposition of fines against individuals seeking to hinder their work.

By law, the authorities may detain a suspect for 3 days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days. Suspects who believe that further investigation may lead to their immediate exoneration may petition the court for an additional 15 day detention. The law further provides that pretrial detention may not last more than 2 months. In cases involving exceptionally grave offenses, the Prosecutor General may petition a judge of the Supreme Court to extend the period of detention to 18 months. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires that officials notify family members immediately concerning an arrest, but they often did not do so in practice.

The Government occasionally employed such charges as criminal libel or tax evasion to detain persons (usually opposition activists or journalists) who were openly critical of the Government or challenged the interests of powerful business or political figures close to the Government (*see* Section 2.a.).

On February 9, it was reported that the Lviv Tax Administration was conducting numerous tax inspections of businesses associated with the opposition.

The press reported on March 10 that the Supreme Court annulled the tax evasion charges against jailed banker Borys Feldman and commuted his 9 year prison sentence to 5 years, in effect, to time served. Feldman, the former vice president of Bank Slovyanskyy (which managed some of prominent opposition M.P. Yuliya Tymoshenko's business interests), was originally convicted of tax evasion and financial mismanagement. He was released on June 14.

On multiple occasions in August and September, tax police harassed a main financial backer of opposition candidate Viktor Yushchenko, and billboard companies in Vinnytsya were warned by the local authorities that sale of ad space to the Yushchenko campaign would immediately trigger an inspection by the tax police.

On March 19, the Office of the Prosecutor General closed a criminal case that had been opened in March 2003 against former Deputy Prime Minister of Agriculture Leonid Kozachenko. Kizachenko had been charged with bribery and abuse of office. He claimed that the charges were politically motivated. In dismissing the charges, the authorities stated that the criminal proceedings against Kozachenko had had been a mistake. While detainees were frequently released from pretrial detention with travel bans, Kozachenko was only released, on bond, after several parliamentary appeals.

On May 20, the press reported that the Prosecutor General had opened a criminal case against opposition M.P. Yuliya Tymoshenko for attempting to bribe a judge.

The government case was based on the testimony of former Tymoshenko aide Volodymyr Borovko. On June 10, the Prosecutor General's office submitted a request to the Rada to strip Tymoshenko of her parliamentary immunity from criminal prosecution. The Rada did not vote on the request and simply returned it to the Prosecutor General's office. Separately, the trial of Tymoshenko's father in law and a colleague remained ongoing in Kiev at the end of the year.

In October, police detained a number of student and youth leaders in the course of unauthorized raids on the offices of a number of youth and student organizations, including the activist pro democracy NGO Por. The individuals were later released (*see* Section 2.b.).

Although the Criminal Procedures Code provides for the imposition of monetary bail, bail was rarely used; many defendants could not pay the monetary bail amounts imposed by law. Instead, courts imposed restrictions on travel outside a given area as an alternative measure to pretrial confinement.

The law stipulates that a defense attorney must be provided without charge to an indigent detainee from the moment of detention or the filing of charges, whichever comes first; however, in practice this often did not occur. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy detention under extremely poor conditions. Attorneys often refused to defend indigents for the low government fee. While in custody, a suspect or a prisoner is allowed by law to talk with a lawyer in private; however, human rights groups reported that prison or investigative officials occasionally denied the client attorney privilege. To protect the defendant, each investigative file must contain a document signed by him or her attesting that the charges against him, his right to an attorney, and his right not to give evidence against himself or his relatives have been explained to him; however, officials sometimes verbally and physically abused defendants to get them to sign this document. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many remained unaware of these safeguards.

The police arbitrarily detained persons, particularly dark skinned persons, for extensive document checks and vehicle inspections (*see* Sections 1.f. and 5).

Lengthy pretrial detention was a problem. By law, a trial must begin no later than 3 weeks after criminal charges have been filed formally with the court, but this requirement rarely was met by the overburdened court system. Months, or, at times, years, may pass before a defendant finally is brought to trial, and the situation did not improve during the year (*see* Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice, the judiciary was subject to considerable political interference from the executive branch, often in the form of phone calls to judges by senior government officials, including Presidential Administration Chief of Staff Viktor Medvedchuk. There were exceptions, notably the December 3 Supreme Court decision invalidating the November 21 runoff election. The judiciary also suffered from corruption and inefficiency. The courts were funded through the Ministry of Justice (MOJ), which controlled the organizational support of the courts, including staffing matters, training for judges, logistics and procurement, and statistical and information support.

The judiciary lacked sufficient staff and funds, which engendered inefficiency and corruption and increased its dependence on the executive, since the judicial system received all its funding from the State Judicial Administration. On March 30, the European Court for Human Rights (ECHR) ruled that the country was failing to provide an effective way to secure defendants' rights to a fair trial in a reasonable length of time. In a report to the Rada in April 2003, the Ombudsman for Human Rights observed that individuals' ability to protect their rights in court remained limited.

A lack of compliance with court decisions in civil cases also undermined the authority and independence of the judicial system. The State Executive Service was responsible for enforcing most civil decisions, and the number of cases referred to it continued to grow. Provisions calling for criminal punishment for noncompliance with court decisions rarely were used. Compliance was particularly poor when a decision clashed with government interests. The Chairman of the Supreme Court, the chairmen of regional courts, and the chairman of the Kiev municipal court (or the deputies of these officials) have the authority to suspend court decisions, which led to interference, manipulation, and corruption.

There were credible reports that the Government abused its authority over officers of the court by selectively charging and dismissing politically unsympathetic judges. In 2003, the High Council of Justice, allegedly under government pressure,

requested that the Rada dismiss Yuriy Vasylenko, an independent judge of the Kiev Appeals Court and critic of President Kuchma. In October and November 2002, Vasylenko had opened two criminal cases against Kuchma that were subsequently dismissed. The Council accused Vasylenko of violating his oath by unlawfully opening these criminal cases. In August, Vasylenko, citing his weariness from government harassment, stepped down from the bench and retired, calling the High Council of Justice's request to the Rada "political revenge." On December 23, the Rada formally rejected the request to dismiss Vasylenko, who has formed an NGO dedicated to nationwide judicial reform.

The law provides for a unified system of courts consisting of a Constitutional Court, a system of courts of general jurisdiction that includes the Supreme Court and specialized commercial courts, and military courts. General jurisdiction courts are organized on four levels: Local courts, regional appellate courts, specialized high courts (the High Commercial Court), and the Supreme Court. Commercial courts were intended to operate as specialized courts within the single unified system of courts. As a result, the Supreme Court may review their judgments, including those rendered by the High Commercial Court. Military courts are specialized courts that hear only cases involving military personnel.

By law, the President has the authority, with the agreement of the MOJ and the Chair of the Supreme Court or of a corresponding higher specialized court, to establish and abolish courts of general jurisdiction. The President is empowered to determine the number of judges within the courts, upon the recommendation of the State Judicial Administration (SJA) and with the agreement of the Chair of the Supreme Court. He is authorized to appoint and remove chairs and deputy chairs of courts for 5 year terms (upon submission of the Chair of the Supreme Court, based on recommendation of the Judicial Council), and to establish appellate commercial and appellate administrative courts. The President, upon the recommendation of the Prime Minister and concurrence by the Judicial Council, appoints the head of the SJA.

A Judicial Academy trains new judges and continues the education of sitting judges; it graduated its first group of judges in April 2003.

Regional courts, including the Supreme Court of Crimea and the Kiev and Sevastopol city courts, serve as appellate courts for the lower level courts. They may examine evidence independently in a case, call for additional witnesses or evidence, and overrule the judgment of a lower court.

The Constitutional Court consists of 18 members appointed for 9 year terms in equal numbers by the President, the Parliament, and the Congress of Judges. The Constitutional Court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The President, at least 45 M.P.s, the Supreme Court, the Ombudsman, and the Crimean legislature may request that the Constitutional Court hear a case. Citizens may apply to the Constitutional Court through the Ombudsman, and they started to exercise this right in selected cases. In some limited cases, the Constitutional Court can interpret law for individual citizens, when the applying citizen provides compelling proof that a constitutional provision was violated or that different government bodies interpreted it differently. Human rights groups stated that the Constitutional Court generally maintained a balance of fairness; however, a number of decisions made during the year led observers to charge pro presidential bias.

The Supreme Court is the country's highest appellate body. Human rights groups, the media, and legal watchdog organizations noted that, in contrast to the Constitutional Court, the Supreme Court continued to show increasing independence during the course of the year. This trend was highlighted by the Court's December 3 decision to invalidate the results of the November 21 presidential runoff election because of massive fraud.

The Constitution includes procedural provisions intended to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, pending the passage of legislation to implement these constitutional provisions, a largely Soviet era criminal justice system remained in place, which limited these rights. While the defendant is presumed innocent, conviction rates have changed little since the Soviet era, and nearly all completed cases resulted in convictions.

There were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences. For example, on January 9, the press reported that the Luhansk Court of Appeals sentenced a judge from Slovyansk to 6 years in prison for abuse of power, forgery, and bribery. In April 2003, the head of the Zaporizhzhya District Court confessed to accepting a bribe of \$2,500 (approximately 13,000 UAH) for reducing a defendant's murder sentence by 5 years; an investigation of the incident was ongoing at the end of the year.

The law provides for broad use of juries; however, a system of juries had not been implemented and as a result juries were only used in a limited number of cases. Most cases were decided by judges who sit singly, occasionally with three public assessors (lay judges or professional jurors with some legal training), or in groups of three for more serious cases.

The Office of the Prosecutor General practiced selective prosecution and initiated investigations against the political or economic opponents of the President and his allies (*see* Section 1.d.). The Prosecutor General also ignored parliamentary and court requests for investigations into high ranking persons if the accused were presidential allies.

Criminal groups routinely used intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives; however, the unit had not begun operation by year's end, and trial participants were vulnerable to pressure. Because of lack of funding, a witness protection law was also in abeyance. The law provides that the names and addresses of victims and witnesses may be kept confidential if they request protection due to fear for their lives. Unlike in previous years, there were no reports of violence against judges.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, in practice authorities infringed on citizens' privacy rights. By law, only courts may approve warrants for searches of residential properties and wiretaps; however, prosecutors have the right to issue warrants for searches of nonresidential properties (*see* Section 1.e.).

By law, the SBU may not conduct intrusive surveillance and searches without a court issued warrant. The Office of the Prosecutor General has the constitutional responsibility to ensure that law enforcement agencies, including the SBU, observe the law; however, the extent to which the Prosecutor General used his authority to monitor SBU activities and to curb excesses by security officials was unknown. The Constitution provides citizens with the right to examine any dossier on them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation; however, necessary implementing legislation had not been passed, and the authorities did not respect this right in practice.

The Government arbitrarily monitored the private communications and movements of individuals. For example, on January 23, opposition M.P.s complained to the newspaper *Ukraina Moloda* that their phones were tapped and that they had been put under surveillance. A leading human rights group estimated that courts issued at least 40,000 warrants during the year for phone taps.

The press reported on February 18, that SBU Major General Valeriy Kravchenko, a security officer at the Ukrainian Embassy in Berlin, had accused the SBU of conducting surveillance on opposition parliamentarians and senior government officials during their visits abroad. The Government denied these allegations.

On August 10, opposition presidential candidate Viktor Yushchenko asserted to the press that he was illegally subjected to plainclothes police surveillance during his visit to Ai Petri Mountain near Yalta. Yushchenko called on the Prosecutor General's Office to open criminal charges against the police officers involved in the incident; however, no charges were filed, and the Government asserted that the surveillance was intended to protect Yushchenko from potential harm. On September 13, Our Ukraine M.P. Valeriy Asadchev told the press that the Government had sent secret instructions to all oblasts requiring local security services to put foreign election observers under surveillance and to report to the Presidential Administration about the observers' activities. On several occasions in October, Rada Speaker Volodymyr Lytvyn complained to the press about police surveillance of him and his family.

The law gives the SBU broad powers to monitor Internet publications and email. Telecommunications operators are required to install at their own expense equipment allowing "authorized agencies" to monitor Internet activity conducted over their services. The stated goal of the requirement was to fight corruption and further the country's integration into the European Community; however, human rights organizations expressed concern that this network increased the SBU's ability to monitor the activities of citizens without cause. The Internet Association of Ukraine, a group of six Kiev based ISPs, complained in a 2003 report to the OSCE that enactment of monitoring legislation could infringe on individuals' rights to privacy of correspondence under existing law.

Some NGOs reported that authorities had opened and searched their mail at times during the year. The SBU also monitored the activities of certain NGOs active in democracy development projects. Journalists whose reports were critical of the

Government or who covered opposition politicians and NGOs that engaged in non-partisan political activity, reported that SBU agents frequently followed them and that their telephones and offices were wiretapped (*see* Section 2.a.). In October, authorities conducted unauthorized raids on the offices of a number of youth and student organizations, including Pora (*see* 2.b.).

A new residence registration system took effect during the year, following the December 2003 passage of the law "On Freedom of Movement." The new system simplified existing procedures by requiring only that individuals who move to a new place of residence deregister at their old address, fill out a declaration listing their new address, pay a \$.16 (.85 UAH) processing fee, and complete these procedures within 10 days. The new system does not limit Ukrainian citizens to one address at which they may be registered. A person may only have one permanent address, but may register temporarily at other locations (for example, at a university if a person is a student).

The Government and some human rights groups depicted the new system as a major step forward from the Soviet era "propyska" system. They noted that it was far simpler and permitted individuals to live, work, and receive services anywhere in the country; however there were critics. For example, the Minister of Justice complained to the newspaper *Dzerkalo Tyzhnya* that similarities remained between the new system and the propyska system, specifically noting that the police remained in charge of residence registration.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the authorities often did not respect these rights in practice. During most of the year, the authorities took a direct role in instructing the media on events and issues it should cover and how they should be covered. However, toward the very end of the presidential election campaign in November, many media outlets began to ignore government direction and covered events in a more objective, professional manner. This aptly named "journalists' rebellion" gained significant momentum on November 25, when Ukrainian National Television (UT 1) sign language interpreter Natalya Dmytruk departed from her approved script and informed viewers that the official election results announced on November 23 were false, adding that "Yushchenko is our President." In the wake of the Orange Revolution, top media watchdog organizations asserted that the media were generally more free and politically diverse than at any time in the country's modern history.

During most of the year, authorities continued to interfere with news media by intimidating journalists through the use of libel laws, license revocations, and by investigations on tax matters or fire and health code violations; in some cases, these measures had the effect of shutting down independent media sources. The authorities also took steps to strengthen their control over the broadcasting sector, although during the Orange Revolution, the authorities proved unwilling or unable to use their control to determine the political content of most national and many regional broadcasts.

For most of the year, the authorities also restricted freedom of speech through indirect means; for example, by influencing publishing houses to refuse or limit the publication of materials critical of the authorities.

There were numerous instances when authorities limited freedom of the press. Government interference often took the form of direct intervention, such as blocking radio and television frequencies, confiscation of opposition newspapers and pamphlets, refusal to provide television or radio airtime to opposition politicians, and denying public venues for opposition rallies.

The NGO Freedom House rated the press as "not free," as it had done in 2003, because of state censorship of television broadcasts, continued harassment and disruption of independent media, and the failure of authorities to adequately investigate attacks against journalists. On May 3, the group Reporters Without Borders again cited President Kuchma as an "enemy of the press."

According to the website of the State Committee on Television and Information Policy, at year's end there were 20,903 registered print publications and 800 television broadcasters in the country. Despite government pressure and media self-censorship, the numerous newspapers and periodicals on the market, each espousing the view of its respective sponsor, provided a variety of opinions.

Wealthy investors pursuing their own political and economic interests financed many major newspapers. These newspapers often favored the Government. Their strong financial backing gave these newspapers an advantage over smaller, more independent, newspapers.

Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary source of news for most citizens, were either state owned or owned by oligarchs and powerful business interests. There were six national television stations. State run television had the widest geographic coverage, but low viewership. Most other television stations were associated with political parties or powerful business interests. While such groups often did not agree on particular issues, they generally rallied behind the pro presidential position on key issues dividing the Government and the opposition. The major exception during most of the year was the opposition owned Fifth Channel, which, according to some observers, was less partisan and more objective. Fifth Channel's geographic coverage was limited due to government harassment and restrictions, but its viewership was strong; it played a critical role in keeping Ukrainians informed about developments during the presidential elections and the Orange Revolution. The television and radio stations, Era, also began to provide objective news coverage in the fall, and were permitted by the authorities to operate.

Some journalists were subjected to physical attacks during the year that may have been related to their professional activities; however, unlike in 2003, there were no reports of deaths of journalists in connection with their professional activities. The national affiliate of Reporters Without Borders reported that 3 journalists died in connection with their professional activities within the country in 2003, and 34 were subjected to aggression and intimidation.

On January 12, unknown assailants fired shots at Oleh Yeltsov, the editor of the investigative Internet newspaper "Criminal Ukraine." Yeltsov said that the attack may have been linked to articles his newspaper published about corruption at Kiev University.

On January 21, the media reported that journalist Maksym Birovash received threats to his life because of an article he published in 2003 relating to the trafficking of Ukrainian women to Israel for prostitution.

On August 19, unidentified attackers used Molotov cocktails to destroy an office at the independent Lviv newspaper Postup. The newspaper's editor said that the newspaper's coverage of two corrupt local officials, one of whom was allegedly involved in an illegal construction project in one of the Lviv's parks, likely prompted the attack. The police were continuing to investigate the incident.

According to the Committee to Protect Journalists (CPJ), on November 29, unidentified men beat Yevgeny Savchenko, a correspondent for the newspaper Luhanchane in the city of Luhansk, when he tried to prevent them from taking another journalist's video camera at a local campaign rally. Assailants also beat reporter Anna Nizkodubova while she tried to telephone her editors at the Ukrainian News Agency to file a story from the same rally, according to local press reports.

In July, Tatyana Goryacheva, editor of the independent newspaper Berdyansk Delovoi, was forced off the road by masked men who threatened to kill her if she continued her positive coverage of opposition presidential candidate Viktor Yushchenko. Goryacheva had been attacked in 2002 by unknown assailants who threw acid in her face, and again in 2003 by unidentified men who threatened to kill her if she pressed for an investigation of the 2002 incident. At year's end there had been no further developments in these cases.

In September, the Prosecutor General's office announced that Volodymyr Yefremov, former Director of the Dnipropetrovsk based 11th Channel and Regional Representative of Reporters Without Borders, "violated traffic safety rules" and was to blame for the accident which killed him in July 2003. Some media claimed that Yefremov died under suspicious circumstances, as he claimed to be under police surveillance prior to his death, had received suspicious phone calls, and had expressed a fear of "yet another tragic car accident."

There were no further developments in any of the other reported attacks on journalists from 2002 or 2003.

On March 15, the media reported that President Kuchma had instructed the Prosecutor General's office, the Interior Ministry, the Tax Administration, and the Ministry for Emergency Situations to impose a moratorium on inspections of the media prior to the presidential elections. On March 16, the Parliament passed a similar resolution. Subsequently, the head of the Tax Administration instructed officials to suspend all tax inspections during the presidential election campaign period. However, media NGOs reported that the moratorium was not fully observed. For example, the media reported on October 5 that the tax police conducted 2 days of intense and intrusive inspections of the Presa Company, which sells the independent newspaper Vysoky Zamok at its kiosks in Lviv. In addition, the authorities ordered the independent newspaper Lvivska Hazeta to pay a large fine after it published a series of articles alleging corruption in the local tax administration.

There were no further developments in the ongoing battle between the authorities and Volodymyr Boyko, editor of the Internet newspaper Obkom.

In February, a judge ordered the closure of the pro opposition newspaper *Silski Visti*, for fomenting inter ethnic hatred by publishing at least two anti Semitic articles (*see* Section 2.c.). The authorities reportedly were seeking to close a number of other newspapers for similar reasons.

The law prohibits the authorities from interfering with the professional activities of journalists and prohibits the establishment of any body to control media information; however, credible allegations continued to surface that the Presidential Administration gave media publishers specific instructions on events to cover and how to cover them, as well as subjects not to cover. These instructions, known as “*temnyky*,” reportedly included instructions for the media to portray President Kuchma favorably and avoid discussion of events that cast doubt on his credibility. After the November 21 runoff of the Presidential elections, many journalists declared that they would no longer be guided by *temnyky*. Following the Orange Revolution, many top Ukrainian media watchdog organizations asserted that *temnyky* were no longer being issued to media organizations by the Government.

The courts, as well as such mechanisms as health, fire, and safety inspections, were also used to intimidate the media for most of the year.

The Government at times directed key businesses either to purchase advertising from regional television stations or to withdraw from advertising contracts, depending on the news coverage the stations offered.

The influential National Council for Television and Radio Broadcasting, comprised of an equal number of Rada members and presidential appointees, issues licenses and allocates broadcasting time. Council decisions continued to show bias in favor of business interests closely allied politically with the Government. In March, the Parliament passed a resolution criticizing the Council for inadequately performing its duties.

Policy and practice regarding licensing placed state owned channels at a competitive advantage. All broadcasters were required to obtain licenses, but private and foreign companies were required to obtain additional licenses in order to establish and operate their own transmission facilities. Nongovernmental broadcast media were therefore required to obtain two licenses one for a transmitter and one for a frequency. Moreover, although state owned and independent channels were subject to the same rates for the majority of broadcasting fees, the Government rarely enforced fee payments for state owned channels.

Although a district court ruled in 2003 against the Council’s decision to deprive the Kiev based television company UTAR of its license, the Court’s ruling was not enforced during the year and UTAR remained off the air. The press had speculated that opposition leader Yuliya Tymoshenko provided financial support to the station and that the Council’s decision had been politically motivated.

Early in the year, the Government and its agents moved in a coordinated way to silence broadcasts by Radio Liberty (RL) ahead of key local and national elections. The media reported on January 20 that unnamed supporters of the pro government party SDPU(o) had acquired Radio Dovira, an FM station that was broadcasting RL’s news and current affairs programs. The media reported that the editor of Presidential Chief of Staff Viktor Medvedchuk’s newspaper “2000,” Serhiy Kichihin, was appointed editor of Radio Dovira and moved quickly to drop RL’s programming. Kichihin claimed that the move was motivated by economics, not politics; however, opposition politicians and media watchdog groups disputed that assertion, calling the Kichihin’s decision a clear effort to eliminate independent sources of information for Ukrainian citizens.

On February 28, Radio Kontyent began re broadcasting RL programming; on March 1, the station announced that its signal was being jammed in Kiev. Radio Kontyent owner Serhiy Sholokh said that he had been warned by unnamed political forces not to rebroadcast RL. In late February, he fled the country fearing arrest and bodily injury. On March 3, Radio Kontyent’s transmitter was turned off and its transmission equipment was confiscated. Government officials justified the confiscation by saying that since it did not have a license, Kontyent had been broadcasting illegally (a 2001 court decision to give its license and frequency to Radio Onyx remained under appeal, and Kontyent had been allowed to continue its broadcasts until it began to re-broadcast RL).

According to multiple press reports, on March 13, the Zakarpatska Regional Transmitting Center (ZRTC) turned off the transmitters of the Television station M Studio, which generally supported the opposition, for failure to pay its debts. However, according to March 13 reports by *Forum* and *Ukrainska Pravda*, as well as March 18 and 23 stories in *Ukraina Moloda*, M Studio had no debts to ZRTC, while the state owned UT 1 and UT 2 channels, which owed huge sums to ZRTC, continued to operate. M Studio was allowed to recommence broadcasting the day following the controversial April 18 Mukacheve mayoral election (*see* Section 3).

An independent content analysis conducted in February by the Ukrainian Press Academy and the Sociology Institute of the National Academy of Science indicated that the news was increasingly politicized and primarily presented pro administration views. There was a marked imbalance in the coverage of candidates on national television and radio channels during the first and second rounds of the presidential election campaign (see Section 3). Opposition candidates received limited and often negative coverage at the national level; however, opposition candidates had more success in obtaining access to smaller local and regional television channels. The situation changed significantly for the better between the November 21 runoff election and the December 26 repeat runoff. The media, particularly the national television channels, covered both presidential candidates much more fairly and professionally.

The Kiev based Independent Media Trade Union, formed in 2002 to resist censorship and protect journalists from job loss or other forms of harassment, played an important role in helping organize the “journalists’ rebellion” during the Orange Revolution, which led to more fair and professional coverage of the presidential campaign.

Although there was no criminal penalty for libel, the use or threat of civil libel suits continued to inhibit freedom of the press, and the number of cases brought during the year reportedly increased. According to the media watchdog NGO, Institute for Mass Information (IMI), at least 15 libel actions were brought against the mass media and journalists during the year. Whether such a suit is successful or not, lower courts may order that a publication’s accounts be frozen pending an appeal of a civil libel case, a step that can be financially ruinous for many publications. Government entities, in particular, used civil suits based on alleged damage to a “person’s honor and integrity” to influence or intimidate the press. According to IMI, government entities initiated 90 percent of the suits brought during the year.

The Civil Code, enacted during 2003 but implemented during the year, provides that negative information about a person is considered untrue unless the person who spread the information proves to the contrary. Journalists and legal analysts have expressed concern that this code had a negative impact on freedom of speech and the press.

Despite laws that both limit the amount of damages that may be claimed in lawsuits for libel and free the press from responsibility for inoffensive, non factual, judgments, including criticism, the Office of the Human Rights Ombudsman indicated concern over the “astronomical” damages awarded for alleged libel. For example, in January, the Odesa newspaper *Pravoye Delo* complained that it had been sued for libel in connection with articles it had published that were critical of police and the local security service. One of the suits was seeking approximately \$38,400 (200,000 UAH) in damages.

On April 23, pro-government representatives filed two libel lawsuits against the independent Internet news site *Ukrainska Pravda*. The suits sought approximately \$3,846 (20,000 UAH) in damages, plus the immediate confiscation of the newspaper’s assets in lieu of damages for several articles.

On May 26, a lawyer with ties to the Presidential Administration and the editor of a pro government newspaper in Cherkasy filed a libel lawsuit against the opposition supporting newspaper *Ukraina Moloda*. The lawsuit demanded that the newspaper publish a retraction for a “libelous” interview and pay compensation of approximately \$1,921 (10,000 UAH); the plaintiff also asked the court to freeze the newspaper’s assets during the litigation. *Ukraina Moloda* maintained that the charges had no merit and that the spurious lawsuit was simply a government attempt to shut the newspaper down.

The print media, both independent and government owned, sometimes demonstrated a tendency toward self censorship on matters that the Government deemed sensitive. According to a poll taken in 2003, many journalists believed that criticism of the president (71 percent), local authorities (69 percent), the Presidential Administration (68 percent), or criminal organizations (77 percent) would result in negative consequences such as psychological pressure, economic sanctions, and physical attacks. Although private newspapers were free to function on a purely commercial basis, they were subject to various pressures, such as dependence on political patrons who could facilitate financial support from the State Press Support Fund and close scrutiny from government officials, especially at the local level. The dependence of some of the press on government patronage inhibited criticism, particularly at the local level. This type of pressure was particularly acute prior to, and during, the presidential election campaign and the first runoff.

The SBU had broad powers over the media in regard to the publication of state secrets, which included information on executions, the physical state of prison infrastructure, and pretrial detention facilities; however, journalists reported that, in

general, they were able to report about harsh prison conditions without any inhibition (*see* Section 1.c.).

There were instances in which the authorities or “unknown persons” likely to have been associated with the authorities, restricted, banned, or destroyed some publications critical of governmental entities or officials. For example, on January 10, police in Zaporizhzhya detained a truckload of Bez Tsenzury newspapers that pro opposition elements had planned to distribute. Officials stated that the truck and its cargo were held pending the identification of the driver; however, it was alleged that one of the police officers involved said that the truck had been detained because the newspaper had published articles critical of President Kuchma.

On February 26, in Brody, unidentified attackers broke into a warehouse and set fire to 5,000 copies of “Narcissus” and “Time of Mean Power,” books written by former M.P. Dmytro Chobit that were highly critical of Presidential Administration Chief of Staff Viktor Medvedchuk. On May 15, unidentified assailants burned down the printing facility of the company that published the books.

In a September 18 article entitled “Litsa Was Guillotined,” the newspaper *Dzerkalo Tyzhnya* published the text of a statement by the Dnipropetrovsk branch of the SBU in which it complained about the “biased” reporting of the independent newspaper *Litsa* and other newspapers, and indicated that the SBU had taken “preventive measures” against what it viewed as “falsified reporting.” According to the *Dzerkalo Tyzhnya* article, these measures included SBU efforts to intimidate *Litsa*’s printers and, on September 14, the physical destruction of half of *Litsa*’s 33,000 copy print run.

The Government did not restrict access to the Internet; however, it had the ability to monitor all Internet publications and e mail (*see* Section 1.f.). Human rights observers remained concerned about the Government move in July, 2003, to take control of the country’s domain suffix.

While major universities were state owned, they operated for the most part under full autonomy; however, academic freedom was an underdeveloped and poorly understood concept. Nepotism and bribery reportedly were common during entrance exams and also influenced the granting of degrees. Administrators of universities and academic and research institute directors possessed the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, and directly terminating them. Restrictions by the Communications Ministry on the mailing of scientific documents also caused concern. The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research. Private and religiously affiliated universities operated without any reported state interference or harassment.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution and law provide for freedom of assembly; however, there were instances when the authorities infringed upon this right. The Constitution requires that demonstrators inform the authorities of a planned demonstration in advance, and the law on public assembly stipulates that organizations must apply for permission to their respective local administrations at least 10 days before a planned event or demonstration. Under the law, demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice, unlicensed demonstrations were common. They generally occurred without police interference, fines, or detention, but there were some significant exceptions. During the massive nationwide demonstrations that followed the fraudulent November 21 presidential runoff election, the authorities generally respected the right of the people to peacefully protest. There were credible reports that unnamed senior Government officials ordered that force be used on November 28 to disperse protesters in Independence Square, but those orders were not carried out, reportedly because of a split in the security forces.

The Donetsk municipal government banned a planned May 1 gathering of the opposition electoral bloc *Our Ukraine*. Officials claimed that it was illegal to conduct campaign events more than 120 days prior to the presidential elections, although other groups were permitted to hold similar events.

On May 5, two aides to parliamentarian Volodymyr Filenko and an unnamed opposition journalist were detained on administrative charges by a court in Kharkiv for disrupting public order. Officials stated that they had staged an unauthorized demonstration in Kharkiv on May 1, protesting government policies.

On August 6, police in Sumy Oblast, acting on direct orders from Governor Volodymyr Scherban, attacked a large group of students who were marching along a major highway to Kiev to protest the merger of three colleges in Sumy. An opposition M.P. who was on the scene said that police pushed students to the ground, kicked them, beat them with truncheons, and dragged at least 20 of them to waiting

buses which took them to a police station. The students were later released. Opposition M.P.s called on the Government to dismiss the Interior Minister over the incident; however, the Government took no action.

On August 12, in Dnipropetrovsk, local authorities used tractors and huge air compressors to disrupt a rally by Socialist party presidential candidate Oleksandr Moroz.

On March 12, March 26, and October 10, the last four prisoners of the Ukrainian National Assembly/Ukraine People's Self Defense Organization (UNA/UNSO) convicted in connection with 2001 anti-government demonstrations were released.

The Constitution provides for freedom of association but this right was infringed, especially in the presidential election campaign. Registration requirements for organizations were extensive, but there were no reports that the Government used them during the year to disband legitimate organizations or prevent them from forming.

The law places restrictions on organizations that are considered dangerous, such as those that advocate violence or racial and religious hatred or that threaten the public order or health. The Government had not identified publicly any group as "dangerous" by year's end; however, members of the Pora movement and some far right political organizations reported that they were subject to frequent harassment and surveillance by government authorities.

Political parties must maintain offices in one half of the regions and may not receive financial support from the state or any foreign patron. In accordance with the Constitution, the law prohibits the establishment of political parties in the executive and judicial branches, military units, law enforcement organizations, state owned enterprises, and other public institutions; however, this prohibition often was ignored in practice. The Supreme Court reserves the right to ban any political party upon the recommendation of the MOJ or the Prosecutor General; however, no parties were banned during the year.

Interference with freedom of association increased significantly in the campaign period before the October 31 presidential election and the November 21 runoff. For example, according to the Helsinki European Human Rights Union, on October 16, 17, and 18, police officers conducted unauthorized searches of the offices used by several youth and student organizations, including Pora and Student Wave. The searches were conducted on such pretexts as a search for explosives or investigation of reports that the organizations had been engaged in terrorism. A number of organization leaders were detained, although most were released within a few hours. Some of them later asserted that they had been questioned about, for example, the contents of publications they had distributed which were critical of the authorities.

*c. Freedom of Religion.*—The Constitution and the law provide for freedom of religion, and the Government generally respected this right in practice. Religious groups of all beliefs flourished; however, there were isolated problems at the local level, at times as a result of local officials taking sides in conflicts between religious organizations. Some local officials at times impeded attempts by minority and non-traditional religions to register and buy or lease property.

The Constitution and the law provide for the separation of church and state and there is no state religion; however, the UOC Moscow Patriarchate and the Ukrainian Greek Catholic Church tend to dominate in the east and west of the country, respectively. Local authorities often sided with the religious majority in a particular region, taking the side of the Ukrainian Orthodox Church (UOC) Moscow Patriarchate in many areas of the country, and supporting the Ukrainian Greek Catholic Church in the western part of the country.

Under the law, all religions, faiths, and religious organizations are equal, and this provision was generally respected, although foreign missionaries associated with groups not legally described as "native," (i.e. not Orthodox, Greek Catholic, or Jewish) were subject to a few additional legal requirements that did not appear to affect their work during the year.

Significant political influence at the local and regional levels was exerted by the UOC Moscow Patriarchate, which predominated in the south and east, the UOC Kiev Patriarchate, which was strong in the central and western regions, the Ukrainian Autocephalous Orthodox Church (UAOC), which was also strong in the central regions, and the Greek Catholic Church, which predominated in the west. Each of these churches, within its respective sphere of influence, reportedly pressured local officials to restrict the activities of the others. The UOC Kiev Patriarchate and the Ukrainian Greek Catholic Church complained of harassment by local authorities in the predominantly Russian speaking southern and eastern regions of the country. The UOC Moscow Patriarchate complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region.

A poll conducted in August by the All Ukraine Sociological Service found that 50.44 percent of the respondents who described themselves as believers considered themselves to be members of the UOC Kiev Patriarchate, 26.13 percent members of the UOC Moscow Patriarchate, 8.02 percent Greek Catholic Church, 7.21 percent UAOC, 2.19 percent Roman Catholic Church, 2.19 percent Protestant, 3.2 percent other denominations, and 0.63 percent observe Jewish religious practices.

The law requires all religious organizations and non secular institutions of education offering religious diplomas to register with the State Committee on Religious Affairs (SCRA). Registration is necessary to own property or carry out many economic activities, such as publishing religious materials and opening bank accounts. The UOC Kiev Patriarchate reported delays in the registration of its parishes. Some minority religious organizations reported that, particularly at the local or regional levels, officials of the SCRA delayed the registration of their organizations for extended periods.

Representatives of the Progressive Jewish Communities claimed that local authorities and Chabad Lubavitch officials made statements against their community in the local press while the group was organizing communities in Dnipropetrovsk. The Progressive Jewish Community claimed not only that the Dnipropetrovsk Chabad Community opposed the registration of any Jewish community but itself in the region, but also that, under pressure from Chabad Lubavitch, it was denied registration in Dnipropetrovsk.

Representatives of the Muslim community noted that they have been unable to register a community in Kharkiv for the past 12 years. Islamic community leaders expressed frustration with the Ministry of Education, which had yet to register a single Islamic school.

The Government generally permitted religious organizations to establish places of worship and to train clergy. The Government continued to facilitate the building of houses of worship by allocation of land plots for new construction and through restitution of religious buildings to their rightful owners.

Members of numerous religious communities encountered difficulties in obtaining land permits and building permits, particularly in Kiev; however, problems were not limited to religious groups.

The clergy, religious preachers, teachers, and other representatives of foreign organizations who are foreign citizens and are in the country temporarily, may preach and perform religious rites or other canonical activities only in the services of the religious organizations who sponsored their visas and with the official agreement of the state agency that registered the sponsoring religious organization. There were no reports that the Government used this provision of the law to restrict the activity of religious organizations during the year.

The law restricts the activities of "nonnative," foreign based, religious organizations and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other non citizen representatives of foreign based religious organizations; however, in practice there were no reports that the Government used the law to limit the activity of nonnative religious organizations. In late 2003, there was one report that foreign religious workers, a pair of Islamic clerics, encountered difficulties obtaining visas.

Denominational religious instruction is prohibited in the public school curriculum, but individual schools have the right to introduce a course in "basic Christian ethics" developed by the Government and the UOC Kiev Patriarchate. While the country's Jewish leaders also support the teaching of ethics and civics in school, they insist on a nonsectarian approach to this training. Schools run by religious communities may, and do, include religious education as an extracurricular activity.

Government leaders demonstrated their commitment to religious pluralism by attending ceremonies of a wide range of faiths during the year. The Government was generally supportive of initiatives to erect an appropriate memorial, and possibly a heritage center, at Babyn Yar, the site of World War II atrocities against Jews and members of other minority groups.

Outstanding claims for restitution remained among all of the major religious communities. The Government continued to return properties expropriated during the Soviet era to religious groups; however, not all groups regarded the pace of restitution as satisfactory, and all major religious communities continued to have outstanding restitution claims. For example, on May 11, the Pope called on the Government to return former Roman Catholic churches to the Roman Catholic community. Intra communal competition for particular properties complicated the restitution issue for some Christian and some Jewish communities.

On February 5, the Zhytomyr Oblast Archive returned 17 Torah scrolls to the local Jewish community. The Government returned a synagogue in Kharkiv, which in April was transferred to representatives of Progressive Jewish religious commu-

nities of the Kharkiv Region. In May, the Government returned the former residence of Catholic Bishop in Lviv for use by the Roman Catholic Church. Some groups asserted that restitution generally was progressing satisfactorily, although others that did not receive property reported a lack of progress.

There were acts of anti-Semitism during the year. On July 11, a rabbi was assaulted near Kiev's Brodsky Synagogue, according to a July 12, 2004 report by the MIGnews.com news web site and the July 14 edition of the newspaper Fakti. Rabbi Chaim Pikovsky was walking to the synagogue on July 11 dressed in traditional Orthodox Jewish clothing. According to the police, at least one unidentified "hooligan" approached Pikovsky, insulted him, and then struck him. According to Pikovsky's lawyer, the police investigated the attack and detained a suspect; that suspect was later released because of a lack of evidence.

On August 24, two rabbis were attacked in central Odesa by three men who witnesses say were obviously drunk. The rabbis fought off their assailants with the help of some bystanders. Police captured one of the alleged perpetrators, who while being interrogated told police he wanted to kill Jews. At year's end, police were still searching for the other assailants.

At the end of August, Chaim Dubnov, a Donetsk yeshiva student, was walking with his family in the center of Donetsk when a group of youths chanting anti-Semitic insults surrounded them, knocked Dubnov to the ground and kicked him several times. He was hospitalized with head injuries. According to Jewish community leaders in Donetsk, the police were continuing to investigate the attack at year's end.

On August 8, police told the media that 26 gravestones were vandalized in the Jewish section of the Donetsk Oblast. Police caught the perpetrator, who told police he overturned the gravestones looking for metal brackets to sell for scrap. On August 20, it was reported that 15 more gravestones in the same cemetery were vandalized. The number "666" (according to some, a Biblical mark of Satan) had been spray painted on some of the overturned gravestones. Local police were still searching for the perpetrators.

At year's end, the trial of the pro opposition newspaper Silski Visti remained ongoing. The newspaper was appealing a lower court ruling, publicly endorsed by the Government, that it be closed for fomenting inter ethnic hatred by publishing at least two anti-Semitic advertisements. At year's end, Silski Visti was still publishing normally.

A dispute between nationalists and Jews over the erection of crosses in Jewish cemeteries in Sambir and Kiev remained unresolved despite mediation efforts by Jewish and Greek Catholic leaders.

In December 2002, a local court ordered a halt in the construction of an apartment building at the site of an old Jewish cemetery in Volodymyr Volynsky. However, according to the Secretary of the Volodymyr Volynsky Municipal Council, apartment construction was completed during 2003 and most of the units were occupied. Local Jewish groups complained during the year that the SCRA continued to refuse to help resolve this dispute.

Muslims often were subject to document checks by local police, particularly in Kharkiv and Poltava. They raised this issue with the Presidential Administration and the SCRA; however, there was no action by the SCRA by year's end.

Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as public criticism for betraying native religions, although there were no reports of harassment.

On May 18, President Kuchma signed a law that allows conscientious objectors to perform alternative service in lieu of serving in the military. The term of service for conscientious objectors is 27 months and for those drafted in the armed forces 18 months.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, there were some limitations.

Until November 2001, the propyska system a nationwide requirement, dating to the Soviet regime, that individuals register at the workplace and place of residence in order to be eligible for social benefits remained in place; access to certain social benefits was limited to the place where one was registered. However, following the December 11, 2003 passage of the law "On The Freedom Of Movement," a new system, simply known as "registration," was introduced during the year. Human rights groups stressed that the major difference between the new system and the propyska

system is that a person may live, work, and receive services anywhere in the country (*see* section 1.f.).

Police arbitrarily detained persons for extensive document checks and vehicle inspections (*see* Section 1.f.).

Citizens who wished to travel abroad generally were able to do so freely. Exit visas were required for citizens who intended to take up permanent residence in another country, but there were no known cases of exit visas being denied to citizens during the year. The Government could deny passports to individuals in possession of state secrets, but those denied had the possibility of appealing.

The Constitution prohibits forced exile and the Government did not employ it.

Under the terms of the Citizenship Law, refugees may acquire citizenship if they have lived legally in the country for 3 years (instead of 5 years for other foreigners) and are able to communicate in the Ukrainian language. Refugees are not required to document the termination of their previous citizenship unless the Government has signed a specific agreement with the country of previous citizenship mandating such a procedure; they must only notify the authorities of their rejection of foreign citizenship. Since independence, more than 1.5 million persons have returned to the country, while more than a million persons, mostly ethnic Russians, have left the country.

Citizenship law facilitates the acquisition of citizenship by Crimean Tatars, who were deported victims of political oppression, by waiving some of the usual residence and language requirements. More than 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. According to the U.N. High Commission for Refugees (UNHCR), approximately 98 percent of the Tatar returnees have acquired citizenship, although Tatar representatives criticized aspects of the resettlement process (*see* Section 5).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement (the return of persons to a country where they feared persecution), but it granted refugee or asylum status infrequently.

The law entitles refugees to all of the benefits accorded to citizens, and the Government generally complied with these entitlements. It also provides that temporary refugee status may be granted for 1 year; this status is reviewed annually by migration service officers at the refugee's place of residence. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and operated refugee reception centers in Vinnytsya and Odesa.

According to UNHCR officials, the biggest obstacle to the implementation of the Government's commitments to the protection of refugees is that authorities strictly apply the requirement that applicants for refugee status apply within 3 working days of their entry into the country. This led the authorities to refuse to initiate asylum procedures for 70 percent of all asylum seekers. As a result, they remained undocumented and faced arrest, detention, and deportation.

UNHCR reported that, as of June, there were approximately 2,700 refugees in the country, most of them from Afghanistan and Chechnya. According to the State Committee for Nationalities and Migration, in 2003 the Government received 1,215 applications for refugee status. The authorities refused to accept 857 of those applications; 429 applicants were permitted to begin the asylum process. Refugee status was granted to 56 individuals; 144 were turned down. The remaining cases were under review as of October.

Police harassment of refugees with dark skin, and, to a lesser degree, Asians, continued during the year. In 2003, such harassment included at least one severe beating. The UNHCR issued beneficiary cards to persons it recognized as refugees. Presentation of this card to law enforcement authorities reportedly led to some reduction in harassment, although this procedure did not help the large numbers of unrecognized refugees. The UNHCR continued to hold training seminars for judges, border guards, and other law enforcement personnel that focus on preventing such behavior.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully through periodic elections; however, this right was restricted during the year by the authorities, who engaged in many forms of manipulation of presidential, parliamentary, and local elections. In most of these contests, candidates opposing the Government faced administrative obstacles, efforts to discourage sympathetic media coverage of the opposition, interference in their organizational activities, and,

in the case of the Mukacheve mayoral election in April, physical intimidation and theft of ballots by hired thugs. Political manipulation was particularly notable in the October 31 presidential election and the November 21 runoff; however, a repeat runoff vote on December 26, which followed the Supreme Court's invalidation of the first, was judged by reputable international observers, including the OSCE, to have been a significant improvement.

The Constitution provides for universal suffrage for citizens at least 18 years of age and for elections every 4 years for the Rada and every 5 years for president. The Rada is elected partially according to proportional representation and partially by direct constituency mandate.

The authorities placed a variety of obstacles in the way of the opposition Our Ukraine bloc and its leader, Viktor Yushchenko, restricting his access to media coverage and limiting his ability to campaign for the October 31 and November 21 rounds of the presidential election (*see* Section 2.b.).

The OSCE observer mission noted serious flaws in the first round of voting for president, including a strong media bias, problems with the voters' lists, which excluded up to 10 percent of voters, and administrative pressure on students, government, and state enterprise employees. In the second round held between the two frontrunners, observers noted massive and systematic fraud through the abuse of mobile ballot boxes, absentee ballots, which were cast in exceeding high numbers, and ballot stuffing, as well as previously cited problems. The Supreme Court invalidated the results and ordered a revote set for December 26. In order to reduce the scope for fraud, the Parliament and President cooperated to amend the presidential election law to limit absentee and mobile ballot voting, and appointed a new Central Election Commission. The December 26 revote was judged by reputable international observers, including the OSCE, to have reflected the will of the people and brought Ukraine substantially closer to meeting international standards for free and democratic elections.

Corruption was rampant in the executive, legislative, and judicial branches of the Government. According to one survey, 80 percent of respondents considered corruption to be one of the country's most serious problems, with 57 percent viewing the police, 34.4 percent the courts, and 30 percent the office of the Prosecutor, as corrupt.

A U.N. Public Administration report noted that regulations governing business activities in Ukraine were excessive and ambiguous, which facilitated corruption. Corruption and nepotism figured in appointments to governmental positions. The report noted that the operations of the natural gas industry, and particularly the state owned gas monopoly, Naftohaz, were characterized by corruption. It suggested that "the operations of Naftohaz, believed to reflect the overlapping interests of business, politics, and crime, are suspected of being the source of illicit income for government officials and President Kuchma." The sale of the massive Kryvorizhstal steel works to government-connected insiders for half of what other bidders had offered also raised serious questions about corruption.

The Chairman of the Rada Committee on Combating Organized Crime and Corruption, Dr. Volodymyr Stretovych, has described corruption within the executive and legislative branches of government as a "systemic disease."

The law provides public access to certain government information, usually through websites; however, Internet access was still relatively limited both in terms of technology and overall number of users. Prominent government watchdogs, including former M.P. Inna Bogoslovska, noted that the Government posted information on the Internet only after important decisions were made. Information on the process by which the Government made important decisions usually was not available to the public. However, Bogoslovska noted that local governments were relatively more transparent than the national Government.

There were 20 women in the 450 seat Rada. One woman held a ministerial post: Valentyna Dovzhenko, the Minister of Family, Children, and Youth. The 18 member Constitutional Court had 2 female members.

The number of minority group members in the 450-seat Rada was not available. However, press reports indicated that the Rada included ethnic Russians, Bulgarians, Tatars, Armenians, Hungarians, Georgians, and Jews. There was one ethnic Russian in the Cabinet of Ministers.

The representation of Crimean Tatars continued to increase in local and regional councils; however, Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean parliament. The Tatars, who comprise 13 percent of the population of Crimea, occupied 8 percent of the seats in the regional parliament and somewhat smaller percentages of political and administrative posts.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to the views of NGOs; however, human rights and election monitoring groups reported that they faced many difficulties, including surveillance by the SBU.

The Government's attitude toward many international NGOs, while not overtly hostile, was unwelcoming. For example, on May 21, Communist Party M.P. Valeriy Mishura, speaking at the urging of the Government, asserted in the Rada and to the press that most NGOs were foreign funded and "interfered" in domestic politics by working on behalf of the political opposition; he criticized the National Democratic Institute (NDI), the International Republican Institute (IRI), the Adenauer Foundation, the International Renaissance Foundation, the Eurasia Foundation, and Freedom House, among others. He claimed that some NGOs had trained young persons in how to stage "Serbian and Georgian style anti government protests." Mishura was a member of an ad hoc parliamentary commission established in December 2003, to investigate foreign funded NGOs. Human rights observers among the reasons for the establishment of the commission was an effort by the Government to intimidate NGOs and discredit them in the eyes of the public and further stifle freedom of speech.

The Government generally cooperated with international governmental organizations, including the U.N.

The parliamentary Commissioner on Human Rights is a constitutionally mandated, independent, Human Rights Ombudsman. The incumbent, Nina Karpachova, was reelected in June 2003 to a second 5 year term. The law provides the Ombudsman with unrestricted and unannounced access to any public official, including the President, unrestricted access to any government installation, and oversight of the implementation of human rights treaties and agreements to which the country is a party. However, the law provides no penalties for those who obstruct the Ombudsman's investigations and does not create sufficient enforcement authority for the Ombudsman. All citizens and residents may address their concerns to the Ombudsman, and the Ombudsman serves as an intermediary between citizens and the Constitutional Court, since citizens cannot address the Court directly (*see* Section 1.e.).

The Ombudsman's office consisted of approximately 100 full and part time workers; however, according to the Ombudsman, underfunding of the office continued to hamper its activities. The Ombudsman continued to make the combating of trafficking in persons (*see* Section 5) and improving prison conditions major priorities during the year.

Citizens have the right to file appeals with the European Court of Human Rights (ECHR) about alleged human rights violations. In the first half of the year, the ECHR made rulings on seven Ukraine related cases; in six, violations of human rights were found.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, the Government did not enforce these provisions effectively due, in part, to the absence of an effective judicial system.

*Women.*—Violence against women remained a serious problem. Spousal abuse is illegal but was common, and the authorities often pressured women not to press charges against their husbands. For example, a 2000 study by the Institute of Sociological Research, the latest major study of its kind, reported that 12 percent of women under the age of 28 had been victims of domestic violence.

According to the Ministry of Internal Affairs, between January and June 2003 (the latest period for which statistics were available), 137,323 domestic violence complaints were made to Ukrainian law enforcement agencies. During that same period, 15,917 people were charged with breaking the Law on Prevention of Domestic Violence; 15,000 of these cases involved physical abuse of a victim. In addition, as of June 2003, 23,786 people had been issued first time official warnings in connection with domestic violence allegations; 3,268 had been issued second time warnings.

Violence against women did not receive extensive media coverage despite the efforts of human rights groups to highlight the problem. State run hot lines, shelters, and other forms of practical support for victims of abuse were few. Municipal authorities in Kiev ran a women's center, the only municipally supported shelter in the country. NGOs attempted to provide services for abused women through the es-

establishment of women's support centers in nine cities. In the spring, the Government opened 13 new rehabilitation centers for battered women.

The Criminal Code prohibits rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. While statistics compiled by the U.N. Development Program (UNDP) showed that the number of reported rapes and attempted rapes had decreased over the previous few years, surveys indicated that the majority of rapes and other cases of physical abuse went unreported. Past surveys by women's groups indicated that between 10 and 15 percent of women had been raped and that more than 25 percent were abused physically in their lifetimes. The International Helsinki Federation for Human Rights reported in 2000 that 20 percent of women aged 17 to 21 had faced attempted rape.

Trafficking in women for sexual exploitation was a serious problem (*see* Section 5, Trafficking).

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, legal experts regarded the safeguards against harassment as inadequate.

Human rights observers and women's groups stated that discrimination against women continued to be a common problem in the workplace. The Government and private businesses regularly specified the gender of employees in their help wanted advertisements, and employers frequently demanded information about a woman's family situation and subsequently used it to deny employment to women who were likely to become pregnant. Physical appearance and age were often taken into account in employment decisions involving women.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed; however, industries that were dominated by female workers were also those with the lowest relative wages and the ones that were most likely to be affected by wage arrears problems. According to the UNDP's report on gender issues, women's monthly wages in 2002 were 30.7 percent lower than the average monthly wages for men. Labor market analysis conducted by the International Labor Organization (ILO) in 2002 indicated that unemployment levels for men and women did not differ significantly.

Many women's rights advocates expressed concern that the law prohibiting the employment of women in jobs that are hazardous to their health might be used to bar women from the best paying blue collar jobs. By law, pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3 years. This benefit was cited as a disincentive for employers to hire women for high responsibility or career track jobs. However, approximately 49 percent of the workforce consisted of women.

Few women held top managerial positions in state and private industry. During Rada hearings on June 9, Minister of Family, Children and Youth Valentyna Dovzhenko stated that women held only 3 percent of the highest, "first category," positions in the Government's "power ministries" the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU. However, they were better represented in lower management positions; according to government statistics, at the end of 2002, 75 percent of the country's approximately 216,949 civil servants were female (162,682), including 60.5 percent of those in managerial positions.

Educational opportunities for women generally continued to be equal to those enjoyed by men; however, the Government limited the number of women permitted to receive military officer training to 20 percent of the total number of students accepted. In addition, the military forces limited the functions of women, which reduced their chances for promotion and training opportunities; women in the military generally occupied low paying, routine positions.

*Children.*—The Government was publicly committed to the defense of children's rights, but budgetary constraints severely limited its ability to ensure these rights. There were few government bodies or NGOs that aggressively promoted children's rights, although the Ombudsman spoke publicly on the need to provide for youth.

Education was free, universal, and compulsory until the age of 15; however, the public education system has deteriorated as a result of the Government's financial disarray. Teachers were usually paid their salaries during the year, but other monetary benefits due them were not paid in some localities. Increasing numbers of children from poor families dropped out of school, and illiteracy, which previously was very rare, was a problem. Of the nearly 6.5 million children attending school during the 2003-04 school year, approximately 3.2 million were girls and 3.3 million were boys. The All Ukrainian Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools persisted, particularly

in the notoriously violent vocational schools, and discouraged some children from attending school.

Health care was provided equally to girls and boys, but the overall quality of the health care system was poor.

Violence and abuse against children remained a problem. The "Voice of Ukraine" newspaper reported on January 27 that, according to a poll conducted by the State Institute of Family and Youth, 43 percent of minors said that they had been victims of some form of violence. During 2003, 300 criminal cases were opened against parents for neglect of parental duties. The majority of complaints of abuse of children related to child prostitution, pornographic video sales, and child molestation. The Interior Ministry reported that during the year, 6,200 parents received administrative sanctions, predominantly in the form of fines, for abusing their children.

Trafficking in children and commercial sexual exploitation was a serious problem (see Section 5, Trafficking).

Child labor was a problem (see Section 6.d.).

The number of homeless children, usually children who fled poorly maintained orphanages or poor domestic conditions, remained high. According to the Ministry for Family, Children, and Youth, the Government identified 2,600 homeless children in 2003. Deteriorating conditions in the state orphanages has led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of family orphanages, where the parents are paid a salary, the state financially supports the children, and a house or apartment is provided. According to officials, 1,400 children were living in family orphanages during 2003.

In February 2003, President Kuchma signed a decree that established a national program aimed at addressing the problem of homelessness among children. The program established a country wide hotline for children in the Ministry of Family, Children and Youth. During the first 6 months of the year, the hotline received 3,772 calls. The program has also increased the Government's cooperation with UNICEF to improve socio legal support for children and prevent homelessness; the Government signed several agreements with UNICEF during the course of the year to help achieve those goals.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in men, women, and children remained a significant problem. There were reports that local officials abetted or assisted organized crime groups involved in trafficking.

The law provides for penalties of generally 3 to 8 years' imprisonment for trafficking in human beings, including for sexual exploitation, pornography and forced labor. Under some circumstances for example trafficking of minors ages 14 to 18, or of groups of victims traffickers may be sentenced to prison terms from 5 to 12 years, and traffickers of minors ages up to 14 or members of organized trafficking groups may be sentenced to terms from 8 to 15 years.

The Government continued to investigate and prosecute suspected traffickers. According to statistics supplied by the Ministry of Interior, 202 cases were filed against traffickers during the first 8 months of the year involving 101 suspected traffickers and 195 victims, including 6 minors. The authorities broke up 14 organized criminal rings involved in human trafficking during the first 8 months of the year. During the first 6 months of the year, the security services announced that they had closed off 20 human trafficking channels and initiated 21 trafficking cases. During the same period, at least 30 criminal cases were brought to court and 42 defendants were sentenced on trafficking related charges; 24 were given suspended sentences, 15 people were imprisoned to 2 to 8 year terms, and travel restrictions were imposed on 3 others.

The Ministry of Internal Affairs, with its special anti trafficking units at the national and oblast levels, was the primary agency to combat trafficking internally, while the Security Service became involved once a foreign link was identified. The Ministry's special units were active but also were often tasked to work on cases involving crimes other than trafficking.

The Government reported that it regularly reviewed the licenses of domestic employment agencies. In a limited number of cases during the year, the Ministry of Social Policy and Labor withdrew agency licenses because of involvement in trafficking.

The Government sought to cooperate with foreign governments to the investigate and prosecute trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of victims to give evidence against traffickers, and a lack of cooperation from officials in destination countries. During the first 6 months of the year, the authorities deported 34 individuals for complicity in human trafficking.

The country remained a country of origin for internationally trafficked men, women and children. The Ministry of Interior estimated that during the previous decade approximately 400,000 women were trafficked abroad. The main destinations were Russia, Turkey, Central and Western European countries, the United States, and the Middle East. There were also reports that women and girls were trafficked to Australia, Japan, Ethiopia and South Africa.

The country also was increasingly a country of transit for individuals from Central Asia, Russia and Moldova. The International Organization for Migration (IOM) reported that, as of October 31, 111 registered individuals from Moldova, Russia, Kyrgyzstan, Uzbekistan, Kazakhstan and Belarus had been trafficked through the country to Turkey, one person from Moldova had been trafficked to the United Arab Emirates, and one person from Uzbekistan had been trafficked to Israel. There were also reports that the country was a destination for trafficked women; for example, IOM reported that as of October 31, four individuals had been trafficked to the country from Uzbekistan.

Men were mainly trafficked as construction workers and miners. Children who were trafficked across the border or within the country were forced to provide sexual services, engage in unpaid work, or beg. However, the overwhelming majority of trafficking victims were women, who were used as sex workers, housekeepers, seamstresses, and dishwashers. Trafficked women were also used to bear children for infertile couples.

Estimates varied widely on the number of individuals seeking work abroad. Ombudsman Nina Karpachova estimated that over the past 2 years, 2 to 7 million individuals had left the country in search of employment abroad. According to Karpachova, at least 5 million Ukrainians are engaged in seasonal work abroad in both legal and illegal employment status.

Traffickers used a variety of methods to recruit victims, including advertisements in newspapers and on television and radio that offer jobs abroad with high salaries and promises of modelling contracts, marriage proposals, and trips through travel agencies. Traffickers often presented themselves as friends of other friends and deceived the relatives of potential victims. Most traffickers prosecuted were members of organized crime groups. The traffickers often paid for the processing of passports and travel documents for the victims, thus placing them into debt bondage. In some cases, the traffickers simply kidnapped their victims.

Corruption in the judiciary and police impeded the Government's ability to combat trafficking. There were unconfirmed reports that local officials abetted or assisted organized crime groups involved in trafficking. NGOs reported that local militia and border guards received bribes in return for ignoring trafficking. There was no official data on government authorities receiving bribes from traffickers or otherwise assisting in their operations, but some law enforcement investigations of human trafficking have revealed abuses of power by governmental officials.

From January to June, IOM helped 342 trafficking victims to return and reintegrate into society. From January 2002 to August 2004, the NGO La Strada assisted an additional 44 victims to return home and reintegrate. However, these victims represented only a small percentage of the total number of women trafficked abroad. Victims of trafficking were able to receive various types of assistance including medical, psychological, legal, job skills training, job placement, and micro credits. Psychological assistance was widely available through state institutions, but medical assistance was only available from shelters funded by international organizations and was not fully provided in all cases. The IOM office in Kiev, in cooperation with its missions in destination countries, provided return and reintegration assistance to victims. However, these organizations reported that the inadequacy of government assistance limited the support that could be extended to returning victims.

The Government worked to improve assistance provided by its diplomatic missions to victims in destination countries. During the first 10 months of the year, the country's Consulates abroad identified 276 missing citizens and helped repatriate 116 women who were victims of trafficking.

The Government ordered rehabilitation centers to be opened in each of the 27 oblasts; however, the authorities did not fully implement this directive, primarily due to lack of funds. During the year, the Ministry for Family, Children, and Youth, in conjunction with IOM and with funding provided by the European Commission (EC), planned to open five shelters called "Inter Regional Centers for Rehabilitation and Reintegration for Victims of Trafficking" in five different oblasts; however, only two centers were opened by the end of the year, in Odesa and Lutsk.

NGOs such as the domestic affiliates of La Strada and Winrock International offered some support services for victims of trafficking, but these groups also suffered from a shortage of funds.

The IOM continued to operate a comprehensive medical center and shelter for victims of trafficking in Kiev. The center provided medical and psychological services, including vocational counseling, to 238 individuals during the first 10 months of the year. Between January 2003 and August 2004, the international NGO Caritas provided 47 victims of trafficking with reintegration assistance in their shelter. Also, Caritas established a network of counseling centers providing social services to trafficked women in Khmelnytsky, Ivano Frankivsk, Sokal, and Drohobych. These centers, as well as additional NGOs funded by IOM, also played an important role in facilitating good relations and cooperation between victims, communities and law enforcement organizations in addressing trafficking issues.

Although 195 victims testified against traffickers during the year, victims often were reluctant to seek legal action against traffickers out of fear of reprisals, unwillingness to tell their stories publicly, and lack of trust in law enforcement agencies. Societal attitudes toward trafficking victims continued to stigmatize victims, deterring women from pursuing legal action against traffickers. In addition, law enforcement officials did not provide sufficient protection to witnesses.

With foreign government assistance, the help of local administrations, and their own resources, local NGOs opened nine regional trafficking prevention and women's support centers during the year in Donetsk, Lviv, Dnipropetrovsk, Chernivtsi, Kherson, Rivne, Odesa, Ternopil, and Zhytomyr. The centers operated telephone hotlines and served as referral centers for health, legal, and psychological counseling.

NGOs also operated hotlines in Luhansk, Odesa, Kharkiv, Ternopil, Uzhhorod, Mykolayiv, Chernivtsi, Zhytomyr, Kherson and Sevastopol. During the first 6 months of the year, La Strada's national toll free hotline received 3,262 calls, 86 percent of which concerned consultation on working abroad. Winrock International reported 2,282 calls to its hotlines during the first 4 months of the year; nearly 20 percent were related to trafficking.

Government cooperation with NGOs on trafficking issues was steady during the year. Local administrations continued to include NGOs as partner organizations in their regional action plans. The Inter Ministerial Coordination Council for Combating Trafficking in Persons, chaired by a Deputy Prime Minister, failed to meet during the year or in 2003. To energize the process, a decision was taken by the Cabinet of Ministers to designate the Minister of Family, Children and Youth as the Chair of the Council. She convened the first interagency meeting on October 1. In addition, the Parliamentary Committee to Combat Organized Crime and Corruption held two roundtables concerning the issue in cooperation with local and international NGOs.

During the year, several television stations broadcast documentary films and informational programs highlighting the danger of trafficking. Additionally, several international roundtable discussions and conferences on trafficking were held in Kiev. NGOs conducted general awareness campaigns throughout the country, often in cooperation with government entities.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, the Government did little to support programs designed to increase opportunities for persons with disabilities, and advocacy groups maintained that there was societal discrimination against persons with disabilities. The law mandates access to buildings and other public facilities for persons with disabilities; however, the law was poorly enforced.

Legally mandated levels of employment of persons with disabilities at state enterprises were not observed. There were only five special vocational schools for persons with disabilities. As a result, according to 1 NGO, approximately 7,000 children with disabilities received an incomplete secondary education. The Government continued its efforts to raise the profile of athletes with disabilities.

The Government supported the efforts of the NGO Parostok to involve individuals with disabilities in politics and to help ensure that they were able to cast votes at polling stations on Election Day. This effort was particularly notable in Vinnytsya.

*National/Racial/Ethnic Minorities.*—The frequent harassment of racial minorities was a problem. The police routinely detained dark skinned persons for arbitrary document checks, whereas document checks of light skinned individuals were rare (see Section 1.d.). Although the authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. There were reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma are located throughout the country, but there are concentrations in the Transcarpathian region, Crimea, and around Odesa. They continued to face considerable societal discrimination. Opinion polls have shown that among all ethnic groups, the level of intolerance is highest toward Roma. Roma continued to be subject to violence and abuse by police (*see* Section 1.c.).

The Constitution provides for the “free development, use, and protection of the Russian language and other minority languages”; however, some pro Russian organizations in the eastern part of the country complained about the increased use of Ukrainian in schools and in the media. They claimed that their children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. According to 2003 official statistics on languages used in schools, Ukrainian was the language of instruction in 16,532, Russian in 2,215, Romanian in 97, Hungarian in 68, Moldovan in 9, Crimean-Tatar in 10, and Polish in 3.

Ukrainian and Crimean Tatar minorities credibly complained of discrimination by the ethnic Russian majority in Crimea and called for the Ukrainian and Crimean Tatar languages to be given a status equal to Russian. Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean legislature (*see* Section 3).

According to the UNHCR, 98 percent of the approximately 260,000 Crimean Tatars who returned to the country from exile in Central Asia have received citizenship. However, Crimean Tatar leaders complained that their community has not received adequate assistance in resettling and that the previously onerous process of acquiring citizenship excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets.

Ethnic Romanians continued to call for university level instruction in Romanian or the establishment of a Romanian technical college.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that they are accepted as minorities in neighboring countries. Representatives of the Rusyn community have called for Rusyn language schools, a Rusyn language department at Uzhhorod University, and for Rusyn to be recognized as one of the country’s ethnic groups. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

*Other Societal Abuses and Discrimination.*—A leading NGO that works to protect the rights of gays and lesbians reported that a law called “On Protection of Morals” passed by Parliament in November 2003 was used to discriminate against homosexuals. For example, the law requires that newspapers containing gay and lesbian ads may only be sold if they are sealed in a hermetic package, and then only in specialized medical institutions that have a special license to treat individuals with sexual disorders. However, in practice, gay and lesbian ads appeared in many popular publications.

On February 12, the Ombudsman’s office received a complaint from a pair of gay men in Volynska Oblast who alleged that they were harassed by local police. The case remained open at year’s end. On September 8, a gay man also died in suspicious circumstances in Kryvyy Rih while in police custody (*see* Section 1.a.).

Persons living with HIV/AIDS faced discrimination in the workplace, job loss without legal recourse, harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of most workers to join trade unions to defend “professional, social and economic interests,” and this right was generally respected in practice; however, certain categories of workers, such as nuclear power plant employees, are prohibited from joining trade unions.

Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union.

Changes adopted in 2003 to the Law on Trade Unions granted unions the status of “legal entities,” requiring only that they supply a “notification of registration” as opposed to requiring approval from the MOJ to be established. After a new trade union informed the MOJ that it had been formed, the MOJ was required either to provide a letter confirming the union’s legal status or request additional supporting documents from the union. The MOJ could not deny any applications; however, union representatives claim the MOJ used repeated requests for additional documents as a delaying tactic. Some of the gains in freedom of association brought by the enactment of the 2003 amendments were undone by the entry into force of a new Civil Code in January. The Civil Code reinstates the requirement that all legal

entities, including trade unions, must register. The MOJ may deny registration if the union does not meet the requirements.

In order to acquire national status, which allows a union to negotiate directly and sign agreements with government ministries and to address the Cabinet of Ministers and President, a union must either have branches in more than half of the administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. There were both official and independent trade unions.

The courts decided in two cases to declare the registration of trade unions invalid. In March, a Donetsk court canceled the registration of the independent trade union at the firm MC Azovstal, prompting the union's director to go on a hunger strike in protest. Also in March, the Deputy General Prosecutor filed a motion with the MOJ to invalidate the registration of the national trade union "Football Players of Ukraine." After lower courts issued contradictory rulings on the matter, it was brought before the Supreme Court, but was unresolved by year's end. Claiming that the courts were deliberately delaying its registration, the union in early December appealed to the ECHR in Strasbourg.

Independent teachers unions came under severe pressure from the authorities throughout the year, especially since they were seen as unlikely to vote for the pro government candidate in the October December presidential elections. Beginning in March, local and national authorities began to assert that the teachers unions in Chernihiv province were disguised political organizations, which are banned in schools, rather than legitimate trade unions. Union organizers and members claimed they were harassed by authorities. Some teachers protested through hunger strikes, but by year's end 20 of the 79 locals of the teachers unions had disbanded. In Kirovohrad, the administration at nursery schools and daycare centers reportedly told teachers to leave the independent teachers union or lose their jobs. Despite hunger strikes, the mayor of Kirovohrad city allegedly had the union removed from its offices, and the union lost 1,000 members.

All unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties to the Government and inherited assets from the official Soviet unions, as well as several new, independent labor unions, were registered. However, some independent unions, including the Independent Miners Union of Ukraine (NPGU) whose member unions represented a wide variety of trades and professions, chose not to register because the courts declared that the registration requirement was unconstitutional, since they became legal entities under the 2003 Law on Trade Unions. Although the FPU often coordinated its activities with the Government, it continued to work independently on some labor matters and advocated the right of workers to strike. The FPU has supported the protests of some professions over unpaid wages; however, most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership has a political party, the All Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. At year's end, there were 106 registered trade unions, including 42 traditional (FPU) and 64 new trade unions. According to the Confederation of Free Trade Unions of Ukraine (CFTU), 28 of the new trade unions were affiliated with the CFTU and the remaining 34 were affiliated with neither the FPU nor the CFTU. While exact membership figures were unknown, there were estimated to be fewer than 2 million non FPU members (down from 3 million in 2002) and 12 million (down from 14.5 million in 2002) members of FPU affiliated unions. The drop in union membership was attributed to general apathy and cynicism regarding the benefits of union membership, as well as the fact that membership was no longer required for certain benefits, such as sick leave.

Independent unions were denied a share of the former Soviet trade unions' huge property and financial holdings, particularly the social insurance benefit funds, a Soviet era legacy on whose boards FPU affiliated unions held the majority of seats. Independent trade union leaders complained that state representatives sought to influence union votes and pressure members to report on union activities.

Independent trade union leaders reported an increase in harassment during the year, both by security forces and tax authorities. For example, in March, Andriy Volynets, the son of CFTU leader Mykhailo Volynets, was kidnapped and beaten in Kiev, suffering a concussion and brain hemorrhaging (*see* Section 1.c.).

At the end of November, at the height of opposition demonstrations against the fraudulent runoff presidential election, Mykhailo Volynets and other opposition M.P.s occupied the FPU headquarters located on Independence Square and opened

it to demonstrators. This occurred after FPU chief Oleksandr Stoyan (claiming to represent the views of the FPU membership) was reported to have encouraged President Kuchma to declare a state of emergency and impose martial law. An "initiative group" made up of the presidents of unions that belong to the FPU formally voted Stoyan out of office and voted to form a coordinating council including Volynets. However, in the meantime, the four FPU vice presidents allegedly sought to prevent the news of Stoyan's dismissal from reaching the membership, and Stoyan himself disputed the legitimacy of the initiative group's votes. Although Stoyan had not reported for work since being removed, at year's end there was no resolution to the leadership question.

*b. The Right to Organize and Bargain Collectively.*—The law permits trade unions to organize and participate in collective bargaining; however, these rights were not always respected in practice. The Independent Miners Union continued to experience problems creating new branches of their organization. The authorities refused to recognize the union and continued unlawfully to require proof of registration for such functions as opening accounts, renting offices, and employing staff.

According to the law, joint worker management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. The law provides the right to collective bargaining; however, overlapping spheres of responsibility frequently impeded the collective bargaining process, and the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored the official unions (affiliates of the FPU). Most workers were not informed that they were not obligated to join the official union. Renouncing membership in the official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law allows an independent union to be removed easily from the collective bargaining process at the enterprise level. Under the law, if several unions at an enterprise fail to agree on joint representation, the larger union that is, the FPU represents labor in the bargaining process.

The Law on Labor Disputes Resolution establishes an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, during the first 6 months of the year, the service resolved 169 labor disputes, in which 1.6 million employees from 6,649 enterprises were involved.

The Constitution provides for the right to strike "to defend one's economic and social interests," as long as strikes do not jeopardize national security, public health, or the rights and liberties of others; the Government generally respected this right. The law prohibits strikes that jeopardize life, health, or the environment or that might hinder disaster, accident, or epidemic related operations. The law does not extend the right to strike to personnel of the prosecutors' office, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, and public servants. The Law on Transportation does not allow strikes in the transport sector. Workers who strike in prohibited sectors may receive imprisonment of up to 3 years.

Approximately 90,000 workers are employed in the country's 11 export processing zones, particularly in mining and agricultural processing. Although labor laws are the same in these zones as elsewhere, the lack of new unions in the zones deprived workers of that option.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5 Trafficking and 6.d.). Human rights groups described the widespread use of army conscripts in the alternative service for refurbishing and building private houses for army and government officials as compulsory labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 16; however, in certain non hazardous industries, enterprises may negotiate with the Government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short term basis in the social sector and agriculture with the consent of one parent. The State Department for Monitoring Enforcement of Labor Legislation within the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector.

The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. Children worked in the agricultural sector, and trafficking of children for the purpose of forced labor was a problem (see Section 5). Begging by children existed, although it was limited. During the first quarter of 2002, the latest year for which

statistics were available, police identified almost 1,500 offenders for involvement in child labor, 111 of them for involvement in begging.

*e. Acceptable Conditions of Work.*—Working conditions and pay levels improved along with the economy, but remained poor. In September, the Rada raised the minimum monthly wage from \$39 to \$45 (205 to 237 UAH). A new minimum wage of \$49 (262 UAH) was set in the 2005 budget on December 23; however, the increase was not implemented. Minimum pensions also rose to approximately \$13 (70 UAH). Pensioners also received a supplementary social benefit of less than \$4 monthly (20 UAH). In August, the nominal average monthly salary (as opposed to the government declared minimum) was approximately \$114 (604 UAH). The minimum wage did not provide a decent standard of living for a worker and family, as it was far lower than the legally established “subsistence level” of \$80 per month (423 UAH).

While the government sector has repaid wage arrears in most areas, in some parts of the country teachers were not paid monetary benefits (back holiday pay and service bonuses) owed to them. Before the elections, the Government announced its intention to repay debts to teachers and raise their salaries. Although wage arrears decreased from \$340 million (1.8 billion UAH) at the beginning of the year to \$154 million (818 million UAH) as of December 31, they remained substantial. Most wage arrears accumulated in industry (57.4 percent), agriculture (12.0 percent), and construction (10.1 percent). They remained a problem in the private sector (which includes large enterprises in which the State is a shareholder) and in the Donetsk region (coal sector) whose wage arrears accounted for 29 percent of the total amount in the country. The national pension system repaid all of its arrears during 2000. Average wages were not as low as these statistics suggest, since the untaxed and unreported shadow economy was estimated to account for 50 percent of total economic activity.

The Labor Code provides for a maximum 40-hour workweek, a 24 hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries significantly reduced the workweek for some categories of workers.

The law contains occupational safety and health standards; however, these frequently were ignored in practice. In particular, illegal coalmines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. Lax safety standards and aging equipment caused approximately 25,000 injuries on the job each year. During the year, 23,200 individuals were injured (1,648 fewer than in 2003), including 1,163 job related fatalities (67 fewer than in the previous year). The number of miners injured in the coal sector was 9,218 (down from 10,845 in 2003), including 200 fatalities (compared with 217 in 2003). In the coal mining sector, it was estimated that, in the first 9 months of the year, there were 2.57 deaths (down from 3.52 in 2003) for every million tons of raw coal extracted. Increased enforcement of safety regulations was a major factor in this reduction, although the numbers remain quite high.

In theory, workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment; however, independent trade unionists reported that, in practice, asserting this right would result in retaliation or perhaps dismissal by management.

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## UNITED KINGDOM

The United Kingdom of Great Britain and Northern Ireland (UK) is a long-standing constitutional monarchy with a democratic, parliamentary government. The most recent general election was held in 2001; a number of political parties participated in the election, and it was free and fair. The judiciary is independent.

The Home Office is responsible for internal affairs in England and Wales, including the protection and security of the public. The Ministers of the Scottish Executive, who answer to the Scottish Parliament, have policy responsibility for law and order in Scotland. In Northern Ireland, the Police Service of Northern Ireland (PSNI) has responsibility for maintaining law and order. Civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The diversified, market-based economy grew by 3.2 percent. Wages, supplemented by generous state benefits, kept pace with low inflation (1.2 percent) for most of the 59.6 million residents.

The Government generally respected the human rights of its citizens; although there were some problems, the law and judiciary provide effective means of addressing individual instances of abuse. There were some complaints that individual mem-

bers of the police and military occasionally abused detainees and other persons. Prison conditions remained a problem, including overcrowding and instances of mistreatment by prison officials. Asylum seekers, women, children, and ethnic minorities faced violence and discrimination, which the Government continued to combat. Trafficking of persons into the country remained a problem, which the Government took steps to address.

Although most paramilitary organizations in Northern Ireland continued to maintain a cease-fire, killings and "punishment attacks" continued to occur in some areas under the influence of paramilitary groups. Some republican dissident groups committed acts of violence aimed at disrupting the peace process, particularly a series of arson attacks against commercial establishments at the end of the year.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents. Between January 1 and September 30, 40 persons died while being arrested by police or while in police custody; however, there was no indication that the deaths resulted from police misconduct.

On December 8, Parliament's Joint Committee on Human Rights issued its inquiry into deaths in custody, calling for establishment of a cross-departmental expert task force to develop guidelines on how to prevent such deaths.

On March 4, the Surrey Police released a "final report" concerning the 1995–2002 deaths by gunshot wounds of four soldiers at the Princess Royal Barracks, Deepcut. The army stated the deaths were suicides. In its report, the Surrey Police recommended that the Ministry of Defense (MOD) consider whether independent oversight could help the army "define and maintain appropriate standards of care for young soldiers."

In April, the Government published reports, with some redactions on national security grounds, regarding allegations of government involvement, collusion, or culpability in four killings that took place in Northern Ireland. At the same time, the Government announced that it would hold judicial inquiries into three of the killings. In September, the Government announced that it would also hold a judicial inquiry into the fourth case, the 1989 killing of Pat Finucane. Some political parties and human rights groups have raised concerns that the Government may seek to limit the public scope of the four inquiries to avoid the exposure of potentially embarrassing information, especially in the Finucane case.

In November, the Saville Inquiry into the events of "Bloody Sunday" (January 30, 1972) finished collecting testimony and heard closing statements. The Inquiry chairman and the two other judges began drafting their report (*see* Section 1.e.).

The nongovernmental organization (NGO) British Irish Rights Watch (BIRW) reported that paramilitary groups were thought to be responsible for at least four killings in Northern Ireland from January 1 through September 30.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

There were no developments in the May 2003 disappearance of Gareth O'Connor. The Commission for the Location of Victims' Remains, established jointly by the UK and Irish governments in 1999 to locate the remains of nine victims killed and secretly buried by the Provisional IRA in the 1970s, did not locate any bodies during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were complaints that individual members of the police occasionally abused detainees.

From April to year's end, 1,103 complaints against police were referred to the Independent Police Complaints Commission (IPCC).

The IPCC investigated two police officers in Cheshire for allegedly raping a woman at a party and in a police car. The officers were placed on bail while the investigation continued. In Yorkshire, a police officer was suspended from duty while the IPCC investigated allegations that he sexually assaulted a woman, possibly while he was on duty. In both cases, the investigations continued at year's end.

Between April 2003 and March, the Police Ombudsman for Northern Ireland received 4,196 allegations that led to 2,976 complaints of police abuse. Of the complaints, 37 percent concerned oppressive behavior. As of March 31, 2,799 complaint investigations were closed. The Ombudsman made 76 referrals for disciplinary action to the Chief Constable and referred 10 cases to the Director of Public Prosecutions for possible legal action.

Surrey police were investigating an alleged gang rape from 10 years ago, and turned over to the army for investigation 172 allegations from anonymous, and

sometimes “untested and uncorroborated witness recollection” involving hazing and mistreatment at Deepcut Barracks and other army training facilities.

Both loyalist and republican paramilitary groups in Northern Ireland continued to intimidate or carry out killings or “punishment attacks” in areas under paramilitary influence. The attacks often were intended to maintain or extend the control of paramilitary groups in an area. The PNSI reported that, as of November 30, 218 “paramilitary-style attacks” had occurred in Northern Ireland. Of these, 109 were shootings and 109 were beatings. In the past, human rights groups have stated that available statistics underreported the casualties because many victims were too intimidated to report the attacks.

Prison conditions generally met international standards; however, instances of mistreatment by prison officials, overcrowding, and suicides occurred. As of July 2, there were 74,700 prisoners in England and Wales, according to the Prison Service. A July report by the Prison Reform Trust (PRT) warned that 91 of 138 prisons in England and Wales suffered from overcrowding. In October, the Chief Inspector of Prisons for Scotland also noted overcrowding was caused by record numbers of prisoners.

In October, the Northern Ireland Human Rights Commission (NIHRC), an independent, government-funded body, criticized the conditions for female inmates at Mourne House, Maghaberry Prison, as failing to meet minimum “duty of care” standards. The Northern Ireland Prison Service Director General stated that conditions for female inmates improved substantially in June when they were transferred to a new facility; however, an NIHRC investigator said the transfer to the new facility failed “to meet even the basic conditions required” by the Prison Inspectorate.

As of September, 70 prisoners in England and Wales committed suicide in jail. The PRT stated that the institutions with the highest number of suicides were generally the most overcrowded.

In the prison system, women were held separately from men, juveniles from adults, and pretrial detainees from convicted prisoners. In addition, there were five mother and baby units in prisons in England and Wales, allowing mothers to keep their children with them while incarcerated.

The Government permitted independent human rights observers and the media to visit prisons and immigration detention centers.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest or detention, and the Government generally observed these prohibitions. However, arrests may be made without judicial warrants, particularly in Northern Ireland. When police have reasonable cause to suspect wrongdoing, the law gives authorities broad powers of arrest, detention, and interrogation.

In Great Britain, regional police forces (44 in England and Wales and 8 in Scotland) are responsible for maintaining law and order. In Northern Ireland, the PSNI has that responsibility. In some areas of Northern Ireland, because of the continuing threat of violence, army units reinforce the PSNI. There were approximately 12,600 British troops stationed in Northern Ireland, 800 fewer than in 2003.

On April 1, the Parliament created the IPCC, replacing the Police Complaints Authority. The IPCC has its own body of civilian investigators with the power to investigate allegations of police misconduct completely separate from the police. The IPCC provides for: Involvement of the complainant in the investigation, openness in disclosing materials to the complainant, effective powers to order disciplinary charges be brought against police officers, and independence of the person carrying out the IPCC investigation.

The law allows senior police officers to designate areas where police have exceptional power to stop and search pedestrians and vehicles whenever any uniformed police officer “considers it expedient for the prevention of acts of terrorism.” In July, a Home Office report showed that police stopped and searched Blacks and South Asians (a 302 percent increase between the 2001 and 2002 fiscal years) more regularly than Whites. The Government ordered a review of the application of relevant legislation, which was ongoing at year’s end.

Following an October 2003 British Broadcasting Corporation (BBC) documentary that included hidden-camera footage of police officers making explicitly racist statements, 10 officers resigned. The Commission for Racial Equality launched an investigation into racism in the police service. On June 14, the investigators released an interim report, making recommendations about screening of recruits, training for officers, and grievance procedures for affected employees.

On December 14, the Morris Inquiry released its findings into allegations of racism within the Metropolitan Police, better known as Scotland Yard. The report concluded, “statistics indicated clear disproportionality in the way black and minority

ethnic officers are treated in relation to the management of their conduct. This represents a serious issue of discrimination.”

Generally, police officers may only arrest persons if they have reasonable grounds for suspecting that someone has committed or is about to commit one or more listed “arrestable offenses.” Even if the crime in question is not an arrestable offense, a police officer may arrest a person without a warrant, provided the officer believes the arrest is necessary to prevent damage to property or physical injury. However, the law provides for certain exceptions related to terrorism, particularly in Northern Ireland.

The law also provides law enforcement authorities with the power to detain for up to 48 hours without charge individuals suspected of having committed a terrorism-related offense. A court may extend this period for a maximum of 14 days.

Detainees are allowed to make telephone calls and have legal representation. The law limits the amount of time that a suspect can be detained without a formal charge and requires that an inspector review the detention at set intervals to ensure that it is necessary and lawful.

The Anti-Terrorism, Crime, and Security Act (ATCSA) allows for extended detention of foreigners suspected of being terrorists but who cannot be removed from the country immediately, due to concerns that they will be subjected to torture in their country of origin. Detainees have the right to appeal their certification, and all the detainees are free to leave the country at any time. On December 16, the Law Lords ruled that the ATCSA detention powers violated the European Convention on Human Rights, which has been incorporated into the law. The Government announced that the 11 individuals detained under ATCSA would remain in detention while Parliament and the Government decided how to respond to the ruling.

Defendants awaiting trial have a statutory right to bail except when there is a risk that they would flee, commit another offense, or in other limited circumstances.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

There are several levels of courts. In England and Wales, most criminal cases are heard by Magistrates’ Courts, which were managed by locally based committees. Their decisions may be appealed to the Crown Courts, which also hear criminal cases requiring a jury trial, or to the High Courts. Crown Court convictions may be appealed to the Court of Appeal, which may in turn refer cases involving points of law to the Lords of Appeal in Ordinary (the “Law Lords”). The Law Lords, who sit in the House of Lords but are functionally distinct from the legislative body, constitute the country’s final court of appeal. The Criminal Cases Review Commission operates as an additional appellate body in England, Wales, and Northern Ireland and considers cases after the judicial appeals process is exhausted, but where there is significant new evidence that casts doubt on the conviction.

In Scotland, the High Court of Justiciary acts as a court of first instance for serious crimes such as rape and murder. The High Court also serves as an appellate body. There are 49 Sheriff Courts, which handle lesser crimes. Sheriff Courts have restricted sentencing power but can remit cases to the High Court for disposal if they so choose. District Courts sit in each local authority and handle crimes such as breach of peace, minor assaults, and petty theft. Civil matters can be handled in the first instance by either the Court of Session, which is the supreme civil court in Scotland, or by Sheriff Courts. The Court of Session also serves as the appellate court for civil matters. Decisions by the Court of Session can be appealed to the Law Lords in Westminster.

The law allows for jury trials, except in England and Wales when the jury has been intimidated, when “compelling new evidence” arises after a previous acquittal, or when evidence of a defendant’s previous misconduct (including previous convictions) is going to be introduced. In Northern Ireland, trials for certain terrorism-related crimes also do not allow juries. Defendants enjoy a presumption of innocence until proven guilty, the right to question witnesses against them, and the right of appeal to successively higher courts. Indigent defendants have the right to free counsel of their choice, with some exceptions.

Criminal proceedings must be held in public except those in juvenile court and those involving public decency or security. In a trial under the Official Secrets Act, the judge may order the court closed, but sentencing must be public.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Warrants normally were required for a police search of private premises; however, a police officer may enter and search without a warrant “any premises if he or she reasonably suspects a terrorist is to be found there.”

A case brought by three NGOs—BIRW, Liberty, and the Irish Council for Civil Liberties—before the European Court of Human Rights in 2002, stating that the Government had intercepted their telephone calls to clients in Ireland without a warrant, remained suspended while the plaintiffs continued to argue their case in domestic courts and tribunals. In December, the Investigatory Powers Tribunal ruled that the Government’s warrant system for intercepted communications between the United Kingdom and other countries was compatible with the European Convention on Human Rights.

*g. Excessive Force/Violations of Humanitarian Law in Internal and External Conflicts.*—At year’s end, court-marshals were underway for three British officers charged with abuse of Iraqi detainees in May 2003.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to secure freedom of speech and of the press.

Unlike in the previous year, there were no reports that police detained journalists under the Official Secrets Act.

In October, the Police Ombudsman for Northern Ireland criticized police searches conducted in 2003 at the home of journalists Liam Clarke and Kathryn Johnston and an office at the Sunday Times newspaper. The Ombudsman described the seizure of materials from the premises as being unlawful.

The investigation into the 2001 drive-by shooting of Martin O’Hagan—the only journalist killed in Northern Ireland continued at year’s end.

The Government did not restrict access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly, and the Government generally respected this right in practice.

In Northern Ireland, the annual “marching season” posed problems, as residents in some Catholic communities perceived certain parades as threatening and provocative. The law grants responsibility for ruling on “contentious” marches to a Parades Commission, which may not ban marches, but may impose conditions, such as route restrictions. Of the approximately 3,300 notified parades between April 2003 and March, 231 were considered contentious; the Parades Commission imposed restrictions on 162. According to the Parades Commission, the numbers of both contentious parades and restrictions imposed were affected by the notification of a Drumcree return parade virtually every week.

On February 19, a high court ruled that the Gloucestershire Police unlawfully detained anti-war demonstrators aboard three buses en route from London to Fairford in July 2003. The court ruled that the police had been entitled to stop the protestors from causing a breach of the peace, but it was unlawful for the police to hold the group on the buses for the return journey to London.

On September 15, 10,000 demonstrators gathered outside Parliament to protest the House of Common’s efforts to outlaw foxhunting with dogs. Police struck some of the protestors with batons to keep them behind the police line. The Metropolitan Police reported that 17 persons were injured: 16 protestors and 1 police officer. However, 45 persons have filed complaints of police brutality with the IPCC. Of the 1,000 police officers present, the IPCC warned 19 that they were being investigated. At year’s end, independent investigators continued their research into this incident on behalf of the IPCC. IPCC investigators continued to interview over 100 witnesses and serve orders on television companies and newspaper photographers in order to obtain visual evidence.

The law provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

There were two established churches: The Church of England (Anglican) and the Church of Scotland (Presbyterian). There were no established churches in Wales or Northern Ireland. Two Anglican Archbishops and 24 Bishops receive automatic membership in the House of Lords, while clergy from other faiths are not afforded this privilege. Other than in the House of Lords, membership in a religious group does not confer a political or economic advantage.

The Government does not consider the Church of Scientology and the Unification Church as religions for the purpose of visas for ministers of religion or missionaries.

In April, the Government dismissed Unification Church leader Reverend Sun Myung Moon's appeal of his exclusion from the country in May 2003.

The law requires religious education in publicly maintained schools throughout the country. The shape and content of religious instruction is decided on a local basis and must be nondenominational and refrain from attempting to convert pupils. All parents have the right to withdraw a child from religious education, but the schools must approve this request.

In addition, schools in England and Wales have to provide a daily act of collective worship, which may be waived if a school's administration deems it inappropriate for some or all of the students. Under some circumstances, non-Christian worship may be allowed. Teachers' organizations have criticized school prayer and called for an official review of the practice.

While the majority of state-supported schools were Protestant or Roman Catholic, there were a number of state-supported Jewish and Muslim schools, as well as two Sikh schools, one Greek Orthodox school, and one Seventh-day Adventist school.

The Community Security Trust (CST) recorded 532 anti-Semitic incidents during the year. Among these were 79 assaults, 4 cases of extreme violence, and 53 instances of desecration and damage to property. For example, on August 22, cemetery officials discovered the desecration of approximately 60 gravestones in a Jewish cemetery in Birmingham. Police charged two suspects with racially aggravated criminal damage, racially aggravated public disorder, and causing racially aggravated harassment, alarm, or distress.

The number of anti-Semitic incidents in the country rose significantly during the year. Figures from Israel's Global Forum Against Anti-Semitism stated that 310 anti-Semitic incidents occurred in the country during the year, of which 77 were violent, as opposed to 163 anti-Semitic incidents in 2003, of which 55 were violent. Most of the incidents occurred near or at synagogues, some of which were set on fire or were targets of attempted arson.

The law prohibits offenses aggravated by religious hostility and extends a prohibition against incitement to racial hatred to include cases where the incitement to hatred is directed against groups abroad. On October 19, police charged Abu Hamza al-Masri with 16 criminal offenses, including soliciting or encouraging the murder of Jews, inciting racial hatred, and possessing a document that contained information "of a kind likely to be useful to a person committing or preparing an act of terrorism." At year's end, his trial was ongoing.

According to the Forum Against Islamophobia and Racism (FAIR), approximately 85 incidences of Islamophobia occurred between January and November. On May 21, over 30 white "skin heads" attacked and beat 2 Muslim teenagers in West Yorkshire, leaving 1 unconscious, while referring to them in racially derogatory terms.

The Islamic community has criticized an increase in stops and searches (see Section 1.d.) and arrests of Muslims under recent anti-terrorism laws, with only a handful of searches actually leading to arrests or convictions. In May, the Muslim Council of Britain reported a fear of the growing trend of "institutionalized Islamophobia," alleging that the Muslim community faces increasing bias from police. In an Islamic Human Rights Commission poll released in December, 80 percent of British Muslims (compared with 45 percent in 2000 and 35 percent in 1999) said they had been discriminated against because of their faith.

On December 14, police arrested the leader of the British National Party (BNP) on suspicion of incitement to racial hatred. His arrest was the twelfth following the July broadcast of a BBC documentary entitled *Secret Agent* in which BNP members were covertly recorded as they called Islam a "vicious, wicked faith" and admitted to their participation in racially motivated crimes. At year's end, the leader remained on police bail.

The 1998 Good Friday Agreement aimed to create a lasting settlement to the conflict in Northern Ireland and a society based on consent, power sharing, equality of opportunity, and human rights. However, fear of inter-communal violence has, over the years, contributed to a pattern of segregated communities in Northern Ireland. Many Protestant and Catholic families have moved away from mixed-religion or border areas.

By November, the police in Northern Ireland reported approximately 111 attacks against both Catholic and Protestant churches, schools, and meeting halls. Such sectarian violence often coincided with heightened tensions during the spring and summer marching season (see Section 2.b.).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

There is no law prohibiting forced exile; however, the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, the Government limited this right for persons from “safe countries of origin.” The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. In 2003, approximately 7,210 persons were not recognized as refugees but were granted permission to remain in the country.

The Asylum and Immigration (Treatment of Claimants, etc.) Act of 2004 authorizes the Home Secretary to institute a list of safe countries of origin (or safe parts of certain countries) for particular classes of people. This is in addition to the Home Secretary’s previously established authority to designate a list of safe countries for all residents therein. The Government considered asylum claims from such individuals as unfounded.

The Act also casts doubts on the credibility of applicants who claim asylum in the country after having passed through a safe country of transit. Furthermore, the law permits asylum seekers to be removed to a third country deemed responsible for adjudicating an applicant’s claim. Immigration NGOs such as the Refugee Council expressed concerns about these provisions of the law, as well as sections of the law that make it a criminal offense to attempt to enter the country without a passport and replace a two-tier asylum appeals process with a single-tier Asylum and Immigration Tribunal.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Government is formed on the basis of a majority of seats in the House of Commons, which are contested in elections held at least every 5 years; the most recent elections were in 2001. The other chamber of Parliament, the appointed House of Lords, has the power to revise and delay, but not block the implementation of laws. Participation in the political process is open to all persons and parties. All citizens age 18 and older may vote. Other elected bodies such as the Scottish Parliament and the Welsh Assembly have control over matters of regional importance, such as education, health, and some economic matters. Foreign affairs and defense continued to be the responsibility of the central government.

The small number of remaining overseas territories had an aggregate population of approximately 190,000 persons. They enjoyed varying degrees of self-government based on the UK model, with appointed governors.

The Freedom of Information Act of 2000 allows for public access to information held by public authorities in England, Wales, and Northern Ireland. The Freedom of Information Act (Scotland) of 2002 is expected to provide the same benefits for Scotland when it comes into effect on January 1, 2005.

There were 119 women in the 659-seat House of Commons. There were 5 women in the 23-member Cabinet. There was 1 woman among the 12 “Law Lords” (the country’s equivalent of the Supreme Court). There were 13 members of minorities in the 659 seat House of Commons and 2 members of minorities in the 23 member Cabinet. There were no minorities among the 12 Law Lords.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Although there was no autonomous human rights ombudsman, there were three government-instituted bodies that monitored human rights practices in England and Wales: The Commission for Racial Equality, the Disabilities Rights Commission,

and the Equal Opportunities Commission. In addition, the Northern Ireland Human Rights Commission monitored and reported on human rights developments in Northern Ireland. Finally, Parliament has a Joint Committee on Human Rights.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits incitement to racial hatred and discrimination on the basis of gender, disability, sexual orientation, race, color, nationality, or national or ethnic origin; however, some groups continued to experience societal discrimination.

*Women.*—Violence against women continued to be a problem. According to the Home Office, two women per week died from domestic violence, which accounted for one-quarter of all violent crime. The Home Office's crime statistics for April 2003 through March show 12,319 rapes of women and 26,709 indecent assaults on women.

Criminal penalties for rape (including spousal rape), sexual assault, and domestic violence are substantial, and these laws were enforced strictly. The law provides for injunctive relief, personal protection orders, and protective exclusion orders (similar to restraining orders) for women who are victims of violence. The Government provided shelters, counseling, and other assistance for victims of battery or rape and offered free legal aid to battered women who were economically reliant on their abusers.

The law makes it a crime to practice Female Genital Mutilation, or to assist another person in its practice, either in the country or in another country. The extent to which the procedure took place was unknown, but NGOs reported that the practice continued in isolated incidents during the year.

While prostitution involving consenting adults is not illegal, offenses such as loitering for the purpose of prostitution and maintaining a brothel are prohibited. Organized international gangs continued to traffic women into the country for exploitation in the sex industry (see Section 5, Trafficking). The law also prohibits child sex tourism and allows authorities to prosecute citizens or residents for offenses committed abroad. On June 2, a 66 year-old man was sentenced to 2 years in prison for attempting to incite a male under the age of 16 to commit a sexual act and an act of gross indecency. The man had posted a message on an Internet site indicating he wanted to meet a young Sri Lankan. He then sent sexually explicit messages to an undercover child-protection officer in Sri Lanka who was posing as a 15-year-old boy. Although the man's actions were not an offense under Sri Lankan law, authorities in London determined that he had violated British sex-tourism laws.

The law prohibits sexual harassment and provides penalties of up to 5-years' imprisonment for sexual harassment in public or in the workplace.

The law provides for equal opportunity for the sexes; however, in practice, women experienced some discrimination. The Department for Trade and Industry's Women and Equality Unit reported that women's hourly earnings were, on average, 82 percent of men's. Of the 22,000 positions in national public bodies, women held 34 percent; they held 9 percent of the seats on the boards of the 100 largest companies on the London Stock Exchange.

Women's issues were the responsibility of two Ministers for Women at the Cabinet level. The Government's Equal Opportunities Commission supported women who bring discrimination cases before industrial tribunals and courts and produced guidelines for employers. The Women's National Commission, an independent advisory body representing 300 partner organizations, worked to ensure women's views were taken into account by the Government and heard in public debate.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and medical care and worked to prevent child abuse. The Government provided free, universal, and compulsory education until age 16 and further free education until age 18 if a student so desires. U.N. Educational, Educational, and Cultural Organization statistics indicated that 100 percent of children of primary school age were enrolled in school, and over 90 percent of children of secondary-school age were enrolled.

Child abuse remained a problem. As of March 2003, there were 32,736 children on child protection registers, locally maintained lists of children whom social-services authorities judged to be at continuing risk of significant harm due to neglect, physical abuse, sexual abuse, or emotional abuse. Several NGOs and charities, the most prominent of which was the National Society for the Prevention of Cruelty to Children, campaigned for an end to child abuse and neglect.

The Minister for Children coordinates government policy concerning children and young persons. In Scotland, the Minister for Education and Young People and the Minister for Communities oversee similar programs designed to protect and provide assistance to minors.

The Sexual Offences Act 2003, which entered into force on May 1, criminalizes a greater number of acts related to the sexual abuse of children and strengthened the national sex offenders register, which aims to prevent recidivism among convicted wrongdoers. On October 22, a Lancashire man pled guilty to causing a child to engage in sexual activity. On November 26, a Haverhill man pled guilty to seven offenses under the new law and was sentenced to 3 years' imprisonment.

Some children have been subjected to forced labor or trafficked into the country for sexual exploitation (*see* Section 5, Trafficking).

The Armed Forces accept recruits from age 16. NGOs including the Child Soldiers Coalition and Amnesty International have criticized this practice.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons, particularly for sexual exploitation, remained a problem.

The law prohibits trafficking in persons for the purposes of prostitution, sexual exploitation, organ harvesting, or forced labor. The Sexual Offenses Act of 2003, which came into force on May 1, criminalizes trafficking offenses by citizens and residents, whether committed in the country or abroad, and carries a maximum sentence of 14 years' imprisonment.

The Sexual Offenses Act of 2003 focused on issues of exploitation by coercers, pimps, and traffickers. The penalties for keeping a brothel were increased, and a new range of offenses for causing, inciting, and controlling prostitution for gain were introduced. Separate offenses were also introduced to combat the exploitation of children through prostitution, with severe penalties for causing, inciting, controlling, arranging, or facilitating the prostitution of a child. For the purposes of the Act, the offense can take place anywhere in the world. The Act also criminalizes the buyer, with the new offense of paying for sexual services of a child.

The "Reflex" Task Force, which brings together agencies that combat trafficking and migrant smuggling in persons, reported that the authorities have been responsible for 38 disruptions of criminal gangs and 38 convictions for organized immigration crime between April 2003 and March. In the first 6 months of the year, there were 18 disruptions and more than \$1,800,000 (1,000,000 pounds) of assets seized.

In April, the Court of Appeals, at the Government's request, increased convicted trafficker Luan Plakici's sentence to 23 years' imprisonment for seven counts of kidnapping, procuring, living on immoral earnings, and facilitating the entry of illegal immigrants.

In July, Kinsley Ojo, arrested as a result of an investigation into the discovery in September 2001 of the torso of a Nigerian boy in the River Thames, was convicted of trafficking-related offenses and sentenced to 4 years in prison. Police believed the boy was trafficked into the country and then murdered in a ritual killing.

On December 22, a court convicted two Albanian men of trafficking two people into and within the country for sexual exploitation. One man was sentenced to 18 years in prison and the other to 9 years' imprisonment.

Between March 2003 and February, MAXIM, a government partnership targeting organized immigration crime, staged 60 proactive operations and made 151 arrests. Authorities charged 30 persons as a result of these arrests.

The Home Office, which includes the Immigration and Nationality Directorate, had the lead in efforts to combat trafficking. Other Cabinet-level departments include the Foreign and Commonwealth Office, Department of Trade and Industry, Department for Education and Skills, the Crown Prosecution Service, and the Department for International Finance and Development.

The country is primarily a destination country for trafficking in persons and occasionally a country of transit. There is no comprehensive official estimate of the number of victims of trafficking or the annual number of persons trafficked into the country. The Government received 169 referrals at its specialized shelter project for women trafficked for sexual exploitation between March 2003 and September.

Women were trafficked for sexual exploitation from Central and Eastern Europe (primarily Albania, Kosovo, Lithuania, Latvia, Estonia, Romania, Bulgaria, Russia, and Moldova). Some also came from Thailand and China through "snakehead" gangs criminal groups that operated trafficking rings. West Africa (primarily Nigeria, Liberia, and Sierra Leone) was a source of women and children trafficked to the country. According to police sources, West African children appeared to be brought in primarily to work as domestics. NGO evidence indicated that some West African children might be trafficked through the country to Italy and other European Union countries for sexual exploitation. In one case, the U.S. was a destination country.

Many trafficked women worked in the sex industry. However, women, men, and children were also trafficked for labor exploitation in domestic service, agricultural and rural labor, construction, and catering.

Trafficking victims were most often subject to debt bondage, the withholding of travel documents, false information about law enforcement and immigration penalties, or threats of violence against them or their families. Physical and sexual violence were employed as well, although less frequently.

Organized international gangs were alleged to be responsible for most trafficking for commercial sexual exploitation.

The Government reviewed and assessed the victim protection program it initiated in 2003 with the NGO Eaves Housing. As a result of the review, the Government made adjustments in program eligibility criteria and increased funding for the program. Local Social Services authorities and various charities provided services to trafficking victims. Because care and protection were not confined to program facilities, overall efforts in victim protection were difficult to assess.

NGOs criticized the Government for not "opting in" on the European Council directive on providing short-term residence permits for victims of trafficking who cooperate with the authorities. The Government did not prosecute victims of trafficking who were violating prostitution or immigration laws; however, they could face repatriation to their country of origin.

The Foreign and Commonwealth Office and the Department for International Development distribute anti-trafficking material in countries of origin. Immigration intelligence assets were deployed across Europe on the main routes for illegal migration and trafficking under the Immigration Liaison Officer (ILO) program. The National Criminal Intelligence Service engaged in exchange programs in which its officers aided in preventive anti-trafficking efforts in Central and Eastern Europe.

In addition to bilateral international efforts, the Government continued to support regional multilateral efforts in the Balkans through the Stability Pact for South Eastern Europe under the OSCE. The Government also funded a communication campaign, in partnership with an NGO, which was intended to increase general public awareness, potential victim awareness, and to give trafficked women access to the resources available to them.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

On October 1, the third part of the Disability Discrimination Act came into force, mandating that all public service providers (except in the transportation sector) make "reasonable adjustments" in order to make their services available to persons with disabilities. This part of the Act also made it illegal for employers with fewer than 15 employees to harass or discriminate against job applicants or employees with disabilities. It has long been illegal for larger employers (except for the armed forces) to do so.

The Disability Rights Commission (DRC), an independent organization funded by the Government, worked on behalf of disabled persons to stop discrimination and promote equality of opportunity. The DRC provided a hotline for persons with disabilities and employers, legal advice and support for individuals, and policy advice to the Government. The DRC also has the power to conduct formal investigations, arrange conciliation, require persons to adopt action plans to ensure compliance with the law, and apply for injunctions to prevent acts of unlawful discrimination.

The DRC advocated the enactment of additional legislation to extend the right of access for persons with disabilities to public transportation (for example, buses and trains) and to require landlords to make reasonable accommodations for tenants with disabilities.

*National/Racial/Ethnic Minorities.*—Despite legal prohibitions against racial discrimination, persons of African and Afro-Caribbean, South Asian, or Middle Eastern origin, and Travellers— itinerant populations consisting of Roma, Irish, and other ethnic groups estimated to number 300,000 persons—were occasionally the victims of societal violence and some discrimination.

Victim Support, a charity assisting persons affected by crime, received 33,374 referrals for assistance in cases of racially motivated crime between April 2003 and March 31. During the same time period, the Crown Prosecution Service prosecuted 3,616 defendants for racially motivated crimes, a 13 percent increase over the previous year.

On March 6 in Peterborough, a gang of 15 persons attacked a man of South Asian origin as he was returning to work. The attackers threw a road sign, stones, and a block of concrete at him and shouted racist statements. When confronted by the victim's coworkers, the gang left the scene and began to attack an Iraqi Kurd with sticks and verbal abuse. Three youths ranging in age from 16 to 19 were convicted of offenses ranging from violent disorder to wounding with intent.

On June 12, up to 20 persons attacked a group of 5 Black men outside a pub in Edinburgh. As a result of the attack, all five victims had to be treated at a hospital. According to a police spokesperson, "allegations of an assault were made; but due to the number of people involved and the fact that several of them had been drinking, establishing exactly what had happened was not possible."

On September 26 in Coventry, 2 white men punched a Sikh man 30 times while directing racial epithets at him. The victim said it was the seventh time in 10 years that he had been subject to a violent, racially motivated attack.

The Commission for Racial Equality (CRE) is an independent, government-funded body that seeks to ensure fair treatment and equal opportunities for national/racial/ethnic minorities. The CRE provided guidelines on anti-discrimination practices, supported persons taking court action, and initiated its own court actions. During the year, the CRE instigated compliance procedures against 52 public bodies (out of a total of 43,000 such organizations) for failing to promote racial equality.

*Other Societal Abuses and Discrimination.*—The law prohibits discrimination and harassment based on sexual orientation; however, sporadic incidents of homophobic violence were reported. The law encourages judges to impose a greater sentence in assault cases where the victim's sexual orientation is a motive for the hostility, and many local police forces demonstrated an increasing awareness of the problem and trained officers to identify and moderate these attacks.

#### Section 6. Worker Rights

*a. The Right of Association.*—The law provides for the right of workers, except those in the armed forces, public sector security services, and police forces, to form and join unions, and workers exercised this right in practice. Almost 30 percent of the workforce was unionized. Coverage was most widespread in the public sector, where 60 percent of workers were unionized. In contrast, 19 percent of private sector workers were unionized.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Under the law, a strike must be confined to workers and their own employers ("secondary boycotts" are illegal), the dispute must be wholly or mainly about employment-related matters (for example, pay and conditions), workers must be properly and secretly balloted before striking (with notice to the employer), and mass picketing is prohibited. Workers freely exercised the right to strike.

There are no export-processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Children under the age of 13 cannot be employed in any capacity. Those under age 16 are not permitted to work in an industrial enterprise, including transportation or street trading; their total work hours are strictly limited and may not interfere with school attendance. They may work as part of an educational course. Independent NGOs claimed that up to 2 million young people of school age in the country were involved in part-time employment. Under current rules, a child age 13 to 16 must apply for a work permit from a local authority and the local authority's Education and Welfare Services have primary responsibility for oversight and enforcement. Several central government ministries have additional regulatory responsibilities: the Department of Trade and Industry, Department for Education and Skills, and the Health and Safety Executive.

In February, a government task force published a report entitled, *The Regulation of Child Employment*, which cited the multi-layered oversight system as leading to patchy enforcement of the law and recommended a more consolidated approach. The report also recommended shifting the responsibility for registration from the individual child to the employer, as there is evidence that many children do not apply for work permits.

There were no confirmed reports of violations or prosecutions during the year. In instances reported since 2000, there were successful prosecutions resulting in fines of up to \$23,560 (12,400 pounds).

There were reports that children were trafficked into the country and forced to work as domestic servants, beggars, pickpockets, drug couriers, or in sweatshops and restaurants (see Section 5).

*e. Acceptable Conditions of Work.*—The national minimum wage, which ranged from \$7.45 to \$8.82 (3.00 pounds to 4.85 pounds) depending on the age of the em-

ployee, did not provide a decent standard of living for a worker and family; however, other benefits of the welfare state filled the gap, including free universal access to the National Health Service. In October, the law extended the minimum wage to cover homeworkers. Tax authorities have the power to issue compliance orders against employers not paying the minimum wage, but disputes are handled by the Employment Tribunals. The Government aggressively monitored employer efforts to bring pay practices into compliance with minimum wage law. Unions and NGOs were also actively involved in ensuring employees are aware of their rights.

The law limits the workweek to 48 hours; however, the regulations do not apply to senior managers and others who can exercise control over their own hours of work. An individual employee may agree through a contract to work overtime.

The law stipulates that the health and safety of employees not be placed at risk, and, in practice, it was generally and effectively enforced by the Health and Safety Executive, which could initiate criminal proceedings in appropriate cases. Workers' representatives also actively monitored enforcement of the law. Workers may remove themselves from dangerous work conditions without jeopardy to their continued employment.

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## UZBEKISTAN

Uzbekistan is an authoritarian state with limited civil rights. The Constitution provides for a presidential system with separation of powers between the executive, legislative, and judicial branches; however, in practice, President Islam Karimov and the centralized executive branch that serves him dominated political life and exercised nearly complete control over the other branches. On December 26, elections were held for seats in the lower chamber of the Supreme Assembly (Oliy Majlis) that fell significantly short of international standards for democratic elections. The Constitution provides for an independent judiciary; however, the executive branch heavily influenced the courts and did not ensure due process.

The Ministry of Interior (MVD) controls the police and is responsible for most routine police functions. The National Security Service (NSS) deals with a broad range of national security questions, including corruption, organized crime, and narcotics. The civilian authorities maintained effective control over the security forces. The police and the NSS committed numerous serious human rights abuses.

The country has a population of approximately 25.5 million. The economy is based primarily on agriculture and agricultural processing, which remain heavily influenced by the state. For the year, the gross domestic product grew approximately 3 percent and inflation was approximately 15 to 20 percent. There were no reliable unemployment statistics, but the number of unemployed and underemployed was high and growing. Corruption remained a problem and had a negative impact on the economy.

The Government's human rights record remained very poor; although there were some improvements, it continued to commit numerous serious abuses. While the Government took some important steps to address torture and to establish police accountability, it made no progress on democratic reform and placed further restrictions on the activities of nongovernmental organizations (NGOs) and the press. Citizens could not exercise the right to change their government peacefully. Unlike past years, there were no credible reports of persons dying in custody as a result of torture; however, police and security force negligence likely contributed to the deaths of at least four persons. Police and, to a lesser extent, NSS forces tortured, beat, and harassed persons; however, officials of both agencies and the procuracy participated in dialogues with human rights activists and allowed international and local human rights groups to take part in independent investigations of deaths in custody in which torture had been alleged. Prison conditions generally remained poor, although there were limited improvements in some prisons. Many of the most serious abuses occurred in pretrial detention. Members of the security forces responsible for documented abuses were rarely punished; however, there were some notable exceptions, and at least one MVD division established preliminary procedures for investigating and disciplining officers for human rights abuses. Police and NSS arrested persons the Government suspected of extremist sympathies. Police routinely and arbitrarily detained citizens to extort bribes. The Government continued to harass human rights activists, although considerably fewer were arrested than in previous years. Unlike past years, no journalists were arrested; three journalists imprisoned in previous years were released. The number of persons in prison for political or religious reasons—primarily persons the Government believed were associated with

extremist Islamist political groups, but also members of the secular opposition and human rights activists—was estimated to be between 5,000 and 5,500. Police and NSS forces infringed on citizens' privacy.

The Government severely restricted freedom of speech and the press, and an atmosphere of repression stifled public criticism of the Government. The Government warned editors that they were responsible for the content of their publications, and the law encouraged self-censorship. Ordinary citizens remained circumspect in criticizing the Government publicly. The Government continued to prohibit unauthorized public meetings and demonstrations, and police forcibly disrupted a number of peaceful protests, although fewer than in previous years. The Government continued to deny registration to several independent domestic human rights groups and increased pressure on unregistered groups. The Government refused to reregister one major international NGO, the Open Society Institute (OSI), and attempted to restrict the activities of others. Government decrees prevented many domestic NGOs active in human rights and political reform from receiving outside support and impeded the operations of women's rights NGOs. The Government restricted freedom of religion and harassed individuals suspected of belonging to extremist groups; several hundred were arrested. The Government limited the activities of minority religions. The Government restricted freedom of movement within the country and required citizens to obtain exit visas to travel abroad. The Government denied the registration applications of two opposition political parties. The Government harassed and abused members of domestic human rights groups. Societal violence against women was a problem. Trafficking in women and children abroad for prostitution was a problem that the Government took steps to address. The Government severely restricted fundamental worker rights.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by the Government or its agents; however, border guards shot and killed two persons, and six persons were reported to have died in prison or pretrial police custody (*see* Section 1.c.).

On March 20, border guards shot and killed a Tajik citizen who had been gathering scrap metal near the Platina border checkpoint. On June 1, border guards shot and killed a Kazakh citizen following an altercation near the Keles border crossing point, just north of Tashkent. The incident reportedly led to the dismissal of National Border Guard Chief Gafurjon Tishaev.

The media widely reported that the May 19 death of 36-year-old Andrei Shelkavenko, who was being held on suspicion of murder, had resulted from torture; however, on May 31, an independent team of international experts concluded that Shelkavenko hanged himself in his cell and was not killed by police, as claimed by his family.

On April 24, a court convicted an MVD Post Inspector of criminal negligence and sentenced him to 3 years in prison in connection with the December 2003 death in custody of Kamolodin Djumaniyozov. After reviewing a videotape of Djumaniyozov's body, an independent forensic pathologist concluded that Djumaniyozov had likely died from hanging and not torture, as had been reported in the international press.

There were no developments in the May 2003 deaths of Otzama Gafarov, who died in custody in Chirchick Prison, or Orif Ershanov, a member of the prohibited extremist Party of Islamic Liberation (Hizb ut-Tahrir) political movement, who was severely beaten and died in NSS detention in Karshi. There were also no further developments in the August 2003 death of Nodir Zamonov, a native of Bukhara, whose body was found by his parents shortly after police detained him on charges of vandalism.

According to officials from the MVD Prisons Directorate, authorities dismissed six guards and three prison officers following the 2002 deaths of Mirzakomil Avazov and Khusnuddin Olimov, members of Hizb ut-Tahrir who were tortured to death in Jaslyk Prison in Karakalpakstan. The Karakalpakstan Regional Prosecutor reportedly investigated the deaths, but concluded that there was insufficient evidence to bring criminal charges. The Government maintained that extensive burns on the two men's bodies were the result of a tea fight; however, independent analysis by experts in the United Kingdom of photographs taken shortly after their deaths concluded that the men had likely been suspended in boiling water.

The extremely low quality of forensic expertise, the absence of independent medical examiners, and frequent official pressure on families to bury bodies quickly in accordance with Islamic traditions made it extremely difficult to confirm rumors of detainees dying in custody as a result of torture or mistreatment.

Local and international observers reported that persons sentenced to death were often not given an adequate opportunity to mount a defense or to appeal their sentence. The Government considers the number of prisoners executed each year to be a state secret. Amnesty International (AI) has estimated that scores are executed each year; the local NGO Mothers Against the Death Penalty and Torture put the number at well over a hundred. On September 13, the U.N. Special Rapporteur on Torture Theo van Boven issued a statement condemning the execution of persons whose death sentences were allegedly based on forced confessions. Van Boven drew particular attention to the cases of Azizbek Karimov and Yusuf Zhumayev, who were executed on August 10, despite appeals by the U.N. Committee on Human Rights to stay their sentences. Karimov was executed for participating in a series of bombings in the Kyrgyz Republic; Zhumayev was convicted of murder in December 2003. Both men alleged that they had been tortured while in custody. According to the Rapporteur, at least nine inmates had been executed since 2002 despite Committee requests for their cases to be reviewed.

In April, the Government commuted the death sentence of three men—Evgeny Gugin, Abror Isaev, and Nodirbek Karimov—who were convicted of murder in 2002. There were reports that police had beaten all three men (as well as Gugin's alleged accomplice whose death sentence was commuted in March 2003) in pretrial detention to obtain confessions. AI had given the cases of the four men wide publicity. According to an August 16 AI report, authorities gave assurances that Iskander Khudoberganov, convicted of involvement in the 1999 terrorist attacks in Tashkent, will not be executed while his cases are under consideration by the U.N. Human Rights Committee (UNHRC). Khudoberganov claimed that he had been tortured while in detention at the main office of the Tashkent City MVD and that authorities threatened to rape his wife and sister unless he confessed. Two of Khudoberganov's codefendants made similar accusations of torture at their trial. None of the suspects convicted in connection with the March and April terrorist violence was sentenced to death.

There were reports of at least four deaths during the year due to landmines placed in disputed areas along the Tajik and Kyrgyz borders following armed incursions by the Islamic Movement of Uzbekistan (IMU) terrorist organization in 2000.

*b. Disappearance.*—Although there were no confirmed reports for politically motivated disappearances, in separate incidents in May and June, three Tashkent men—Farukh Haidarov, Okiljon Yunusov, and Husnuddin Nazarov—were reported missing by their families. Haidarov and Yunusov studied theology in Saudi Arabia in the 1990s. At the time of their disappearance, Haidarov was a language instructor at the Egyptian Cultural Center and Yunusov was a businessman. Nazarov is the son of Abidkhan Nazarov, a prominent religious figure in Tashkent who was dismissed from his position as Imam of the Tokhtabay Mosque in 1995 for his allegedly extremist sermons. He disappeared in 1998, and his whereabouts remained unknown.

The men's families asserted that the NSS abducted the three men and was holding them incommunicado. On August 14, Haidarov's wife received a letter from her husband stating that he, Yunusov, and Nazarov, had gone to Afghanistan. In remarks to the press, Haidarov's wife confirmed that the handwriting was her husband's, but expressed doubt that he was in Afghanistan because the letter apparently took only 4 days to travel from Kabul to Tashkent. According to press reports, Afghan officials confirmed that the franking appeared authentic.

There were no developments in the case of Sadykhan Rahmanov who was reported missing and in official custody in 2003.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police and the NSS routinely tortured, beat, and otherwise mistreated detainees to obtain confessions or incriminating information. Police, prison officials, and the NSS allegedly used suffocation, electric shock, rape, and other sexual abuse; however, beating was the most commonly reported method of torture. Torture was common in prisons, pretrial facilities, and local police and security service precincts. Defendants in trials often claimed that their confessions, on which the prosecution based its cases, were extracted by torture (see Section 1.e.). In February 2003, the U.N. Special Rapporteur on Torture issued a report that concluded that torture or similar ill-treatment was systematic.

Authorities treated individuals suspected of extreme Islamist political sympathies, particularly alleged members of Hizb ut-Tahrir, more harshly than ordinary criminals, and there were credible reports that investigators subjected persons suspected of belonging to Hizb ut-Tahrir to particularly severe interrogation in pretrial detention, in many cases resorting to torture. After trial, authorities reportedly used disciplinary and punitive measures, including torture, more often with prisoners con-

victed of extremism than with ordinary inmates. Local human rights workers reported that common criminals were often paid or otherwise induced by authorities to beat Hizb ut Tahrir members (*see* Section 1.d.).

As in previous years, there were numerous credible reports that officials in several prisons abused Hizb ut-Tahrir members to obtain letters of repentance, which are required for a prisoner to be eligible for amnesty. According to prisoners' relatives, amnestied prisoners, and human rights activists, inmates who refused to write letters disavowing their connection to Hizb ut-Tahrir were often beaten or sent into solitary confinement. Human rights activist Ahmadjon Madmarov reported that prison officers in Navoi beat his son Habibulla, who was sentenced to 9 years in prison for membership in Hizb ut-Tahrir, with rubber batons when he refused to write a letter of repentance.

Local and international human rights workers, defense attorneys, and family members reported that authorities physically mistreated persons detained after a series of terrorist incidents in Tashkent and Bukhara between March 28 and April 1. At least four persons charged with terrorist-related offenses testified in court that they had been beaten or otherwise tortured in custody. On September 10, an attorney for Mastura Latipova informed the judge that his client had been stripped naked and beaten during the first days of pretrial detention. According to local human rights groups, police also beat Latipova's husband, Shomurod Latipov, who was detained on March 30 and released 2 days later (*see* Sections 1.d. and 1.e.). In October, another defendant, Bakhtior Muminov, testified in a separate trial that he had been beaten and subjected to electric shock.

There were reports of beatings at several MVD and NSS facilities in the days following the March/April attacks; however, the most severe abuse appeared to have taken place at the detention facility at the main office of the Tashkent MVD, where eyewitnesses, family members, defense attorneys and representatives of human rights groups claimed that authorities frequently and systematically applied torture, including severe beating, suffocation, and electroshock. The General Prosecutor's office, which retained formal jurisdiction over the suspects and witnesses held at the Tashkent City MVD, rejected requests by the International Committee of the Red Cross (ICRC) to visit the facility, on the grounds that the investigations involved matters of national security. Authorities denied similar requests from members of the diplomatic community and international human rights NGOs.

On June 23, authorities released independent journalist and human rights activist Ruslan Sharipov, who claimed he was tortured in pretrial detention in July 2003, from prison (*see* Section 2.a.).

Prison officials reportedly continued to mistreat inmates who participated in prison demonstrations during the month of Ramadan in October 2003. According to relatives of prisoners and local human rights activists, authorities at the 64/29 penal colony in Navoi beat and raped several prisoners. Navoi prison officials reportedly meted out similar punishment immediately following the March and April terrorist attacks; relatives of one prisoner reported that guards singled out members of Hizb ut-Tahrir for individual beatings. There were no reports of mistreatment in connection with the Ramadan fast in October.

There were reports that police beat members of Jehovah's Witnesses (*see* Section 2.c.).

On February 24, the Cabinet of Minister's established an interagency human rights working group tasked with implementing the U.N. Convention Against Torture. Under the working group's purview, individual ministries, and the MVD in particular, took limited steps to address some of the 2003 recommendations of U.N. Special Rapporteur on Torture. The MVD sponsored a series of training courses for police on how to enforce a December 2003 Supreme Court Decree mandating that all suspects have a right to an attorney from the moment of detention. The Supreme Court's 2003 Decree, which carries the force of law, explicitly adopted the definition of torture provided in the U.N. Convention Against Torture. The MVD Prisons Directorate took steps to allow NGO access to its prisons and to train prison guards in human rights practices. The Government also took steps to prosecute police for human rights abuses and to discipline the police force internally (*see* Section 1.d.).

As in past years, there were reports that law enforcement authorities attempted to have local political and human rights activists declared insane to stop their activities. On March 1, police in Jizzak Province initiated legal proceedings to have Mamarizo Nazarov, a human rights activist and delegate to the opposition Birlik Party's National Committee, declared mentally incompetent. Local authorities dropped their efforts at the behest of provincial officials. On August 9, authorities involuntarily committed human rights attorney Larissa Konoplova to the Tashkent City Psychiatric Hospital. Konoplova had reportedly angered police, neighbors, and local neighborhood (mahalla) committee officials by her efforts to defend local resi-

dents in property and tax disputes and to have district officials punished for alleged malfeasance. Authorities released Konoplova, who had been subjected to involuntary psychiatric treatment several times, 4 days later, after representatives of an international NGO and the diplomatic community interceded on her behalf. On September 13, police, acting on a court order, again detained Konoplova for psychiatric observation; however, hospital psychiatrists declared Konoplova mentally competent, and she was released on September 28. In July, a Tashkent court dismissed efforts, dating back to 2002, to have human rights activist Elena Urlaeva declared legally incompetent.

On May 21, several unidentified men abducted and severely beat activist Bakhodir Choriev while he was wearing a shirt with "Karimov resign" on the front (*see* Section 2.b.).

There were several instances of unidentified assailants attacking persons who planned to participate in public demonstrations (*see* Section 2.b.).

Prison conditions remained poor, and there continued to be reports of severe abuses in prisons. However, anecdotal evidence from former prisoners and local human rights workers suggested that there were limited improvements in some prisons, which they attributed to the international community's monitoring activities and to reform efforts by the MVD Directorate of Prisons. Local human rights advocates with contacts among inmates' families reported that Tavok-Soi Prison in Tashkent Region, Prison 64/5 in Zangiota, and Bukhara's Korgan Prison showed particular improvement. Prison overcrowding remained a problem. Tuberculosis and hepatitis were epidemic in the prisons, making even short periods of incarceration potentially life threatening. Shortages of food and medicines were reported in several prisons, and prisoners often relied on visits by relatives to obtain them. Conditions remained particularly poor in Jaslyk, Navoi (64/29), and Karshi (64/49) Prisons, maximum security facilities that housed a significant portion of the country's prisoners of conscience. Starting in 2003, authorities at Jaslyk Prison transferred a substantial number of these and other political prisoners to other facilities. Fewer than 200 of Jaslyk's 477 inmates were convicted of charges related to membership in extremist political organizations such as Hizb ut-Tahrir. The prison is located in a remote area of Karakalpakstan, where temperatures can exceed 120 degrees in the summer and drop below 10 degrees in the winter. While there were numerous reports of severe mistreatment at Jaslyk in the past, including the 2002 killing of Mirzakomil Avazov and Khusnuddin Olimov (*see* Section 1.a.), there were fewer reported during the year. Authorities allowed several groups of foreign visitors, including representatives of international human rights organizations, journalists, and foreign diplomatic personnel, to tour Jaslyk in an effort to dispel the prison's notorious reputation.

Official negligence, aggravated in some cases by poor prison conditions, may have contributed to the deaths of four persons. Unlike cases of custodial death reported in previous years, there were no signs of torture. There were reports that inmates died of communicable diseases such as tuberculosis that were associated with poor conditions. On March 16, Abdurrahman Narzullayev died of an acute bronchial infection at the 64/33 Prison in Karshi while serving a 16-year sentence in connection with his membership in Hizb ut-Tahrir. Family members asserted that the infection resulted from prison authorities' improperly inserting a feeding tube to end a hunger strike by Narzullayev in protest of poor prison conditions.

On May 30, Ilkolm Umarov, a 28-year-old resident of a communal farm in Jizzak's Arnasay District suspected of stealing a sheep, died in local police custody. Separate investigations by the General Prosecutor's office and the MVD—the latter supervised by representatives of two local human rights NGOs—confirmed eyewitness reports that Umarov died of asphyxiation after swallowing his tongue during a seizure. The investigations concluded that local officials were negligent in not taking Umarov to a hospital when he began to show signs of sickness and had committed a number of procedural violations by detaining him as a witness, rather than a suspect, and by denying him access to an attorney. As a result of the investigation, the MVD disciplined several police officers and dismissed the district police chief; the investigator responsible for Umarov's detention was reportedly charged with criminal negligence.

Men and women were held in separate facilities, and juveniles were held separately from adults. Conditions in juvenile facilities were generally much better than in adult ones, although there were reports of inmates working in harsh circumstances and in some cases being beaten in these facilities. Pretrial detainees were held separately from convicted prisoners. The Government also operated labor camps, where conditions of incarceration were reported to be less severe than in prisons.

In October, the MVD's Directorate of Prisons (GUIN) opened a new prison training center in Tashkent. The center, which will eventually train all of the country's prison guards, utilizes a curriculum that included human rights training and basic courses in psychology and prison management in its curriculum. Earlier in the year, 120 guards from the country's 53 prison colonies participated in a series of Organization for Security and Cooperation (OSCE)-sponsored human rights training courses.

Working with the OSCE, GUIN allowed two groups of NGO prison monitors access to several of its facilities. Foreign NGO workers and diplomatic personnel gained access to prisons to meet with individual detainees. Similar access was not given to pretrial detention facilities, which are not under GUIN authority.

The ICRC generally received satisfactory access to places of detention, including pretrial detention centers; however, authorities denied the ICRC immediate access to prisoners arrested in connection with the March/April terrorist attacks in Tashkent and Bukhara or any access to prisoners sentenced to death. The Government granted the ICRC access to individuals convicted of terrorist-related offenses after their trials.

*d. Arbitrary Arrest or Detention.*—The law does not provide adequate protection against arbitrary arrest and detention, and these remained problems.

The MVD controls the police, which is organized both by region and by function. Corruption among law enforcement personnel remained a problem. Police routinely and arbitrarily detained citizens to extort bribes. Of the several hundred persons who were briefly detained following the March/April terrorist attacks, several asserted that they had to pay bribes to local authorities to be released.

Impunity remained a problem, and officials responsible for abuses were rarely punished. During the year, the MVD undertook a number of initiatives to make investigating officers more accountable for their actions. According to the MVD and procuracy, 11 police officers were convicted of abuse, including torture. The Government investigated and took disciplinary action in connection with the death in custody of Ilkholm Umarov (*see* Section 1.c.). On April 24, a court sentenced a post inspector to 3 years in prison for official negligence in connection with Kamalodin Djumaniyozov's December 2003 suicide (*see* Section 1.a.).

The law provides that law enforcement officers, including police, MVD investigators, and prosecutors, may arrest a person suspected of committing a crime without filing formal charges. Under the law, a person arrested without formal charges is a suspect; once charges are filed, that person becomes an accused. Both are considered to be formally under arrest.

The law grants wide discretion as to what constitutes a proper basis for arrest, but requires that a report stating the grounds for arrest be forwarded to a prosecutor within 24 hours of the time a person is taken into custody. The law also mandates that all detainees, whether they are considered suspects or accused, be questioned within 24 hours; however, suspects have the right to remain silent. This initial period of arrest, when a suspect may be held without formal charges, is limited to 72 hours, although a prosecutor may extend it for an additional 7 days. At the end of this period, the person must either be charged with a crime or released. Once charges are filed, a suspect may be held at the prosecutor's discretion while an investigation is conducted; at this stage, the person under arrest is required to answer questions. A prosecutor may release a prisoner on bond pending trial. In practice, authorities frequently ignored these legal protections. There is no judicial supervision of detention, such as habeas corpus.

Prosecutors enjoyed near total discretion over most aspects of criminal procedure, including pretrial detention. Persons under arrest have no access to a court to challenge the length or validity of pretrial detention. Even when no charges are filed, police and prosecutors sought to evade restrictions on the length of time a person may be held without charges by holding persons as witnesses rather than as suspects. A December 2003 Supreme Court Decree stated that a defendant has a right to counsel from the moment of detention; however, in practice access to counsel often was denied.

During the year, police arrested or detained demonstrators (*see* Section 2.b.).

On February 16, police in Jizzak arrested human rights activist and Birlik Party organizer Muidjahon Kurbanov on charges of weapons and narcotics possession. Local observers speculated that authorities targeted Kurbanov because of his efforts to advocate on behalf of local farmers. Police claimed that they found a hunting rifle, several bullets, and a small quantity of opiate derivative in Kurbanov's chicken shed. During his trial, Kurbanov's defense team established that the gun and ammunition were of different calibers and that Kurbanov's shed had likely been broken into shortly before the police search, while police and local authorities gave incon-

sistent testimony. Most observers concluded that the evidence against Kurbanov had likely been planted. On March 24, Kurbanov was sentenced to 3 years in prison; however, this was reduced to a fine on appeal.

There were also reports that police arrested persons on falsified charges as an intimidation tactic to prevent them or their family members from exposing corruption or interfering in local criminal activities.

On February 12, 62-year-old Fatima Mukhadirova was sentenced to 6 years for anticonstitutional activity and extremism, a sentence subsequently commuted to a fine. During her trial, Mukhadirova and her attorney contended that the evidence on which her conviction was based, including Hizb ut-Tahrir literature, had been planted by members of the MVD's Antiterrorism Directorate. Mukhadirova's son, Mirzakomil Avazov, was tortured to death in Jaslyk Prison in 2002. Observers speculated that authorities arrested her in October 2003 in retaliation for her attempts to publicize her son's death. International observers who monitored the April trial of Birlik Party organizer and farmers' rights advocate Muidinjon Kurbonov believed that evidence used by the prosecution was also likely planted by police.

On September 9, authorities released 18-year-old Chingiz Suleimanov from the Youth Prison in Tashkent after serving just over 1 year of a 5-year sentence for being involved in a fight. Suleimanov's parents maintained that police arrested their son, who has mental disabilities, in retaliation for a letter they wrote to the prosecutor early in 2003 about criminal activities taking place under the protection of local police.

Authorities continued to arbitrarily arrest persons associated with prohibited Islamist political groups suspected of extremist sentiments or activities. There was a reported increase in arrests in January and February, centered mostly in Tashkent City and Region.

Following a series of terrorist attacks in Bukhara and Tashkent in March and April, the Government took into custody several hundred persons, the overwhelming majority of them identified as having belonged to the Hizb ut-Tahrir extremist political movement or various so-called Wahhabi groups, including imams in Kashkadaria and Margilon. The arrests were made for national security reasons, but according to sources in the human rights community and law enforcement, the police and security services relied on a list of approximately 1,000 individuals, most of whom had been convicted of extremism in previous years and subsequently amnestied. There were credible allegations that authorities tortured some detainees (*see* Section 1.c.); however, the majority of those taken into custody were released after questioning, usually less than a day later. During the year, approximately 115 persons were convicted of terrorism; dozens more were sentenced for anticonstitutional activity and extremism (*see* Section 1.e.).

In its campaign against extremism, the Government concentrated its efforts on persons it suspected were associated with Hizb ut-Tahrir, an extremist political movement founded in 1952 in Jordanian-administered East Jerusalem. Although Hizb ut-Tahrir maintained that it was committed to nonviolence, the party's strongly anti-Semitic and anti-Western literature called for secular governments, including in the country, to be replaced with a borderless, theocratic Islamic state, or Caliphate, throughout the entire Muslim world.

Local human rights activists reported that police and security service officers, acting under pressure to break up Hizb ut Tahrir cells, frequently detained family members and close associates of suspected members, even if there was no direct evidence of their involvement. Authorities made little distinction between actual members and those with marginal affiliation with the group, often persons who had attended Koranic study sessions with the group.

As in previous years, there were reports that authorities arrested and prosecuted persons based on the possession of Hizb ut-Tahrir literature. Coerced confessions and testimony were commonplace. Even persons generally known to belong to Hizb ut Tahrir stated that the cases against them were built not on actual evidence, which would have been abundantly available, but on planted material or false testimony.

During the year, pretrial detention for individuals suspected of Islamic extremism typically ranged from 1 to 3 months; in past years, pretrial detention lasted as long as 2 years. The number of such prisoners in pretrial detention was unknown.

Police harassed and sometimes arbitrarily detained members of the opposition Birlik, Free Farmers, and Erk Party (*see* Section 2.b.). In May, police reportedly arrested Erk Party activists in Namangan, Sukhandaria, and Bukhara. On May 15, police in Namangan arrested Birlik activist Mukhammadali Koraboyev following an altercation with a mahalla committee chairman. Police released him on July 17; he was subsequently sentenced to 3 years probation. On July 23, police detained the Namangan leader of the Free Farmers Party, Akhmadjon Normirzaev, after discov-

ering party literature in his car; he was released the next day after paying a minor fine.

On March 1, the Government completed the 3-month amnesty that it declared in December 2003. Most of the 2,000 to 3,000 amnestied prisoners were ordinary criminals; however, 705 political prisoners convicted for anticonstitutional activity were reportedly released. It was likely that the amnesty also freed a number of the 4,400 to 4,900 persons that authorities arrested between 1999 and 2001 for involvement in extremist organizations, but who were convicted on other charges. The vast majority of these prisoners were suspected of belonging to the Hizb ut Tahrir political movement or another extremist Islamist group that fell under the general rubric of "Wahhabi." More than half of these prisoners had been originally sentenced to terms exceeding 10 years.

As in previous amnesties, prisoners were reportedly forced to sign letters of repentance as a condition of release; there were allegations that authorities physically mistreated some prisoners who refused to sign such letters (*see* Section 1.c.). The decree authorizing the amnesty established strict conditions for release. In practice, however, local prison authorities had considerable discretion in determining who was reviewed for amnesty; as in previous years, there were reports of corruption. Amnestied prisoners reported that imams had been sent to some prisons to make the final determination as to which prisoners had truly repented; this decision was reportedly frequently made in consultation with local mahalla committees.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial branch takes its direction from the executive branch, particularly the General Prosecutor's office, and exercises little independence in practice.

Under the Constitution, the President appoints all judges for 5-year terms and has the power to remove them. Removal of Supreme Court judges must be confirmed by the Supreme Assembly, which is obedient to the President's wishes. Judicial Qualification Collegiums established to nominate candidates and administer examinations somewhat insulated the process of selecting judges from political influence and also played a role in disciplining judges for misconduct; however, the process of appointing and removing judges remained largely nontransparent and subject to interference. Judicial salaries remained low, and corruption reportedly remained a problem. Judges deferred to the decisions of prosecutors with relatively few exceptions.

Courts of general jurisdiction are divided into three tiers: District courts, regional courts, and the Supreme Court. In addition, a Constitutional Court is charged with reviewing laws, decrees, and judicial decisions to ensure their compliance with the Constitution. Military courts handle all civil and criminal matters that occur within the military. There is a system of economic courts at the regional level that handles commercial disputes between legal entities. Decisions of district and regional courts of general jurisdiction may be appealed to the next level within 10 days of a ruling.

Three-judge panels generally preside over trials. The panels consist of one professional judge and two lay assessors who serve 5-year terms and are selected by either workers' collectives' committees or mahalla committees. The lay judges rarely speak, and the professional judge usually defers to the recommendations of the prosecutor on legal and other matters.

Government prosecutors order arrests, direct investigations, prepare criminal cases, and recommend sentences. If a judge's sentence does not agree with the prosecutor's recommendation, the prosecutor has a right to appeal the sentence to a higher court. Defendants are almost always found guilty, often based solely on confessions. On the rare occasions when a guilty verdict is not pronounced, the judge seldom acquits the defendant; rather, the case is typically sent back for further investigation. The formal protections against double jeopardy that exist under the law do not apply in practice.

Most trials are officially open to the public; however, they may be closed in exceptional cases, such as those involving state secrets or rape, or to protect young defendants, victims, or witnesses.

Defendants have the right to attend court proceedings, confront witnesses, and present evidence. These rights were applied with increased frequency, particularly in high-profile human rights and political cases, which were marked in several instances by defense attorneys putting up an active defense. In almost all cases, however, the verdict was guilty. Defendants have the right to hire an attorney, and the Government provides legal counsel without charge when necessary. However, state-appointed attorneys, whom the Government contracts and pays, routinely acted in the interest of the Government rather than their clients. A December 2003 Supreme Court Decree clarified that the law on the right to counsel guarantees that right

from the moment of detention; however, authorities often violated the right to an attorney during pretrial detention, and judges in some cases denied defendants the right to their attorney of choice. Defense counsel was often incompetent, and effective cross-examination of even the most flawed prosecution witnesses rarely occurred. In most cases, the role of defense counsel was limited to submitting confessions and pleas for mercy. Lawyers from the Legal Aid Society (LAS) were much better trained, but their resources were extremely limited and their five lawyers typically only accepted more high-profile political cases. Public defender centers financed through international contributions also served to provide high-quality pro bono defense counsel.

The Government announced trials, including those of alleged religious extremists, only at the court in which the trial was to take place and only a day or two before the trial began. International observers generally were allowed to attend even the most sensitive trials.

Defendants often claimed that the confessions on which the prosecution based its cases were extracted by torture. In many cases, particularly those involving suspected members of Hizb ut-Tahrir, the prosecution failed to produce confessions and relied solely on witness testimony, which was reportedly often coerced. Typical sentences for male members of Hizb ut-Tahrir ranged from 7 to 12 years' imprisonment.

In a series of trials in August, September, and October, the Government convicted approximately 115 individuals in connection with the March and April terrorist violence in Tashkent and Bukhara. International and local human rights groups that monitored the trials concluded that the trials failed to meet international standards. The prosecution's cases relied primarily on confessions, which human rights groups and defense attorneys maintained were coerced. Several defendants testified in court that they had been physically abused in pretrial detention (*see* Section 1.d.).

Lawyers may, and occasionally did, call on judges to reject confessions and to investigate claims of torture; however, judges routinely ignored such claims or dismissed them as groundless. None of the torture allegations made in the terrorist trials resulted in a criminal investigation. However, there were at least two partial exceptions. In May, the Yunusabad District Court in Tashkent ruled that murder charges against Ruslan Rakhimov could not be sustained and sent the case back for investigation. During the trial, Rakhimov and several other witnesses testified that Rakhimov was forced to sign a confession. According to defense attorneys, police officers beat Rakhimov and asphyxiated him with a gas mask. Rakhimov remained in custody at year's end, pending a retrial. In a retrial of another murder case in October, a court in Andijon acquitted three defendants previously convicted of murder and reduced the sentences of several others. Relatives of the defendants and their lawyers contended that a number of the confessions on which the original guilty verdict had been based were coerced; one defendant, Ziedullo Mamadaliev, lost his sight as a result of a beating he endured in pretrial detention. Criminal proceedings against four police officers accused of torturing the suspects were reportedly underway at year's end.

The Constitution and the law provide a right of appeal to defendants; however, appeals rarely, if ever, resulted in convictions being reversed in politically sensitive cases, such as for persons accused of membership in Hizb ut-Tahrir. More often, a successful appeal resulted in a reduced sentence.

There were 5,000 to 5,500 political prisoners, including alleged members of Hizb ut Tahrir, at year's end. Most persons convicted of political crimes were charged with the actual crime for which they were arrested, for example anticonstitutional activity, involvement in illegal organizations such as prohibited religious or political groups, and the preparation or distribution of material that threatened public security. The ICRC conducted regular prison visits throughout the year and reported that it was given access to political prisoners (*see* Section 1.c.). From December 2003 to March, the Government amnestied 705 political prisoners (*see* Section 1.d.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the person and prohibits unlawful detentions and searches; however, in practice, authorities infringed on these rights. The law requires the issuance of a search warrant for electronic surveillance by the relevant prosecutor; however, there is no provision for a judicial review of such warrants. There is an assumption that security agencies routinely monitor telephone calls and employ surveillance and wiretaps in the cases of persons involved in opposition political activities.

The Government continued to use an estimated 12,000 local mahalla committees as a source of information on potential extremists. Mahalla committees served varied legitimate social functions, but also linked local society and the lowest levels of

the Government and law enforcement. The influence wielded by mahalla committees varied widely, with committees in rural areas tending to be much more influential than those in cities. Each mahalla committee assigned a “neighborhood guardian,” or “posbon,” whose job it was to ensure public order and to maintain a proper moral climate in the neighborhood. In practice, this meant preventing young persons in the neighborhood from joining extremist Islamic groups. According to a report on mahalla committees released by Human Rights Watch (HRW) in September 2003, the committees kept extensive files on families in the neighborhood and collected information on individual family members’ religious practices. Mahalla committees frequently identified for police those residents who appeared suspicious and, working with local MVD and NSS representatives, reportedly paid particular attention to recently amnestied prisoners and the families of individuals jailed for alleged extremism.

There was one report that police arrested and beat a person to intimidate family members from exposing alleged criminal activities occurring under police protection (*see* Section 1.d.).

Authorities frequently detained and mistreated family members of persons wanted or jailed for Islamic activities, even if there was scant evidence of their involvement (*see* Section 1.d.).

There were numerous credible reports that police, employers, and mahalla committees harassed family members of human rights activists (*see* Section 2.b.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, the Government continued to restrict these rights severely and the law holds editors and publishers responsible for the content of articles that appear in their publications.

The law limits criticism of the President, and citizens generally did not criticize the President or the Government on television or in the press, although they continued to do so more freely in less public settings. The law also specifically prohibits articles that incite religious confrontation and ethnic discord or advocate subverting or overthrowing the constitutional order (*see* Section 2.b.).

The Cabinet of Ministers owned and controlled the country’s three national daily newspapers, *Pravda Vostoka*, *Halq Sozi*, and *Narodnoe Slovo*. Their combined readership likely did not exceed 50,000, since newspapers, which cost between 5 and 15 cents (50 and 150 soum), were too expensive for most citizens. The Government owned or controlled several other weekly publications.

Private persons and journalist collectives may not establish newspapers unless they meet the media law’s standards for establishing a “mass media organ,” including naming a board of directors acceptable to the Government. The Government allowed a small number of private newspapers containing advertising, horoscopes, and similar features, but no news or editorial content. Three private national newspapers—*Novosti Uzbekistana*, *Noviy Vek*, and *Noviy Den*—carried news and editorials, as did one publicly owned newspaper, *Hurriyat*. Circulation was no more than 3,000 each. On March 1, a fifth daily, *Mohiyat*, separated from the government-controlled *Turkiston Press*. *Mohiyat* was known as one of the more independent national papers; however, its estimated circulation did not exceed 2,000.

The Government did not allow the general distribution of foreign newspapers and publications; however, two or three Russian newspapers and a variety of Russian tabloids and lifestyle publications were available. A modest selection of foreign periodicals was available in Tashkent’s major hotels, and authorized groups could obtain them by subscription.

The Government controlled information even more tightly in the broadcast media than in print journalism. Four state-run channels that fully supported the Government and its policies dominated television broadcasting. A cable television joint venture between the state broadcasting company and a foreign company rebroadcast some Hong Kong-based television channels, including the British Broadcasting Company (BBC), *Deutsche Welle*, and *Cable News Network World News*, to Tashkent and a few other locations; however, most citizens could not afford cable television. There were 30 to 40 privately owned local television stations and 7 privately owned radio stations. These broadcasters practiced self-censorship, but enjoyed some ability to report critically on local government.

Most television programming consisted of locally produced comedies, variety and game shows, as well as programs rebroadcast from Russia.

In contrast with past years, there were no reports of arrests of journalists; however, the Government harassed several editors and journalists in an apparent effort to limit publication of critical stories.

Tuhtamurad Toshev and Boimamat Jumaev, journalists arrested in February and May 2003 and convicted on charges of bribery, remained in prison at year's end. Observers viewed the charges as selective prosecution.

On June 23, prison authorities released the former head of the Independent Union of Journalists of Uzbekistan (IUJU), Ruslan Sharipov, as part of a work furlough program. Sharipov was sentenced to 5 years in prison in August 2003 on charges of sodomy, corruption of youth, and sex with underage persons; his sentence was reduced on appeal. Many observers viewed the charges as either fabricated or a case of selective prosecution. Sharipov asserted that authorities prosecuted him for his critical articles and that he had been tortured into confessing. Sharipov has since left the country.

In June, the authorities also released Gayrat Mahliboyev, a correspondent from the Hurriyat Newspaper sentenced in 2002 to 7 years in prison in connection with his alleged membership in Hizb ut-Tahrir.

In mid April, authorities released Madzhid Abduraimov, a journalist convicted in 2001 on charges similar to those against Tuhtamurad Toshev and Boimamat Jumaev.

During the year, a number of journalists reported receiving telephone calls warning them to be cautious in how they report events. According to an open letter to President Karimov by the World Association of Newspapers, on April 15, an NSS officer in Kashkadaria told journalist Tulkin Karaev that he would be tried as a terrorist accomplice unless he stopped reporting on arrests made following the March/April terrorist attacks. Karaev, a correspondent for International War and Peace Reporting (IWPR), a London-based media NGO dedicated to the training and protection of journalists in areas of conflict, and the Voice of the Islamic Republic of Iran, wrote stories alleging that police and security forces mistreated suspects and planted evidence.

There were no private publishing houses, and government-owned printing houses generally printed newspapers. Religious writings required approval by the Religion Committee censor, which observers regarded as quite strict (*see* Section 2.c.).

A September 2003 Cabinet of Ministers decree applied the same requirements to bulletins and newsletters published by NGOs as apply to other publications; however, the Government had not enforced this decree by year's end. The materials covered by the decree were typically printed in very small quantities and generally provided the most critical coverage of human rights issues available in the country.

On June 24, a Namangan civil court found Radio Free Europe/Radio Liberty (RFE/RL) guilty of libel in connection with a story it broadcast questioning the accuracy of a report published in the state-run newspaper "Diyonat." The court ordered RFE/RL and its Fergana Valley correspondent each to pay a \$50 (50,000 soum) fine. The ruling followed threats in May by producers of the state television news program "Akhborot" to sue RFE/RL and its correspondent for libel after it broadcast a report alleging that an Akhborot correspondent fabricated parts of a story in which workers at a collective farm were filmed receiving their wages when, in fact, they had not been paid.

The law makes journalists responsible for the accuracy of their news stories, exposing them to risk of criminal prosecution for their reporting. The law establishes the right of newspaper boards of directors, whose appointment is effectively subject to government veto, to influence the editorial content of media reports. Through these provisions, the law establishes mechanisms by which the Government could indirectly influence media content and further encourage members of the media to practice self-censorship. This was particularly evident following the terrorist attacks of March/April and July, when the media did not report any information that had not already been sanctioned by the Government.

The Government tightly controlled information. The Uzbekistan News Agency cooperated closely with the presidential staff to prepare and distribute all officially sanctioned news and information. The Government's Press and Information Agency was responsible for observing all media. Most editors and journalists continued to express concerns about potential consequences of conducting serious investigative journalism. On March 27, reporters and other media employees established a new government-sponsored association, the Creative Union of Journalists of Uzbekistan, that observers believed would serve as another mechanism for the Government to exercise control over the media.

On January 19, Pravda Vostoka, the country's leading Russian-language newspaper and a source of comparatively critical reporting on such topics as official malfeasance, economic hardship, and human trafficking, dismissed journalist Sergei Yezhkov, who was known for his articles accusing officials of corruption. Media observers speculated that Yezhkov's dismissal would lead to a softening in Pravda Vostoka's coverage of controversial topics. In June, the chief editor of Radio Grande,

a popular Tashkent station known for its occasional reporting on social problems such as AIDS, was fired, reportedly under similar circumstances; he subsequently went to work for an online news website.

Running somewhat counter to this trend, on April 19, a district court in Khorezm ruled that Shukhrat Allanazarov, a journalist for the newspaper “Yangiarik Ovozi,” had been unlawfully dismissed in December 2003 and ordered the newspaper to reinstate him and pay him back wages. Allanazarov alleged that he was fired because of articles that he had written criticizing the district hokim (mayor). The newspaper contested the decision, and in May, an appeals court overturned the district court’s ruling. Allanazarov chose not to appeal.

During the year, self-censorship expanded. The number and scope of newspaper articles on topics such as local corruption, official malfeasance and economic difficulties declined and only a few journalists wrote articles critical of the Government.

A government agency, the Interagency Coordination Committee (MKK), issued both broadcast and mass media licenses to approved media outlets. Broadcast licenses are issued for terms of 1 to 5 years; however, mass media licenses, which also required, must be renewed annually. The MKK may revoke licenses and close media outlets without a court judgment. Another government agency, the Center for Electromagnetic Compatibility, issues frequency licenses.

The Government attempted to compel some private broadcasters to join the National Association of Electronic Mass Media, which was set up in December 2003 by a well-known media magnate. On August 23, the MKK revoked the license of “Bahtiyor-Shohboz,” a private television station operating in the Jizzak region, reportedly for refusing to join the association. Some television journalists expressed fear that other private stations would be similarly targeted.

The Government continued to refuse to allow RFE/RL and the Voice of America (VOA) to broadcast from within the country, despite the Government’s agreement with RFE/RL to allow its broadcasting. The Government also denied accreditation to some VOA journalists. The BBC World Service was permitted to broadcast on a very low FM frequency and only in the Fergana Valley, which limited the potential audience, up to 3 hours per day.

Television and radio stations practiced self-censorship; as a result, stations carried critical reporting only occasionally.

The Government did not limit access to the Internet; however, Internet service providers frequently blocked access to websites that the Government considered objectionable. The opposition parties Birlik, Erk, and the Free Farmers Party operated websites, to which the Government reportedly blocked access sporadically.

The Government limited academic freedom. University professors were generally required to have their lectures or lecture notes approved; however, implementation of this requirement varied. University professors practiced self-censorship.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of peaceful assembly, but states that authorities have the right to suspend or prohibit rallies, meetings, and demonstrations on security grounds. In practice, the Government often restricted the right of peaceful assembly. The Government required approval for demonstrations and did not routinely grant permits to demonstrators. There were a number of peaceful protests, ranging in size from less than a dozen participants for most human rights demonstrations to over a hundred in demonstrations protesting economic conditions. In some cases, police forcibly disrupted demonstrations; however, members of the security service usually simply observed the demonstrations.

Authorities continued to detain women briefly for organizing protests demanding the release of male relatives jailed for belonging to the extremist Hizb ut-Tahrir political movement or for protesting the conditions of their detention. There were reports that police insulted or forced some of women to remove their head coverings. During the year, none were arrested for such activities, and police drove home or released most detainees after a short period of time and payment of an administrative fine. These protests were less frequent and of smaller size than in the previous year, a development that local human rights activists attributed to heightened pressure from mahalla committees and local law enforcement in the aftermath of the terrorist attacks of March/April and July.

During the year, human rights activists in Tashkent held a number of small demonstrations—typically involving no more than a dozen protesters—to address police abuse, official corruption, housing problems, and economic conditions. Authorities frequently observed such demonstrations without interfering; however, there were numerous reports of rough handling, including beatings and detention, in mid-June prior to the Shanghai Cooperation Organization (SCO) heads of state summit. As

in previous years, police detained human rights activists for short periods to prevent or to disrupt public demonstrations.

On June 1, authorities forcibly prevented several activists from participating in a demonstration in Tashkent calling for President Karimov's resignation. Prior to the demonstration, law enforcement officers detained the demonstration's organizer, Bakhodir Choriev, and 16 of his relatives at Choriev's apartment building and transported them by police bus to the Syrdarya provincial border where, according to Choriev, they were questioned for 2 to 3 hours before being driven back to Tashkent. Police also reportedly took Choriev's 9-year-old son into custody and held him at the Khamza district police station for 8 hours. Human rights activists Yuri Konoplov and Abdujalil Baimatov reported that police had not allowed them to leave home, apparently in an effort to keep them from participating in the protest.

On June 13, unknown persons severely beat activist Gavkhar Aripova, who had also planned to attend the demonstration at the SCO heads of state meeting. Aripova claimed that an officer of the Antiterrorism Department threatened to have her leg broken if she picketed the SCO Summit.

On June 14, Konoplov and Baimatov attempted to hold a demonstration in front of the hotel where the SCO heads of state were staying. Police confiscated Konoplov's poster and briefly took Baimatov and six other activists into custody. Baimatov was kept overnight at the Khamza District police station.

On September 20, police arrested Dilmurod Muhininov and Abdugafar Dadaboyev, activists from the human rights organization Ezgulik, in connection with a 2-day demonstration of market traders in Andijon. A judge sentenced Muhininov and Dadaboyev to 10 days administrative detention for disturbing the peace and organizing an unauthorized public gathering.

The Constitution provides for freedom of association; however, the Government continued to restrict this right in practice. The Constitution places broad limitations on the types of groups that may form and requires that all organizations be registered formally with the Government in accordance with procedures prescribed by law. The law allows independent parties and permits them a wide range of fundraising, but also gives the Ministry of Justice broad powers to interfere with parties and to withhold financial and legal support to those opposed to the Government. There were five registered political parties, all controlled by the Government, and four opposition parties, none of which were registered at year's end (*see* Section 3).

On March 1, the Ministry of Justice refused for the third time to register the opposition Birlik Party. In June, the Supreme Court denied Birlik's attempt to have the decision overturned. Also in March, the Ministry rejected the registration application of the opposition Free Farmers Party. A third opposition party, the Party of Agrarians and Entrepreneurs had its registration application denied in October 2003. Although not officially registered, Birlik and the Free Farmers Party backed initiative groups that attempted to nominate independent candidates for the December 26 legislative elections. None of these candidates made it onto the ballot.

Registration of NGOs and other public associations was difficult and time consuming, with many opportunities for the Government to obstruct the process. In March 2003, the Government registered the country's second independent human rights group, Ezgulik. In February, the Ministry of Justice registered the Lawyers' Firm for Human Rights, which provides pro bono legal advice to indigent clients. The Government continued to deny registration to other human rights groups, such as the Human Rights Society of Uzbekistan, Mazlum, and the Mothers Against the Death Penalty and Torture. Although these organizations did not exist as legal entities, they continued to function, though with difficulty (*see* Section 4).

On February 4, the Cabinet of Ministers passed a resolution regulating the foreign funding of organizations that severely impeded the ability of some local human rights NGOs to function. The resolution requires a government commission to review all outside funding before it is disbursed to local NGOs. Although the measure was ostensibly passed to fight money laundering, the commission used political criteria to determine which programs receive funds. Local NGOs focusing on human rights and democratic reform were particularly affected.

Authorities in the Kitob Region of Kashkadarya continued to harass local land reform activists and their families. In their effort to promote land reform, the activists had run afoul of a politically connected collective farm manager. Two activists and several family members left the country, reportedly under threat from local police and prosecutors.

Women's NGOs reported increased government harassment and monitoring following a May 25 decree requiring the organizations to reregister with the Ministry of Justice by November 1.

Nonpolitical associations and social organizations usually were allowed to register, although complicated rules and a cumbersome government bureaucracy often made the process difficult.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and for the principle of separation of church and state; however, in practice, the Government restricted this right.

The law treats all religious groups equally; however, the Government supported the country's Muslim heritage by funding an Islamic university and subsidizing citizens' participation in the Hajj. The Government sought to promote what it considered a moderate version of Islam through the control and financing of the Muslim Board of Uzbekistan (the Muftiate), which in turn controls the Islamic hierarchy, the content of imams' sermons, and the volume and substance of published Islamic materials. A small but growing number of unofficial, independent mosques were allowed to operate under the watch of official imams.

The law requires all religious groups and congregations to register and provides strict and burdensome registration criteria, including a requirement that each group must present a list of at least 100 citizen members to the local branches of the Ministry of Justice. This and numerous other provisions, such as a requirement that a congregation already have a valid legal address, enabled the Government to prohibit any group by finding technical grounds for denying its registration petition. This has had the effect of suppressing the activities of Muslims who sought to worship outside the system of state-sponsored mosques, as well as of members of unregistered Christian churches and other groups.

By year's end, the Government had registered 16 new religious congregations, of which almost all reportedly were Islamic. There were 2,169 registered religious congregations and groups, of which 1,984 were Muslim. Local authorities continued to block the registration or reregistration of evangelical Christian congregations in Tashkent, Samarkand, Guliston, Gazalkent, Andijon, and Nukus. Jehovah's Witnesses in Tashkent were unable to obtain registration; out of the 11 Jehovah's Witnesses' churches in the country, only those in Chirchik and Fergana were registered. Police routinely questioned, searched and arbitrarily fined individual members of Jehovah's Witnesses throughout the country. According to the Internet news bulletin Forum 18, police in Uchkuduk and Kagan briefly detained and beat Jehovah's Witnesses in separate incidents on June 17 and July 1.

Any religious service conducted by an unregistered religious organization is illegal. Police occasionally broke up meetings of unregistered groups and, according to news reports, members of some Christian evangelical congregations were detained during the year and, in at least one case in July, beaten by authorities. Religious groups are prohibited from forming political parties and social movements (*see Section 2.b.*).

The scarcity of independent media and the absence of a centrally located and readily accessible register of court cases made it difficult to determine how many persons were incarcerated for religious reasons. Almost all of those arrested were tried for anticonstitutional activity and participating in "religious extremist, separatist, fundamentalist or other banned organizations," a charge that encompasses both political and religious extremism. The overwhelming majority of those arrested were suspected members of Hizb ut-Tahrir, an extremist political movement. The Government also arrested members of "Tabliq," an Islamic group with origins in South Asia, as well as others the Government broadly labeled Wahhabi.

Individuals arrested on suspicion of extremism often faced severe mistreatment, including torture, beatings, and particularly harsh prison conditions and were typically sentenced to between 7 and 12 years in jail (*see Sections 1.c. and 1.d.*). Prison authorities reportedly did not allow many prisoners suspected of Islamic extremism to practice their religion freely and, in some circumstances, did not allow them to own a Koran. Prison routines often did not permit inmates to pray five times a day, and work and eating schedules were often not adjusted to account for the Ramadan fast. Authorities reportedly punished inmates who attempted to fulfill their religious obligations against prison rules or who protested the rules themselves with solitary confinement and beatings.

Police detained women demonstrating for the release of male family members arrested on suspicion of belonging to extremist Islamist political groups, although in fewer numbers than in previous years (*see Section 2.b.*).

The Government did not consider repression of these groups to be a matter of religious freedom but, rather, to be directed against those who allegedly advocated overthrowing the Government. However, the Government's campaign against suspected Islamic extremists had repercussions in the wider Muslim community. Authorities, often acting on information provided by mahalla committees, remained highly sus-

icious of more religiously observant persons, including frequent mosque attendees, bearded men, and veiled women. In practice, this approach resulted in the Government abusing observant Muslims for their religious beliefs.

The law prohibits proselytizing and severely restricts activities such as the import and dissemination of religious literature. Christians who tried to convert Muslims or who had among their congregations members of traditionally Muslim ethnic groups often faced official harassment, legal action, or, in some cases, mistreatment.

The teaching of religion in schools and to minors without their parents' permission is prohibited. The Government continued a small religious education pilot program in elementary schools and, in a very limited number of schools, there was instruction on Islam and Arabic several times a week.

The Government required that a religious censor approve all religious literature and controlled the publication, import, and distribution of religious literature. The Government discouraged and occasionally blocked the production or import of Christian literature in the Uzbek language, although Bibles in many other languages were available in Tashkent bookstores. The Muftiate sporadically issued an updated list of all officially sanctioned Islamic literature. Possession of literature deemed extremist could lead to arrest and prosecution. Religious literature imported illegally was subject to confiscation and destruction. The Government controlled the content of imams' sermons and the substance of published Islamic materials.

The Government's harsh treatment of suspected extremist Islamic political groups tended to suppress outward expressions of religious piety. While many young men attended Friday prayers, hardly any were bearded. The law prohibits the wearing of "cult robes" in public except by those serving in religious organizations; however, this provision did not appear to have been enforced during the year. Following the March-April terrorist attacks, administrators in some schools pressured female students not to wear the hijab, or headscarf many Muslims associate with female modesty, as did local authorities in at least two mahallas in Karshi. There were reports from a credible source that some female students were suspended from Tashkent's Pedagogical University for wearing the hijab. Nevertheless, women were seen wearing the hijab in public.

There was no pattern of discrimination against Jews. Synagogues functioned openly and Hebrew education, Jewish cultural events, and the publication of a community newspaper took place undisturbed. The prohibited extremist political movement Hizb ut-Tahrir distributed anti-Semitic fliers, the text of which generally originated abroad; however, observers did not believe such fliers represented the feelings of the vast majority of the country's population.

There were reports of discrimination against Muslims who converted to Christianity. The Uzbek Pastor of the Full Gospel Pentecostal Church in Andijan reported that local officials harassed him and his family in connection to the Pastor's conversion to Christianity.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for free movement within the country and across its borders; however, the Government severely limited this right in practice. Permission from local authorities was required to move to a new city. The Government rarely granted permission to move to Tashkent, and local observers reported that persons had to pay bribes of up to a \$100 (100,000 soum) to obtain the registration documents required to move.

The Government required citizens to obtain exit visas for foreign travel or emigration, and while it generally granted these routinely, local officials often demanded a small bribe. During the year, at least four human rights activists experienced difficulties obtaining exit visas. While authorities eventually gave the activists visas, their delay prevented two of them from participating in a conference in Almaty. Authorities did not require an exit visa for travel to most countries of the former Soviet Union; however, the Government severely restricted the ability of its citizens to travel overland to neighboring Kazakhstan, the Kyrgyz Republic, and Turkmenistan and restricted and significantly delayed citizens attempting to cross the border to Tajikistan. Authorities closed the border with Afghanistan to ordinary citizens.

Foreigners with valid visas generally could move within the country without restriction; however, visitors required special permission to travel to certain areas, such as Termez, in Surkhandaryya Province on the Afghan border.

Neither the Constitution nor the law explicitly prohibits forced exile, and the Government did not employ it. At year's end, the leaders of the Erk and Birlik opposition parties and the de facto leader of the newly formed Free Farmer's Party re-

mained in voluntary exile (*see* Section 3). At year's end, the chairman of the Human Rights Society of Uzbekistan (HRSU) remained in voluntary exile (*see* Section 4).

The law does not provide for dual citizenship; those acquiring another citizenship lose Uzbek citizenship. In practice, the burden was on returning individuals to prove to authorities that they did not acquire foreign citizenship while abroad.

There is no law that provides for the granting of asylum or refugee status to persons who meet the definition in the 1951 Geneva Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution; however, it forcibly returned some persons to a country where they feared persecution and did not grant asylum. In 1999, the Government agreed that it would not force persons given refugee status by the U.N. High Commissioner for Refugees (UNHCR) to leave the country. Unlike in previous years, none was forcibly returned; however, the Government initiated deportation proceedings against one mandate refugee, who remained in the country at year's end. Although it does not formally recognize asylum or refugee status, the Government in practice cooperated with the UNHCR in allowing it to provide assistance to refugees and asylum seekers.

There were no official statistics, but observers, including the UNHCR, estimated that there were 6,000 to 7,000 Afghans resident in the country, 2,500 of whom the UNHCR recognized and registered as refugees. Afghans comprised almost all of the UNHCR's refugee caseload. Although the Government in general tolerated the presence of Afghan refugees, they faced protection problems. The UNHCR reported that 37 Afghans were detained over the course of the year, of whom all but one were released after the UNHCR intervened. The one who was not released remained in the country, pending deportation. The UNHCR reported that Afghan refugees had no access to the legal labor force and therefore had limited means to earn a livelihood. The UNHCR reported that police rarely harassed mandated refugees.

The UNHCR estimated that there were 39,000 Tajik refugees in the country. The Government considered asylum seekers from Tajikistan and Afghanistan to be economic migrants and subjected them to harassment and bribe demands when seeking to regularize their status. Such persons could be deported if their residency documents were not in order. The overwhelming majority of the Tajik refugees were ethnic Uzbeks; unlike their Afghan counterparts, the Tajiks were able to integrate into and were supported by the local population. Although most Tajik refugees did not face societal discrimination, a great number of them only carried their old Soviet Union passports and, under Uzbek and Tajik law, faced the possibility of becoming officially stateless.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government; however, in practice, citizens could not change their government through peaceful and democratic means. The Government severely restricted freedom of expression and repressed opposition groups and individuals (*see* Sections 1.c., 1.d., and 2.a.). The Government is highly centralized and is ruled by President Karimov and the executive branch through sweeping decree powers, primary authority for drafting legislation, and control of government appointments, most of the economy, and the security forces. The Constitution establishes the Supreme Assembly as the highest government body; however, its main function was to confirm laws and other decisions drafted by the executive branch.

President Karimov was reelected in 2000 to a second term. The OSCE declined to monitor the presidential election on the grounds that the preconditions did not exist for it to be free and fair. A 2002 referendum, which multilateral organizations and foreign embassies refused to observe, extended the term of the presidency from 5 to 7 years. On December 26, elections were held for representatives to the lower chamber of the Supreme Assembly; an OSCE limited observer mission concluded the election fell significantly short of international standards for democratic elections.

Five registered government-controlled political parties held the majority of seats in the newly elected Supreme Assembly; the remainder consisted of nominally independent politicians tied to progovernment parties. These parties, created with government assistance and loyal to President Karimov, were the only ones permitted to participate in the parliamentary elections, which did not represent a real choice for voters. Many government officials were members of the People's Democratic Party of Uzbekistan, the country's largest party. The party did not appear to play a significant role in the Government. A fifth progovernment party, the Liberal Democratic Party of Uzbekistan was registered in December 2003, but did not distinguish itself from the other progovernment parties.

The law makes it extremely difficult for opposition parties to organize, nominate candidates, and campaign. On February 18, the Government amended the law to require 20,000 signatures on any application to register a new party; previously, only 5,000 signatures were needed. The procedures to register a candidate are burdensome and the Central Election Commission (CEC) may deny registration. A presidential candidate must present a list of 700,000 signatures in order to register and is prohibited from campaigning without registration. The CEC may deny registration of presidential candidates if it finds they would "harm the health and morality of the people." Parties and candidates that are denied registration do not have the right to appeal the CEC decision to the courts. The law allows the Ministry of Justice to suspend parties for up to 6 months without a court order.

In addition to registered political parties, citizen initiative groups with 300 or more members may nominate Supreme Assembly candidates by submitting signatures of at least 8 percent of the voters in an election district. Except for registered political parties or initiative groups, organizations were prohibited from campaigning, and candidates were allowed to meet with voters only in forums organized by precinct election commissions. The spring session of the Supreme Assembly adopted a law mandating government funding for all registered political parties and registered candidates. Only the CEC may prepare and release presidential campaign posters.

The law prohibits judges, public prosecutors, NSS officials, servicemen, foreign citizens, and stateless persons from joining political parties. The law prohibits formation of parties based on religion or ethnicity; those that oppose the sovereignty, integrity, and security of the country and the constitutional rights and freedoms of citizens; or those that promote war, or social, national, or religious hostility. Political organizations that seek to overthrow the Government or incite national or racial hatred are prohibited.

The Government frequently harassed members of unregistered political organizations (*see* Section 2.b.). On March 1, the Ministry of Justice rejected the registration papers of the Birlik opposition political party; the Ministry's decision followed unsuccessful attempts by Birlik to register in September and November 2003. In June, the Supreme Court upheld the Ministry's decision not to register Birlik. The party also faced renewed harassment, in contrast to 2003, when its members were able to hold regional and national congresses and to gather signatures without substantial interference. According to party activists and human rights workers from several regions, supporters of Birlik who signed registration petitions were pressured by local authorities in February and March to disavow their signatures. Reports of intimidation were reported in Andijon, Khiva, Khorezm, Syrdarya, and Tashkent Region, but the most severe harassment appears to have taken place in Jizzak. On March 1, local authorities in Jizzak attempted to have a member of Birlik's national committee declared mentally incompetent (*see* section 1.c). On March 24, a local court sentenced the head of the party's regional branch in Jizzak, Muidinjon Kurbanov, to 3 years in prison on what many observers characterized as trumped-up charges of weapons and narcotics possession; Kurbanov's sentence was reduced to a fine on appeal, and he was released (*see* Sections 1.d and 1.e.). Despite these pressures, Birlik remained active and supported initiative groups in all regions of the country; none, however, made it onto the ballot.

In March, the Ministry of Justice rejected the registration application of the opposition Free Farmers Party. The Free Farmers Party did not appeal the decision or resubmit its application; however, it supported initiative groups in the run-up to the December 26 Supreme Assembly elections. As with Birlik, none of the independent candidates supported by the Free Farmers Party were permitted to compete in the election.

The Government continued to harass members of the unregistered opposition party Erk, which split into three factions and became much less active since mid 2003; however, the harassment was not as severe as in previous years, when authorities reportedly detained and subjected several Erk members to physical mistreatment, including torture.

The leaders of three of the four unregistered opposition political parties—Mohammed Solikh of Erk, Abdurakhim Polat of Birlik, and Babur Malikov of the Free Farmers Party—remained in voluntary exile.

There was a widespread public perception of corruption in the executive branch. There were no specific reports of corruption in the Supreme Assembly, which had little real power and did not distribute patronage.

The Constitution states that all government agencies must provide citizens with the opportunity to examine documents, decisions, and other materials affecting their freedoms; however, the Government seldom respected these rights. The public generally did not have access to Government information, and information normally

considered in the public domain, such as prosecutions for corruption or official malfeasance, were seldom reported. In June, the NGO Article 19 Global Campaign for Free Expression released an analysis of the country's secrecy and freedom of information laws, which concluded that the types of information that can be considered classified, and thus protected by the state, were so broad as to include virtually all information.

There were 21 women in the newly elected 120-member lower chamber of the Supreme Assembly. There was 1 woman in the 28-member Cabinet, who held the rank of Deputy Prime Minister and was Chief of the Complex of Social Protection of the Family, Maternity, and Childhood, a committee charged specifically with women's issues.

Statistics on the ethnic composition of the newly elected lower chamber have not been compiled.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups operated in the country; however, fear of official retaliation made some groups hesitant to criticize the Government. Registered groups included the Independent Human Rights Society of Uzbekistan, Ezgulik, which is affiliated with the opposition political party Birlik, the Committee for Protection of Individual Rights, and the LAS. The LAS provided pro bono legal advice to the indigent and represented human rights clients that other firms were hesitant to defend.

Other human rights groups, such as the HRSU, the Erk-affiliated Mazlum, and the Mothers Against the Death Penalty and Torture were unable to register, but continued to function (*see* Section 2.b.). However, the groups had difficulty renting offices or conducting financial transactions and could not open bank accounts, making it difficult to receive funds from abroad. Unregistered groups encountered more difficulties with authorities than registered NGOs and also had difficulty finding venues for public events.

In a series of initiatives sponsored by the international human rights NGO Freedom House, members of the police, Prison Directorate, and Security Services met regularly with human rights activists in Tashkent and areas of the Fergana Valley. Officers in the MVD Investigations Directorate were particularly active in opening a dialogue with human rights activists. Human rights workers who participated in the events reported increased cooperation with local officials, which resulted in better access to prison inmates and less official harassment.

Police and security forces continued to harass domestic human rights activists, though, according to some, with considerably less frequency than in previous years. There were fewer reported cases of beatings, with the notable exceptions that took place in the weeks prior to the SCO Summit in June (*see* Section 1.c.). Unlike in previous years, no human rights activists were arrested and convicted of criminal offenses, though two activists were given administrative sentences of 10 days, and several were detained briefly and released in connection with their protest activities (*see* section 2.b.). Although direct harassment of activists may have abated, several reported continuing pressure on their families. During the year, four activists briefly experienced difficulty obtaining exit visas (*see* Section 2.d.).

Although individual human rights activists experienced less personal harassment, the Government increased pressure on their organizations. The February 4 "banking decree," though ostensibly designed to combat money laundering, has been selectively enforced to keep both registered and unregistered NGOs involved in human rights or political work from receiving outside funding. While some NGOs have continued to function, the banking decree has severely impeded the ability of others to function. The Government particularly targeted the LAS and Mothers Against the Death Penalty and Torture, as well as several regional branches of other human rights organizations. NGOs focusing on women's rights have also come under increased pressure, with many representatives reporting increased Government harassment and monitoring following a May 25 decree that required all such organizations to reregister by November 1.

On September 3, the Ministry of Justice initiated court proceedings against Internews Uzbekistan, a local NGO working to enhance the capacity of the independent media. The Ministry contended that the NGO had violated a number of regulations governing its charter, including not properly registering its logo and letterhead, not informing the Ministry of changes to its staff, and calling the NGO's local chief of operations "Director" rather than "Director General." Internews Uzbekistan's attorney argued that the NGO had taken immediate steps to correct all the problems cited by the Ministry. On September 14, the Tashkent City Administrative Court suspended the NGO's operations for 6 months. In September, the

Ministry attempted to conduct an open-ended audit of the representative office of Internews Uzbekistan's parent organization, Internews Network. At year's end, Internews Network was permitted to continue operations, but its bank account was frozen, severely hampering its ability to operate.

The Government subjected international human rights NGOs to additional scrutiny, but generally did not obstruct their work. The Ministry of Justice publicly criticized HRW, which maintained an office in the country, and Freedom House, which had an office in Tashkent and a branch office in the Fergana Valley. In addition to its traditional work training human rights defenders, Freedom House continued its efforts to sponsor a dialogue between representatives of civil society and officials from the police and security forces. The American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI) operated human rights clinics at government-run law institutes and supported public defender centers in several cities; however, a committee enforcing the "banking decree" refused to allow the release of grant money for the Lawyers' Firm For Human Rights, an ABA/CEELI-supported project in Tashkent. Members of the MVD, procuracy, and Association of Judges participated in NGO training designed to increase cooperation with defense advocates, promote judicial ethics, and inform suspects of their rights.

International NGOs involved in promoting media freedom, expanding civil society, and fostering political party development generally had more difficulty operating than did NGOs that focused on human rights abuses such as torture. On April 14, the Ministry of Justice refused to reregister the OSI, effectively terminating the NGO's operations in the country. The Ministry alleged that OSI had engaged in subversive activities, such as supplying teaching materials designed to discredit government policies. In 2003, OSI was the country's largest private donor, providing \$3.7 million in assistance to promote economic, public health, and educational reform.

In May, the Ministry of Justice publicly criticized the National Democratic Institute and International Republican Institute for their work with unregistered political parties. The Government refused for a second year to renew the registration of International War and Peace Reporting (IWPR), a London-based NGO dedicated to the training and protection of journalists in areas of conflict, on the grounds that it was engaging in journalism rather than training; however, IWPR continued to work with local and international journalists to produce critical stories about the country's politics, judicial system, and human rights practices.

In late 2003, the Government required a number of international NGOs to reregister with the Ministry of Justice, rather than with the Ministry of Foreign Affairs, as they had previously. At the same time, the Ministry of Justice attempted to enforce burdensome new reporting and coordination requirements that would, if fully implemented, make it difficult for NGOs to work effectively; however, international NGOs generally were able to continue operating. The "banking decree" also impeded the ability of international NGOs to work with their local partners.

The Government increasingly was willing to work with international governmental organizations such as the OSCE, which worked on prison reform and combating trafficking in persons, as well as with foreign embassies, the ICRC, and UNHCR.

A human rights Ombudsman's office affiliated with the Supreme Assembly may make recommendations to modify or uphold decisions of government agencies, but its recommendations are not binding. The Ombudsman is prohibited from investigating disputes within the purview of courts. The Ombudsman has eight regional offices outside Tashkent. During the year, the Ombudsman's office handled hundreds of cases, a large majority of which dealt with abuse of power and various labor and social welfare issues. The Ombudsman published reports identifying the most serious violations of human rights by government officials; the majority of these involved procedural violations and claims of abuse of power by police and local officials. Most of the successfully resolved cases appeared to have been relatively minor.

The National Human Rights Center is a government agency responsible for educating the population and officials on the principles of human rights and democracy and for ensuring the Government complies with its international obligations to provide human rights information. In the view of many observers, the center was neither independent nor effective.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of sex, language, or social status; however, societal discrimination against women persisted.

*Women.*—The law does not specifically prohibit domestic violence, and such violence remained a common problem. Wife beating was considered a personal family affair rather than a criminal act; such cases were usually handled by family members or elders within the mahalla and rarely came to court. Local authorities em-

phasized reconciling husband and wife, rather than addressing the abuse. While the law punishes physical assault, police often discouraged women from making complaints against abusive husbands, and abusers were rarely taken from home or jailed. A 2002 HRW report on mahalla committees concluded that although the committees play no formal role in divorce proceedings, in practice, women frequently were unable to obtain a divorce without the committee's approval, which was seldom granted even in cases of obvious abuse.

Most NGOs working on domestic violence problems reported that local government cooperation on education programs increased, with a number of initiatives taken to increase cooperation with mahalla committees. Some police participated in NGO training.

The law prohibits rape. Marital rape appears to be implicitly prohibited under the law, however, there are no cases known to have been tried in court. Cultural norms discouraged women and their families from speaking openly about rape.

In parts of the country, some women and girls committed suicide by self-immolation. Most cases went unreported and there were no reliable statistics on the problem's extent. Observers cited conflict with a husband or mother in law, who by tradition exercised complete control over a young bride, as the usual stimulus for suicide. The NGO Umid in Samarkand ran a shelter for victims of self-immolation and reported varying degrees of cooperation from individual officials, mahalla committees, and local governments.

The law prohibits prostitution; however, it was an increasing problem. There were more members of ethnic minorities were engaged in prostitution. Police enforced the laws against prostitution unevenly; some police officers used the threat of prosecution and other forms of harassment to extort money from prostitutes.

Trafficking in women for sexual exploitation remained a problem (see Section 5, Trafficking).

The law does not prohibit sexual harassment. Social norms and the lack of legal recourse made it difficult to assess the scope of the problem.

The law prohibits discrimination against women; however, traditional, cultural, and religious practices limited their role in society, and women were severely underrepresented in high-level positions and in the industrial sector. A deputy prime minister at the cabinet level was charged with furthering the role of women in society and also was head of the National Women's Committee; however, this committee was widely viewed as ineffective, and at times it obstructed the work of NGOs promoting women's rights.

Several dozen NGOs addressed the needs of women. NGOs in Tashkent, Termez, Samarkand, Bukhara, and Fergana conducted seminars on sexual harassment, domestic violence, and the legal rights of women. Another NGO in Tashkent operated a hotline for women involved in prostitution. A center in Samarkand operated a crisis hotline and provided educational services on alcoholism, sexually transmitted diseases, and family counseling. ABA/CEELI's Citizen Rights Advocacy Network operated programs in the Fergana region that focused on protecting women's legal rights. A women's group in Surkhandarya worked with women with disabilities and promoted their rights. Another organization, Women's Integrated Legal Literacy, provided legal literacy training, small grants for women's NGOs, cultural events to educate women on their rights, and advocacy on women's issues.

*Children.*—The Government was generally committed to children's rights and welfare; however, it did not adequately fund public education and health care. Following Soviet-era practice, the Government granted small allowances to families based on their number of children.

The Constitution provides for children's rights and for free compulsory education through secondary school; however, in practice, shortages and budget difficulties meant that many education expenses had to be paid by private individuals. Despite a small salary increase in September, teachers earned extremely low salaries and routinely demanded regular payments from students and their parents.

Twelve years of formal schooling are compulsory, and the average length of schooling is more than 11 years. According to government statistics, 98.1 percent of children completed secondary school. However, anecdotal evidence indicated that children increasingly dropped out of high and middle schools as economic circumstances continued to deteriorate. According to a regional study conducted by the OSI in 2002, the country's formerly near universal literacy rate was declining as school enrollment rates dropped.

The Government subsidizes health care, including for children, and boys and girls enjoyed equal access. Low wages for doctors and poor funding of the health sector have led to a widespread system of informal payments for services that can be a barrier to access for the poor. Also, those who are not officially registered at an ad-

dress, such as street children and children of migrant workers, do not have access to government health facilities.

Child abuse was a problem. Child abuse was generally considered an internal family matter, although elders on mahalla committees frequently took an interest at the local level. There were no government-led campaigns against child abuse, although efforts against trafficking involved the protection of underage victims.

There were reports that girls were trafficked from the country for the purpose of sexual exploitation and that girls were engaged in prostitution (*see* Section 5, Trafficking). During the harvest, some school children, particularly in rural areas, were forced to work in the cotton fields (*see* Section 6.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women and girls from the country for the purpose of sexual exploitation was a problem. A few NGOs reported that some local officials were involved in trafficking on a limited basis.

The law prohibits all forms of trafficking and provides for prison sentences of 5 to 8 years for international trafficking. Recruitment for trafficking is punishable by imprisonment for 6 months to 3 years and fines of up to approximately \$900 (900,000 soum). The recruitment charge may be brought against international or domestic traffickers. All law enforcement agencies are charged with upholding the antitrafficking provisions of the criminal code. During the year, law enforcement authorities reported that they initiated criminal proceedings in over 200 cases and convicted over 300 suspects.

The Government took significant measures to combat trafficking, including establishing a specialized antitrafficking unit in the MVD, actively cooperating with NGOs and the OSCE on antitrafficking training for law enforcement and consular officials, and working with NGOs to produce effective public awareness campaigns. In addition, the Government, in cooperation with NGOs and international organizations, continued to train law enforcement and mahalla officials in identifying and protecting victims of trafficking.

The country was primarily a source for the trafficking of women and girls for the purpose of sexual exploitation. However, there were also reports of men being trafficked to illegal labor markets in Kazakhstan and Russia, mainly in the construction, agricultural, and service sectors. There were no reliable statistics on the problem, and it did not appear to be widespread; however, anecdotal reports from NGOs indicated that the number of young women from the country who were trafficked abroad was increasing. Many women were unwilling to come forward due to societal pressure and fear of retaliation from their traffickers. There were credible reports that women traveled to the United Arab Emirates, Kuwait, Bahrain, India, Israel, Georgia, Malaysia, South Korea, Thailand, Turkey, Japan, and Western Europe for the purpose of prostitution; some of them reportedly were trafficking victims. Some transit of trafficked persons may also have taken place from neighboring countries and to or from countries for which the country was a transportation hub (Thailand, Malaysia, Indonesia, India, Korea, and the UAE).

Traffickers in nightclubs or prostitution rings solicited women between the ages of 17 and 30, many of whom previously engaged in prostitution. In large cities such as Tashkent and Samarkand, newspaper advertisements for marriage and work opportunities abroad were connected to traffickers. Travel agencies promising tour packages and work in Turkey, Thailand, and the UAE were also used for solicitation. There were reports that in some cases traffickers recruited women with fraudulent job offers abroad, including as dancers or waitresses in nightclubs or restaurants and, in at least one case, confiscated travel documents once the women reached the destination country.

Recruiters tended to live in the same neighborhood as the potential victim and may even have known the victim's family. These recruiters introduced future victims to the actual traffickers, who provided airline tickets, visas, and instructions about meeting a contact in the destination country.

Some local officials working at the MVD, Customs, and Border Guards reportedly accepted bribes in return for ignoring their instructions to deny exit to young women they believe to be traveling abroad to work as prostitutes. Local sources claimed that officials were involved in document fraud and accepted bribes from persons attempting to travel illegally or from the traffickers themselves. According to information provided by the MVD, at least one official was fired for selling documents and preparing fraudulent exit visas in 2003 and was reportedly under investigation for his activities at year's end. One NGO reported that some local officials helped women, some of whom may have been trafficked, obtain false passports to travel to Dubai to work as exotic dancers or prostitutes.

During the year, the Government, through its embassy in Baku, assisted the return of 2 of 14 Uzbek trafficking victims located in Georgia. The International Organization for Migration (IOM) reported that police, consular officials, and border guards began to notify it of women returning from abroad who appeared to be trafficking victims. The IOM was also allowed to assist groups of women returning from abroad at the airport, help them through entry processing, and participate in the preliminary statements that the victims gave to the MVD.

In January, the IOM and its local partners set up seven trafficking hotlines across the country. The OSCE Tashkent office cooperated with foreign embassies, NGOs, and the Government to hold training seminars for law enforcement, including officers from the NSS, MVD, Ministry of Foreign Affairs, the Customs Service, Border Guards, and the General Prosecutor's Office. It also provided training for several antitrafficking NGOs, organized roundtables to discuss projects, and provided small grant funding to NGOs. The OSCE helped form a working group of representatives from the MOJ, MVC, NSS, and the prosecutors office to coordinate antitrafficking work among government agencies.

Government-controlled newspapers carried a number of targeted articles on trafficked women and prostitution; however, the same publications also carried advertisements soliciting women's participation in such schemes. Government radio continued a weekly call-in program for women who were involved in the sex trade. Government-owned television stations worked with local NGOs to broadcast antitrafficking messages and to publicize the regional NGO hotlines that counseled actual and potential victims. The Government worked with NGOs to place posters on trafficking hazards on public buses and in passport offices and consular offices abroad.

*Persons With Disabilities.*—There was some societal discrimination against persons with disabilities, and children with disabilities were generally segregated into separate schools. The Government cared for persons with mental disabilities in special homes. The law does not mandate access to public places for persons with disabilities; however, there was some wheelchair access throughout the country. The law does not provide extensive safeguards against arbitrary involuntary institutionalization.

*National/Racial/Ethnic Minorities.*—The population was mainly Uzbek, with significant numbers of Russians, Tajiks, Tatars, and Kazakhs as well as ethnic Koreans, Meskhetian Turks, Germans, and Greeks.

Russians and other minorities frequently complained about limited job opportunities. Senior positions in the government bureaucracy and business generally were reserved for ethnic Uzbeks, although there were numerous exceptions.

The law does not require a language to obtain citizenship; however, language remained a sensitive issue. Uzbek is the state language, and the Constitution requires that the President speak Uzbek; however, the law provides that Russian is "the language of interethnic communication." Russian was spoken widely in the main cities, and Tajik was spoken widely in Samarkand and Bukhara.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join unions of their choice; however, workers were unable to exercise this right in practice. The law declares unions independent of governmental administrative and economic bodies (except where provided for by other laws); however, in practice, unions remained centralized and dependent on the Government. There were no independent unions.

The law prohibits discrimination against union members and officers; however, this prohibition was irrelevant due to unions' close relationship with the Government.

*b. The Right to Organize and Bargain Collectively.*—Unions and their leaders were not free to conduct their activities without interference from the Government. The law provides the right to organize and to bargain collectively; however, the Government did not respect these rights in practice. Unions were government-organized institutions that had little power, although they did have some influence on health and work safety issues.

The law states that unions may conclude agreements with enterprises; however, because unions are heavily influenced by the state, collective bargaining in any meaningful sense did not occur. The Ministry of Labor and the Ministry of Finance, in consultation with the CFTU, set wages for government employees. In the small private sector, management established wages or negotiated them individually with persons who contracted for employment.

The law does not mention strikes or cite a right to strike, and there were no strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including by children, except as legal punishment or as specified by law; however, there were reports that such practices occurred (*see* Sections 5, Trafficking and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law establishes 14 as the minimum working age. Work must not interfere with the studies of those under 18. Children between the ages of 14 and 16 may work a maximum of 20 hours per week when school is not in session and 10 hours per week when school is in session. Children between the ages of 16 and 18 may work 30 hours per week while school is not in session and 15 hours per week while school is in session. In rural areas, younger children often helped to harvest cotton and other crops.

The large-scale compulsory mobilization of youth and students to help in the fall cotton harvest continued in most rural areas. Such labor was paid poorly. There were occasional reports from human rights activists that local officials in some areas pressured teachers into releasing students from class to help in the harvest. In many areas, schools closed for the harvest. UNICEF in 2000 estimated that 22.6 percent of children ages 5 to 14 worked at least part time, primarily in family-organized cotton harvesting.

Prosecutors and the Ministry of Labor were responsible for enforcing child labor laws. The Ministry had inspectors to report violations to the prosecutor's office. The law provides both criminal and administrative sanctions against violators; however, authorities did not punish violations related to the cotton harvest. There were no reports of inspections resulting in prosecutions or administrative sanctions.

*e. Acceptable Conditions of Work.*—The Ministry of Labor, in consultation with the CFTU, sets the minimum wage. At year's end, the minimum wage was approximately \$6.53 (6,530 soum) per month, which did not provide a decent standard of living for a worker and family.

The law establishes a standard workweek of 41 hours and requires a 24-hour rest period. Overtime pay exists in theory but was not usually paid in practice. Payment arrears of 4 to 6 months were not uncommon for workers in state-owned industries, including government office workers and officials.

The Labor Ministry established and enforced occupational health and safety standards in consultation with the unions. The press occasionally published complaints over the failure of unions and the Government to promote worker safety. While regulations provide for safeguards, workers in hazardous jobs often lacked protective clothing and equipment. Workers have the right to remove themselves from hazardous work without jeopardizing their employment; however, the right was not effectively enforced, and few workers, if any, attempted to exercise it.

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